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SESSION 2015

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SENATE BILL 20
Finance Committee Substitute Adopted 2/10/15
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Short Title: IRC Update/Motor Fuel Tax Changes.

(Public)

Sponsors:

Referred to:

February 4, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE, TO
3 DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL TAX INCREASE
4 PREVENTION ACT OF 2014, TO MODIFY THE MOTOR FUELS TAX RATE, AND
5 TO MAKE CERTAIN REDUCTIONS WITHIN THE DEPARTMENT OF
6 TRANSPORTATION FOR THE 2014-2015 FISCAL YEAR.

7 The General Assembly of North Carolina enacts:

8
9 **PART I: IRC UPDATE**

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

11 "(1b) Code. – The Internal Revenue Code as enacted as of ~~December 31, 2013,~~ January 1,
12 2015, including any provisions enacted as of that date that become effective either before or
13 after that date."

14 **SECTION 1.2.(a)** G.S. 105-130.5B(c) reads as rewritten:

15 "**§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation**
16 **and expensing.**

17 ...

18 (c) Section 179 Expense. – For purposes of this subdivision, the definition of section
19 179 property has the same meaning as under section 179 of the Code as of ~~January 2, 2013.~~
20 January 1, 2015. A taxpayer who places section 179 property in service during a taxable year
21 listed in the table below must add to the taxpayer's federal taxable income eighty-five percent
22 (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code
23 exceeds the dollar and investment limitation listed in the table below for the taxable year.

24 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
25 five taxable years following the year the taxpayer is required to include the add-back in income.

26 **Taxable Year of Dollar Limitation Investment Limitation**
27 **85% Add-Back**

28	2010	\$250,000	\$800,000
29	2011	\$250,000	\$800,000
30	2012	\$250,000	\$800,000
31	2013	\$25,000	\$200,000
32	<u>2014</u>	<u>\$25,000</u>	<u>\$200,000</u> "

33 **SECTION 1.2.(b)** G.S. 105-153.6(c) reads as rewritten:

34 "**§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation**
35 **and expensing.**



1 ...
 2 (c) Section 179 Expense. – For purposes of this subdivision, the definition of section
 3 179 property has the same meaning as under section 179 of the Code as of ~~January 2, 2013.~~
 4 January 1, 2015. A taxpayer who places section 179 property in service during a taxable year
 5 listed in the table below must add to the taxpayer's federal taxable income or adjusted gross
 6 income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's
 7 expense deduction under section 179 of the Code exceeds the dollar and investment limitation
 8 listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must
 9 add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the
 10 taxpayer must add the amount to the taxpayer's adjusted gross income.

11 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
 12 five taxable years following the year the taxpayer is required to include the add-back in income.

13 Taxable Year of	Dollar Limitation	Investment Limitation
14 85% Add-Back		
15 2010	\$250,000	\$800,000
16 2011	\$250,000	\$800,000
17 2012	\$250,000	\$800,000
18 2013	\$25,000	\$200,000
19 <u>2014</u>	<u>\$25,000</u>	<u>\$200,000"</u>

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

21 "**§ 105-153.5. Modifications to adjusted gross income.**

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

- 27 (1) Standard deduction amount. – The standard deduction amount is zero for a
 28 person who is not eligible for a standard deduction under section 63 of the
 29 Code. For all other taxpayers, the standard deduction amount is equal to the
 30 amount listed in the table below based on the taxpayer's filing status:

31 Filing Status	Standard Deduction
32 Married, filing jointly	\$15,000
33 Head of Household	12,000
34 Single	7,500
35 Married, filing separately	7,500.

