NORTH CAROLINA GENERAL ASSEMBLY

REVENUE LAWS STUDY COMMITTEE

REPORT TO THE
2018 SESSION
of the
2017 GENERAL ASSEMBLY
OF NORTH CAROLINA

MAY 15, 2018

A LIMITED NUMBER OF COPIES OF THIS REPORT ARE AVAILABLE FOR DISTRIBUTION THROUGH THE LEGISLATIVE LIBRARY

ROOM 500
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTH CAROLINA 27603-5925
TELEPHONE: (919) 733-9390

TABLE OF CONTENTS

This page intentionally left blank

TRANSMITTAL LETTER

May 15, 2018

[Back to Top]

TO THE MEMBERS OF THE 2018 REGULAR SESSION
OF THE 2017 GENERAL ASSEMBLY

The REVENUE LAWS STUDY COMMITTEE, respectfully submits the following report to the 2018 Regular Session of the 2017 General Assembly.

Sen. Tommy Tucker (Co-Chair)

Rep. William Brawley (Co-Chair),

Rep. Jason Saine (Co-Chair)

This page intentionally left blank

COMMITTEE PROCEEDINGS

[Back to Top]

Article 12L of Chapter 120 of the General Statutes establishes the Revenue Laws Study Committee, which serves as a permanent legislative commission to review issues relating to taxation and finance. The Revenue Laws Study Committee originated as a subcommittee of the Legislative Research Commission in 1977. In 1997, the General Assembly made it a permanent statutory legislative commission. The Committee consists of 20 members, 10 appointed by the President Pro Tempore of the Senate and 10 appointed by the Speaker of the House of Representatives. This biennium the Committee membership also included six advisory members. The Co-Chairs for 2017-2018 are Senator Tommy Tucker and Representatives William Brawley and Jason Saine. The membership of the Committee is included in Appendix A.

In its study of the revenue laws, G.S. 120-70.106 gives the Committee a very broad scope, stating that the Committee "may review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable." A copy of Article 12L of Chapter 120 of the General Statutes is included in Appendix B. The Revenue Laws Study Committee met 2 times after the 2017 Regular Session. The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library and may also be accessed online at the Committee's website: Revenue Laws Meeting Materials.

2017 Tax Changes

The Revenue Laws Committee heard a presentation covering the tax changes made during the 2017 Session of the North Carolina General Assembly: Revenue Laws 2017 Tax Changes. In S.L. 2017-57, the General Assembly continued its policy of rate reduction for personal and business taxes. For tax years beginning on or after January 1, 2019, the personal income tax rate will be reduced to 5.25% and the corporate income tax rate will be reduced to 2.5%. The standard deduction for individual taxpayers will be increased for taxable years beginning on or after January 1, 2019. Another change with regard to personal income taxes is the conversion of the child tax credit to a child tax deduction, which became effective for tax years beginning on or after January 1, 2018. In addition to income tax rate reductions, this legislation reduced the franchise tax for S-corporations by imposing a flat $200 tax on the first one million dollars of net worth, and $1.50 per $1,000 of net worth above one million dollars. This change is effective for taxable years beginning on or after January 1, 2019, and applicable to the calculation of franchise tax reporting on the 2018 and later corporate income tax returns. Lastly, this legislation repealed Article 5F, related to the 1%/$80 tax on mill machinery and certain other equipment, and exempted the items previously taxable under this Article from sales tax. This tax change becomes effective July 1, 2018.

The General Assembly clarified the sales and use tax applicable to repair, maintenance and installation (RMI) services. S.L. 2017-204 more clearly defined RMI services to include the installation of an item to replace a similar existing item and the replacement of more than one of a like-kind item. It amended the definition of a capital improvement to remove the requirement that an addition or alteration to real property must vest in the owner of the property for the transaction to be considered a capital improvement for sales tax purposes. This change means that lessees will be treated similarly to owners when undertaking capital improvement projects of leased real property. The legislation also increased the percentage for all transactions in a mixed transaction contract to be taxable as a capital improvement from 10% to 25%.

The Department of Revenue has issued several notices, publications, and directives to assist taxpayers in determining whether a transaction is taxable as RMI services or a capital improvement. On April 18, 2018, the Department updated its information to incorporate the changes made in 2017. DOR Chart of Taxable RMI services. The chart is not meant to provide specific tax advice to taxpayers, but can be used as a general guide as to whether a transaction could be considered a RMI service or a capital improvement. To further assist taxpayers as they become educated about the expanded sales and use tax base, the General Assembly enacted the Sales Tax Base Expansion Protection Act. Under that Act, the a Department cannot assess tax due for a filing period within the defined grace period if one or more of the conditions of the Act are met. The Department has published information about this grace period on its website. DOR Notice on Sales Tax Base Expansion Protection Act.

IRC Update

North Carolina's tax law tracks many provisions of the federal Internal Revenue Code by reference to the Code.[1] The General Assembly determines each year whether to update its reference to the Code.[2] Updating the reference makes recent amendments to the Code applicable to the State to the extent that State law previously tracked federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made. Maintaining

[1]North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[2]The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

conformity with federal tax law simplifies tax reporting because a taxpayer will not need to account for differing federal and State treatment of the same asset.

Congress enacted two pieces of legislation since January 1, 2017, that impact the calculation of federal taxable income, and the calculation of State taxable income to the extent State law tracks federal law:

- The Federal Tax Cuts and Jobs Act (TCJA) made numerous changes to the calculation of federal taxable income. The impact of the federal changes under this Act on North Carolina are not as significant as they may be in other states due to the tax reform changes the General Assembly has enacted since 2011. Federal Tax Reform's Impact on NC Tax Revenues.
- The Bipartisan Budget Act of 2018 contained many provisions that are expected to have minimal fiscal impact on State tax revenues, but may be important to individual taxpayers. Two of the more notable provisions are the changes to 529 college savings plans and the temporary reduction in the threshold for deductibility of medical expenses from 10% to 7.5% of income for the 2017 and 2018 taxable years. Estimated Fiscal Impact of Conformity to Federal Tax Changes and Notable Provisions Applicable to NC Tax Calculation.

Part I of the Legislative Proposal would update the reference to the Internal Revenue Code from January 1, 2017, to February 9, 2018. Except as provided below, this means that to the extent North Carolina follows federal tax provisions in calculating State tax liability, changes made to the IRC by the TCJA and the Bipartisan Budget Act of 2018 will apply to North Carolina. The legislative proposal would decouple from the following provisions:

- Income exclusion for forgiveness of debt on primary residence. The State has historically decoupled from this provision.
- Mortgage insurance deductible as mortgage interest. The State has historically decoupled from this provision.
- Deduction for tuition and expenses. The State has historically decoupled from this provision.
- The deferral of gain and the exclusion of gain for assets invested in an Opportunity Fund.
- The inclusion, and deduction, associated with foreign-derived intangible income (FDII) and global intangible low-taxed income (GILTI).

Report on Mandatory State Extension Form

S.L. 2017-204, Section 1.14, directed the Department of Revenue to provide a report to the Revenue Laws Study Committee on the Department's findings regarding options to eliminate the Department's mandatory extension form currently needed to receive an extension of time to file franchise, corporate income, and individual income tax returns. DOR Report on Mandatory State Extension Form. The Department presented its findings

to the Revenue Laws Study Committee. DOR Presentation on Mandatory State Extension Form.

Taxpayers must file a State extension form to receive a six-month extension of time to file a return. An extension of time to file the return does not extend the time to pay the amount of tax due. The NC Association of CPAs have advocated for a change in the State law that would allow an automatic six-month extension to all taxpayers who file and receive a federal extension, without the necessity of filing a separate State extension form. The Department contacted the following states that grant extensions to file state income tax returns based on approved federal extensions: South Carolina, Pennsylvania, Maine, and Rhode Island.

Based upon the Department's findings, the Department recommended that the State continue to require a separate State extension form be submitted for an extension to file a State tax return if tax is due. However, if no tax is due, and the taxpayer files a timely federal extension, the taxpayer would not be required to file a separate State extension form. The NC Association of CPAs spoke at the meeting and voiced concern about the practical viability of this option, since it is based upon "no tax due". The Committee chairs directed the staff to work with the Department and the NCACPAs to see if an agreement could be reached. No agreement was reached.

Report on Tax Compliance/Penalties for Informational Returns

G.S. 105-256(a)(8) directs the Department of Revenue to submit a tax compliance report semiannually. At the April 11 meeting, Alan Woodard, Director of the Examination Division, presented this report to the Committee. DOR Tax Compliance Report. One aspect of the Department's initiatives are its efforts to combat refund fraud and identity theft. Mr. Woodard indicated that the Department's ability to receive informational returns in real-time can significantly reduce the incidence of fraud. This real-time receipt is accomplished through the electronic submission of the informational returns. While the current law already requires that these returns to be filed electronically, there is no penalty for failure to do so. Mr. Woodard indicated that the Department would like to have the authority to assess penalties for failure to file in the proper format as a way to increase compliance with the electronic submission requirement.

Several Committee members expressed concern about the impact of this requirement on small businesses that may have limited computer access or expertise. In light of these concerns, the Chair directed staff to work with the Department to draft a proposal for the Committee's consideration. At the May 9 meeting, staff summarized the outcome of this working effort and presented a proposed amendment, which was adopted. Penalties for Informational Returns Presentation.

Worker Classification Issues with Marketplace Providers

Workers are generally classified as either employees or independent contractors depending on the level of control exercised by the business. Employees are entitled to

benefits such as employer contribution to federal payroll taxes, unemployment insurance, workers' compensation, minimum wage and overtime pay, and employer responsibility for protection and conduct.

The Committee staff presented an overview of the issue, and Gina Fornario, Assistant General Counsel for Handy Technologies, Inc., presented a legislative proposal for the Revenue Laws Study Committee's consideration. The proposal recommended by Handy Technologies would classify workers for marketplace platforms as independent contractors. The Committee discussed the problem of worker misclassification where workers who are employees are denied benefits by classification as independent contractors. The Committee also questioned Ms. Fornario about how Handy Technologies, Inc. conducts business in the State.

Update on USSC Case: South Dakota v. Wayfair, Inc.

The Committee heard an educational presentation from staff on the recent U.S. Supreme Court case of *South Dakota v. Wayfair*. *South Dakota v. Wayfair* Presentation. This case presents the question of whether the physical presence test for purposes of requiring remote sellers to collect and remit sales tax should be overturned. The underlying facts of the case center on legislation enacted by South Dakota that was based, not on physical presence, but on economic presence, in hopes of forcing a constitutional challenge. South Dakota's law is similar to Senate Bill 81 (2017 Regular Session), which was passed by the Senate, but had not been heard in the House at the time of this report.

The Committee heard an overview of the case, possible outcomes, and trends in remote seller legislation in other states. Staff explained that while this case may have game-changing consequences for the retail landscape, it will not necessarily put to rest the issue of how to tax remote sellers and may, in fact, present more issues and questions for the legislature to grapple with in the years to come. One Committee member expressed frustration at Congress' unwillingness to address this issue and another member questioned whether North Carolina should consider, at a minimum, adopting a notice and reporting law, which have been upheld as constitutional.

Consensus Revenue Forecast Update

The Fiscal Research Division and the Office of State Budget and Management revised the consensus revenue forecast for FY 2018-19. Barry Boardman, Chief Economist, Fiscal Research Division, NCGA, presented the findings of the revised forecast at the May 9th meeting. The consensus revenue forecast for FY 2018-19 has been revised upward by $276.5 million and projects $356.7 million in over-collections for the current fiscal year, 2017-18.

The revenue increase projected for the current fiscal year is driven primarily by increases in three revenue sources: individual income tax, franchise tax, and insurance gross premiums tax. The increase in individual income tax is partially due to taxpayers shifting income in response to federal tax changes. The franchise tax and insurance gross

premiums tax outperformed expectations. Other tax revenue sources are expected to be close to the original forecast from last May; and sales tax collections have been weaker than projected last May.

The FY 2018-19 forecast builds on the revised projections for the current fiscal year. Economic conditions envisioned when the original forecast was developed last May have progressed as expected. However, with the revised increase in the current year tax base, the revised forecast for FY 2018-19 is increased by $276.5 million. As a final note, a little more volatility will be in play this year given the need to estimate how federal tax changes impacted corporate and individual income tax collections for the 2017 and 2018 tax years.

Various Changes to the Revenue Laws

The Revenue Laws Study Committee is charged with reviewing the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable. The Department of Revenue submitted a list of tax law changes for the Committee to consider. The Legislative Proposal consists of many of the recommendations submitted to the Committee by the Department. The Committee reviewed the proposal at its April meeting, and posted the proposal on its website. The Committee invited interested parties to review the bill draft and to contact the Committee's staff with any questions, concerns, or suggestions. The Committee staff worked with the Department and interested parties on the bill draft prior to the Committee's final meeting in May.

The Committee considered and voted to include three additional changes in the Legislative Proposal at its final meeting.

- Establishing the percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 at 6.5% for the 2019 calendar year. This rate is the same rate as the one for 2018 calendar year.
- Adding the Department of Revenue (DOR) to three other agencies that are not subject to the migration of information technology functions and personnel to the Department of Information Technology (DIT). Last year, in S.L. 2017-204, the General Assembly gave the DOR additional time to complete the transfer and consolidation of its information technology to DIT.
- Modifying the penalty for failure to file an informational return to $50 per day, with a maximum penalty of $1,000, and creating a $200 penalty for failure to file an informational return in the proper format. The current penalty for failure to file an NC-3 is $50; the current penalty for failure to file an informational return under G.S. 105-251.2, which applies to occupational licensing boards, alcohol vendors, and payment settlement entities, is $1,000. This change would better align these penalties.

Lastly, the Committee directed staff to roll the adopted amendments into the Legislative Proposal and make any technical and stylistic changes necessary.

Appendix A

COMMITTEE MEMBERSHIP

[Back to Top]

2017-2018

President Pro Tempore of the Senate Appointments:

Sen. Tommy Tucker (Co-Chair)

Sen. Jerry W. Tillman (Vice-Chair)
Sen. Tamara Barringer
Sen. Dan Bishop
Sen. Ben Clark
Sen. Chuck Edwards
Sen. Joel D. M. Ford
Sen. Brent Jackson
Sen. Floyd B. McKissick, Jr.
Sen. Bill Rabon
Sen. Ralph Hise (Advisory Member)
Sen. Paul Newton (Advisory Member)
Sen. Trudy Wade (Advisory Member)

Speaker of the House of Representatives Appointments:

Rep. William Brawley (Co-Chair),
Rep. Jason Saine (Co-Chair)

Rep. Stephen M. Ross (Vice-Chair)
Rep. Kelly M. Alexander, Jr.
Rep. Becky Carney
Rep. Julia C. Howard
Rep. Susan Martin
Rep. Robert T. Reives, II
Rep. Mitchell S. Setzer
Rep. John Szoka
Rep. Jon Hardister (Advisory Member)
Rep. Kelly E. Hastings (Advisory Member)
Rep. David R. Lewis (Advisory Member)

COMMITTEE CHARGE/STATUTORY AUTHORITY

[Back to Top]

Article 12L.

Revenue Laws Study Committee.

§ 120-70.105. Creation and membership of the Revenue Laws Study Committee.

(a) Membership. – The Revenue Laws Study Committee is established. The Committee consists of 20 members as follows:

(1) Ten members appointed by the President Pro Tempore of the Senate; the persons appointed may be members of the Senate or public members.

