

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

1

HOUSE BILL 2232

Short Title: Enhance State Revenue/Conforming Changes.

(Public)

Sponsors: Representative Hall; and Warner.

Referred to: Finance.

June 1, 1990

A BILL TO BE ENTITLED
AN ACT TO ENHANCE STATE REVENUE AND TO CONFORM THE STATUTES
TO RECENT COURT DECISIONS.

The General Assembly of North Carolina enacts:

CONTENTS

- I. PAYMENTS BY UTILITIES
- II. PAYMENTS BY EMPLOYERS
- III. TAX ON CIGARETTE MANUFACTURERS
- IV. EVENLY-WEIGHTED CORPORATE APPORTIONMENT FORMULA
- V. TAX ON HIGHER-INCOME TAXPAYERS
- VI. SOFT DRINK TAX CHANGES
- VII. CONFORMING CHANGES
- VIII. EFFECTIVE DATES

PART I.

PAYMENTS BY UTILITIES.

Section 1. G.S. 105-164.16 reads as rewritten:

"§ 105-164.16. Report and payment of taxes.

(a) Payment. – Taxes levied under this Article are due when a return is required to be filed. Every taxpayer liable for the tax imposed by this Article shall, within the specified time after the end of the appropriate reporting period, submit a return to the Secretary, on a form prescribed by the Secretary, stating the taxpayer's gross sales for the reporting period, the amount and type of sales made in the period that are exempt from tax under G.S. 105-164.13 or are elsewhere excluded from tax, the amount of tax

1 due, and any other information required by the Secretary. Each return shall be
2 accompanied by a payment to the Secretary for the amount of taxes shown to be due on
3 the return and shall be signed by the taxpayer or his agent. Returns that do not contain
4 the required information shall not be accepted. When an unacceptable return is
5 submitted, the Secretary shall require a corrected return to be filed.

6 (b) ~~General~~ Reporting Periods. – Returns of taxpayers who are required to report
7 on a monthly or quarterly basis are due within 15 days after the end of each monthly or
8 quarterly period. Returns of taxpayers who are required to report on a semimonthly
9 basis are due within 10 days after the end of each semimonthly period.

10 A taxpayer who is consistently liable for less than twenty-five dollars (\$25.00) a
11 month in State and local sales and use taxes may, with the approval of the Secretary, file
12 a return on a quarterly basis. A taxpayer who is consistently liable for at least twenty
13 thousand dollars (\$20,000) a month in State and local sales and use taxes shall, when
14 directed to do so by the Secretary, file a return on a semimonthly basis. All other
15 taxpayers shall file a return on a monthly basis. Quarterly reporting periods end on the
16 last day of March, June, September, and December; monthly reporting periods end on
17 the last day of the month; and semimonthly reporting periods end on the 15th of each
18 month and the last day of each month.

19 The Secretary shall monitor the amount of tax remitted by a taxpayer and shall direct
20 a taxpayer who consistently remits at least twenty thousand dollars (\$20,000) each
21 month to file a return on a semimonthly basis. In determining the amount of tax due
22 from a taxpayer for a reporting period the Secretary shall consider the total amount due
23 from all places of business owned or operated by the same person as the amount due
24 from that person.

25 A taxpayer who is directed to remit sales and use taxes on a semimonthly basis but
26 who is unable to gather the information required to submit a complete return for either
27 the first reporting period or both the first and second semimonthly reporting periods
28 may, upon written authorization by the Secretary, file an estimated return for that first
29 reporting period or both periods on the basis prescribed by the Secretary. Once a
30 taxpayer is authorized to file an estimated return for the first period or both periods, the
31 taxpayer may continue to file an estimated return for the first or both periods until the
32 Secretary, by written notification, revokes the taxpayer's authorization to do so. When
33 filing a return for the second semimonthly reporting period, a taxpayer who files an
34 estimated return for the first period but not both periods shall remit the amount of tax
35 due for both the first and second reporting periods, less the amount he remitted with his
36 estimated return.

37 A taxpayer who files an estimated return for both periods is considered to have been
38 granted an extension for both the first and second reporting periods. Notwithstanding
39 G.S. 105-164.19, if a taxpayer who files an estimated return for both periods files a
40 reconciling return for those periods within ten days of the due date of the return for the
41 second period and any underpayment of estimated taxes remitted with the reconciling
42 return is less than ten percent (10%) of the amount of taxes due for both the first and
43 second reporting periods, no interest shall be charged. Otherwise, a taxpayer who files
44 an estimated return for both periods shall be charged interest at the statutory rate from

1 the due date of the return for the first reporting period to the date the reconciling return
2 is filed.

