

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 59*

Short Title: Revenue Laws Technical Changes. (Public)

Sponsors: Representatives Brawley, Saine, and Szoka (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Finance

February 9, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL CHANGES TO THE REVENUE LAWS.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. INCOME AND FRANCHISE TAX CHANGES**

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

7 "(b) Definitions. – The following definitions apply in this Article:

8 ...

9 (1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2016,~~ January
10 1, 2017, including any provisions enacted as of that date that become effective
11 either before or after that date.

12"

13 **SECTION 2.** G.S. 105-122 reads as rewritten:

14 **"§ 105-122. Franchise or privilege tax on domestic and foreign corporations.**

15 (a) Tax Imposed. – An annual franchise or privilege tax is imposed on a corporation doing
16 business in this State. ~~The tax is determined on the basis of the books and records of the~~
17 ~~corporation as of the close of its income year.~~ A corporation subject to the tax must file a return
18 under affirmation with the Secretary at the place and in the manner prescribed by the Secretary.
19 The return must be signed by the president, vice-president, treasurer, or chief financial officer of
20 the corporation. The return is due on or before the fifteenth day of the fourth month following the
21 end of the corporation's income year.

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

32"

33 **SECTION 3.(a)** G.S. 105-129.96 reads as rewritten:

34 **"§ 105-129.96. Credit for constructing a railroad intermodal facility.**



1 (a) Credit. – A taxpayer that constructs or leases an eligible railroad intermodal facility in
 2 this State ~~and places it in service during the taxable year~~ is allowed a tax credit equal to fifty
 3 percent (50%) of all amounts payable by the taxpayer towards the costs of construction or under
 4 ~~the lease.~~ lease if the facility is placed in service in this State during the taxable year. No credit is
 5 allowed under this section to the extent the cost of the eligible railroad intermodal facility was
 6 provided by public funds.

7 ...

8 (c) No Double Credit. – A taxpayer may not take the credit allowed in this section for an
 9 eligible railroad intermodal facility the taxpayer leases from another unless the taxpayer obtains
 10 the lessor's written certification that the lessor will not claim a credit under this Chapter with
 11 respect to the facility."

12 **SECTION 3.(b)** This section is effective for taxable years beginning on or after
 13 January 1, 2017.

14 **SECTION 4.(a)** G.S. 105-130.20 reads as rewritten:

15 "**§ 105-130.20. Federal corrections.**

16 If a taxpayer's federal taxable income or federal tax credit that affects the amount of State tax
 17 payable is corrected or otherwise determined by the federal government, the taxpayer must, within
 18 six months after being notified of the correction or final determination by the federal government,
 19 file an income tax return with the Secretary reflecting the corrected or determined taxable income.
 20 The Secretary must propose an assessment for any additional tax due from the taxpayer as
 21 provided in Article 9 of this Chapter. The Secretary must refund any overpayment of tax as
 22 provided in Article 9 of this Chapter. A taxpayer that fails to comply with this section is subject to
 23 the penalties in G.S. 105-236 and forfeits its rights to any refund due by reason of the
 24 determination."

25 **SECTION 4.(b)** G.S. 105-159 reads as rewritten:

26 "**§ 105-159. Federal corrections.**

27 If a taxpayer's adjusted gross ~~income~~ income, filing status, personal exemptions, standard
 28 deduction, itemized deductions, or federal tax credit that affects the amount of State tax payable is
 29 corrected or otherwise determined by the federal government, the taxpayer must, within six
 30 months after being notified of the correction or final determination by the federal government, file
 31 an income tax return with the Secretary reflecting the corrected or determined adjusted gross
 32 income or federal tax credit that affects the amount of State tax payable. The Secretary must
 33 propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this
 34 Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this
 35 Chapter. A taxpayer who fails to comply with this section is subject to the penalties in
 36 G.S. 105-236 and forfeits the right to any refund due by reason of the determination."
 37

38 **PART II. SALES TAX CHANGES**

39 **SECTION 5.** G.S. 105-164.3 reads as rewritten:

40 "**§ 105-164.3. Definitions.**

41 The following definitions apply in this Article:

42 ...