(2) Ten members appointed by the Speaker of the House of Representatives; the persons appointed may be members of the House of Representatives or public members.

(b) Terms. – Terms on the Committee are for two years and begin on January 15 of each odd-numbered year, except the terms of the initial members, which begin on appointment. Legislative members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. (1997-483, s. 14.1; 1998-98, s. 39; 2009-574, s. 51.1.)

§ 120-70.106. Purpose and powers of Committee.

(a) The Revenue Laws Study Committee may:

(1) Study the revenue laws of North Carolina and the administration of those laws.

(2) Review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable.

(3) Call upon the Department of Revenue to cooperate with it in the study of the revenue laws.

(4) Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the State's revenue laws.

These powers, which are enumerated by way of illustration, shall be liberally construed to provide for the maximum review by the Committee of all revenue law matters in this State.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the

General Assembly may contain any legislation needed to implement a recommendation of the Committee. When a recommendation of the Committee, if enacted, would result in an increase or decrease in State revenues, the report of the Committee must include an estimate of the amount of the increase or decrease.

(c) The Revenue Laws Study Committee must review the effect Article 42 of Chapter 66 of the General Statutes, as enacted by S.L. 2006-151, has on the issues listed in this section to determine if any changes to the law are needed:

(1) Competition in video programming services.

(2) The number of cable service subscribers, the price of cable service by service tier, and the technology used to deliver the service.

(3) The deployment of broadband in the State.

The Committee must review the impact of this Article on these issues every two years and report its findings to the North Carolina General Assembly. The Committee must make its first report to the 2008 Session of the North Carolina General Assembly.

(d) An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by S.L. 2016-23, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this subsection. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by S.L. 2016-23, is sixteen cents (16¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this subsection with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this subsection to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this subsection may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this subsection. The Department of Revenue shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this subsection in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid. (1997-483, s. 14.1; 2006-151, s. 21; 2016-23, s. 2(b); 2017-102, s. 19.1.)

§ 120-70.107. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Revenue Laws Study Committee. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) The Committee shall be funded by the Legislative Services Commission from appropriations made to the General Assembly for that purpose. Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1 and G.S. 138-5. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee. (1997-483, s. 14.1.)

Appendix C

LEGISLATIVE PROPOSAL

The Legislative Proposal contains all of the tax changes recommended to the 2018 Session of the 2017 General Assembly. The Department of Revenue recommended many of the changes in the proposal. The proposed bill draft is followed by an explanation and a fiscal memorandum, indicating any anticipated revenue gain or loss resulting from the proposal.

[Back to Top]

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S D

SENATE BILL DRS35329-BAxfz-16A*

Short Title:	Various Changes to the Revenue Laws.	(Public)
Sponsors:	Senators Tillman and Tucker (Primary Sponsors).	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO THE REVENUE LAWS.

The General Assembly of North Carolina enacts:

PART I. IRC UPDATE

SECTION 1.1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2017,~~ February 9, 2018, including any provisions enacted as of that date that become effective either before or after that date."

SECTION 1.2. G.S. 105-130.5 reads as rewritten:

"**§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

(a) The following additions to federal taxable income shall be made in determining State net income:

...

(26) The amount of gain that would be included for federal income tax purposes without regard to section 1400Z-2(b) of the Code. The adjustment made in this subsection does not result in a difference in basis of the affected assets for State and federal income tax purposes. The purpose of this subdivision is to decouple from the deferral of gains reinvested into an Opportunity Fund available under federal law.

(27) The amount of gain that would be included in the taxpayer's federal taxable income but for the step-up in basis under section 1400Z-2(c) of the Code. The purpose of this subdivision is to decouple from the exclusion of gains from the sale or exchange of an investment in an Opportunity Fund available under federal law.

(28) The amount deducted under Section 250 of the Code.

(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(3b) Any amount included in federal taxable income under ~~section 78 or section 951~~ section 78, 951, 951A, or 965 of the Code, net of related expenses.

...

(29) The amount of gain included in the taxpayer's federal taxable income under section 1400Z-2(a) of the Code to the extent the same income was included in the taxpayer's federal taxable income in a prior taxable year under subdivision (a)(26) of this section. The purpose of this subdivision is to prevent double

taxation of income the taxpayer was previously required to include in the calculation of State net income.

...."

SECTION 1.3. G.S. 105-153.5 reads as rewritten:

"**§ 105-153.5. Modifications to adjusted gross income.**

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this ~~subsection that the taxpayer claimed under the Code.~~ subsection. The deduction amounts are as follows:

...

(2) Itemized deduction amount. – An amount equal to the sum of the items listed in this subdivision. The amounts allowed under this subdivision are not subject to the overall limitation on itemized deductions under section 68 of the Code:

...

b. Mortgage Expense and Property Tax. – The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount allowed as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. For taxable years 2014, 2015, ~~and 2016,~~2016, and 2017, the amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence shall not include the amount for mortgage insurance premiums treated as qualified residence interest. The amount allowed under this sub-subdivision may not exceed twenty thousand dollars ($20,000). For spouses filing as married filing separately or married filing jointly, the total mortgage interest and real estate taxes claimed by both spouses combined may not exceed twenty thousand dollars ($20,000). For spouses filing as married filing separately with a joint obligation for mortgage interest and real estate taxes, the deduction for these items is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real estate taxes paid by both spouses exceeds twenty thousand dollars ($20,000), these deductions must be prorated based on the percentage paid by each spouse. For joint obligations paid from joint accounts, the proration is based on the income reported by each spouse for that taxable year.

...

(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer must ~~add~~ make the following adjustments to the taxpayer's adjusted gross ~~income any of the following items that are not included in the taxpayer's adjusted gross~~ income:

(1) For taxable years 2014, 2015, ~~and 2016,~~ 2016, and 2017, the taxpayer must add the amount excluded from the taxpayer's gross income for the discharge of qualified principal residence indebtedness under section 108 of the Code. The purpose of this subdivision is to decouple from the income exclusion available under federal tax law. If the taxpayer is insolvent, as defined in section 108(d)(3) of the Code, then the addition required under this subdivision is limited to the amount of discharge of qualified principal residence indebtedness excluded from adjusted gross income under section

108(a)(1)(E) of the Code that exceeds the amount of discharge of indebtedness that would have been excluded under section 108(a)(1)(B) of the Code.

(2) For taxable year 2014, 2015, ~~and 2016,~~2016, and 2017, the taxpayer must add the amount of the taxpayer's deduction for qualified tuition and related expenses under section 222 of the Code. The purpose of this subdivision is to decouple from the above-the-line deduction available under federal tax law.

(3) For taxable years beginning on or after 2014, the taxpayer must add the amount excluded from the taxpayer's gross income for a qualified charitable distribution from an individual retirement plan by a person who has attained age 70 1/2 under section 408(d)(8) of the Code. The purpose of this subdivision is to decouple from the income exclusion available under federal tax law.

(4) For taxable years prior to 2014, the taxpayer must add the amount excluded from the taxpayer's gross income for amounts received by a wrongfully incarcerated individual under section 139F of the Code for which the taxpayer took a deduction under former G.S. 105-134.6(b)(14). The purpose of this subdivision is to prevent a double benefit where federal tax law provides an income exclusion for income for which the State previously provided a deduction.

(5) The taxpayer must add the amount of gain that would be included for federal income tax purposes without regard to section 1400Z-2(b) of the Code. The adjustment made in this subsection does not result in a difference in basis of the affected assets for State and federal income tax purposes. The purpose of this subdivision is to decouple from the deferral of gains reinvested into an Opportunity Fund available under federal law.

(6) The taxpayer may deduct the amount of gain included in the taxpayer's adjusted gross income under section 1400Z-2(a) of the Code to the extent the same income was included in the taxpayer's adjusted gross income in a prior taxable year under subdivision (5) of this subsection. The purpose of this subdivision is to prevent double taxation of income the taxpayer was previously required to include in the calculation of North Carolina taxable income.

(7) The taxpayer must add the amount of gain that would be included in the taxpayer's adjusted gross income but for the step-up in basis under section 1400Z-2(c) of the Code. The purpose of this subdivision is to decouple from the exclusion of gains from the sale or exchange of an investment in an Opportunity Fund available under federal law.

...."

SECTION 1.4. G.S. 105-163.1(13) reads as rewritten:

"**§ 105-163.1. Definitions.**

The following definitions apply in this Article:

...

(13) Wages. – The term has the same meaning as in section 3401 of the ~~Code except it does not include the amount an employer pays an employee as reimbursement for ordinary and necessary expenses incurred by the employee on behalf of the employer and in the furtherance of the business of the employer.~~Code."

SECTION 1.5.(a) G.S. 105-130.5(a)(17) is repealed.

SECTION 1.5.(b) G.S. 105-153.5(c)(4) is repealed.

SECTION 1.5.(c) This section is effective for taxable years beginning on or after January 1, 2018.

SECTION 1.6. G.S. 105-153.8(a) reads as rewritten:

"(a) Who Must File. – The following individuals must file with the Secretary an income tax return under affirmation:

(1) Every resident ~~required to file an income tax return~~ who for the taxable year has gross income under the ~~Code.~~Code that exceeds the standard deduction amount provided in G.S. 105-153.5(a)(1).

(2) Every nonresident individual who meets all of the following requirements:

a. Receives during the taxable year gross income that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

b. ~~Is required to file an income tax return for the taxable year under the Code.~~Has gross income under the Code that exceeds the applicable standard deduction amount provided in G.S. 105-153.5(a)(1).

(3) Any individual whom the Secretary believes to be liable for a tax under this Part, when so notified by the Secretary and requested to file a return."

SECTION 1.7.(a) G.S. 105-153.5(c)(7) reads as rewritten:

"(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

...

(7) The amount deducted in a prior taxable year to the extent this amount was withdrawn from the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25 and not used to pay for ~~the qualified higher~~ education expenses of the designated ~~beneficiary,~~ beneficiary as permitted under section 529 of the Code, unless the withdrawal ~~was made without penalty under section 529 of the Code due to the death or permanent disability of the designated beneficiary.~~meets at least one of the following conditions:

a. The withdrawal was not subject to the additional tax imposed by section 529(c)(6) of the Code.

b. The withdrawal was rolled over to an ABLE account as defined in G.S. 147-86.70(b)."

SECTION 1.7.(b) G.S. 116-209.25 reads as rewritten:

"§ 116-209.25. Parental Savings Trust Fund.

(a) Policy. – The General Assembly of North Carolina hereby finds and declares that encouraging parents and other interested parties to save for the ~~postsecondary~~ education expenses of eligible students is fully consistent with and furthers the long-established policy of the State to encourage, promote, and assist education as more fully set forth in G.S. 116-201(a).

(b) Parental Savings Trust Fund. – There is established a parental savings trust fund to be administered by the State Education Assistance Authority to enable qualified parents and other interested parties to save funds to meet the costs of ~~the postsecondary~~ education expenses of eligible ~~students.~~students in accordance with section 529 of the Code. For purposes of this section, the term "Code" has the same meaning as defined in G.S. 105-228.90.

...."

SECTION 1.7.(c) This section is effective for taxable years beginning on or after January 1, 2018.

SECTION 1.8. Except as otherwise provided, this Part is effective when it becomes law.

PART II. BUSINESS TAX CHANGES

SECTION 2.1.(a) G.S. 105-114(b)(2) reads as rewritten:

"(2) Corporation. – A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term includes a limited liability company or a partnership that elects to be taxed as a corporation under the Code, but does not otherwise include a limited liability ~~company.~~company or a partnership."

SECTION 2.1.(b) This section is effective beginning on or after January 1, 2019, and applies to the calculation of franchise tax reported on the 2018 and later corporate income tax return.

SECTION 2.2.(a) G.S. 105-122(b) reads as rewritten:

"(b) Determination of Net Worth. – A corporation taxed under this section shall determine the total amount of its net worth on the basis of the books and records of the corporation as of the close of its income year. The net worth of a corporation is its total assets without regard to the deduction for accumulated depreciation, depletion, or amortization less its total liabilities, computed in accordance with generally accepted accounting principles as of the end of the corporation's taxable year. If the corporation does not maintain its books and records in accordance with generally accepted accounting principles, then its net worth is computed in accordance with the accounting method used by the entity for federal tax ~~purposes so long as the method fairly reflects the corporation's net worth for purposes of the tax levied by this section.~~purposes. A corporation's net worth is subject to the following adjustments:

(1) A deduction for accumulated depreciation, depletion, and amortization as determined in accordance with the method used for federal tax purposes.

(1b) Assets for which a deduction is allowed under subdivision (1) of this subsection are valued in accordance with the method used in computing depreciation, depletion, and amortization for federal income tax purposes.

...

~~(3) A corporation may deduct the cost of treasury stock.~~

...."

SECTION 2.2.(b) This section is effective beginning on or after January 1, 2019, and applies to the calculation of franchise tax reported on the 2018 and later corporate income tax return.

SECTION 2.3. G.S. 105-130.4(*l*) reads as rewritten:

"(*l*) (1) The sales factor is a fraction, the numerator of which is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere during the income year. Notwithstanding any other provision under this Part, the receipts from any casual sale of property shall be excluded from both the numerator and the denominator of the sales factor. Where a corporation is not taxable in another state on its apportionable income but is taxable in another state only because of nonapportionable income, all sales shall be treated as having been made in this State.

(2) Sales of tangible personal property are in this State if the property is received in this State by the purchaser. In the case of delivery of goods by common carrier or by other means of transportation, including transportation by the purchaser, the place at which the goods are ultimately received after all transportation has been completed shall be considered as the place at which the goods are received by the purchaser. Direct delivery into this State by the taxpayer to a person or firm designated by a purchaser from within or without the State shall constitute delivery to the purchaser in this State.

(3) Other sales are in this State ~~if:~~ any of the following occur:

a. The receipts are from real or tangible personal property located in this ~~State; or~~State.

b. The receipts are from intangible property ~~and are received from sources~~ to the extent the intangible property is used within this ~~State; or~~State.

c. The receipts are from services and the income-producing activities are in this State. For the purposes of this subdivision, an "income-producing activity" means an activity directly performed by the taxpayer or its agents for the ultimate purpose of generating the sale of the service. For purposes of this subdivision, "receipts from services" includes receipts from services sold as part of, or in connection with, the sale of tangible property located in this State."

SECTION 2.4. G.S. 105-130.5(a) reads as rewritten:

"**§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

(a) The following additions to federal taxable income shall be made in determining State net income:

...

(10) The total amounts allowed under this Chapter during the taxable year as a credit against the taxpayer's income tax. ~~This subdivision does not apply to a credit allowed under G.S. 105-130.47.~~ A corporation that apportions part of its income to this State shall make the addition required by this subdivision after it determines the amount of its income that is apportioned and allocated to this State and shall not apply to a credit taken under this Chapter the apportionment factor used by it in determining the amount of its apportioned income.

...

~~(20) The amount of a donation made to a nonprofit organization or a unit of State or local government for which a credit is claimed under G.S. 105-129.16H.~~

...."

SECTION 2.5.(a) G.S. 105-228.3 is amended by adding the following new subdivision:

"(1b) Foreign captive insurance company. – A captive insurance company as defined in G.S. 58-10-340(9), except that such company is not formed or licensed under the laws of this State but is formed and licensed under the laws of any jurisdiction within the United States other than this State."