3 ~~(e) Sales Tax on Utility Services.—Taxes levied under G.S. 105-164.4(4a) and~~
4 ~~G.S. 105-164.4(4e) are due and payable quarterly on or before the 30th day following~~
5 ~~the end of the calendar quarter in which the tax accrues."~~

6 Sec. 2. G.S. 105-164.21A reads as rewritten:

7 **"§ 105-164.21A. Deduction for municipalities that sell electric power.**

8 A municipality that pays the retail sales tax imposed by this Article on electricity
9 may deduct from the amount of tax payable by the municipality an amount equal to
10 three percent (3%) of the difference between its gross receipts from sales of electricity
11 for the preceding quarter-reporting period and the amount paid by the municipality for
12 purchased power and related services during that quarter-reporting period."

13 Sec. 3. G.S. 105-116 reads as rewritten:

14 **"§ 105-116. Franchise or privilege tax on electric light, power, gas, water, sewerage,**
15 **~~and other similar public service companies not otherwise taxed.~~ power,**
16 **natural gas, water, and sewerage companies.**

17 (a) ~~Every person, firm or corporation, domestic or foreign, other than municipal~~
18 ~~corporations, engaged in the business of furnishing electricity, electric lights, current,~~
19 ~~power or piped gas, or owning and/or operating a water system subject to regulation by~~
20 ~~the North Carolina Utilities Commission, or owning and/or operating a public sewerage~~
21 ~~system shall, within 30 days after the first day of January, April, July and October of~~
22 ~~each year, make and deliver to the Secretary of Revenue, upon such forms and blanks as~~
23 ~~required by him, a report verified by the affirmation of the officer or authorized agent~~
24 ~~making such report and statement, containing the following information:~~

- 25 (1) ~~The total gross receipts for the three months ending the last day of the~~
26 ~~month immediately preceding such return from such business within~~
27 ~~and without this State.~~
- 28 (2) ~~The total gross receipts for the same period from such business within~~
29 ~~this State.~~
- 30 (3) ~~The total gross receipts from the commodities or services described in~~
31 ~~this section sold to a vendee subject to the tax levied by this section or~~
32 ~~to a joint agency established under Chapter 159B of the General~~
33 ~~Statutes or a municipality having an ownership share in a project~~
34 ~~established under that Chapter.~~
- 35 (4) ~~The total amount and price paid for such commodities or services~~
36 ~~purchased from others engaged in the above named business in this~~
37 ~~State, and the name or names of the vendor.~~
- 38 (5) ~~As to gas companies, the gross receipts derived from sales of piped gas~~
39 ~~to manufacturers which is to be used as an ingredient or component of~~
40 ~~a manufactured product.~~

41 ~~Gross receipts shall be reported on an accrual basis.~~

42 (b) ~~From the total gross receipts within this State there shall be deducted the~~
43 ~~gross receipts reported in subsection (a)(3) of this section.~~

~~(e) An annual franchise or privilege tax at the rates specified in this subsection is levied on the businesses listed in subsection (a). This tax is for the privilege of engaging in business in this State and is due and payable quarterly to the Secretary of Revenue when the report required by subsection (a) is filed. The tax on a public sewerage company is at the rate of six percent (6%) of the total gross receipts of the company derived within the State. The tax on an electric power company or a gas company is at the rate of three and twenty two hundredths percent (3.22%) of the total gross receipts derived within the State. The tax on water companies is at the rate of four percent (4%) of the total gross receipts derived within the State. All deductions allowed by this section shall first be subtracted from total gross receipts to determine the total taxable gross receipts.~~

~~The tax imposed by this section does not apply to special charges collected within this State by natural gas utilities pursuant to drilling and exploration surcharges approved by the Utilities Commission, where such surcharges are segregated from the other receipts of the natural gas utility and are devoted to drilling, exploration and other means to acquire additional supplies of natural gas for the account of natural gas customers in North Carolina and where the beneficial interest in said surcharge collections is preserved for the natural gas customers paying said surcharges under rules established by the Utilities Commission.~~

~~In determining the total tax payable by any company under this section, there shall be allowed as a credit on such tax the amount of the credit authorized by Division V of Article 4 of this Chapter.~~

~~(d) Repealed by Session Laws 1973, c. 1287, s. 3.~~

~~(e) The report herein required of gross receipts within and without the State, shall include the total gross receipts for the period stated of all properties owned and operated by the reporting person, firm, or corporation on the first day of each calendar quarter year, whether operated by it for the previous annual period, or whether intermediately acquired by purchase or lease, it being the intent and purpose of this section to measure the amount of privilege or franchise tax in each calendar quarter year with reference to the gross receipts of the property operated for the previous calendar quarter year and to fix liability for the payment of the tax on the owner, operator, or lessor on the first day of January, April, July and October of each year.~~