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

- 40 a. The amount allowed as a deduction for charitable contributions under
 41 section 170 of the Code for that taxable year. For taxable year 2014,
 42 a taxpayer who elected to take the income exclusion under section
 43 408(d)(8) of the Code for a qualified charitable distribution from an
 44 individual retirement plan by a person who has attained the age of 70
 45 1/2 may deduct the amount that would have been allowed as a
 46 charitable deduction under section 170 of the Code had the taxpayer
 47 not elected to take the income exclusion.
 48 b. The amount allowed as a deduction for interest paid or accrued
 49 during the taxable year under section 163(h) of the Code with respect
 50 to any qualified residence plus the amount claimed by the taxpayer as
 51 a deduction for property taxes paid or accrued on real estate under

1 section 164 of the Code for that taxable year. For taxable year 2014,
2 the amount allowed as a deduction for interest paid or accrued during
3 the taxable year under section 163(h) of the Code with respect to any
4 qualified residence shall not include the amount for mortgage
5 insurance premiums treated as qualified residence interest. The
6 amount allowed under this sub-subdivision may not exceed twenty
7 thousand dollars (\$20,000). For spouses filing as married filing
8 separately or married filing jointly, the total mortgage interest and
9 real estate taxes claimed by both spouses combined may not exceed
10 twenty thousand dollars (\$20,000). For spouses filing as married
11 filing separately with a joint obligation for mortgage interest and real
12 estate taxes, the deduction for these items is allowable to the spouse
13 who actually paid them. If the amount of the mortgage interest and
14 real estate taxes paid by both spouses exceeds twenty thousand
15 dollars (\$20,000), these deductions must be prorated based on the
16 percentage paid by each spouse. For joint obligations paid from joint
17 accounts, the proration is based on the income reported by each
18 spouse for that taxable year.

19 ...
20 (d) Decoupling Adjustments. – In calculating North Carolina taxable income, a
21 taxpayer must add to the taxpayer's adjusted gross income any of the following items that are
22 not included in the taxpayer's adjusted gross income:

- 23 (1) For taxable year 2014, the amount excluded from the taxpayer's gross
24 income for the discharge of qualified principal residence indebtedness under
25 section 108 of the Code. The purpose of this subdivision is to decouple from
26 the extension of the income exclusion under section 102 of the Tax Increase
27 Prevention Act of 2014.
28 (2) For taxable year 2014, the amount of the taxpayer's deduction for qualified
29 tuition and related expenses under section 222 of the Code. The purpose of
30 this subdivision is to decouple from the extension of the federal
31 above-the-line deduction under section 107 of the Tax Increase Prevention
32 Act of 2014.
33 (3) For taxable year 2014, the amount excluded from the taxpayer's gross
34 income for a qualified charitable distribution from an individual retirement
35 plan by a person who has attained age 70 1/2 under section 408(d)(8) of the
36 Code. The purpose of this subdivision is to decouple from the extension of
37 the income exclusion under section 108 of the Tax Increase Prevention Act
38 of 2014.

39 ~~(d)~~(e) S Corporations. – Each shareholder's pro rata share of an S Corporation's income is
40 subject to the adjustments provided in this section and in G.S. 105-153.6."

41 **SECTION 1.4.** This Part is effective when the act becomes law. Notwithstanding
42 Section 1 of this act, any amendments to the Internal Revenue Code enacted after December
43 31, 2013, that increase North Carolina taxable income for the 2014 taxable year are effective
44 for taxable years beginning on or after January 1, 2015.

45 **PART II: MOTOR FUEL TAX CHANGES**

46 **SECTION 2.1** Effective March 1, 2015, and notwithstanding G.S. 105-449.80, the
47 motor fuel excise tax rate is thirty-five cents (35¢) a gallon.

48 **SECTION 2.2.** G.S. 105-449.107(c) reads as rewritten:

49 "(c) Sales Tax Amount. – Article 5 of Subchapter I of this Chapter determines the
50 amount of State sales and use tax to be deducted under this section from a motor fuel excise tax
51

1 refund. Articles 39, 40, and 42 of Subchapter VIII of this Chapter and the Mecklenburg First
 2 1% Sales Tax Act determine the amount of local sales and use tax to be deducted under this
 3 section from a motor fuel excise tax refund. The sales price and the cost price of motor fuel to
 4 be used in determining the amount to deduct is the average of the wholesale prices used under
 5 G.S. 105-449.80 to determine the excise tax ~~rates~~ rate in effect for the ~~two six month periods of~~
 6 ~~the~~ calendar year for which the refund is claimed."