SECTION 2.5.(b) G.S. 105-228.4A reads as rewritten:

"**§ 105-228.4A. Tax on captive insurance companies.**

(a) Tax Levied. – A tax is levied in this section on a captive insurance company doing business in this State. In the case of a branch captive insurance company, the tax levied in this section applies only to the branch business of the company. Two or more captive insurance companies under common ownership and control are taxed under this section as a single captive

insurance company. The tax levied in this section does not apply to a foreign captive insurance company.

(b) Other Taxes. – A captive insurance company that is subject to the tax levied by this section and a foreign captive insurance company ~~is~~ are not subject to any of the following:

(1) Franchise taxes imposed by Article 3 of this Chapter.

(2) Income taxes imposed by Article 4 of this ~~Chapter.~~Chapter, subject to the provisions of G.S. 105-130.5A.

(3) Local privilege taxes or local taxes computed on the basis of gross premiums.

(4) The insurance regulatory charge imposed by G.S. 58-6-25.

...."

SECTION 2.5.(c) G.S. 105-228.5(g) reads as rewritten:

"(g) Exemptions. – This section does not apply to any of the following:

(1) A farmers' mutual assessment fire insurance ~~companies or to~~ company.

(2) A fraternal ~~orders or societies that do~~ order or society that does not operate for a profit and ~~do~~ does not issue policies on any person except members.

(3) ~~This section does not apply to a~~ A captive insurance company taxed under G.S. 105-228.4A.

(4) A foreign captive insurance company that is licensed in and taxed on its gross premiums in a jurisdiction within the United States other than this State."

SECTION 2.6.(a) Section 4 of S.L. 2017-151 is reenacted.

SECTION 2.6.(b) This section is effective when it becomes law and applies to taxable years beginning on or after July 1, 2018.

PART III. FEDERAL DETERMINATIONS AND AMENDED RETURNS

SECTION 3.1. G.S. 105-130.20 reads as rewritten:

"**§ 105-130.20. Federal ~~corrections.~~determinations and amended returns.**

(a) Federal Determination. – If a taxpayer's federal taxable income or a federal tax credit ~~that~~ is changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, and the change or correction affects the amount of State tax ~~payable is corrected or otherwise determined by the federal government,~~ payable, the taxpayer ~~must,~~ must file an income tax return reflecting each change or correction from a federal determination within six months after being notified of ~~the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined taxable income.~~each change or correction. The Secretary must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. ~~A taxpayer that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits its rights to any refund due by reason of the determination.~~A federal determination has the same meaning as defined in G.S. 105-228.90.

(b) Amended Return. – The following applies to an amended return filed by a taxpayer with the Commissioner of Internal Revenue:

(1) If the amended return contains an adjustment that would increase the amount of State tax payable under this Part, then notwithstanding the provisions of G.S. 105-241.8(a), the taxpayer must file within six months thereafter an amended return with the Secretary.

(2) If the amended return contains an adjustment that would decrease the amount of State tax payable under this Part, the taxpayer may file an amended return with the Secretary within the provisions of G.S. 105-241.6.

(c) Penalties. – A taxpayer that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 3.2. G.S. 105-159 reads as rewritten:

"**§ 105-159. Federal ~~corrections.~~determinations and amended returns.**

(a) Federal Determination. – If a taxpayer's adjusted gross income, filing status, personal exemptions, standard deduction, itemized deductions, or federal tax credit ~~that~~ are changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or competent authority, and the change or correction affects the amount of State tax ~~payable is corrected or otherwise determined by the federal government,~~ payable, the taxpayer ~~must,~~must file an income tax return reflecting each change or correction from a federal determination within six months after being notified of ~~the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined adjusted gross income or federal tax credit that affects the amount of State tax payable.~~ each change or correction. The Secretary must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. ~~A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination.~~A federal determination has the same meaning as defined in G.S. 105-228.90.

(b) Amended Return. – The following applies to an amended return filed by a taxpayer with the Commissioner of Internal Revenue:

(1) If the amended return contains an adjustment that would increase the amount of State tax payable under this Part, then notwithstanding the provisions of G.S. 105-241.8(a), the taxpayer must file within six months thereafter an amended return with the Secretary.

(2) If the amended return contains an adjustment that would decrease the amount of State tax payable under this Part, the taxpayer may file an amended return with the Secretary within the provisions of G.S. 105-241.6.

(c) Penalties. – A taxpayer that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 3.3. G.S. 105-160.8 reads as rewritten:

"**§ 105-160.8. Federal ~~corrections.~~determinations.**

For purposes of this Part, the provisions of G.S. 105-159 ~~requiring an individual to report the correction or determination of taxable income by the federal government~~ apply to fiduciaries required to file returns for estates and trusts."

SECTION 3.4. G.S. 105-163.6A reads as rewritten:

"**§ 105-163.6A. Federal ~~corrections.~~determinations.**

If the amount of taxes an employer is required to withhold and pay under the Code is ~~corrected or otherwise determined by the federal government, the employer must, within six months after being notified of the correction or final determination by the federal government, file a return with the Secretary reflecting the corrected or determined amount. The Secretary must propose an assessment for any additional tax due from the employer as provided in Article 9 of this Chapter. If there has been an overpayment of the tax, the Secretary must either refund the overpayment to the employer in accordance with G.S. 105-163.9 or credit the amount of the overpayment to the individual in accordance with G.S. 105-163.10. An employer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination.~~ changed or corrected, the provisions of G.S. 105-159 apply to employers, pension payers, and every other payer required to withhold taxes under this Article. Failure of an employer to comply with this section does not, however, affect an individual's right to a credit under G.S. 105-163.10."

SECTION 3.5. G.S. 105-241.8(b) is amended by adding a new subdivision to read:

"(b) Exceptions. – The exceptions to the general statute of limitations for proposing an assessment are as follows:

...

(1a) Federal amended return. – If a taxpayer files a return as a result of filing a federal amended return and the return is filed within the time required by this Subchapter, the period for proposing an assessment of any tax due is one year after the return is filed or three years after the original return was filed or due to be filed, whichever is later. If the taxpayer does not file the return within the required time, the period for proposing an assessment of any tax due is three years after the date the federal amended return was filed with the Commissioner of Internal Revenue.

...."

SECTION 3.6. G.S. 105-241.10 reads as rewritten:

"**§ 105-241.10. Limit on refunds and assessments after a federal determination.**

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. ~~A federal determination is a correction or final determination by the federal government of the amount of a federal tax due.~~ A return reflecting a federal determination is timely if it is filed within the time required by G.S. 105-130.20, 105-159, 105-160.8, or 105-163.6A, as appropriate. A federal determination has the same meaning as defined in G.S. 105-228.90. The limitations are:

(1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.

(2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability."

SECTION 3.7. G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(3a) Federal determination. – A change or correction of the amount of a federal tax due arising from an audit by the Commissioner of Internal Revenue."

SECTION 3.8. This Part is effective when it becomes law and applies to federal amended returns filed on or after that date.

PART IV. SALES AND USE TAX CHANGES

SECTION 4.1.(a) G.S. 105-164.3(20b) reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(20b) Mixed transaction contract. – A contract that includes both a real property contract for a capital improvement and a repair, maintenance, and installation service for real property that is not related to the capital improvement."

SECTION 4.1.(b) G.S. 105-164.3, as amended by subsection (a) of this section, reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(2c) Capital improvement. – One or more of the following:

...

e. Painting or wallpapering of real property, except where painting or wallpapering is incidental to the repair, maintenance, and installation ~~service.~~services.

...

k. ~~Addition~~ An addition or alteration to real property that is permanently affixed or installed to real property and is not an activity listed in subdivision (33*l*) of this section as ~~a~~ repair, maintenance, and installation ~~service.~~services.

...

(11d) Freestanding appliance. – A machine commonly thought of as an appliance operated by gas or electric current. Examples include ~~installation of a~~ dishwasher, washing machine, clothes dryer, refrigerator, freezer, microwave, and range, regardless of whether the range is slide-in or drop-in.

...

(20b) Mixed transaction contract. – A contract that includes both a real property contract for a capital improvement and ~~a~~ repair, maintenance, and installation ~~service~~ services for real property that ~~is~~ are not related to the capital improvement.

...

(24) Net taxable sales. – The gross sales or gross receipts of ~~the business of a~~ retailer or another person taxed under this Article after deducting exempt sales and nontaxable sales.

...

(33c) Qualifying datacenter. – A datacenter that satisfies each of the following conditions:

a. The datacenter certifies that it satisfies or will satisfy the wage standard for the development tier area or zone in which the datacenter is located. There is no wage standard for a development tier one area. If an urban progress zone or an agrarian growth zone is not in a development tier one area, then the wage standard for that zone is an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county in which the datacenter is located. The wage standard for a development tier two area or a development tier three area is an average weekly wage that is at least equal to one hundred ten percent (110%) of the lesser of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county in which the datacenter is located.

b. The Secretary of Commerce has made a written determination that at least seventy-five million dollars ($75,000,000) in private funds has been or will be invested by one or more owners, users, or tenants of the datacenter within five years of the date the owner, user, or tenant of the datacenter makes its first real or tangible property investment in the datacenter on or after January 1, 2012. Investments in real or tangible property in the datacenter made prior to January 1, 2012, may not be included in the investment required by this subdivision.

c. The datacenter certifies that it provides or will provide health insurance for all of its full-time ~~employees.~~ employees as long as the datacenter operates. The datacenter provides health insurance if it pays or will pay at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic

health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

...

(33i) Remodeling. – A transaction comprised of multiple services performed by one or more persons to restore, improve, alter, or update real property that may otherwise be subject to tax as repair, maintenance, and installation services if separately performed. The term includes a transaction where the internal structure or design of one or more rooms or areas within a room or building are substantially changed. The term does not include a single service that is included in repair, maintenance, and installation ~~service.~~ services. The term does not include a transaction where the true purpose is ~~a~~ repair, maintenance, and installation ~~service~~ services no matter that another service included in repair, maintenance, and installation ~~service~~ services is performed that is incidental to the true purpose of the transaction; examples include repair of sheetrock that includes applying paint, replacement of cabinets that includes installation of caulk or molding, and the installation of hardwood floors that includes installation of shoe molding.

...

(33*l*) Repair, maintenance, and installation services. – The term includes the activities listed in this subdivision and applies to tangible personal property, motor vehicle, digital property, and real property. The term does not include services used to fulfill a real property contract taxed in accordance with G.S. 105-164.4H:

...

d. To install, apply, connect, adjust, or set into position tangible personal ~~property, digital property, or a motor vehicle.~~ property or digital property. The term includes floor refinishing and the installation of carpet, flooring, floor coverings, windows, doors, cabinets, countertops, and other installations where the item being installed may replace a similar existing item. The replacement of more than one of a like-kind item, such as replacing one or more windows, is ~~a single~~ repair, maintenance, and installation ~~service.~~ services. The term does not include an installation defined as a capital improvement under subdivision (2c)d. of this ~~section.~~section and substantiated as a capital improvement under G.S. 105-164.4H(a1).

e. To inspect or monitor property or install, apply, or connect tangible personal property or digital property on a motor ~~vehicle, but does not include security or similar monitoring services for real property.~~vehicle or adjust a motor vehicle.

...

(36) Sale or selling. – The transfer for consideration of title, license to use or consume, or possession of tangible personal property or digital property or the performance for consideration of a service. The transfer or performance may be conditional or in any manner or by any means. The term ~~includes~~ applies to the following:

a. Fabrication of tangible personal property for consumers by persons engaged in business who furnish either directly or indirectly the materials used in the fabrication work.

b. Furnishing or preparing tangible personal property consumed on the premises of the person furnishing or preparing the property or consumed at the place at which the property is furnished or prepared.
c. A transaction in which the possession of the property is transferred but the seller retains title or security for the payment of the consideration.
d. A lease or rental.
e. Transfer of a digital code.
f. An accommodation.
g. A service contract.
h. Any other item subject to tax under this Article.

(37) Sales price. – The total amount or consideration for which tangible personal property, digital property, or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.

a. The term includes all of the following:

...

7. Credit for trade-in. The amount of any credit for trade-in is not a reduction of the sales price.
8. ~~Discounts~~ The amount of any discounts that are reimbursable by a third party and can be determined at the time of sale through any of the following:
   I. Presentation by the consumer of a coupon or other documentation.
   II. Identification of the consumer as a member of a group eligible for a discount.
   III. The invoice the retailer gives the consumer.

b. The term does not include any of the following:

...

(38b) Service contract. – A contract where the obligor under the contract agrees to maintain, monitor, inspect, repair, or provide another service included in the definition of repair, maintenance, and installation ~~service~~ services to digital property, tangible personal property, or real property for a period of time or some other defined measure. The term does not include a single service included in repair, maintenance, or installation ~~service,~~ services, but does include a contract where the obligor may provide a service included in the definition of repair, maintenance, and installation services as a condition of the contract. The term includes a service contract for a pool, fish tank, or similar aquatic feature and a home warranty. Examples include a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair agreement, or a similar agreement or contract.

...

(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended as of ~~May 11, 2017.~~May 3, 2018.

...

(49) Use. – The exercise of any right, power, or dominion whatsoever over tangible personal property, digital property, or a service by the purchaser of the property or service. The term includes withdrawal from storage, distribution, installation, affixation to real or personal property, and exhaustion or

consumption of the property or service by the owner or purchaser. The term does not include ~~the following:~~

~~a.~~ ~~A~~ a sale of ~~property~~ tangible personal property, digital property, or a service in the regular course of business.

~~b.~~ ~~A purchaser's use of tangible personal property or digital property in any of the circumstances that would exclude the storage of the property from the definition of "storage" in subdivision (44) of this section.~~

...."

SECTION 4.1.(c) Subsection (a) of this section is effective retroactively to January 1, 2017. If the amendment to G.S. 105-164.3(20), as enacted by subsection (a) of this section, increases sales and use tax liability, then it becomes effective when this act becomes law.

SECTION 4.2. G.S. 105-164.4(a) reads as rewritten:

"**§ 105-164.4. Tax imposed on retailers and certain facilitators.**

(a) A privilege tax is imposed on a retailer engaged in business in the State at the percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as follows:

(1) The general rate of tax applies to the sales price of each item or article of tangible personal property that is sold at retail and is not subject to tax under another subdivision in this section. A sale of a freestanding appliance is a retail sale of tangible personal property. This subdivision applies to the sales price of or gross receipts derived from repair, maintenance, and installation services to tangible personal property. This subdivision does not apply to repair, maintenance, and installation services for real property; these services are taxable under subdivision (16) of this subsection.

(1a) The general rate applies to the sales price of each of the following items sold at retail, including all accessories attached to the item when it is delivered to the ~~purchaser:~~purchaser, and to the sales price of or the gross receipts derived from repair, maintenance, and installation services for each of the following items. The items taxable under this subdivision are as follows:

a. A manufactured home.

b. A modular home. The sale of a modular home to a modular homebuilder is considered a retail sale, no matter that the modular home may be used to fulfill a real property contract. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home.

c. An aircraft. The maximum tax is two thousand five hundred dollars ($2,500) per article. The maximum tax does not apply to the sales price of or gross receipts derived from repair, maintenance, and installation services, but the use tax exemption in G.S. 105-164.27A(a3) may apply to these services.

d. A qualified jet engine.

