

May 11, 2006

H 1963. REVENUE LAWS TECH. & MOTOR FUEL TAX CHANGES. Filed 5/11/06. *TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS AND RELATED STATUTES AND TO IMPROVE THE COLLECTION AND ADMINISTRATION OF THE MOTOR FUEL TAX.* Sections 1, 2, 7, 18, 19, 21, 22, 23, and 24 make technical changes.

Section 3 makes clarifying changes, including amending GS 105-130.2 to define "gross income" in the corporate income tax law by referencing section 61 of the Code, which is the same definition for individual income tax law.

Section 4 amends the income tax credit for production companies (GS 105-130.47(a) and GS 105-151.29(a)) to clarify that the term "highly compensated individual" is limited to individuals who are compensated for services and does not include individuals who may sell goods in excess of the \$1 million dollar limitation. Clarifies that the exclusion of amounts paid to highly compensated individuals applies whether the individual is paid directly by the production company or by an unrelated third party. Section 4 also amends GS 105-259(b) to allow the Department of Revenue to provide to a production company claiming a film production credit information from a third party to the extent the information was used by the Department to adjust the amount of credit claimed by the production company.

Section 5 makes conforming changes.

Section 6 corrects an inadvertent omission from last year's budget bill to assure that the credit referred to in GS 105-164.6(c) applies to both sales and use tax paid to another state.

Section 8 amends GS 105-164.13 to clarify that the exemption from sales tax for sales of grain, feed, or soybean storage facilities and accessories applies only to sales made to farmers.

The Department of Revenue is required annually to publish the number of taxpayers claiming certain sales and use tax refunds. Section 9 amends GS 105-164.14 to add to the reporting requirement refunds for the purchase of fuel by interstate passenger carriers and by motorsports racing teams or sanctioning bodies.

Section 10 amends GS 105-164.15A to clarify the effective date for a sales tax rate increase with regard to prepayment of services.

Section 11 amends GS 105-187.52 to allow a credit against the privilege tax on certain fuel, machinery, or equipment for the amount of sales or use tax, privilege or excise tax, or other substantially equivalent tax paid to another state.

Section 12 makes technical and clarifying changes to various penalty statutes. This section also repeals GS 105-449.48 and 105-449.127 to redirect from the Highway Fund to the Civil Penalty and Forfeiture Fund civil penalty proceeds as required by *North Carolina School Boards Assn. v. Moore*.

Sections 13 through 17 make changes to the motor fuel tax laws designed to improve collection and administrative efforts. Sections 13(a) and 13(b) amend GS 105-449.65(b) and 105-449.101, respectively, to provide that any person licensed as a distributor or blender who transports fuel, whether for hire or for their own use, will be considered licensed as a transporter, and that a transporter must file an informational return showing deliveries of motor fuel. Currently, the reporting requirement applies only to interstate movements of fuel.

Section 14 provides that all motor fuel leaving the terminal rack is subject to the motor fuel excise tax, removes the ability of distributors and importers to use exempt cards at the terminal rack, and permits distributors and importers to obtain a monthly refund on any sales to exempt entities.

Sections 15 and 13(b) establish a common due date for all motor fuel tax due and informational returns.

Section 16 amends GS 105-449.107 to provide that the privilege tax imposed on sales of fuel to farmers and manufacturers is treated like the sales tax for purposes of calculating the amount of a fuel tax refund.

Section 17 repeals the misdemeanor provision for taxpayers failing to pay destination state taxes because the provision is no longer applicable to current practice or law related to destination state taxes.

Section 20 conforms the date that an occupancy tax return is due to the date that occupancy tax is due.

Section 4 is effective for taxable years beginning on or after January 1, 2006. Sections 13, 14, 15, and 17 become effective January 1, 2007, and apply to motor fuel purchased on or after that date. An exempt card or code will not be valid for sales or motor fuel at the terminal rack (Section 14) after January 1, 2007.

Intro. by Luebke.