7 **SECTION 2.3.** G.S. 105-449.80 reads as rewritten:

8 "**§ 105-449.80. Tax rate.**

9 (a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents
 10 (17 1/2¢) a gallon plus a variable wholesale component. The variable wholesale component is
 11 ~~either the greater of three seventeen and one-half cents (3 1/2¢)(17 1/2¢) a gallon or seven~~
 12 ~~percent (7%)~~ nine and nine-tenths percent (9.9%) of the average wholesale price of motor fuel
 13 for the applicable base ~~period, whichever is greater period.~~

14 ~~The two base periods are six month periods; one ends on September 30 and one ends on~~
 15 ~~March 31. period is a twelve-month period ending September 30.~~ The Secretary must set the
 16 tax rate ~~twice~~ for a year based on the wholesale price for each base period. A tax rate set by the
 17 Secretary using information for the base period ~~that ends on September 30~~ applies to the
 18 ~~six month period~~ calendar year that begins the following January 1. ~~A tax rate set by the~~
 19 ~~Secretary using information for the base period that ends on March 31 applies to the six month~~
 20 ~~period that begins the following July 1.~~

21 (b) Wholesale Price. – The Secretary must determine the average wholesale price of
 22 motor fuel for each base period. To do this, the Secretary must use information on refiner and
 23 gas plant operator sales prices of finished motor gasoline and No. 2 diesel fuel for resale,
 24 published by the United States Department of Energy in the "Monthly Energy Review", or
 25 equivalent data.

26 The Secretary must compute the average sales price of finished motor gasoline for the base
 27 period, compute the average sales price for No. 2 diesel fuel for the base period, and then
 28 compute a weighted average of the results of the first two computations based on the proportion
 29 of tax collected on each under this Article for the base period. The Secretary must then convert
 30 the weighted average price to a cents-per-gallon rate and round the rate to the nearest one-tenth
 31 of a cent (1/10¢). If the converted cents-per-gallon rate is exactly between two-tenths of a cent
 32 (2/10¢) the Secretary must round the rate up to the higher of the two.

33 (c) Notification. – The Secretary must notify affected taxpayers of the tax rate to be in
 34 effect for each ~~six month period~~ calendar year beginning January 1 ~~and July 1.~~"

35 **SECTION 2.4.(a)** Section 4.1 of S.L. 2014-100 reads as rewritten:

36 "**SECTION 4.1.** Appropriations from the State Highway Trust Fund for the maintenance
 37 and operation of the Department of Transportation and for other purposes as enumerated are
 38 adjusted for the fiscal year ending June 30, 2015, according to the following schedule.
 39 Amounts set out in parentheses are reductions from Highway Trust Fund Appropriations for the
 40 2014-2015 fiscal year.

Current Operations – Highway Trust Fund	2014-2015
Program Administration	(\$11,000,000)
Aid to Municipalities	0
Intrastate	0
Secondary Roads	0
Urban Loops	0
Mobility Fund	0
Turnpike Authority	0
Transfer to General Fund	0

1	Transfer to Highway Fund	0
2	Debt Service	0
3	Strategic Prioritization Funding Plan for Transportation Investments	67,993,140 59,738,140
4		
5	Total Highway Trust Fund Appropriations	\$ 1,162,393,1401,154,138,140"

6 **SECTION 2.4.(b)** Section 4.2 of S.L. 2014-100 reads as rewritten:

7 **"SECTION 4.2.** Section 4.2 of S.L. 2013-360 is repealed. The Highway Trust Fund
8 availability used in developing the 2014-2015 fiscal year budget is shown below:

9		
10	Highway Trust Fund Availability Statement	2014-2015
11		
12	Unreserved Fund Balance	\$ 0
13	Estimated Revenue	1,162,370,000 1,154,115,000
14	Adjustment to Revenue Availability:	
15	Motor Fuel Tax Refund Repeal (Taxi Cabs)	23,140
16		
17	Total Highway Trust Fund Availability	\$ 1,162,393,1401,154,138,140

18

19 Unappropriated Balance \$ 0"

20 **SECTION 2.4.(c)** Section 3.1 of S.L. 2014-100 reads as rewritten:

21 **"SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance and
22 operation of the Department of Transportation and for other purposes as enumerated are
23 adjusted for the fiscal year ending June 30, 2015, according to the following schedule.
24 Amounts set out in parentheses are reductions from Highway Fund Appropriations for the
25 2014-2015 fiscal year.