~~(f) Companies taxed under this section shall not be required to pay the franchise tax imposed by G.S. 105-122 or G.S. 105-123 unless the tax levied by G.S. 105-122 or G.S. 105-123 exceeds the tax levied in this section, and no county shall impose a franchise, license or privilege tax upon the business taxed under this section.~~

~~(g) The Secretary of Revenue shall determine the total gross receipts derived from the sale within each municipality of the commodities or services described in this section, except water and sewerage services, and shall distribute to each municipality an amount equal to a tax of three and nine hundredths percent (3.09%) of the gross receipts from sales within the municipality. In determining the amount to be distributed to a municipality pursuant to this subsection, gross receipts from sales within a municipality do not include receipts from sales of piped gas to a manufacturer for use as an ingredient or component part of a manufactured product.~~

1 As soon as practicable after the date on which each quarterly payment of taxes is due
2 under this section, the Secretary of Revenue shall certify to the State Disbursing Officer
3 and to the State Treasurer the amount distributable to each municipality under this
4 section. The State Disbursing Officer shall thereupon issue a warrant on the State
5 Treasurer to each municipality in the amount so certified.

6 So long as there is a distribution to municipalities of the amount herein provided
7 from the tax imposed by this section, no municipality shall impose or collect any greater
8 franchise, privilege or license taxes, in the aggregate, on the businesses taxed under this
9 section, than was imposed and collected on or before January 1, 1947. If any
10 municipality shall have collected any privilege, license or franchise tax between January
11 1, 1947, and April 1, 1949, in excess of the tax collected by it prior to January 1, 1947,
12 then upon distribution of the taxes imposed by this section to municipalities, the amount
13 distributable to any municipality shall be credited with such excess payment.

14 (h) For purposes of subsection (g) and of G.S. 105-120(d), the term
15 "municipality" includes any urban service district defined by the governing board of a
16 consolidated city county, and the amounts due thereby shall be distributed to the
17 government of the consolidated city county.

18 (a) Tax. An annual franchise or privilege tax is imposed on a person, firm, or
19 corporation, other than a municipal corporation, that is:

- 20 (1) An electric power company engaged in the business of furnishing
21 electricity, electric lights, current, or power.
- 22 (2) A natural gas company engaged in the business of furnishing piped
23 natural gas.
- 24 (3) A water company engaged in owning or operating a water system
25 subject to regulation by the North Carolina Utilities Commission.
- 26 (4) A public sewerage company engaged in owning or operating a public
27 sewerage system.

28 The tax on an electric power company is three and twenty-two hundredths percent
29 (3.22%) of the company's taxable gross receipts from the business of furnishing
30 electricity, electric lights, current, or power. The tax on a natural gas company is three
31 and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts
32 from the business of furnishing piped natural gas. The tax on a water company is four
33 percent (4%) of the company's taxable gross receipts from owning or operating a water
34 system subject to regulation by the North Carolina Utilities Commission. The tax on a
35 public sewerage company is six percent (6%) of the company's taxable gross receipts
36 from owning or operating a public sewerage company. A company's taxable gross
37 receipts are its gross receipts from business inside the State less the amount of gross
38 receipts from sales reported under subdivision (b)(2). A company that engages in more
39 than one business taxed under this section shall pay tax on each business. A company is
40 allowed a credit against the tax imposed by this section for the company's investments
41 in certain entities in accordance with Division V of Article 4 of this Chapter.

42 (b) Payment. The tax imposed by this section is payable when a report is
43 required to be filed. An electric power company or a natural gas company shall file a
44 report on a monthly basis. A water company or a public sewerage company shall file a

1 report on a quarterly basis. A monthly report covers a calendar month and is due within
2 25 days after the end of the month covered by the report. A quarterly report covers a
3 calendar quarter and is due within 25 days after the end of the quarter covered by the
4 report. A company shall submit a report on a form provided by the Secretary. The
5 report shall include the company's gross receipts from all property it owned or operated
6 during the reporting period in connection with its business taxed under this section and
7 shall contain the following information:

- 8 (1) The company's gross receipts for the reporting period from business
9 inside and outside this State, stated separately.
- 10 (2) The company's gross receipts from commodities or services described
11 in subsection (a) that are sold to a vendee subject to the tax levied by
12 this section or to a joint agency established under G.S. Chapter 159B
13 or a municipality having an ownership share in a project established
14 under that Chapter.
- 15 (3) The amount of and price paid by the company for commodities or
16 services described in subsection (a) that are purchased from others
17 engaged in business in this State and the name of each vendor.
- 18 (4) For an electric power company or a natural gas company, the
19 company's gross receipts from the sale within each municipality of the
20 commodities and services described in subsection (a).