(1b) The rate of three percent (3%) applies to the sales price of each boat sold at retail, including all accessories attached to the boat when it is delivered to the purchaser. The maximum tax is one thousand five hundred dollars ($1,500) per article. The maximum tax does not apply to the sales price of or gross receipts derived from the sales price of or gross receipts derived from repair,

maintenance, and installation services, but the use tax exemption in G.S. 105-164.27A(a3) may apply to these services.

...

(6b) The general rate applies to the sales price of digital property that is sold at retail and that is listed in this subdivision, is delivered or accessed electronically, is not considered tangible personal property, and would be taxable under this Article if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. This subdivision applies to the sales price of or gross receipts derived from repair, maintenance, and installation services to digital property. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service. The following property is subject to tax under this subdivision:

...

(16) The general rate applies to the sales price of or the gross receipts derived from repair, maintenance, and installation services for real property and generally includes any tangible personal property or digital property that becomes a part of or is applied to a purchaser's property. A mixed transaction contract and a real property contract are taxed in accordance with G.S. 105-164.4H."

SECTION 4.3. G.S. 105-164.4B reads as rewritten:

"**§ 105-164.4B. Sourcing principles.**

(a) General Principles. – The following principles apply in determining where to source the sale of a ~~product.~~ product for the seller's purpose and do not alter the application of the tax imposed under G.S. 105-164.6. Except as otherwise provided in this section, a service is sourced where the purchaser can potentially first make use of the service. These principles apply regardless of the nature of the product, except as otherwise noted in this section:

...

(i) Computer Software Renewal. – The gross receipts derived from the renewal of a service contract for prewritten software is generally sourced pursuant to subdivision (a) of this section. However, sourcing the renewal to an address where the purchaser received the underlying prewritten software does not constitute bad faith provided the seller has not received information from the purchaser that indicates a change in the location of the underlying software."

SECTION 4.4. G.S. 105-164.4G(e) reads as rewritten:

"(e) Exceptions. – The tax imposed by this section does not apply to the following:

(1) An amount paid solely for the right to ~~participate~~ participate, other than to be a spectator, in sporting activities. Examples of these types of charges include bowling fees, golf green fees, and gym memberships.

(2) Tuition, registration fees, or charges to attend instructional seminars, conferences, or workshops for educational purposes.

(3) A political contribution.

(4) A charge for lifetime seat rights, lease, or rental of a suite or box for an entertainment activity, provided the charge is separately stated on an invoice or similar billing document given to the purchaser at the time of sale.

(5) An amount paid solely for transportation.

(6) An amount paid for the right to participate, other than to be a spectator, in the following activities:

a. Rock climbing, skating, skiing, snowboarding, sledding, zip lining, or other similar activities.

b. Instruction classes related to the items included in sub-subdivision a. of this subdivision.

c. Riding on a carriage, boat, train, plane, horse, chairlift, or other similar rides.

d. Amusement rides, including a waterslide."

SECTION 4.5. G.S. 105-164.4I reads as rewritten:

"**§ 105-164.4I. Service contracts.**

...

~~(c) Exceptions. The tax imposed by this section does not apply to any of the following:~~

~~(1) A security or similar monitoring contract for real property.~~

~~(2) A contract to provide a certified operator for a wastewater system.~~

...."

SECTION 4.6.(a) G.S. 105-164.6(b) reads as rewritten:

"(b) Liability. – The tax imposed by this section is payable by the person who purchases, leases, or rents tangible personal property or digital property or who purchases a service. If the property purchased becomes a part of real property in the State, the real property contractor, the retailer-contractor, the subcontractor, the lessee, and the owner are jointly and severally liable for the tax, except as provided in ~~G.S. 105-164.4H(a)~~G.S. 105-164.4H(a1) regarding receipt of an affidavit of capital improvement. The liability of a real property contractor, a retailer-contractor, a subcontractor, a lessee, or an owner who did not purchase the property is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

SECTION 4.6.(b) This section is effective retroactively to January 1, 2017, and applies to sales and purchases made on or after that date.

SECTION 4.7.(a) Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.11B. Recover sales tax paid.**

A retailer who pays sales and use tax on property or services and subsequently resells the property or services at retail, without the property or service being used by the retailer, may recover the sales or use tax originally paid to a seller as provided in this section. A retailer entitled to recover tax under this section may reduce taxable receipts by the taxable amount of the purchase price of the property or services resold for the period in which the retail sale occurs. A recovery of tax allowed under this section is not an overpayment of tax and, where such recovery is taken, a refund of the tax originally paid should not be requested pursuant to the authority under G.S. 105-164.11. Any amount for tax recovered under this section in excess of tax due for a reporting period under this Article is not subject to refund. Any tax recovered under this section may be carried forward to a subsequent reporting period and taken as an adjustment to taxable receipts. The records of the retailer must clearly reflect and support the adjustment to taxable receipts for the period in which the adjustment is made."

SECTION 4.7.(b) G.S. 105-164.11(b) reads as rewritten:

"(b) Refund Procedures First Remedy. – The first course of remedy available to purchasers seeking a refund of over-collected sales or use taxes from the seller are the customer refund procedures provided in this Chapter or otherwise provided by administrative rule, bulletin, or directive on the law issued by the Secretary. Where a person recovers tax under G.S. 105-164.11B, a refund or credit under this section is not allowed by the Secretary."

SECTION 4.8. G.S. 105-164.13 reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(5e) Sales of mill machinery or mill machinery parts or accessories to any of the ~~following:~~persons listed in this subdivision. For purposes of this subdivision, the term "accessories" does not include electricity. The persons are:

a. A manufacturing industry or plant. A manufacturing industry or plant does not include (i) a delicatessen, cafe, cafeteria, restaurant, or another similar retailer that is principally engaged in the retail sale of foods prepared by it for consumption on or off its premises or (ii) a production company.

b. A contractor or subcontractor if the purchase is for use in the performance of a contract with a manufacturing industry or plant.

c. A subcontractor if the purchase is for use in the performance of a contract with a general contractor that has a contract with a manufacturing industry or plant.

...

(9) Boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints, parts, accessories, and supplies sold to any of the following:

a. The holder of a standard commercial fishing license issued under G.S. 113-168.2 for principal use in commercial fishing operations.

b. The holder of a shellfish license issued under G.S. 113-169.2 for principal use in commercial shellfishing operations.

c. The operator of a for-hire ~~boat,~~ vessel, as defined in G.S. 113-174, for principal use in the commercial use of the boat.

...

(13) All of the ~~following drugs,~~ drugs listed in this subdivision, including their packaging materials and any instructions or information about the drugs included in the package with ~~them:~~them. This subdivision does not apply to pet food or feed for animals. The drugs exempt under this subdivision are as follows:

a. Drugs required by federal law to be dispensed only on prescription.

b. Over-the-counter drugs sold on prescription. This sub-subdivision does not apply to purchases of over-the-counter drugs by hospitals and other medical facilities for use and treatment of patients.

c. Insulin.

...

(15) Accounts of purchasers, representing taxable sales, on which the tax imposed by this Article has been paid, that are found to be worthless and actually charged off for income tax purposes may, at corresponding periods, be deducted from gross sales. In the case of a municipality that sells electricity, the account may be deducted if it meets all the conditions for charge-off that would apply if the municipality were subject to income tax. Any accounts deducted pursuant to this subdivision must be added to gross sales if afterwards collected. For purposes of this exemption, a worthless account of a purchaser is a "bad debt" as allowed under section 166 of the Code. The amount calculated pursuant to section 166 of the Code must be adjusted to exclude financing charges or interest, sales or use taxes charged on the sales price, uncollectible amounts on property that remains in the possession of the seller until the full purchase price is paid, expenses incurred in attempting to collect any debt, and repossessed property.

...

(61a) The sales price of or the gross receipts derived from the repair, maintenance, and installation services and service contracts listed in this subdivision are exempt from tax. Except as otherwise provided in this subdivision, property and services used to fulfill either a repair, maintenance, or installation service or a service contract exempt from tax under this subdivision are taxable. The list of repair, maintenance, and installation services and service contracts exempt from tax under this subdivision is as follows:

a. ~~An~~ A service and a service contract for an item exempt from tax under this ~~Article.~~ Article, except as otherwise provided in this subdivision. Property and services used to fulfill a service or service contract exempt under this sub-subdivision are exempt from tax under this Article. This exemption does not apply to water for a pool, fish tank, or similar aquatic feature or to a motor vehicle, except as provided under subdivision (62a) of this ~~section.~~section and fees under sub-subdivision b. of this subdivision.

...

p. A security or similar monitoring contract for real property. The exemption provided in this subdivision does not apply to charges for repair, maintenance, and installation services to repair security, alarm, and other similar monitoring systems for real property.

q. A contract to provide a certified operator for a wastewater system.

...

(70) Gross receipts derived from a rental of an accommodation are exempt as provided in G.S. 105-164.4F."

SECTION 4.9.(a) G.S. 105-164.13E is amended by adding a new subsection to read:

"**§ 105-164.13E. Exemption for farmers.**

(a) Exemption. – A qualifying farmer is a person who has an annual income from farming operations for the preceding taxable year of ten thousand dollars ($10,000) or more or who has an average annual income from farming operations for the three preceding taxable years of ten thousand dollars ($10,000) or more. For purposes of this section, the term "income from farming operations" means sales plus any other amounts treated as gross income under the Code from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, and a livestock farmer, a farmer of crops, ~~and~~ a farmer of an aquatic species, as defined in ~~G.S. 106-758.~~ G.S. 106-758, and a person who boards horses. A qualifying farmer may apply to the Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption certificate expires when a person fails to meet the income threshold for three consecutive taxable years or ceases to engage in farming operations, whichever comes first.

~~The following tangible personal property, digital property, and services are exempt from sales and use tax if~~ Except as otherwise provided in this section, the items exempt under this section must be purchased by a qualifying farmer and ~~for use~~ used by the farmer in farming operations. For purposes of this section, an item is used by a farmer for farming operations if it is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, ~~or animals:~~or animals. The following tangible personal property and services that may be exempt from sales and use tax under this section are as follows:

...

(c1) Services for Farmer. – A qualifying item listed in subdivision (6) of subsection (a) of this section purchased to fulfill a service for a person who holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate issued under G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased directly by the person who holds the exemption certificate. A person that purchases one of the items allowed an exemption under

this subsection must provide an exemption certificate to the retailer that includes the name of the purchaser and an exemption number issued to the purchaser by the Department pursuant to G.S. 105-164.28A. A person that purchases an item exempt from tax pursuant to this subsection must maintain records to substantiate that an item is used to provide a service for a person who holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate.

...."

SECTION 4.9.(b) This section is effective retroactively to July 1, 2014. A person who paid sales and use tax on an item exempt from sales and use tax pursuant to G.S. 105-164.13E, as enacted by this section, may apply to the Department of Revenue for a refund of any excess tax paid to the extent the refund is the result of the change in the law enacted by this section. A request for a refund must be made on or before October 1, 2018. A request for a refund received after this date is barred and the provisions of G.S. 105-164.11 do not apply.

SECTION 4.10. G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars and locomotives, and fuel, lubricants, repair parts, accessories, service contracts, and repair, maintenance, and installation services for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An "interstate carrier" is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

(1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts, accessories, service contracts, and repair, maintenance, and installation services purchased by the applicant inside or outside this State during the refund period.

(2) The purchase price of the taxable items listed in subdivision (1) of this subsection. For purposes of this subdivision, the term "taxable" is based on the imposition of tax on the items and services in the State.

(3) The sales and use taxes paid in this State on the listed items.

(4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period. Airplane miles are not in this State if the airplane does not depart or land in this State.

(5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the mileage ratio. The numerator of the mileage ratio is the number of miles the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes in this State during the refund period. The denominator of the mileage ratio is the number of miles the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

SECTION 4.11. G.S. 105-164.15A(b) reads as rewritten:

"(b) Combined General Rate Items. – The effective date of a rate change for an item that is taxable under this Article at the combined general rate is administered as follows:

...."

SECTION 4.12. G.S. 105-164.19 reads as rewritten:

"§ 105-164.19. Extension of time for making returns and payment.

The Secretary for good cause may extend the time for filing any return under the provisions of this Article and may grant additional time within which to file the return ~~as he may deem proper, but the time for filing any return shall not be extended for more than 30 days after the regular due date of the return. If the time for filing a return is extended, interest accrues at the rate established pursuant to G.S. 105-241.21 from the time the return was due to be filed to the date of payment.~~and pay the tax due pursuant to G.S. 105-263(b)."

SECTION 4.13. G.S. 105-164.27A(a) reads as rewritten:

"(a) General. – A general direct pay permit authorizes its holder to purchase certain tangible personal property, digital property, or service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A general direct pay permit may not be used for purposes identified in subsections (a1), (a2), (a3), or (b) of this section. A person who purchases an item under a direct pay permit issued under this subsection is liable for use tax due on the purchase. The tax is payable when the property is placed in use or the service is received. A direct pay permit issued under this subsection does not apply to taxes imposed under G.S. 105-164.4 on sales of ~~electricity~~ electricity, piped natural gas, video programming, spirituous liquor, or the gross receipts derived from rentals of accommodations.

A person who purchases an item for storage, use, or consumption in this State whose tax status cannot be determined at the time of the purchase because of one of the reasons listed below may apply to the Secretary for a general direct pay permit:

(1) The place of business where the item will be stored, used, or consumed in the State is not known at the time of the purchase and a different tax consequence applies depending on where the item is ~~used.~~used in the State.

(2) The manner in which the item will be stored, used, or consumed in the State is not known at the time of the purchase and one or more of the potential uses is taxable but others are not ~~taxable.~~taxable in the State."

SECTION 4.14. G.S. 105-164.32 reads as rewritten:

"§ 105-164.32. Incorrect returns; estimate.

If a retailer, a wholesale ~~merchant~~ merchant, a facilitator, or a consumer fails to file a return and pay the tax due under this Article or files a grossly incorrect or false or fraudulent return, the Secretary must estimate the tax due and assess the retailer, the wholesale merchant, the facilitator, or the consumer based on the estimate."

SECTION 4.15. G.S. 105-244.3(a) reads as rewritten:

"(a) Grace Period. – The Department shall take no action to assess any tax due for a filing period beginning on or after March 1, 2016, and ending ~~before~~ prior to January 1, ~~2018,~~ 2019, if one or more of the conditions of this subsection apply and the retailer did not receive specific written advice from the Secretary for the transactions at issue for the laws in effect for the applicable periods. Except as otherwise provided, this subsection also applies to use tax liability imposed on a purchaser under G.S. 105-164.6. The conditions are as follows:

(1) A retailer failed to charge sales tax due on separately stated installation charges that are part of the sales price of tangible personal property or digital property sold at retail.

(2) A person failed to properly classify themselves as a retailer in retail trade for the period beginning March 1, 2016, and ending December 31, 2016, and did not charge sales tax on all retail transactions but rather treated some transactions as real property contracts in error for sales and use tax purposes.

This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a transaction erroneously treated as a real property contract.

(3) A person treated a transaction as a real property contract in error and did not collect sales tax on the transaction as a retail sale. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a transaction erroneously treated as a real property contract.

(4) A person failed to collect sales tax on the sales price of a service contract for one or more components, systems, or accessories for a motor vehicle on or after March 1, 2016, and prior to January 1, 2017, where the contract was sold by a motor vehicle dealer, a motor vehicle service agreement company, or a motor vehicle dealer on behalf of a motor vehicle service agreement company.