26		
27	Current Operations – Highway Fund	2014-2015
28		
29	Department of Transportation	
30	Administration	\$ 1,949,344
31		
32	Division of Highways	
33	Administration	0
34	Construction	0
35	Maintenance	53,407,586
36	Planning and Research	0
37	OSHA Program	(7,307)
38		
39	Ferry Operations	(1,542,317)
40		
41	State Aid to Municipalities	9,453,990
42		
43	Intermodal Divisions	
44	Public Transportation	0
45	Aviation	(800,000)
46	Rail	(960,325)
47	Bicycle and Pedestrian	(30,043)
48		
49	Governor's Highway Safety	(5,699)
50		
51	Division of Motor Vehicles	(988,255)

1		
2	Other State Agencies, Reserves, Transfers	7,354,812
3		
4	Capital Improvements	0
5		
6	<u>Reductions Made Pursuant to Senate Bill 20:</u>	
7	<u>"IRC Update/Motor Fuel Tax Changes," 2015 Regular Session</u>	(24,765,000)
8		
9	Total Highway Fund Appropriations	<u>\$1,984,142,286</u> <u>1,959,377,286"</u>

10 **SECTION 2.4.(d)** Section 3.2 of S.L. 2014-100 reads as rewritten:
 11 **"SECTION 3.2.** Section 3.2 of S.L. 2013-360 is repealed. The Highway Fund availability
 12 used in adjusting the 2014-2015 fiscal year budget is shown below:
 13

14	Highway Fund Availability Statement	2014-2015
15		
16	Unreserved Fund Balance	\$ 12,000,000
17	Estimated Revenue	1,973,750,000
18	Adjustment to Revenue Availability:	
19	Motor Fuel Tax (Shallow Draft Navigation Channel Dredging Fund)	(1,677,134)
20	Motor Fuel Tax Refund Repeal (Taxi Cabs)	69,420
21	<u>Reductions Made Pursuant to Senate Bill 20:</u>	
22	<u>"IRC Update/Motor Fuel Tax Changes," 2015 Regular Session</u>	(24,765,000)
23	Revised Total Highway Fund Availability	<u>\$1,984,142,286</u> <u>1,959,377,286</u>

24
 25 **Unappropriated Balance** \$ **0"**

26 **SECTION 2.4.(e)** For the 2014-2015 fiscal year, appropriations to each certified
 27 fund code within the Highway Fund are hereby reduced by two and one hundred seventy-five
 28 thousandths percent (2.175%), which shall amount to a total reduction of nine million
 29 ninety-two thousand six hundred sixteen dollars (\$9,092,616). In making the reductions
 30 required by this subsection, the following fund codes shall not be reduced:

- 31 (1) 84210-0852
- 32 (2) 84210-0862
- 33 (3) 84210-0864
- 34 (4) 84210-0865
- 35 (5) 84210-0867
- 36 (6) 84210-0868
- 37 (7) 84210-0871
- 38 (8) 84210-0873
- 39 (9) 84210-0877
- 40 (10) 84210-0878
- 41 (11) 84210-0881
- 42 (12) 84210-0882
- 43 (13) 84210-0885
- 44 (14) 84210-0889
- 45 (15) 84210-0892
- 46 (16) 84210-0893
- 47 (17) 84210-0933
- 48 (18) 84210-0934
- 49 (19) 84210-0935
- 50 (20) 84210-0937
- 51 (21) 84210-1165