21 A company shall report its gross receipts on an accrual basis.

22 (c) Gas Surcharges. Gross receipts of a natural gas company do not include
23 special charges collected within this State by the company pursuant to drilling and
24 exploration surcharges approved by the North Carolina Utilities Commission, if the
25 surcharges are segregated from the other receipts of the company and are devoted to
26 drilling, exploration, and other means to acquire additional supplies of natural gas for
27 the account of natural gas customers in North Carolina and the beneficial interest in the
28 surcharge collections is preserved for the natural gas customers paying the surcharges
29 under rules established by the Commission.

30 (d) Distribution. Each municipality shall receive three and nine hundredths
31 percent (3.09%) of the taxable gross receipts derived by an electric company and a
32 natural gas company from sales within the municipality of the commodities and services
33 described in subsection (a). At the end of each calendar quarter, the Secretary of
34 Revenue shall calculate the amount to be distributed to each municipality based on the
35 taxable gross receipts derived within the municipality during that quarter and shall
36 certify the amount to the State Controller. The Secretary shall then distribute the
37 amounts to the municipalities. If a company's report does not state the company's
38 taxable gross receipts derived within a municipality, the Secretary of Revenue shall
39 determine a practical method of allocating part of the company's taxable gross receipts
40 to the municipality.

41 As used in this subsection, the term 'municipality' includes an urban service district
42 defined by the governing board of a consolidated city-county. The amount due an urban
43 service district shall be distributed to the governing board of the consolidated city-
44 county.

1 (e) No Local Tax. Counties and cities may not impose a license, franchise, or
2 privilege tax on a company taxed under this section."

3 Sec. 4. G.S. 105-120 reads as rewritten:

4 **"§ 105-120. Franchise or privilege tax on telephone companies.**

5 (a) Tax. An annual franchise or privilege tax is imposed on a Every person, firm,
6 or corporation, domestic or foreign, owning and/or operating—that owns or operates a
7 business entity for the provision of local telecommunications service. The tax is three
8 and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts. A
9 company's taxable gross receipts are its receipts from providing local
10 telecommunications service, including receipts from rentals and other similar charges,
11 less its receipts from telecommunications access charges. A company is allowed a
12 credit against the tax imposed by this section for the company's investments in certain
13 entities in accordance with Division V of Article 4 of this Chapter. service, shall within
14 30 days after the first day of January, April, July and October of each year, make and deliver to
15 the Secretary of Revenue a quarterly return, verified by the affirmation of the officer or
16 authorized agent making such return, showing the total amount of gross receipts of such
17 business entity for the three months ending the last day of the month immediately preceding
18 such return, and pay, at the time of making such return, the franchise, license or privilege tax
19 herein imposed. Gross receipts shall be reported on an accrual basis.

20 (b) Payment. The tax imposed by this section is payable when a report is
21 required to be filed. A company that is liable for an average of less than three thousand
22 dollars (\$3,000) a month in taxes imposed by this section may, with the approval of the
23 Secretary of Revenue, file a report on a quarterly basis. All other companies shall file a
24 report on a monthly basis. A monthly report covers a calendar month and is due within
25 25 days after the month covered by the report. A quarterly report covers a calendar
26 quarter and is due within 25 days after the end of the quarter covered by the report. A
27 company shall submit a report on a form provided by the Secretary. The report shall
28 state the company's gross receipts for the reporting period from providing local
29 telecommunications service and from providing local telecommunications service
30 within each municipality served. A company shall report its gross receipts on an
31 accrual basis.

32 (c) Distribution. Each municipality shall receive three and nine hundredths
33 percent (3.09%) of the taxable gross receipts derived from local telecommunications
34 service provided within the municipality. At the end of each calendar quarter, the
35 Secretary of Revenue shall calculate the amount to be distributed to each municipality
36 based on the taxable gross receipts derived within the municipality during that quarter
37 and shall certify the amount to the State Controller. The Secretary shall then distribute
38 the amounts to the municipalities. If a company's report does not state the company's
39 taxable gross receipts from local telecommunications service provided within a
40 municipality, the Secretary of Revenue shall determine a practical method of allocating
41 part of the company's taxable gross receipts to the municipality.

42 As used in this subsection, the term 'municipality' includes an urban service district
43 defined by the governing board of a consolidated city-county. The amount due an urban
44 service district shall be distributed to the governing board of the consolidated city-
45 county.

1 (d) No Local Tax. Counties and cities may not impose a license, franchise, or
2 privilege tax on a company taxed under this section or under G.S. 105-164.4(4c).

3 (e) Definitions. For purposes of this section:

4 (1) 'Local telecommunications service' means telecommunications service
5 provided wholly within a LATA entitling the user to access to a local
6 telephone exchange for the privilege of telephonic quality
7 communication with substantially all persons in the local telephone
8 exchange. Provided, however, local telecommunications service does
9 not include intraLATA or interLATA toll telecommunications ~~services;~~
10 service, or private telecommunications services; service.

