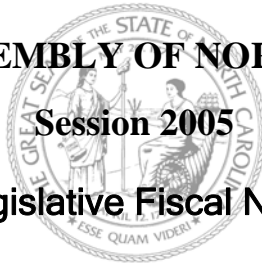


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Fiscal Note

BILL NUMBER: House Bill 1963 (First Edition)

SHORT TITLE: Revenue Laws Tech. & Motor Fuel Tax Changes.

SPONSOR(S): Representative Luebke

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available (X)		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
REVENUES:	Small potential gain due to improved compliance				
EXPENDITURES:					
POSITIONS (cumulative):					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue.					
EFFECTIVE DATE: 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.					

BILL SUMMARY: The legislation makes numerous technical and clarifying changes to the State’s tax laws. It is a recommendation of the Revenue Laws Study Committee.

ASSUMPTIONS AND METHODOLOGY: The bill makes several changes to the State’s tax laws, most of which are technical in nature. There are also several changes to the North Carolina motor fuels tax laws which are designed to improve collection and administration of that tax.

Sections 1, 2, 7, 19, 21, 22, 23, and 24 make purely technical changes and have no revenue impact.

Sections 3, 5, 6, 8, 12, and 18 are designed to clarify existing tax laws. Section 3 defines “gross income” in the corporate income tax law by referencing section 61 of the Internal Revenue Code, which is the same definition for individual income tax law. No revenue impact is expected as a

result of this change. Section 5 conforms the base references for “use tax” to those used for “sales tax”. This reflects current practice and is not expected to impact state revenues. Section 6 makes a similar change to clarify that the credit allowed for sales taxes paid in other states also applies to use taxes paid in other states. The change reflects current Department practice. No revenue impact is expected. Section 8 clarifies that the sales tax exemption granted for grain, feed, or soybean storage facilities and accessories only applies to farmers. Because this treatment was assumed in previous fiscal notes, no fiscal impact is expected as a result of this change. Section 12 makes several changes to the penalty statutes as they relate to the North Carolina Department of Revenue. Section 12(a) repeals two misdemeanor statutes that are covered in other areas of the law and are therefore unnecessary. Section 12(b) reorganizes the Revenue penalty statutes and deletes obsolete language. Sections 12(c) and 12(d) make changes to conform existing statutes to the requirement of North Carolina School Boards Association v. Moore, otherwise known as the fines and forfeiture case. Section 18 replaces the term “individuals” with the term “persons” in G.S. 105-249.2, which effectively extends the penalty relief given to individuals in times of a presidentially declared disaster to businesses.

Sections 4, 9, 10, 11, 13, 14, 15, 16, 17, and 20 make more substantive changes to the State’s tax laws.

Section 4 addresses the newly enacted film incentive tax credit and the State’s confidentiality laws. First, it clarifies that only payments for services, not goods, be considered when determining who is a highly compensated individual for purposes of the credit. It also clarifies that the amount of compensation to be included in the determination of “highly compensated individual” includes compensation paid through an unrelated third party. This section also allows the Department of Revenue to provide a production company that is claiming the credit tax information from a third party, but only if that information was used to adjust the amount of credit claimed by the production company. Finally, it allows the Department of Revenue to provide information to the Department of Public Instruction and the Fiscal Research Division of the General Assembly concerning sales and use tax refunds received by School Administrative Units. This provision was actually approved during the 2005 session, but was inadvertently repealed by a reference in subsequent legislation. No fiscal impact is expected as a result of any of these changes.

Section 9 modifies the Department of Revenue’s reporting requirements as they relate to sales and use tax refunds. In the 2005 session new refunds were authorized for interstate passenger air carriers and Motorsports racing teams. This provision would include these two categories of taxpayers in the list of those whose total refund information is to be made public. This only requires that the total number of taxpayers and the amount of total refunds claimed be made public and does not require or allow individual taxpayer information to be released. As this change relates only to reporting, no fiscal impact is expected.

Section 10 clarifies the effective date of a sales and use tax rate increase as it relates to the prepayment of taxes. This change follows Department practice. Thus no revenue impact is expected.

Section 11 deals with the newly enacted 5F privilege tax on manufacturing equipment. Previously these items were taxed under the sales and use tax statutes, which allowed a credit for taxes paid in other states. This section extends that treatment to the new 5F privilege tax. Because this tax treatment was assumed in the estimate for enacting the new privilege tax, no fiscal impact is expected as a result of this change.

Sections 13, 14, 15, 16 and 17 make changes to North Carolina motor fuels laws. Section 13 authorizes the Department of Revenue to cross match all motor fuel data to ensure compliance with motor fuels tax laws. Currently the Department can only use information on the movement of fuel in and out of the state, but not within the state. Section 12(a) requires that all individuals that transport motor fuel be licensed as a motor fuel transporter. The change effectively removes an exemption for those that transport their own fuel, so that any distributor or blender would also be considered a licensed transporter. Section 13(b) requires that a transporter file an informational return showing all deliveries of motor fuel. Current law only requires reporting of interstate fuel transportation. Section 14 dictates that all motor fuel leaving the terminal rack is subject to the tax. Currently a licensed distributor can remove fuel without paying the tax if they have an exemption card issued by the supplier. The legislation would replace this exemption with a State issued monthly refund. This conforms North Carolina's laws in this area to those of the surrounding states. Section 15 provides for a common due date for all motor fuels tax returns, whether or not tax is due. Section 16 conforms special treatment of Article 5F purchases under the motor fuels tax statutes to that used in the sales and use tax statutes, with regards to the refund of motor fuels taxes. Section 17 removes an obsolete reference in the motor fuels laws. These changes, in total, are expected to improve compliance with North Carolina's motor fuels laws. However, no fiscal estimate is possible on this portion of the bill.

Section 20 clarifies that the due date for an occupancy tax return is the same as the due date for the associated taxes. Because the state does not levy an occupancy tax, no State fiscal impact is anticipated. The change could improve compliance with local occupancy tax laws.

SOURCES OF DATA: North Carolina Department of Revenue

TECHNICAL CONSIDERATIONS: None

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DATE: May 30, 2006



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