(5) A person failed to collect sales tax on the retail sale of a service contract for tangible personal property that becomes a part of or is affixed to real property.

(6) A person failed to collect sales tax on the retail sale of a service contract for a pool, a fish tank, or similar aquatic feature on or after January 1, 2017, and prior to January 1, ~~2018,~~ 2019, provided the person paid tax on any purchases used to fulfill the service contract.

(7) A person failed to collect sales tax on the sales price of or the gross receipts derived from the retail sale of a home warranty on or after January 1, 2017, and prior to January 1, ~~2018,~~ 2019, provided the warranty includes coverage for real property.

(8) A person failed to collect sales tax on the taxable portion of a mixed service contract ~~for repair, maintenance, and installation services~~ that exceeds ten percent (10%) for a transaction ~~prior to January 1, 2017.~~on or after January 1, 2017, and prior to January 1, 2019. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a mixed contract.

(8a) A person failed to collect sales tax on the taxable portion of a mixed transaction contract that exceeds twenty-five percent (25%) for a transaction on or after January 1, 2017, and prior to January 1, 2019. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a mixed transaction contract.

(8b) A person failed to collect sales tax on the taxable portion of a bundled transaction that included a contract for two more services, one of which was subject to tax and one of which was not subject to tax, for a transaction on or after March 1, 2016, and prior to January 1, 2017.

(9) A person treats a transaction as a real property contract for remodeling instead of the retail sale of repair, maintenance, and installation services sold at retail prior to January 1, ~~2018.~~ 2019. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill the transaction.

(10) A person failed to collect sales tax on repair, maintenance, and installation services for tangible personal property and digital property."

SECTION 4.16. G.S. 105-187.52(c) reads as rewritten:

"(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this Article. The exemption in G.S. 105-164.13(62) does not apply to an item used to maintain or repair tangible personal property pursuant to a service contract exempt from tax under ~~G.S. 105-164.4I(b)(4).~~G.S. 105-164.13(61a)a."

SECTION 4.17. G.S. 105-164.4H(a1) reads as rewritten:

"(a1) Substantiation. – Generally, services to real property are retail sales of or the gross receipts derived ~~from,~~ from repair, maintenance, and installation services and subject to tax in

accordance with G.S. 105-164.4(a)(16), unless a person substantiates that a transaction is subject to tax as a real property contract in accordance with subsection (a) of this section, subject to tax as a mixed transaction in accordance with subsection (d) of this section, or the transaction is not subject to tax. A person may substantiate that a transaction is a real property contract or a mixed transaction by records that establish the transaction is a real property contract or by receipt of an affidavit of capital improvement. The receipt of an affidavit of capital improvement, absent fraud or other egregious activities, establishes that the subcontractor or other person receiving the affidavit should treat the transaction as a capital improvement, and the transaction is subject to tax in accordance with subsection (a) of this section. A person that issues an affidavit of capital improvement is liable for any additional tax due on the transaction, in excess of tax paid on related purchases under subsection (a) of this section, if it is determined that the transaction is not a capital improvement but rather the transaction is subject to tax as a retail sale. A person who receives an affidavit of capital improvement from another person, absent fraud or other egregious activities, is not liable for any additional tax on the gross receipts from the transaction if it is determined that the transaction is not a capital improvement.

The Secretary may establish guidelines for transactions where an affidavit of capital improvement is not required, but rather a person may establish by records that such transactions are subject to tax in accordance with subsection (a) of this section."

SECTION 4.18. G.S. 105-164.22 reads as rewritten:

"**§ 105-164.22. Record-keeping requirements, inspection authority, and effect of failure to keep records.**

Retailers, wholesale merchants, and consumers must keep records that establish their tax liability under this Article. The Secretary or a person designated by the Secretary may inspect these records at any reasonable time during the day.

A retailer's records must include records of the retailer's gross income, gross sales, net taxable sales, and all items purchased for resale. Failure of a retailer to keep records that establish that a sale is exempt under this Article subjects the retailer to liability for tax on the sale.

A wholesale merchant's records must include a bill of sale for each customer that contains the name and address of the purchaser, the date of the purchase, the item purchased, and the price at which the wholesale merchant sold the item. Failure of a wholesale merchant to keep these records for the sale of an item subjects the wholesale merchant to liability for tax at the rate that applies to the retail sale of the item.

A consumer's records must include an invoice or other statement of the purchase price of an item the consumer purchased from inside or outside the State. Failure of the consumer to keep these records subjects the consumer to liability for tax on the purchase price of the item, as determined by the Secretary."

PART V. EXCISE TAX CHANGES

SECTION 5.1. G.S. 105-113.9(2) reads as rewritten:

"(2) The sale of cigarettes to a nonresident ~~wholesaler or retailer registered through the Secretary~~ purchaser who has no place of business in North Carolina and who purchases the cigarettes for the purposes of resale not within this State and where the cigarettes are delivered to the purchaser at the business location in North Carolina of the distributor who is also licensed as a distributor under the laws of the state of the nonresident purchaser."

SECTION 5.2. G.S. 105-113.36 reads as rewritten:

"**§ 105-113.36. Wholesale dealer and retail dealer must obtain license.**

A wholesale dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of twenty-five dollars ($25.00) for the license. A retail dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of ten

dollars ($10.00) for the license. A "place of business" is a place where a wholesale dealer ~~or where a retail dealer~~ makes tobacco products other than cigarettes or a wholesale dealer or a retail dealer receives or stores non-tax-paid tobacco products other than cigarettes."

SECTION 5.3.(a) Part 5 of Article 2C of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-113.83A. Registration and discontinuance requirements; penalties.**

(a) Registration Required. – A person who holds a wine shipper permit issued under G.S. 18B-1001.1 or one or more of the following ABC permits issued under Article 11 of Chapter 18B of the General Statutes must register with the Secretary:

(1) Unfortified winery.
(2) Fortified winery.
(3) Brewery.
(4) Distillery.
(5) Wine importer.
(6) Wine wholesaler.
(7) Malt beverages importer.
(8) Malt beverages wholesaler.
(9) Nonresident malt beverage vendor.
(10) Nonresident wine vendor.
(11) Wine Producer.

(b) Registration Form. – Registration must be in a form required by the Secretary and include all information requested. If a permittee fails to register, the Secretary must notify the ABC Commission of the violation.

(c) Discontinuance of Authorized Activities. – A permittee required to be registered, who changes ownership or stops engaging in the activities authorized by an issued ABC permit, must notify the Secretary in writing of the change. The permittee is responsible for maintaining a bond or irrevocable letter of credit as required by G.S. 105-113.86 and submitting all returns and the payment of all taxes for which the permittee is liable under this Article while the issued ABC permit is active.

(d) Penalty. – The Secretary must notify the ABC Commission when a permittee required to register is not eligible to hold an ABC permit for failure to satisfy G.S. 18B-900(a)(8). Upon notification, the ABC Commission must impose any penalty permitted under G.S. 18B-104."

SECTION 5.3.(b) This section becomes effective July 1, 2018, and permittees must register in accordance with this section on or before December 1, 2018.

SECTION 5.4. G.S. 105-113.86(b) reads as rewritten:

"(b) Nonresident Vendors. – The Secretary may require the holder of a nonresident vendor ABC permit to furnish a bond in an amount not to exceed two thousand dollars ($2,000). The bond ~~shall~~ must be conditioned on compliance with this Article, ~~shall be~~ payable to the ~~State, shall be~~ State in a form acceptable to the Secretary, and ~~shall be~~ secured by a corporate ~~surety or by a pledge of obligations of the federal government, the State, or a political subdivision of the State.~~surety."

SECTION 5.5. G.S. 105-259(b)(50) reads as rewritten:

"(50) To provide public access to a list containing the ~~name~~ name, physical address, and account number of entities licensed under Article 2A of this Chapter to aid in the administration of the tobacco products tax."

SECTION 5.6. G.S. 105-449.80(a) reads as rewritten:

"(a) Rate. – For the period that begins on January 1, 2016, and ends on June 30, 2016, the motor fuel excise tax rate is a flat rate of thirty-five cents (35¢) per gallon. For the period that begins on July 1, 2016, and ends on December 31, 2016, the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon. For the calendar years beginning on January 1, 2017,

the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon, multiplied by a percentage. For calendar years beginning on or after January 1, 2018, the motor fuel excise tax rate is the amount for the preceding calendar year, multiplied by a percentage. The percentage is one hundred percent (100%) plus or minus the sum of the following:

(1) The percentage change in population for the applicable calendar year, as estimated under G.S. 143C-2-2, multiplied by seventy-five percent (75%).

(2) The annual percentage change in the Consumer Price Index for All Urban Consumers, multiplied by twenty-five percent (25%). For purposes of this subdivision, "Consumer Price Index for All Urban Consumers" means the United States city average for energy index contained in the detailed report released in the October prior to the applicable calendar year by the Bureau of Labor Statistics of the United States Department of ~~Labor.~~Labor, or data determined by the Secretary to be equivalent."

SECTION 5.7.(a) Section 2(b) of S.L 2016-23 reads as rewritten:

"**SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is ~~sixteen cents (16¢)~~eighteen cents (18¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

SECTION 5.7.(b) Effective July 1, 2018, Section 2(b) of S.L 2016-23, as rewritten by subsection (a) of this section, reads as rewritten:

"**SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is ~~eighteen cents (18¢)~~twenty cents (20¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the

rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

SECTION 5.7.(c) Effective July 1, 2019, Section 2(b) of S.L 2016-23, as rewritten by subsection (b) of this section, reads as rewritten:

"**SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is ~~twenty cents (20¢)~~twenty-two cents (22¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

SECTION 5.7.(d) Effective July 1, 2020, Section 2(b) of S.L 2016-23, as rewritten by subsection (c) of this section, reads as rewritten:

"**SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to

G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-two cents (22¢)~~twenty-four cents (24¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

SECTION 5.7.(e) Effective July 1, 2021, Section 2(b) of S.L 2016-23, as rewritten by subsection (d) of this section, reads as rewritten:

"**SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-four cents (24¢)~~twenty-six cents (26¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

SECTION 5.7.(f) Effective July 1, 2022, Section 2(b) of S.L 2016-23, as rewritten by subsection (e) of this section, reads as rewritten:

"**SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-six cents (26¢)~~twenty-eight cents (28¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

PART VI. OTHER TAX CHANGES

SECTION 6.1.(a) G.S. 105-230(b) reads as rewritten:

"(b) Any act performed or attempted to be performed during the period of suspension is invalid and of no effect, unless the Secretary of State reinstates the corporation or limited liability company pursuant to G.S. 105-232. However, a suspended entity's state tax filing obligations and the payment of its tax liability is not affected by the suspension, nor does a suspension affect the liability of a responsible person under G.S. 105-242.2, whether the obligation or liability is enforced in the context of a civil or criminal proceeding or otherwise."

SECTION 6.1.(b) G.S. 105-242.2(a)(1) reads as rewritten:

"(1) Business entity. – A corporation, a limited liability company, or a ~~partnership.~~partnership, regardless of whether the entity is suspended under G.S. 105-230 or is dissolved under Article 14 of Chapter 55 of the General Statutes or under Article 6 of Chapter 57D of the General Statutes."

SECTION 6.2. G.S. 105-237.1(a)(6) reads as rewritten:

"(6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the assessment is for sales or use tax the retailer failed to collect or the person failed to pay on an item taxable under G.S. 105-164.4(a)(10) through (a)(15), and the retailer or person made a good-faith effort to comply with the sales and use tax laws. This subdivision ~~expires for~~ applies to assessments ~~issued after~~ for any tax due for a reporting period ending prior to July 1, 2020."

SECTION 6.3. G.S. 105-282.1(a) reads as rewritten:

"**§ 105-282.1. Applications for property tax exemption or exclusion; annual review of property exempted or excluded from property tax.**

(a) Application. – Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled to it. If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

Except as provided below, an owner claiming an exemption or exclusion from property taxes must file an application for the exemption or exclusion annually during the listing period.

...

(2) Single application required. – An owner of one or more of the following properties eligible for a property tax benefit must file an application for the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the benefit.

...

b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35), (36), (38), (39), (41), ~~or (45)~~(45), (46), (47), (48), or (49) or under G.S. 131A-21.

...."

SECTION 6.4.(a) G.S. 153A-155(c) reads as rewritten:

"(c) Collection. – A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing county on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in ~~G.S. 105-164.4(a)(3),~~G.S. 105-164.4F, has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business and calculate tax on the allocated price of the taxable accommodation.

A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust for and on account of the taxing county.

The taxing county shall design and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. A retailer who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the retailer for State sales and use tax."

SECTION 6.4.(b) G.S. 160A-215(c) reads as rewritten:

"(c) Collection. – A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing city on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in ~~G.S. 105-164.4(a)(3),~~G.S. 105-164.4F, has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business and calculate tax on the allocated price of the taxable accommodation.

A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust for and on account of the taxing city.

The taxing city shall design and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the retailer for State sales and use tax."

SECTION 6.5.(a) G.S. 130A-247 reads as rewritten:

"§ 130A-247. Definitions.

The following definitions shall apply throughout this Part:

...

(5a) "Bed and breakfast home" means a business in a private home of not more than eight guest rooms that offers bed and breakfast accommodations for a period of less than one week and that meets all of the following criteria:

a. Does not serve food or drink to the general public for pay.

b. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home.

c. Includes the price of breakfast in the room rate. The price of additional meals served ~~may be added to the room rate~~ shall be listed as a separate charge on the overnight guest's bill at the conclusion of the overnight guest's stay.

d. Is the permanent residence of the owner or the manager of the business.

(6) "Bed and breakfast inn" means a business of at least nine but not more than 12 guest rooms that offers bed and breakfast accommodations for a period of less than one week, and that meets all of the following requirements:

a. Does not serve food or drink to the general public for pay.

b. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals only to overnight guests of the business.

c. Includes the price of breakfast in the room rate. The price of additional meals served ~~may be added to the room rate at the conclusion of the~~

~~overnight guest's stay.~~shall be listed as a separate charge on the overnight guest's bill at the conclusion of the overnight guest's stay.

d. Is the permanent residence of the owner or the manager of the business.

...."

SECTION 6.5.(b) This section becomes effective July 1, 2018, and applies to gross receipts derived from the rental of an accommodation that a consumer occupies or has the right to occupy on or after that date. A retailer is not liable for an undercollection of sales tax, occupancy tax, or prepared food and beverage tax if the retailer has made a good-faith effort to comply with the law and collect the proper amount of tax and has, due to the change under this section, undercollected the amount of sales tax, occupancy tax, or prepared food and beverage tax that is due. A retailer is liable for all taxes collected whether in error or otherwise. This subsection applies only to the period beginning January 1, 2018, and ending July 1, 2018.

SECTION 6.6. A municipality that is holding sales and use tax revenue distributed to it that is restricted for water and sewage capital outlay purposes, as required under G.S. 105-487(b) and G.S. 105-504, repealed effective August 14, 1998, under S.L. 1998-98, may use the restricted revenue as follows:

(1) A municipality that does not own or operate a water or sewer system may use part or all of the restricted sales and use tax revenue for any lawful purpose upon adoption of a resolution. A municipality that adopts a resolution releasing the sales and use tax revenue from the repealed restriction pursuant to this subdivision must provide written notice to the Secretary of the Local Government Commission that the funds are unrestricted within 30 days of the adoption of the resolution.