11 (2) 'LATA' is a Local Access and Transport Area representing a
12 geographical area comprising one or more telephone exchange ~~areas;~~
13 areas.

14 (3) 'InterLATA telecommunications' is telecommunications service
15 provided between two or more ~~LATAs;~~ LATAs.

16 (4) 'Toll telecommunications service' means:

17 a. A telephonic quality communication for which:

18 1. There is a toll charge ~~which that~~ varies in amount with
19 the distance and elapsed transmission time of each
20 individual communication; and

21 2. The charge is paid within the United ~~States;~~ and States.

22 b. A service ~~which that~~ entitles the subscriber, upon payment of a
23 periodic charge (determined as a flat amount or upon the basis
24 of total elapsed transmission time), to the privilege of an
25 unlimited number of telephonic communications to or from all
26 or a substantial portion of the persons having telephone or
27 radiotelephone stations in a specified area ~~which that~~ is outside
28 the local telephone ~~exchange;~~ exchange.

29 (5) 'Private telecommunications service' means a service furnished to a
30 subscriber that entitles the subscriber to exclusive or priority use of a
31 communications channel or group of channels.

32 (6) 'Telecommunications access charges' means charges paid to a provider
33 of local telecommunications service for access to an interconnection
34 with the local telephone exchange.

35 (b) ~~An annual franchise or privilege tax of three and twenty two hundredths~~
36 ~~percent (3.22%), payable quarterly, on the gross receipts of such business entity, is~~
37 ~~herein imposed for the privilege of engaging in such business within this State.~~
38 ~~Provided, however, gross receipts from local telephone service shall not include~~
39 ~~telecommunications access charges. Such gross receipts shall include all rentals and~~
40 ~~other similar charges. Telecommunications access charges are those charges paid to a~~
41 ~~provider of local telephone service for access to an interconnection with the local~~
42 ~~telephone exchange.~~

43 (c) ~~Repealed by Session Laws 1973, c. 1287, s. 3.~~

- 1 (4) ~~The word "employee" means an 'Employee.'~~ An individual, whether a
2 ~~resident or a nonresident in of this State, who performs or performed~~
3 ~~any service services in this State for wages or an individual domiciled in~~
4 ~~who is a resident of this State who and performs or performed any~~
5 ~~service services outside this State for wages. The word "employee," as~~
6 ~~used in this subdivision, is intended to include officers of corporations and~~
7 ~~elected public officials. The term does not include an ordained or licensed~~
8 ~~clergyman who elects to be considered self employed under G.S. 105-~~
9 ~~163.1A. term includes an ordained or licensed clergyman who elects to~~
10 ~~be considered an employee under G.S. 105-163.1A, an officer of a~~
11 ~~corporation, and an elected public official.~~
12 (5) ~~The word "employer" means this State, or any political subdivision~~
13 ~~thereof, the United States, or any agency or instrumentality of any one~~
14 ~~or more of the foregoing, or a person, 'Employer.'~~ A person for
15 ~~whom an individual performs or performed any service as an~~
16 ~~employee; except that:~~
17 a. ~~If the person, governmental unit, or agency thereof, for whom~~
18 ~~the individual performs or performed the service does not have~~
19 ~~control of the payment of the wages for such services, the term~~
20 ~~"employer" (except for the purposes of subdivision (6) of this~~
21 ~~section) means the person having control of the payment of~~
22 ~~such wages, and~~
23 b. ~~In the case of a person paying wages on behalf of a nonresident~~
24 ~~person not engaged in trade or business within this State or on~~
25 ~~behalf of any governmental unit or agency thereof not located~~
26 ~~within this State, the term "employer" (except for purposes of~~
27 ~~subdivision (6) of this section) means such person. services for~~
28 ~~wages. In applying the requirements to withhold income taxes~~
29 ~~from wages and pay the withheld taxes, the term includes a~~
30 ~~person who:~~
31 a. Controls the payment of wages to an individual for services
32 performed for another.
33 b. Pays wages on behalf of a person who is not engaged in trade or
34 business in this State.
35 c. Pays wages on behalf of a unit of government that is not located
36 in this State.
37 d. Pays wages for any other reason.
38 (6) ~~The term "wages" means all remuneration (other than fees paid to a~~
39 ~~public official) for service performed by an employee for his~~
40 ~~employer, including the cash value of all remuneration paid in any~~
41 ~~medium other than cash; except that such term shall not include~~
42 ~~remuneration paid:~~
43 a. ~~For agricultural labor where such remuneration is paid to~~
44 ~~workers employed on the farm for services rendered on the~~