- 1 (22) 84210-1260
- 2 (23) 84210-7040
- 3 (24) 84210-7615
- 4 (25) 84210-7818
- 5 (26) 84210-7821
- 6 (27) 84210-7822
- 7 (28) 84210-7824
- 8 (29) 84210-7825
- 9 (30) 84210-7826
- 10 (31) 84210-7827
- 11 (32) 84210-7828
- 12 (33) 84210-7834
- 13 (34) 84210-7836
- 14 (35) 84210-7839
- 15 (36) 84210-7841

16 **SECTION 2.4.(f)** For the 2014-2015 fiscal year, appropriations to each of the
17 following certified fund codes within the Highway Fund are hereby reduced by one percent
18 (1%), which shall amount to a total reduction of four million six hundred eighty-seven
19 thousand six hundred thirty dollars (\$4,687,630):

- 20 (1) 84210-7821
- 21 (2) 84210-7822
- 22 (3) 84210-7841

23 **SECTION 2.4.(g)** For the 2014-2015 fiscal year, and notwithstanding any
24 provision of law to the contrary, the Director of the Budget and the Secretary of Revenue shall
25 make the following reductions:

- 26 (1) Two million five hundred seventy-five thousand five hundred sixty dollars
27 (\$2,575,560) to the total amount of funds appropriated pursuant to
28 G.S. 136-41.1.
- 29 (2) Forty-one thousand two hundred seventy-five dollars (\$41,275) to the total
30 amount of funds credited to the Wildlife Resources Fund pursuant to
31 G.S. 105-449.126.
- 32 (3) Forty-one thousand two hundred seventy-five dollars (\$41,275) to the total
33 amount of funds credited to the Shallow Draft Navigation Channel and Lake
34 Dredging Fund pursuant to G.S. 105-449.126.

35 **SECTION 2.4.(h)** By March 1, 2015, the Secretary of the Department of
36 Transportation shall reduce its workforce by eliminating 500 filled, full-time positions within
37 the Department of Transportation, which shall amount to a total reduction of six million two
38 hundred fifty thousand dollars (\$6,250,000). The Secretary of the Department of Transportation
39 shall eliminate positions under this subsection in the following priority order:

- 40 (1) Departmental administration staff, including positions within units and
41 divisions with unmet outsourcing targets.
- 42 (2) Positions that allow the Department of Transportation to plan for future
43 outsourcing of maintenance activities. The term "maintenance activities"
44 includes, but is not limited to, pavement preservation, winter weather
45 treatments, roadside environmental, and preconstruction activities.
- 46 (3) Positions that allow the Department of Transportation to reduce management
47 layers.

48 **SECTION 2.4.(i)** Notwithstanding G.S. 126-7.1, the Secretary of the Department
49 of Transportation shall provide notice as soon as practicable to any employee affected by the
50 reduction in its workforce under subsection (h) of this section.

1 **SECTION 2.4.(j)** The Secretary of the Department of Transportation shall
2 eliminate a minimum of 50 vacant positions within the Department of Transportation to
3 achieve a total reduction of two million seventy-six thousand six hundred forty-four dollars
4 (\$2,076,644). The Secretary of the Department of Transportation may use lapsed salaries to
5 meet the reduction required under this subsection.

6 **SECTION 2.4.(k)** Notwithstanding any provision of law to the contrary, the total
7 amount of funds generated by the reductions in this act shall be used to support the
8 maintenance and operation of the Department of Transportation and for other purposes as
9 enumerated for the Department of Transportation in S.L. 2014-100. To the extent any of the
10 funds generated by the reductions in this act are deemed unappropriated, these funds are hereby
11 appropriated. The Director of the Budget shall modify the certified budget to reflect the
12 reductions to appropriations made in this act.

13 **SECTION 2.5.** Section 2.4 of this act is effective when the act becomes law.
14 Section 2.1 of this act expires January 1, 2016. The remainder of this Part becomes effective
15 March 1, 2015.

16
17 **PART III: EFFECTIVE DATE**

18 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
19 law.