(2) A municipality that owns or operates a water or sewer system must use the revenue for its restricted purpose. The municipality may petition the Local Government Commission to waive part or all of the restriction, as allowed under G.S. 105-487(c).

SECTION 6.7. G.S. 105-320(b) is repealed.

SECTION 6.8.(a) G.S. 105-129.39 reads as rewritten:

"**§ 105-129.39. Sunset.**

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2015. For qualified rehabilitation expenditures and rehabilitation expenses incurred prior to January 1, 2015, this Article expires for property not placed in service by January 1, 2023."

SECTION 6.8.(b) G.S. 105-129.110 reads as rewritten:

"**§ 105-129.110. Sunset.**

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2020. For qualified rehabilitation expenditures and rehabilitation expenses incurred prior to January 1, 2020, this Article expires for property not placed in service by January 1, 2028."

SECTION 6.9. G.S. 105-160.3(b) reads as rewritten:

"(b) The tax credits allowed under G.S. 105-153.9 ~~and G.S. 105-153.10~~ may not be claimed by an estate or trust."

SECTION 6.10.(a) G.S. 115C-595(c) is repealed.

SECTION 6.10.(b) This section is effective for taxable years beginning on or after January 1, 2018.

SECTION 6.11. G.S. 105-163.7 reads as rewritten:

"**§ 105-163.7. Statement to employees; information to Secretary.**

...

(b) ~~Report~~ Informational Return to Secretary. – Every employer shall annually file an ~~annual report~~ informational return with the Secretary that contains the information given on each of the employer's written statements to an employee. The Secretary may require additional information to be included on the ~~report,~~ informational return, provided the Secretary has given a minimum of 90 days' notice of the additional information required. The ~~annual report~~ informational return is due on or before January 31 of the succeeding year and must be filed in an electronic format as prescribed by the Secretary. ~~The Secretary may, upon a showing of good cause, waive the electronic submission requirement. The report~~ If the employer terminates its business or permanently ceases paying wages during the calendar year, the informational return must be filed within 30 days of the last payment of remuneration. The informational return required by this subsection is in lieu of the report required by G.S. 105-154.

...

(d) Deduction Disallowance. – The Secretary may request a person who fails to timely file statements of payment to another person with respect to wages, dividends, rents, or interest paid to that person to file the statements by a certain date. If the payer fails to file the statements by that date, and, in addition to any applicable penalty under G.S. 105-236, the amounts claimed on the payer's income tax return as deductions for salaries and wages or rents or interest shall be disallowed to the extent that the payer failed to comply with the Secretary's request with respect to the statements."

SECTION 6.12. G.S. 105-251.2 reads as rewritten:

"**§ 105-251.2. Compliance ~~information requests.~~informational returns.**

(a) Occupational Licensing Board. – An occupational licensing board must give information to the Secretary when the Secretary requests the information. The Secretary may not request the information more than one time per calendar year. The Secretary may request the board to provide on a return, a report, or otherwise, a licensee's name, license number, tax identification number, business address, and any other information pertaining to the licensee in possession of the board that the Secretary deems necessary to determine the licensee's compliance with this Chapter. For purposes of this subsection, the term "occupational licensing board" has the same meaning as defined in G.S. 93B-1.

(b) Alcohol Vendor. – An alcohol vendor must give information to the Secretary when the Secretary requests the information. The Secretary may not request the information more than one time per calendar year. The Secretary may request the alcohol vendor to provide on a return, a report, or otherwise, for a permittee to which the alcohol vendor provides alcohol, a permittee's name, license number, and business address and any other information pertaining to the permittee in possession of the alcohol vendor that the Secretary deems necessary to determine the ~~pemittee's~~permittee's compliance with this Chapter. This subsection applies to the following alcohol vendors:

(1) An ABC store in the ABC system, as defined in G.S. 18B-101.
(2) A wine wholesaler, as defined in G.S. 18B-1201.
(3) A wholesaler, as defined in G.S. 18B-1301.
(4) The holder of an unfortified winery permit, a fortified winery permit, a brewery permit, or a distillery permit under G.S. 18B-1100.

(c) Payment Settlement Entity. – For any year in which a payment settlement entity is required to make a return pursuant to section 6050W of the Code, the entity shall submit the information in the return to the Secretary at the time the return is made. For purposes of this subsection, the term "payment settlement entity" has the same meaning as provided in section 6050W of the Code.

(d) Electronic Format. – All reports submitted to the Department of Revenue under this section shall be in an electronic format as ~~requested~~ prescribed by the Secretary. ~~Any report not timely filed under this section is subject to a penalty of one thousand dollars ($1,000).~~"

SECTION 6.12.1. G.S. 105-236(a) reads as rewritten:

"**§ 105-236. Penalties; situs of violations; penalty disposition.**

(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(10) ~~Failure to File~~Penalties Regarding Informational Returns. – The following penalties apply with regard to an informational return required by Article 4A, 5, 9, 36C, or 36D of this Chapter:

a. Repealed by Session Laws 1998-212, s. 29A.14(m), effective January 1, 1999.

~~b. The Secretary may request a person who fails to file timely statements of payment to another person with respect to wages, dividends, rents, or interest paid to that person to file the statements by a certain date. If the payer fails to file the statements by that date, the amounts claimed on the payer's income tax return as deductions for salaries and wages, or rents or interest shall be disallowed to the extent that the payer failed to comply with the Secretary's request with respect to the statements.~~

c. For failure to file with the Secretary ~~an informational return required by Article 4A, 36C, or 36D of this Chapter~~ by the date the return is due, ~~there shall be assessed~~ the Secretary shall assess a penalty of fifty dollars ~~($50.00).~~($50.00) per day, up to a maximum penalty of one thousand dollars ($1,000.00).

d. For failure to file in the format prescribed by the Secretary, the Secretary shall assess a penalty of two hundred dollars ($200.00).

...."

SECTION 6.13. G.S. 105-263 reads as rewritten:

"**§ 105-263. Timely filing of mailed documents and requests for extensions.**

(a) Mailed Document. – Sections 7502 and 7503 of the Code govern when a return, report, payment, or any other document that is mailed to the Department is timely filed.

(b) Extension. – The Secretary may extend the time in which a person must file a return with the Secretary. To obtain an extension of time for filing a return, a person must comply with any application requirement set by the Secretary. An extension of time for filing a franchise tax return or an income tax return does not extend the time for paying the tax due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing any return other than a franchise tax return or an income tax return extends the time for paying the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of time for filing a return extends the time for paying the tax expected to be due with the return, interest, at the rate established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the return to the date the tax is paid.

(c) Electronic Documents. – The Secretary shall prescribe when a return, report, payment, or any other document that is electronically submitted to the Department is timely filed."

SECTION 6.14. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-241A. Electronic filing of returns.**

(a) Purpose. – The General Assembly finds that the various statutes within Chapter 105 of the General Statutes that address the filing of tax returns or informational returns were originally drafted for the use of paper returns submitted either personally or through the mail. Through technological advances, there are many methods by which tax returns can be filed electronically that can be processed more efficiently by the Department of Revenue, are easier

and more convenient for taxpayers, improve the accuracy of the return, and are safer to use with respect to identity theft.

The General Assembly further finds that, in some cases, it is proper to require returns to be filed electronically, while in other cases it is more appropriate to provide electronic filing as an option instead of a requirement. In addition, the General Assembly recognizes that, because of constant technological advances, it is necessary to allow the Department of Revenue flexibility to provide specific guidance for how to file returns electronically, with a goal of continually improving the process and reducing the costs of and time to process returns.

(b) Electronically Filed Returns. – The Department shall offer electronic filing for returns required under this Chapter if the Department determines that it is cost-effective to do so and the Department has established and implemented procedures to electronically file specific returns.

(c) Form of Filing Electronically; Electronic Signature. – The Secretary shall prescribe the form of electronically filing each return that is required to or may be filed electronically and how the taxpayer or return preparer signs an electronically filed return.

(d) Waiver of Requirement to File Electronically. – The Secretary may, upon showing of good cause, waive any electronic submission requirement for returns required to be filed electronically under this Chapter.

(e) Notice to Taxpayers. – The Department shall, by December 1 of each year, publish on its Web site a list of returns required to be filed electronically and permitted to be filed electronically during the next calendar year."

PART VII. INSURANCE REGULATORY CHARGE

SECTION 7.1. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2019 calendar year.

PART VIII. DEPARTMENT OF REVENUE/INFORMATION TECHNOLOGY TRANSITION TO DEPARTMENT OF INFORMATION TECHNOLOGY

SECTION 8.1.(a) G.S. 105-259 reads as rewritten:

"§ 105-259. Secrecy required of officials; penalty for violation.

...

(b1) Information security. – The Secretary shall, consistent with the requirements of this section to maintain secrecy of tax information, determine when, how, and under what conditions the disclosure of tax information authorized by subsection (b) of this section shall be made. The Secretary shall be solely responsible for determining whether information security protections for systems or services that store, process, or transmit State or federal tax information are adequate, and the Secretary is not required to use any systems or services determined to be inadequate.

...."

SECTION 8.1.(b) G.S. 143B-1325(c) reads as rewritten:

"(c) Participating Agencies. – The State CIO shall prepare detailed plans to transition each of the participating agencies. As the transition plans are completed, the following participating agencies shall transfer information technology personnel, operations, projects, assets, and appropriate funding to the Department of Information Technology:

(1) Department of Natural and Cultural Resources.
(2) Department of Health and Human Services.
~~(3) Department of Revenue.~~
(4) Department of Environmental Quality.
(5) Department of Transportation.
(6) Department of Administration.
(7) Department of Commerce.

(8) Governor's Office.
(9) Office of State Budget and Management.
(10) Office of State Human Resources.
(11) Repealed by Session Laws 2016-94, s. 7.11(a), effective July 1, 2016.
(12) Department of Military and Veterans Affairs.
(13) Department of Public Safety, with the exception of the following:
a. State Bureau of Investigation.
b. State Highway Patrol.
c. Division of Emergency Management.

The State CIO shall ensure that agencies' operations are not adversely impacted during the transition."

SECTION 8.1.(c) G.S. 143B-1325(d) reads as rewritten:

"(d) Report on Transition Planning. – The Community College System Office, the Department of Public Instruction, ~~the Department of Revenue,~~ and the Bipartisan State Board of Elections and Ethics Enforcement shall work with the State CIO to plan their transition to the Department. The information technology transfer and consolidation from the Department of Revenue to the Department ~~may~~ shall not take place until the Secretary of the Department of Revenue determines that the system and data security of the Department meets the heightened security standards required by the federal government for purposes of sharing taxpayer information. By October 1, 2018, these agencies, in conjunction with the State CIO, shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on their respective transition plans."

SECTION 8.1.(d) Subsection (c) of this section becomes effective July 1, 2018. The remainder of this section is effective when it becomes law.

PART IX. EFFECTIVE DATE

SECTION 9.1. Except as otherwise provided, this act is effective when it becomes law.

Bill Draft DRS35329-BAxfz-16A: Various Changes To The Revenue Laws.

2017-2018 General Assembly

Committee: **Date:** May 9, 2018
Introduced by: **Prepared by:** Finance Team
Analysis of: DRS35329-BAxfz-16A

OVERVIEW: This bill draft would make various technical, clarifying, and administrative changes to the Revenue Laws, many of which have been recommended by the Department of Revenue.

Section	Bill Analysis	Effective Date[1]
	PART I. IRC UPDATE	
1.1	Updates the reference to the Internal Revenue Code from January 1, 2017, to February 9, 2018. Except as provided below, this means that to the extent North Carolina follows federal tax provisions in calculating State tax liability, changes made to the IRC by the Federal Tax Cuts and Jobs Act (TCJA) and the Bipartisan Budget Act of 2018 will apply to North Carolina. The TCJA made many changes to the calculation of federal taxable income. This legislation's impact on North Carolina is not as significant as it may be on other states due to the tax reform changes enacted in this State since 2011. Here are some of the major tax reform changes North Carolina has enacted that minimize the impact of the TCJA: • NC starts with adjusted gross income instead of federal taxable income. • NC does not conform to federal standard deductions or personal exemption amounts. • NC does not conform to federal itemized deductions. • NC allows cost of capital asset purchases to be deducted over a five-year period in place of federal law that allows the cost to be deducted in one year. • NC eliminated tax credits that were based on federal tax credits. This Part[2] would decouple from two of the tax changes included in TCJA:	

[1] The provisions are effective when they become law except as otherwise noted in this column.
[2] Section 1.2 and Section 1.3.

	• The deferral of gain and the exclusion of gain for assets invested in an Opportunity Fund. • The inclusion, and deduction, associated with foreign-derived intangible income (FDII) and global intangible low-taxed income (GILTI). The Bipartisan Budget Act of 2018 temporarily reduces the threshold for deducting medical expenses from 10% to 7.5% of income for the 2017 and 2018 taxable years. This Part conforms to this change. The Act also extends three provisions from which North Carolina has historically decoupled. This Part[3] decouples from those three provisions: (i) income exclusion for forgiveness of debt on primary residence; (ii) mortgage insurance deductible as mortgage interest; and (iii) deduction for tuition and expenses.	
1.2	Makes the adjustments necessary to State net income to decouple from the recently enacted FDII, GILTI, and Opportunity Zone provisions.	
1.3	Makes the adjustments necessary to North Carolina taxable income to decouple from the recently extended provisions in the Bipartisan Budget Act of 2018 noted in Section 1.1 of this summary and from the Opportunity Zone provisions. It also removes language that would otherwise prohibit an individual taxpayer from claiming a State itemized deduction if the taxpayer claimed the federal standard deduction.	
1.4	Removes unnecessary language in the definition of "wages".	
1.5	Repeals an addback for a Section 199 deduction taken at the federal level. Section 199 of the Code is the domestic production activities deduction. North Carolina decoupled from this federal deduction in 2005. The State addback is being repealed because the federal deduction was repealed in the TCJA.[4]	Applies to taxable years beginning on and after January 1, 2018.
1.6	Decouples North Carolina's filing requirement from the federal filing requirement. Under current law, an individual's obligation to file a State income tax return is tied to whether the individual had to file a federal return. An individual is required to file a federal income tax return if the individual's gross income exceeds the federal standard deduction. Since the federal standard deduction is now higher than the NC standard deduction, taxpayers with income less than the federal standard deduction amount but more than the NC standard deduction amount would not be required to file an NC tax return although NC income tax may be due. This change corrects this problem.	
1.7	Enables North Carolina participants in the NC 529 Plan to take full advantage of the expanded benefits permitted under section 529 of the Code, as amended by the TCJA. Under the TCJA changes	Applies to taxable years beginning on

[3] Section 1.3.
[4] Section 13305 of P.L. 115-97.