43 (31) ~~Protective equipment. — Items for human wear and designed as protection of the~~
 44 ~~wearer against injury or disease or as protection against damage or injury of~~
 45 ~~other persons or property but not suitable for general use including breathing~~
 46 ~~masks, face shields, hard hats, and tool belts.~~

47 ...

48 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as
 49 amended as of ~~September 17, 2015~~ May 4, 2016.

50"

51 **SECTION 6.** G.S. 105-164.6(f) reads as rewritten:

1 "(f) Registration. – A person must obtain a certificate of registration in accordance with
2 G.S. 105-164.29 under any of the following circumstances:

3 (1) Before the person engages in business in this State selling or delivering tangible
4 personal property, digital property, or a service for storage, use, or consumption
5 in this State.

6 (2) If the person is a facilitator that is liable for tax pursuant to ~~G.S.~~
7 ~~105-164.4F~~ under this Article."

8 **SECTION 7.** G.S. 105-164.14A(a) reads as rewritten:

9 "(a) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes
10 paid under this Article:

11 ...

12 (4) Motorsports team or sanctioning body. – A professional motorsports racing
13 team, a motorsports sanctioning body, or a related member of such a team or
14 body is allowed a refund of the sales and use tax paid by it in this State on
15 aviation gasoline or jet fuel that is used to travel to or from a motorsports event
16 in this State, to travel to a motorsports event in another state from a location in
17 this State, or to travel to this State from a motorsports event in another state.
18 For purposes of this subdivision, a "motorsports event" includes a motorsports
19 race, a motorsports sponsor event, and motorsports testing. This subdivision is
20 repealed for purchases made on or after January 1, 2020.

21"

22 **SECTION 8.** G.S. 105-164.29 reads as rewritten:

23 **"§ 105-164.29. Application for certificate of registration by wholesale merchants, retailers,
24 and facilitators.**

25 (a) Requirement and Application. – Before a person may engage in business as a retailer or
26 a wholesale merchant or when a facilitator is liable for tax under ~~G.S. 105-164.4F~~, this Article, the
27 person must obtain a certificate of registration. To obtain a certificate of registration, a person
28 must register with the Department. A person who has more than one business is required to obtain
29 only one certificate of registration for each legal entity to cover all operations of each business
30 throughout the State. An application for registration must be signed as follows:

31 ...

32 (c) Term. – A certificate of registration is valid unless it is revoked for failure to comply
33 with the provisions of this Article or becomes void. A certificate issued to a ~~retailer person~~ who
34 makes taxable sales or a ~~facilitator person~~ liable for tax under ~~G.S. 105-164.4F~~ this Article
35 becomes void if, for a period of 18 months, the ~~retailer or facilitator person~~ files no returns or files
36 returns showing no sales. A certificate of registration issued to a seller that contracts with a
37 certified service provider pursuant to G.S. 105-164.42I and that is a model one seller as defined in
38 the Streamlined Agreement does not become void if the certified service provider files returns for
39 the seller showing no sales for a period for which a certificate could become void under this
40 subsection.

41"

42
43 **PART III. EXCISE TAX CHANGES**

44 **SECTION 9.** G.S. 105-41(a) reads as rewritten:

45 "(a) Every individual in this State who practices a profession or engages in a business and is
46 included in the list below must obtain from the Secretary a statewide license for the privilege of
47 practicing the profession or engaging in the business. A license required by this section is not
48 transferable to another person. The tax for each license is fifty dollars (\$50.00).

49 ...

50 (11) ~~A mortician~~ funeral director or embalmer licensed under G.S. 90-210.25.

51"

1 **SECTION 10.** G.S. 105-113.29 reads as rewritten:

2 "**§ 105-113.29. Unlicensed place of business.**

3 It shall be unlawful for any person to maintain a place of business within this State required by
4 this Article to be licensed to ~~engaged~~engage in the business of selling or offering for sale
5 cigarettes or other tobacco products without first obtaining such licenses."