- 1 farm in the production, harvesting, and transportation of
 2 agricultural products to market for the farmer employer; or
 3 b. For domestic service in a private home, local college club, or
 4 local chapter of a college fraternity or sorority; or
 5 e. For service not in the course of the employer's trade or business
 6 performed in any calendar quarter by an employee, unless the
 7 cash remuneration paid for such service is fifty dollars (\$50.00)
 8 or more and such service is performed by an individual who is
 9 regularly employed by such employer to perform such service.
 10 For purposes of this paragraph, an individual shall be deemed to
 11 be regularly employed by an employer during a calendar quarter
 12 only if:
- 13 1. On each of some 24 days during such quarter such
 14 individual performs for such employer for some portion
 15 of the day service not in the course of the employer's
 16 trade or business; or
 - 17 2. Such individual was regularly employed (as determined
 18 under subparagraph 1 above) by such employer in the
 19 performance of such service during the preceding
 20 calendar quarter; or
- 21 d. For services not in the course of the employer's trade or
 22 business, to the extent paid in any medium other than cash; or
 23 e. To, or on behalf of, an employee or his beneficiary—
- 24 1. From or to a trust described in § 401(a) of the Code
 25 which is exempt from tax under § 501(a) of the Code at
 26 the time of such payment unless such payment is made
 27 to an employee of the trust as remuneration for services
 28 rendered as such employee and not as a beneficiary of
 29 the trust; or
 - 30 2. Under or to an annuity plan which, at the time of such
 31 payment, meets the requirements of § 401(a) (3), (4), (5),
 32 and (6) of the Code.
- 33 (7) The term "transient employer" means an "employer" who is not a
 34 resident of this State and who temporarily engages in any activity
 35 within the State for the production of income. Without intending to
 36 exclude others who may come within the foregoing definition, any
 37 nonresident "employer" engaging in any such activity within the State
 38 which, as of any date, cannot be reasonably expected to continue for a
 39 period of 18 consecutive months shall be deemed to be temporarily
 40 engaged in such activity.
- 41 (8) "Fiduciary" means a 'Fiduciary.'— A guardian, a trustee, an executor, an
 42 administrator, a receiver, a conservator, or any another person acting in
 43 any a fiduciary capacity for any person, estate or trust. another.

- 1 (9) "~~Fiscal year~~" means ~~an accounting period of 12 months ending on the~~
2 ~~last day of any month other than December.~~ 'Fiscal year.'— Defined in
3 section 441(e) of the Code.
- 4 (10) "~~Individual~~" means a 'Individual.'— A natural person.
- 5 (11) "~~Code~~" means ~~the Internal Revenue Code as enacted as of January 1,~~
6 ~~1989, and includes any provisions enacted as of that date which~~
7 ~~become effective either before or after that date.~~ 'Miscellaneous
8 payroll period.'— A payroll period other than a daily, weekly,
9 biweekly, semimonthly, monthly, quarterly, semiannual, or annual
10 payroll period.
- 11 (12) "~~Payroll period~~" means a 'Payroll period.'— A period for which a
12 payment of wages is ordinarily made to the employee by his employer,
13 and the term "miscellaneous payroll period" means a payroll period
14 other than a daily, weekly, biweekly, semimonthly, monthly, quarterly,
15 semiannual, or annual payroll period. an employer ordinarily pays
16 wages to an employee of the employer.
- 17 (13) ~~The word "person" means an~~ 'Person.'— An individual, a fiduciary, a
18 partnership, or a corporation and includes an officer or employee of a
19 corporation or a member or employee of a partnership or of an
20 individual proprietorship who as such officer, employee, or member is
21 under a duty to perform an act in meeting the requirements of this
22 Division. a corporation, or a unit of government. The term includes an
23 officer or employee of a corporation, a member or employee of a
24 partnership, and an employee of an individual proprietorship who, as
25 officer, employee, or member, is under a duty to perform an act in
26 meeting the requirements of this Division.
- 27 (14) "~~Taxable year~~" means ~~the calendar year or fiscal year ending during~~
28 ~~such calendar year, upon the basis of which net income is computed,~~
29 ~~and in the case of a return made for a fractional part of a year under the~~
30 ~~provisions of this Chapter or under regulations prescribed by the~~
31 ~~Secretary, "taxable year" means the period for which such return is~~
32 ~~made.~~ 'Taxable year.'— Defined in section 441(b) of the Code.
- 33 (14a) 'Secretary.'— The Secretary of Revenue.
- 34 (15) ~~The term "net taxable income" means that part of the income of an~~
35 ~~individual which, during the taxable year of the individual, is subject~~
36 ~~to payment of an income tax thereon under the provisions of Article 4~~
37 ~~of this Chapter.~~ 'Wages.'— The term has the same meaning as in
38 section 3401 of the Code except it does not include remuneration paid
39 by a farmer for services performed on the farmer's farm in producing
40 or harvesting agricultural products or in transporting the agricultural
41 products to market."