	enacted by Congress, a participant in a 529 plan may withdraw funds to pay for tuition in connection with a beneficiary's enrollment at an elementary or secondary public, private, or religious school. Previously, a withdrawal could only be made for purposes of higher education expenses. Under federal law, contributions to a 529 plan are payable from after-tax income; however, earnings in a 529 plan are not taxable and will not be taxed when the money is withdrawn for purposes permitted under section 529 of the Code. The tax-free nature of the earnings is also applicable for State tax purposes. Prior to taxable years beginning on or after January 1, 2014, contributions to a NC 529 plan were tax deductible for State tax purposes. A change related to this deduction is a provision in North Carolina's tax law that requires a taxpayer to add the amount deducted in a prior taxable year to the taxpayer's State taxable income if the amount is withdrawn from the Parental Savings Trust Fund and not used for qualified higher education expenses. Subsection (a) makes conforming changes to the income tax add-back provision to avoid penalizing a taxpayer who took the income tax deduction for contributions to the NC 529 plan while the deduction was in effect when the person withdraws the funds for purposes allowed under section 529 of the Code, as amended by Congress in the TCJA. Subsection (b) make conforming changes to the Parental Savings Trust Fund established under G.S. 116-209.25, and the responsibilities of the State Education Assistance Authority (SEAA) for the fund. The SEAA provides the requisite state oversight for the NC 529 Plan to be operated as a "qualified tuition program" under the IRC.	and after January 1, 2018.
PART II. BUSINESS TAX CHANGES		
2.1	Amends the definition of a "corporation" for purposes of the application of the franchise tax to include partnerships that elect to be taxed as a corporation for income tax purposes. Under current law, the definition includes limited liability companies that elect to be taxed as corporations, but it does not include partnerships. This change would equalize the treatment among all business entities that either are corporations or choose to be taxed as one. Moreover, the change makes franchise tax treatment consistent with the income tax treatment.	1/1/19, and applies to calculation of franchise tax reported on the 2018 and later returns.
2.2	Does two things as it relates to the determination of net worth for franchise tax purposes: • Eliminates vague language to make clear that if a corporation does not maintain its books in accordance with generally accepted accounting principles (GAAP), then its net worth is computed in accordance with the method it uses for federal tax purposes. If a corporation uses a method for federal tax purposes other than GAAP, then the new	1/1/19, and applies to calculation of franchise tax reported on the 2018 and later returns.

	subdivision (1a) requires that asset valuation, depreciation, depletion and amortization be calculated for franchise tax purposes using same method used for federal income tax purposes. • Prevents a double deduction of treasury stock that is already captured in the current franchise tax calculation.	
2.3	Provides guidance to the Department with respect to the term "income- producing activity" for apportionment purposes.	
2.4	Repeals references in the corporate addback statute to credits or deductions that have expired.[5]	
2.5	Clarifies that non-North Carolina captive insurance companies, which are those licensed and taxed in another state, are not subject to the tax on captive insurance companies, the corporate income tax, the franchise tax, or the gross premiums tax. No state taxes a foreign captive insurance company despite the fact that the insured risk may be located in the state.	
2.6	Re-enacts a provision that was inadvertently not roll-called during the 2017 Session. Section 4 of S.L. 2017-151 added massage and bodywork therapists to the list of professionals that are required to pay the annual $50 State privilege license tax. However, the bill was not roll-called at the time of enactment as required by the NC Constitution.	Applies to taxable years beginning on and after July 1, 2018.
PART III. FEDERAL DETERMINATIONS & AMENDED RETURNS		
3.1	Clarifies when a taxpayer must notify the Secretary as the result of either a federal determination or a voluntarily filed amended federal return that affects the amount of State tax payable. Similar changes are being made to both statutes that address federal determinations, the one for corporate taxpayers (G.S. 105-130.20) and the one for individual income taxpayers (G.S. 105-159). Under current law, if a taxpayer's State tax payable is affected by a federal determination, the taxpayer must file an amended return with the Secretary within 6 months of being notified, regardless of whether the amount owed is increased or decreased. Moreover, current law does not specify what constitutes "a final determination by the federal government." This section incorporates a cross-reference to a new definition of "federal determination," which means a change or correction of federal tax due arising from an audit of the Commissioner of Internal Revenue. It also provides that if a taxpayer voluntarily files an amended federal return, the taxpayer must file an amended State	

[5] G.S. 105-130.47 is the film credit that expired January 1, 2015. G.S. 105-129.16H is the credit for donating funds to a nonprofit or unit of State or local government to enable the acquisition of renewable energy property, which expired January 1, 2017.

	return if it results in an increase in State tax payable. An amended State return is optional if the adjustment results in less tax owed.	
3.2	Clarifies a taxpayer's filing requirements as the result of a federal determination or when a taxpayer voluntarily files an amended federal return. These changes mirror those made in Section 3.1 of the bill.	
3.3	Incorporates the changes made to G.S. 105-159 with regard to its application to estates and trusts (*See* Section 3.1 of this summary).	
3.4	Incorporates the changes made to G.S. 105-159 with regard to changes to the amount of withholding tax an employer is required to pay under the Code. (*See* Section 3.1 of this summary).	
3.5	Provides an exception to the general statute of limitations for assessments proposed from adjustments voluntarily filed with the IRS that affect State tax payable.	
3.6	Incorporates reference to newly defined term "federal determination." (See Section 3.7)	
3.7	Creates a definition for the term "federal determination" and clarifies the meaning to be a change or correction of the amount of federal tax due arising from an audit by the Commissioner of Internal Revenue. The current law refers to a "final determination by the federal government," but it is unclear as to what stage in the process this refers to or whether this could apply in a situation where a taxpayer voluntarily files an amended federal return that is consequently changed or corrected but not at the initiation of the IRS.	
PART IV. SALES AND USE TAX CHANGES		
4.1	Makes various stylistic and clarifying changes to sales tax definitions. The following changes are of note: • In subdivision (20b), the term mixed transaction contract is clarified to be transactions applicable to real property; it does not include a contract that consists of a capital improvement and RMI services for tangible personal property. This change to subdivision (20b) is made in subsection (a); subsection (b) makes grammatical changes. • In subdivision (33c), language is being added regarding certain requirements for datacenters to address the fact that, often there are no jobs at the time of application for a written determination. • In subdivision (33*l*), the language that creates an exemption for security or other monitoring services from taxable RMI services is being moved to the exemption statute (See Section 4.8 of bill). The changes in this subdivision also separate services applicable to motor vehicles into one sub-subdivision.	Subsection (a) is effective retroactively to January 1, 2017. The remainder is effective when it becomes law.

	• In subdivision (37), the language clarifies that a credit for trade-in does not reduce the sales price. • In subdivision (45a), the reference date to the Streamlined Agreement is updated to the most recent iteration. • In subdivision (49), a reference in the definition of "use" is being deleted because it is no longer applicable on or after January 1, 2017, as a result of the change to the definition of "storage" for sales and purchases.	
4.2	Merges the imposition of sales and use tax of repair, maintenance, and installation (RMI) services with the taxation of the items themselves. This change alleviates the necessity of determining whether the imposition is on the sale of the item plus installation or on the RMI service. The taxation of the installation is the same, regardless of how it is classified; and this change removes any distinction that may exist.	
4.3	Does two things in the sourcing statute: • Clarifies that the sourcing principles are generally for the benefit of the seller and that they do not alter the imposition of the use tax against a purchaser. • Provides guidance regarding the sourcing of computer software renewal. Currently, the statute is silent on this issue and the new language is per the Streamlined Agreement.	
4.4	Clarifies that certain activities are exempt from the sales and use tax on admission charges. The Department receives a number of inquiries regarding whether certain charges are subject to or exempt from the tax on admissions charges. Much of the administration of the tax hinges on the definition of "admission charges" which states, in part, "gross receipts derived for the right to attend an entertainment activity." The exemption for these activities is consistent with current practice, but by listing them explicitly in the statute, it will provide clearer guidance to taxpayers.	
4.5	Moves service contract exemptions from the service contract statute to the sales tax exemption statute. It is not a substantive change. (See Section 4.8 of the bill).	
4.6	Corrects a cross-reference.	Effective retroactively to January 1, 2017.
4.7	Provides a mechanism for a retailer who pays sales and use tax on property or services and subsequently resells the property or service at retail to recover the sales tax originally paid to a seller. The retailer could recover the sales tax originally paid by reducing taxable receipts by the taxable amount of the purchase price of the	

	property or services resold for the period in which the retail sales occurs.[6] The records of the retailer must clearly reflect and support the adjustment to taxable receipts for the period in which the adjustment is made. The General Assembly provided a temporary means for a retailer to recover sales and use tax originally paid on an item subsequently resold at retail last session in section 2.8 of S.L. 2017-204, and directed the Revenue Laws Study Committee to study the feasibility of providing a permanent means.	
4.8	Makes various technical and clarifying changes to the sales and use tax exemption statute. The notable changes are as follow: • Last year, the General Assembly repealed the 1%/$80 privilege tax on mill machinery and substituted a sales tax exemption. The intent was to keep the interpretation and application of Article 5F the same, but to eliminate the tax on those items. Under the prior law, G.S. 105-187.51 specified that the term "accessories" did not include electricity. This caveat was inadvertently dropped when the language was moved into the sales tax exemption statute. The change in subdivision (5e) corrects the omission. • Subdivision (13) clarifies the taxation of over-the-counter drugs. In 2003, NC changed its taxation of drugs to use the defined terms under the Streamlined Sales and Use Tax Agreement. Since that time, drugs required by federal law to be dispensed only on prescription and over-the-counter drugs sold on prescription have been exempt from sales tax and the Department's Directives have provided guidance that adheres to the statutory exemptions. However, several questions continue to arise in this area and the intent of the amendment to this subdivision is to clarify the statutory language and adhere to the historical application. The amendment makes it clear that pet food is subject to tax, even if the manufacturer of that food requires that the food be sold on prescription; the exemption only applies to drugs required by *federal law* to be dispensed only on prescription. The amendment also makes it clear that over-the-counter drugs used to treat a patient in a medical facility are subject to tax; the exemption only applies to over-the-counter drugs *sold* on prescription. • Subdivision (15) provides guidance with respect to "worthless accounts" by reference to "bad debts" under the	

[6] A retailer who purchases property or services for resell may purchase the items with a sales tax exemption certificate. If the items are subsequently used by the retailer, as opposed to resold, the retailer must remit use tax on the items purchased. The mechanism provided by this section give the retailer a different way to address this situation.

	Code. A retailer may deduct worthless accounts from gross sales. • Relocates the current exemptions from the tax on RMI services and service contracts from the service contract statute (Section 4.5) to the exemption statute. • Subdivision (70) is not a substantive change but merely corresponds with and cross-references the statute that sets out how to administer the tax on accommodations. That statute currently provides exemptions for private residences rented for fewer than 15 days a year, an accommodation provided for 90 or more days, and accommodations provided by a school, camp, or similar entity where a fee is charged for enrollment.	
4.9	This section does two things: • Clarifies that a qualifying farmer may be a person who boards horses. This clarification conforms to a similar change made to the present use value statutes last session. • Provides that remedies, vaccines, medications, litter materials, feeds, rodenticides, insecticides, and other substances may be exempt from sales and use tax if purchased for use on animals and plants held or produced for commercial purposes by a qualifying farmer. Prior to the tax law change made in 2014, these substances were exempt from tax if purchased for use on animals or plants held or produced for commercial purposes. Effective July 1, 2014, these substances *had to be purchased by a qualifying farmer* to meet the exemption requirements. Under the change made by this section, the exemption applies regardless of who purchases the substances so long as the substances are used to provide a service to a person who holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate. Provides a person who paid tax on an item exempt under this subsection may seek a refund directly from the Department of Revenue. The request must be made on or before October 1, 2018.	Retroactive to July 1, 2014.
4.10	Adds the term "taxable" to the statute authorizing a sales tax refund on certain purchases by an interstate carrier. By adding this term, it will identify that motor vehicle service contracts are exempt from sales and use taxes and will eliminate the requirement to include purchases of various items that are exempt from sales and use tax. Since the refund is calculated using a ratio reflecting in-State mileage which is then multiplied by the purchase price of the items purchased, the refund is amount is more accurately reflective of the formula if only taxable items are included within the total purchase price of items.	

4.11	Makes a technical change to accurately correspond with defined term.	
4.12	Eliminates a provision limiting the Secretary to extend the time for filing a sales tax return to no more than 30 days after the regular due date of the return. This change came about as the result of needing to extend the time beyond the 30-day period for taxpayers who were affected by Hurricane Matthew. With the change, sales tax extensions would be governed by G.S. 105-263 without the 30-day limitation. Under that statute, an extension of time for filing a return other than a franchise tax return or an income tax return extends the time for paying the tax due and the time when the penalty attaches for failure to pay the tax. However, interest accrues on the tax due from the original due date of the return.	
4.13	Makes two changes in the direct pay permit statute: • Clarifies that a direct pay permit is not applicable to any of the items that are subject to the combined general rate of tax, with the exception of telecommunication service as allowed under G.S. 105-164.27A(b). • Clarifies that items withdrawn from inventory and sent to another state are subject to tax in NC because the first "use" occurs in this State. This change is consistent with removal of the exceptions from the definition of "storage," effective January 1, 2017.	
4.14	Adds facilitators to the statute that authorizes the Secretary to estimate tax due and assess entities with sales tax remittance obligations when those entities fail to file a return or file a false or fraudulent return. They are being added because facilitators have sales tax remittance obligations under the sales tax statutes along with retailers and wholesale merchants.	
4.15	Extends the Sales Tax Base Expansion Protection Act for an additional year to better ensure retailers with sales tax obligations understand the applicable tax law changes. Under the Act, impacted retailers are given a grace period under which the Department will not impose assessments if the retailer demonstrates a good faith effort to comply. It also adds transactions to the grace period that have been inadvertently omitted.	
4.16	Corrects a cross-reference due to the repeal of a subsection.	
4.17	Makes a grammatical change.	
4.18	Provides that a consumer must keep records of items purchased inside the State, as well as outside the State. This change is needed to enable the Department to administer the new provision in Section 4.7 that allows a retailer who pays sales and use tax on property or services and subsequently resells the property or service at retail to recover the sales tax originally paid to a seller. It also highlights for the retailer the need to retain these records.	