6 **SECTION 11.** G.S. 105-449.37 reads as rewritten:

7 "(a) Definitions. – The following definitions apply in this Article:

8 (1) International Fuel Tax Agreement. – The Articles of Agreement adopted by the
9 International Fuel Tax Association, Inc., as amended as of ~~July 1, 2013~~January
10 1, 2017.

11 ...

12 (c) Application. – A motor carrier who operates a qualified motor vehicle in this State
13 must ~~register the vehicle~~submit an application, as provided in this ~~Article~~Article, and obtain the
14 appropriate license and decals for the vehicle. The Article applies to both an interstate motor
15 carrier subject to the International Fuel Tax Agreement and to an intrastate motor carrier."

16 **SECTION 12.** G.S. 105-449.60 reads as rewritten:

17 "**§ 105-449.60. Definitions.**

18 The following definitions apply in this Article:

19 ...

20 (4) Biodiesel provider. – A person who does any of the following:

21 a. Produces an average of no more than 500,000 gallons of biodiesel per
22 month during a calendar year. A person who produces more than this
23 amount is a refiner.

24 b. Imports biodiesel ~~outside the terminal transfer system~~ by means of a
25 transport truck, a railroad tank car, ~~or a tank wagon~~wagon, or a marine
26 vessel.

27 ...

28 (9a) Bulk storage. – A container or tank used to store bulk purchase of motor fuel or
29 alternative fuel of 42 gallons or more.

30 ...

31 (14) Diversion. – The movement of motor fuel ~~from a terminal~~ to a state other than
32 the destination state indicated on the original bill of lading.

33 ...

34 (20) Fuel alcohol provider. – A person who does any of the following:

35 ...

36 b. Imports fuel alcohol ~~outside the terminal transfer system~~ by means of a
37 transport truck, a railroad tank car, ~~or a tank wagon~~wagon, or a marine
38 vessel.

39 (21) Gasohol. – A blended fuel composed of gasoline and fuel grade ethanol.

40 (22) Gasoline. – Any of the following:

41 ...

42 b. A petroleum product component of gasoline, such as naphtha, reformate,
43 or ~~toluene~~toluene, listed in Treasury Regulation Section
44 48-4081-1(c)(3) as of January 1, 2017, that can be blended for use in a
45 motor fuel.

46 ...

47 (46) Supplier. – Any of the following:

48 ...

49 ~~d. A refiner.~~

50 (47) System transfer. – ~~Either of the following:~~

51 ~~a. A transfer of motor fuel within the terminal transfer system.~~

1 b. ~~A transfer, by transport truck or railroad tank car, of fuel grade ethanol.~~
2 ~~...."~~
3 **SECTION 13.** G.S. 105-449.65(b) reads as rewritten:
4 "(b) Multiple Activity. – A person who is engaged in more than one activity for which a
5 license is required must have a separate license for each activity, unless one of the following
6 subdivisions provides otherwise.
7 (1) Supplier. – A person who is licensed as a supplier is considered to have a
8 license as a distributor. A person who is licensed as a supplier ~~and is a biodiesel~~
9 ~~provider~~ is considered to have a license as a blender.

10 ~~...."~~
11 **SECTION 14.** G.S. 105-449.69(e) reads as rewritten:
12 "(e) Export Activity. – ~~An applicant for a license as an exporter must designate an agent~~
13 ~~located in North Carolina for service of process and must give the agent's name and address. An~~
14 applicant for a license as an exporter or as a distributor must list on the application each state to
15 which the applicant intends to export motor fuel received in this State by means of a transfer that
16 is outside the terminal transfer system and, if required by a state listed, must be licensed or
17 registered for motor fuel tax purposes in that state. If a state listed requires the applicant to be
18 licensed or registered, the applicant must give the applicant's license or registration number in that
19 state."
20

PART IV. EFFECTIVE DATE

21 **SECTION 15.** Except as otherwise provided, this act is effective when it becomes
22 law.
23