42 Sec. 6. G.S. 105-163.1A reads as rewritten:

43 "§ 105-163.1A. Ordained or licensed clergyman may elect to be considered ~~self~~. **An**
44 **ordained or licensed clergyman who performs services for a church of**

1 any religious denomination may file an election with the Secretary and
2 the church he serves to be considered self-employed instead of an employee
3 of the church. church instead of self-employed. Wages Until a clergyman
4 files an election, amounts paid by a church to a clergyman who elects to be
5 considered self-employed are not subject to withholding. A church shall
6 withhold taxes from a clergyman's wages until after the clergyman files
7 an election with it under this section."

8 Sec. 7. G.S. 105-163.2(a) reads as rewritten:

9 "(a) ~~Every employer making payment of wages on or after January 1, 1960, shall~~
10 ~~deduct and withhold with respect to the wages of each employee for each payroll period~~
11 ~~an amount determined as follows:~~

12 ~~An amount which, if an equal amount was collected for each similar payroll period~~
13 ~~with respect to a similar amount of wages for each payroll period during an entire~~
14 ~~calendar year, would aggregate or approximate the income tax liability of the employee~~
15 ~~under Article 4 of this Chapter after making allowance for the personal exemptions to~~
16 ~~which the employee would be entitled on the basis of his status during the payroll~~
17 ~~period and after making allowance for withholding purposes for a deduction from wages~~
18 ~~of the amount of the standard deduction allowed under the Code less the amount by~~
19 ~~which the standard deduction has been increased under section 63(c)(4) of the Code and~~
20 ~~without making allowance for any other deductions. An employer shall deduct and~~
21 ~~withhold from the wages of each employee the State income taxes payable by the~~
22 ~~employee on the wages. For each payroll period, the employer shall withhold from the~~
23 ~~employee's wages an amount that would approximate the employee's income tax~~
24 ~~liability under Article 4 of this Chapter if the employer withheld the same amount from~~
25 ~~the employee's wages for each similar payroll period in a calendar year. In calculating~~
26 ~~an employee's anticipated income tax liability, the employer shall allow for the~~
27 ~~exemptions, deductions, and credits to which the employee is entitled under Article 4 of~~
28 ~~this Chapter. The amount of State income taxes withheld by an employer is held in trust~~
29 ~~for the Secretary."~~

30 Sec. 8. G.S. 105-163.3 reads as rewritten:

31 "**§ 105-163.3. Withholding in accordance with regulations.**

32 The manner of withholding and the amount to be deducted and withheld under G.S.
33 105-163.2 shall be determined in accordance with tables, rules, and regulations
34 ~~promulgated~~ adopted by the Secretary. The withholding exemption allowed by these
35 tables, rules, and regulations shall, as nearly as possible, approximate the exemptions to
36 which an employee would be entitled under the Code less the amount by which the
37 exemptions would be increased under section 151(d)(3) of the Code. Article 4 of this
38 Chapter."

39 Sec. 9. G.S. 105-163.4 reads as rewritten:

40 "**§ 105-163.4. Basis of determination of remuneration being wages. No withholding**
41 **from reimbursement for expenses.**

42 If any of the remuneration paid by an employer to an employee during any payroll
43 period ~~or during any miscellaneous period without reference to a payroll period~~
44 ~~constitutes actual~~ The amount an employer pays an employee as reimbursement of the

1 ~~employee for ordinary and necessary expenses incurred by the employee on behalf of~~
2 ~~the employer and in the furtherance of the business of the employer, then such amounts~~
3 ~~as are paid to reimburse the employee for such expenses are not to be considered as~~
4 ~~wages and no amounts shall be deducted and withheld therefrom. employer is not wages~~
5 ~~and is not subject to withholding under this Article."~~

6 Sec. 10. G.S. 105-163.6 reads as rewritten:

7 "**§ 105-163.6. Payment of amounts withheld; personal liability for failure to**
8 **withhold; limitation of recovery. When employer must file returns and**
9 **pay withheld taxes.**

10 (a) ~~Every employer required to deduct and withhold from an employee's wages~~
11 ~~under G.S. 105-163.2 shall, for the quarterly period beginning January 1, 1960, and for~~
12 ~~each quarterly period thereafter, on or before the last day of the month following the~~
13 ~~close of each quarterly period, make return and pay over to the Secretary the amounts~~
14 ~~required to be withheld under G.S. 105-163.2. Such returns shall be in such form and~~
15 ~~contain such information as the Secretary may prescribe. General.— A return is due~~
16 ~~quarterly or monthly as specified in this section. A return shall be filed with the~~
17 ~~Secretary on a form prepared by the Secretary, shall report any payments of withheld~~
18 ~~taxes made during the period covered by the return, and shall contain any other~~
19 ~~information required by the Secretary.~~