PART V. EXCISE TAX CHANGES		
5.1	Replaces the phrase "wholesaler or retailer registered through the Secretary" with the term "purchaser" to make the statutory language internally consistent as the term "purchaser" is used to reference the nonresident vendor throughout the remainder of the statute.	
5.2	Removes language indicating that a retail dealer may make tobacco products at their place of business. In practice, only licensed wholesale dealers should be making or manufacturing any tobacco product.	
5.3	Requires the listed ABC permit holders to register with the Department and to notify the Department when a permittee discontinues their business. Certain ABC permit holders must pay excise taxes. Most of these permittees hold commercial ABC permits, which remain valid indefinitely. Because these permittees do not have to renew their permits annually, they do not fall under the procedure to confirm State tax compliance, which only applies to newly issued permits and annual permit renewals. This new statute would provide the Department with a mechanism for requiring this type of permittee to comply with tax obligations.	Effective October 1, 2018.
5.4	Removes language indicating that a bond for nonresident vendors may be made "by a pledge of obligations of the federal government, the State, or a political subdivision of the State." This same language was removed from a different section of the statute in S.L. 2014-3. In practice, only surety bonds or irrevocable letters of credit are accepted to satisfy the bonding requirement.	
5.5	Adds a tobacco product licensee's address to the list of information permitted to be disclosed by the Department. Under current law, the Department is authorized to provide public access to a list of the names and account numbers of tobacco products licensees. Because tobacco product licensees are required to obtain a license for "each place of business," then without also disclosing the physical address of each license, the user of the public access list cannot discern if the particular location is, in fact, licensed.	
5.6	Modifies the language directing the manner in which the Department obtains data for the Consumer Price Index (CPI) in order to calculate the motor fuel tax rate. The current tax rate calculation language[7] specifies that the data needed to calculate the CPI portion of the tax rate must be obtained through "the detailed report released in the October prior to the applicable calendar year by the Bureau of Labor Statistics...." As of June 2017, the Bureau of Labor Statistics stopped publication of the detailed report, and instead, releases the same information via	

[7] Enacted in S.L. 2015-2.

	publicly accessible databases available on the Bureau's website. By allowing for the use of "data determined by the Secretary to be equivalent," the Division will continue using the same data that was intended by the original enactment, but this will clarify that since the "detailed reports" are no longer available, the Bureau of Labor Statistics are an equivalent source.	
5.7	Increases the motor fuel tax rate for those gas stations deemed to be a special class under S.L. 2016-23 each year in accordance with the rate increase in South Carolina. Section 2.(b) of S.L. 2016-23 designated a class of gas stations (currently limited to one) that were recognized as being in North Carolina as a result of the boundary recertification as a special class of property authorized to charge a motor fuel tax rate of 16 cents per gallon, which was the rate charged by South Carolina at the time of enactment. The session law also directed the Revenue Laws Study Committee to monitor the rate of the gas tax charged by South Carolina and authorized the Committee to recommend an increase to the motor fuel tax rate charged by these establishments up to the amount charged in South Carolina, should the rate in South Carolina change. In 2017, the South Carolina Legislature passed House Bill 3516, which permanently increased the motor fuel tax rate by 2 cents per gallon each year for the next 6 years, totaling 12 cents over that time, beginning July 1, 2017.	
PART VI. OTHER TAX CHANGES		
6.1	Clarifies that the imposition of a revenue suspension, which is an act done by the Secretary of State at the direction of DOR, does not mean that the suspended corporation or LLC ceases to be liable following the suspension for accrued, current, or subsequent State taxes; rather the tax liability remains unaffected by the suspension.	
6.2	Clarifies the expiration date of a provision that allows the Secretary to compromise the liability of a retailer who is assessed for failure to properly collect sales tax on admission charges, service contracts, prepaid meal plans, or aviation gasoline and jet fuel. The language is being adjusted to mirror the language in G.S. 105-237.1(a)(7) because the intent was for the provision to be tied to a certain reporting period and not for the expiration to be tied to when assessments are issued.	
6.3	Adds references to recently created property tax exemptions to the list of those for which a property owner must file a single application. Generally speaking, a property owner seeking a property tax exemption must file an annual application. There are some exceptions, under which either no application is required or only a one-time application is required. This section adds the following exemptions to the single application requirement; these exemptions were established in recent years but corresponding changes were not made to the application statute: • Real property occupied by charter schools.	

	• Energy mineral interest in property for which a permit has not been issued under G.S. 113-395. • Real and personal property located on lands held in trust by the United State for the Eastern Band of Cherokee Indians, regardless of ownership. • A mobile classroom or modular unit that is occupied by a school and used exclusively for educational purposes.	
6.4	Corrects a cross-reference.	
6.5	Requires that lunch and dinner meals, served at the option of guests staying at a bed and breakfast home or inn, be charged separately on the guest's bill and, therefore, are not included in the room rate. This change corrects a provision enacted last year to more accurately reflect the General Assembly's intent.	Effective July 1, 2018.
6.6	Waives an antiquated restriction regarding sales and use tax revenue distributed to a municipality for water and sewer capital outlay purposes. G.S. 105-487(b) required a municipality to use a percentage of the sales and use tax revenue distributed to it under Article 40 of Chapter 105 of the General Statutes, First One-Half Cent (½¢) Local Government Sales and Use Tax, only for water and sewage capital outlay purposes. This restriction was time-limited. Prior to the sunset of the restriction, a municipality could petition the Local Government Commission to waive part or all of the restriction if the municipality demonstrated that its water and sewer needs could be met without the use of the restricted sales tax revenue. A similar restriction existed under Article 42, Second One-Half Cent (½¢) Local Government Sales and Use Tax. The restrictions on this use expired more than 20 years ago. The General Assembly repealed the obsolete restrictions in S.L. 1998-98: G.S. 105-487(b) and G.S. 105-504. Some municipalities have monies in their enterprise funds received from sales and use tax distributions prior to the expiration of the restrictions. Those funds must be expended as provided in the statute that existed at the time of the distributions, unless the municipality petitions the Local Government Commission to waive the restriction and the petition is approved. Under 20-NCAC 03.0112, the Local Government Commission charges a fee of $625 for services rendered to obtain this approval. There are some municipalities who do not own or operate a water or sewer system. In at least once instance, the amount of revenue subject to the restriction is less than one thousand five hundred dollars ($1,500). This section would allow a municipality that does not own or operate a water or sewer system to expend those funds for any public purpose without the necessity of petitioning the Local Government Commission for approval.	
6.7	Repeals an obsolete provision.	

6.8	Provides more specificity with regard to the expiration of the Historic Rehabilitation Tax Credits. This clarification will provide the Department with certainty as to when the tax credit can be removed from tax return forms.	
6.9	Deletes a reference to an expired credit that is not permitted to be claimed by an estate or trust. G.S. 105-153.10 is the child credit that is repealed for tax years beginning on or after January 1, 2018.	
6.10	Repeals a provision that creates a double income tax benefit for funds in a Personal Education Savings Account (PESA). G.S. 105-153.5 allows a State tax deduction for amounts deposited into a PESA account during the taxable year; this deduction would remain in place. This section repeals a provision that excludes the same funds from taxable income.	For taxable years beginning on or after January 1, 2018.
6.11	Restores the "out of business" provision, which directs employers as to when they must file the withholding reconciliation informational return if the employer terminates its business during the calendar year. In 2015, the General Assembly changed the due date for filing the NC-3 Form from "the same date the employer's federal information return of federal income taxes withheld from wages is due under the Code" to "January 31." Under the Code, an employer that goes out of business is required to file the federal reconciliation report with the IRS within 30 days from the last day the taxpayer has payroll. An unintended consequence of changing the due date without reference to the Code was the loss of this 30- day provision. This change restores that requirement for NC tax purposes. This section also moves existing language from another statute into this statute. This language is not new but is being relocated. (See Section 6.12.1 of the bill).	
6.12	Corrects a grammatical error and strikes penalty language for failure to timely file an information request because the penalty language is being modified and addressed in another statute. (See Section 6.12.1).	
6.12.1	Modifies the existing penalty for failure to file an informational return and creates a $200 penalty for failure to file an informational return in the proper format. The current penalty for failure to file an NC-3 is $50; the current penalty for failure to file an informational return under G.S. 105-251.2, which applies to occupational licensing boards, alcohol vendors, and payment settlement entities, is $1,000. This section tries to better align these penalties by changing both to $50 per day with a maximum penalty of $1,000.	
6.13	Provides that the Secretary will prescribe when a return, report, payment, or any other document that is electronically submitted to the Department is considered timely filed.	

6.14	Provides a framework for the Department to offer and prescribe the format for electronic filings. This statute includes authority to waive an electronic submission requirement and requires the Department to publish annually on its website a list of returns that are *required* to be filed electronically and those that are *permitted* to be filed electronically during the next calendar year.	
PART VII. SET INSURANCE REGULATORY CHARGE		
7.1	Sets the percentage rate of the insurance regulatory charge at 6.5% for the 2019 calendar year. North Carolina law requires an annual insurance regulatory charge be levied on each insurance company, other than a captive insurance company. The percentage rate for each taxable year must be established by the General Assembly. The charge levied is in addition to all other fees and taxes and is applied to the company's premium tax liability for the taxable year. The proceeds of the charge go to the Insurance Regulatory Fund which is under the control of the Office of State Budget and Management. All money credited to the Fund must be used to reimburse the General Fund for the appropriations identified in G.S. 58-6-25(d). The charge has been set at 6.5% each year since the 2015 calendar year.	
PART VIII. DEPARTMENT OF REVENUE - INFORMATION TECHNOLOGY TRANSITION TO DEPARTMENT OF INFORMATION TECHNOLOGY		
8.1	Provides that the Department of Revenue is not subject to the migration of information technology functions and personnel to the Department of Information Technology.[8] The Department of Revenue's security protocols are determined by the taxpayer secrecy and confidentiality provisions of G.S. 105-259 and IRS Publication 1075. The IT personnel in the Department of Revenue meet the federally required security checks, possess IT knowledge and skill, and understand tax law and tax return processing. Although the Department will not be subject to the migration of its IT functions and personnel to DIT, it will continue to furnish tax information to the State Chief Information Officer as required by G.S. 105-259(b)(45) and G.S. 143B-1385 for use by the Government Data Analytics Center.	
PART IX. EFFECTIVE DATE		
9.1	Except as otherwise provided, this act is effective when it becomes law.	

[8] Last session, in S.L. 2017-204, the Department of Revenue was given additional time to complete the transfer and consolidation of its IT functions.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 8, 2018
TO: Revenue Laws Committee

FROM: Jonathan Tart
Fiscal Research Division

RE: IRC Update

FISCAL IMPACT
($ in millions)

☑ Yes ☐ No ☐ No Estimate Available

	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
State Impact					
General Fund Revenues:	$0.0	$59.0	$71.0	$94.0	$108.0
NET STATE IMPACT	**$0.0**	**$59.0**	**$71.0**	**$94.0**	**$108.0**
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue

EFFECTIVE DATE: Various

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

The bill draft would update from January 1, 2017, to February 9, 2018, the reference to the Internal Revenue Code (IRC). This means that to the extent North Carolina follows federal tax provisions in calculating State tax liability, changes made to the IRC by the Federal Tax Cuts and Jobs Act (TCJA) and the Bipartisan Budget Act of 2018 would impact NC revenue collections. However, there have been major tax changes in NC including those listed below that minimize the impact of the federal tax changes:

- NC starts with federal adjusted gross income (AGI) instead of federal taxable income.
- NC does not conform to federal standard deduction or personal exemption amounts.
- NC does not conform to federal itemized deductions.
- NC allows cost of capital asset purchases to be deducted over a five-year period in place of federal law that allows the cost to be deducted in one year.
- NC eliminated tax credits that were based on federal tax credits.

The major federal tax changes include the following:

- Changes in individual and corporate tax rates. – NC sets its own tax rates.
- Elimination of personal exemptions and changes to the standard deduction. – NC does not conform to federal personal exemption amounts or standard deduction amounts.
- Elimination of, and changes to, numerous itemized deductions. – NC does not conform to federal itemized deductions.
- Change to bonus depreciation and Section 179 expensing. – NC does not conform to these federal tax laws.
- Allowance of a deduction against federal taxable income for certain pass-through business income. – NC begins its tax calculation with federal Adjusted Gross Income. The deduction for business income will not change the calculation of Adjusted Gross Income.

The estimated fiscal impact results from the following federal tax provisions:

Estimated Impact of Conforming to IRC Changes	FY 18-19	FY 19-20
Reduce threshold for deducting medical expenses from 10% to 7.5%, repeal deductions for home equity loan interest, and other miscellaneous deductions and income exclusions	-25	3
Simplify small business accounting methods	-35	-31
Limit net interest deduction	10	12
Disallow active businesses losses in excess of taxable income of $500k MFJ and $250k for others; Allow unlimited loss carryforward deduction up to 80% of income per year. Repeal 2 year loss carryback deduction for most taxpayers	80	63
Repeal like kind exchanges except for real property	4	6
Repeal deduction for various fringe benefits	14	9
Repeal deduction for FDIC premiums	8	6
Reduce corporate dividends received deduction from 80% to 65% from 20% owned corps. Reduce dividends received deduction from 70% to 50% for less than 20% owned corporations	3	3
Total	**59**	**71**

The bill draft decouples from the following provisions:

- Income Exclusion for forgiveness of debt on primary residence
- Deduction for mortgage insurance premiums
- Deduction for tuition and related expenses
- Tax incentives for investments in qualified opportunity zones
- Certain international tax provisions pertaining to income derived outside U.S.

ASSUMPTIONS AND METHODOLOGY:

The fiscal impact to the General Fund is a result of conformity to the IRC enacted as of February 9, 2018, to the extent that North Carolina does not decouple from the Internal Revenue Code in calculating State tax liability. The estimate is prepared by analyzing the US Joint Committee on Taxation (JCT) estimates on changes to federal taxes, IRS Statistics on Income, and North Carolina tax return data. The methodology used for converting federal data to the State level starts by adjusting for differences between the federal fiscal year that ends 9/30 and the State's fiscal year that ends 6/30, Fiscal Research adjusts these numbers to an approximate State fiscal year tax impact. Then, the next step is to prorate the national numbers to the State impact. This adjustment involved two steps: accounting for the relative size of the State based on federal tax collections and then adjusting for the difference in federal marginal tax rates and the State tax rate. Once North Carolina's share of the JCT estimates were determined, State tax liability changes were estimated and allocated to the appropriate fiscal year.

SOURCES OF DATA: NC Department of Revenue, US Joint Committee on Taxation

TECHNICAL CONSIDERATIONS: None

Appendix D

MEETING AGENDAS

[Back to Top]

REVENUE LAWS STUDY COMMITTEE AGENDA

Representative Bill Brawley ***Senator Tommy Tucker*** ***Representative Jason Saine***

Wednesday, April 11, 2018
Room 544, Legislative Office Building
9:30 a.m.

I. **Welcome and Opening Comments**

II. **Brief Overview of Tax Law Changes Enacted in the 2017 Session**
Nicholas Giddings, Legislative Analysis Division, NC General Assembly

III. **DOR Report on Tax Compliance Initiatives and Results: July 1, 2017 – December 31, 2017**
Semi-annual report submitted pursuant to G.S. 105-256
Alan Woodard, Director, Examination Division, Department of Revenue

IV. **DOR Report on Mandatory State Extension Form**
Submitted pursuant to S.L. 2017-204, Section 1.14
Donna Powell, Director, Personal Taxes, Department of Revenue

V. **IRC Update: Tax Cut and Jobs Act and the Federal Budget Act**
Jonathan Tart, Fiscal Research Division, NC General Assembly

VI. **Bill Draft: Various Revenue Law Changes**
Trina Griffin, Legislative Analysis Division, NC General Assembly

VII. **Worker Classification Issues with Independent Contractors**
- **Introductory Overview**
Greg Roney, Legislative Analysis Division, NC General Assembly
- **Marketplace Contractor**
Gina Fornario, Assistant General Counsel, Handy Technologies, Inc.

VIII. **Adjournment**

REVENUE LAWS STUDY COMMITTEE AGENDA

Representative Bill Brawley *Senator Tommy Tucker* *Representative Jason Saine*

Wednesday, May 9, 2018
Room 544, Legislative Office Building
9:30 a.m.

I. Adoption of the Minutes from the April 11, 2018, Meeting

II Revenue Update

Barry Boardman, Chief Economist, Fiscal Research Division, NCGA

III. Update on *South Dakota v. Wayfair, Inc.*

Trina Griffin, Principal Legislative Analyst, Legislative Analysis Division, NCGA

IV. Bill Draft: Various Revenue Laws *Changes*

Finance Team, NCGA

This agenda item consists of two parts: (i) modifications to the bill draft distributed at the meeting on April 11, 2018, based upon comments and suggestions received by interested parties, the Department of Revenue, and Committee staff; and (ii) amendments incorporating changes that were not included in the bill draft distributed at the meeting on April 11, 2018.

V. Adoption of Final Report

VI. Adjournment