GS 105, 119, 143B, 160A

June 5, 2006

H 1963. REVENUE LAWS TECH. & MOTOR FUEL TAX CHANGES. Filed 5/11/06. House committee substitute makes the following changes to 1st edition. In Section 4, makes the following changes to the corporate and individual tax credits for production company expenses, identical to the changes made by the Senate committee substitute for S 1213, digested June 1, 2006: Amends GS 105-130.47(a) and GS 105-151.29(a) to (1) exclude from expenses for which a credit is allowed any payments to highly compensated individuals for goods and services as well as for compensation and wages (was, compensation and wages only) and (2) provide that for the purpose of determining whether an individual is highly compensated, indirect compensation received by the individual is included and only compensation for "personal services" is included (was, "services" in 1st edition). Also makes the statutory language more readable.

Changes from January 1, 2007, to July 1, 2007, the effective date of Section 13(b) (amending GS 105-449.101 to require transporters to file an informational return for all deliveries of motor fuel). In Section 14(c), conforms GS 105-449.90(a) and (b) to reflect the repeal of subsection (c) (quarterly motor fuel tax returns).

June 30, 2006

H 1963. REVENUE LAWS TECH. & MOTOR FUEL TAX CHANGES. Filed 5/11/06. Senate committee substitute makes the following changes to 2nd edition. In Section 4, amends GS 105-259(b) (exemptions to disclosure prohibition for persons with access to tax information) to provide in (b)(27) for a general exemption for reports required under Chapter 105, and makes conforming changes to other subdivisions of GS 105-259(b). Makes technical changes to GS 105-164.3(49) in Section 5. Adds the following new sections:

Section 25 amends GS 160A-537(d) to allow a municipality to create a municipal service district effective immediately upon adoption of the resolution creating it if general obligation bonds are anticipated to be authorized for the project. Provides that no ad valorem tax may be levied for a partial fiscal year.

Section 26 amends GS 105-32.2(b) to clarify that state estate tax liability may not exceed the amount of federal estate tax liability determined without taking into account the deduction for state death taxes or certain federal credits.

Section 27 amends GS 105-164.14(c) to eliminate a reporting requirement related to sales and use tax refunds allowed to local school administrative units (Section 7.51(a) of SL 2005-276 repealed the refund for these units).

Section 28 corrects a statutory reference in GS 105-278(a).

Section 29 repeals GS 106-452 (which set maximum charges and expenses for handling and selling leaf tobacco on the floor of tobacco warehouses).

Section 30 authorizes counties that are authorized to impose an additional one-half cent sales and use tax for public transit under SL 1997-417 (Mecklenburg) to also levy a vehicle rental tax. Requires the county to allocate the proceeds of the vehicle rental tax to the largest city in the county operating a public transportation system and requires that the funds be used to finance, construct, operate, and maintain a public transportation system. Provides that GS 105-554 of Article 50, which requires proceeds of the Mecklenburg sales and use tax to supplement, and not supplant or replace, existing public transportation funds, does not apply to proceeds of the vehicle rental tax levied by the county..

July 6, 2006

H 1963. REVENUE LAWS TECH. & MOTOR FUEL TAX CHANGES. Filed 5/11/06. Senate amendment makes the following changes to 3rd edition. Amends the prefatory language of

Section 10 of SL 2006-33 to correct a statutory reference. Also provides that if S 1741 (Modify Appropriations Act of 2005) becomes law, then GS 105-467(b), as amended by that act, is revised effective January 1, 2007, to also exclude ancillary service from the refund of sales and use taxes paid by certain local school administrative units for tangible personal property and services.

July 24, 2006

SL 2006-162 (H 1963). REVENUE LAWS TECHNICAL & MOTOR FUEL TAX CHANGES.
AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS AND RELATED STATUTES, TO IMPROVE THE COLLECTION AND ADMINISTRATION OF THE MOTOR FUEL TAX, AND TO AUTHORIZE A COUNTY THAT IMPOSES A SALES TAX FOR PUBLIC TRANSPORTATION TO LEVY A VEHICLE RENTAL TAX. Summarized in *Daily Bulletin* 5/11/06, 6/5/06, 6/30/06, and 7/6/06. Enacted July 24, 2006. Section 4 is effective for taxable years beginning on or after January 1, 2006. Section 13 is effective July 1, 2007. Sections 14, 15, 17, and 32 are effective January 1, 2007. Section 26 is effective July 24, 2006, and applies to the estates of decedents dying on or after January 1, 2005. The remainder is effective July 24, 2006.