20 ~~Withheld taxes are payable quarterly, monthly, or within three banking days after~~
21 ~~paying wages, as specified in this section. Withheld taxes shall be paid to the Secretary~~
22 ~~or to a financial institution with which the Secretary has entered a contract to receive~~
23 ~~payment of withheld taxes.~~

24 ~~If the Secretary finds that collection of the amount of taxes this Article requires an~~
25 ~~employer to withhold is in jeopardy, the Secretary may require the employer to file a~~
26 ~~return or pay withheld taxes at a time other than that specified in this section.~~

27 (b) ~~Notwithstanding any of the other provisions of this section, all transient~~
28 ~~employers shall make return and pay over to the Secretary on a monthly basis the~~
29 ~~amounts required to be withheld under G.S. 105-163.2. Such returns and payments to~~
30 ~~the Secretary by transient employers shall be made on or before the fifteenth day of the~~
31 ~~month following the month for which such amounts were deducted and withheld from~~
32 ~~the wages of his employees; except that the returns and payments for the month of~~
33 ~~December shall be made on or before the 31st day of the following month. Quarterly.—~~
34 ~~An employer who withholds an average of less than five hundred dollars (\$500.00) of~~
35 ~~State income taxes from wages each month shall file a return and pay the withheld taxes~~
36 ~~on a quarterly basis. A quarterly return covers a calendar quarter and is due by the last~~
37 ~~day of the month following the end of the quarter.~~

38 (c) ~~Notwithstanding any of the other provisions of this section, all employers~~
39 ~~engaged in any business which is seasonal shall make return and pay over to the~~
40 ~~Secretary on a monthly basis the amounts required to be withheld under G.S. 105-163.2.~~
41 ~~Such returns and payments to the Secretary by employers engaged in such seasonal~~
42 ~~business shall be made on or before the fifteenth day of the month following the month~~
43 ~~for which such amounts were deducted and withheld from the wages of his employees;~~
44 ~~except that the returns and payments for the month of December shall be made on or~~

1 ~~before the 31st day of the following month.— Monthly.— An employer who withholds an~~
2 ~~average of at least five hundred dollars (\$500.00) but less than three thousand dollars~~
3 ~~(\$3,000) from wages each month shall file a return and pay the withheld taxes on a~~
4 ~~monthly basis. A return for the months of January through November is due by the 15th~~
5 ~~day of the month following the end of the month covered by the return. A return for~~
6 ~~the month of December is due the following January 31.~~

7 ~~(e1) Notwithstanding any of the other provisions of this section, every employer~~
8 ~~required to deduct and withhold under the provisions of G.S. 105-163.2 an average of~~
9 ~~five hundred dollars (\$500.00) or more per month during the preceding calendar year~~
10 ~~(or during so much of such year as he paid wages) and every employer who begins~~
11 ~~paying wages during a calendar year and whose liability to deduct and withhold under~~
12 ~~G.S. 105-163.2 can reasonably be expected to average five hundred dollars (\$500.00) or~~
13 ~~more per month in that calendar year, shall make returns and pay over to the Secretary~~
14 ~~each month the amounts required to be withheld under G.S. 105-163.2. Returns and~~
15 ~~payments to the Secretary by such employers shall be made on or before the fifteenth~~
16 ~~day of the month following the month for which such amounts were required to be~~
17 ~~withheld from the wages of employees; except that the returns and payments for the~~
18 ~~month of December shall be made on or before the 31st day of the following month.~~

19 ~~When an employer has become subject to the requirements of this subsection, he~~
20 ~~shall continue to make returns and payments to the Secretary on that basis. However,~~
21 ~~an employer required under the provisions of this subsection to file monthly returns~~
22 ~~who, in a later calendar year, is required to deduct and withhold under G.S. 105-163.2~~
23 ~~an average of less than five hundred dollars (\$500.00) per month may make application~~
24 ~~to the Secretary for authority to use the quarterly basis for filing and making payments.~~
25 ~~Such authority, when granted, shall be in writing, shall commence on a date set by the~~
26 ~~Secretary, and shall continue until the Secretary, in the exercise of his discretion, shall~~
27 ~~revoke it in writing, effective on a date set by him.~~

28 ~~(d) If the Secretary, in any case, has reason to believe that the collection of~~
29 ~~moneys, required by this Article to be withheld by the employer, is in jeopardy, he may~~
30 ~~require the employer to make such return and pay to the Secretary such amounts~~
31 ~~required to be withheld at any time said Secretary may designate therefor subsequent to~~
32 ~~the time when such amounts should have been deducted from wages and withheld.~~
33 ~~Three Banking Days.— An employer who withholds an average of at least three~~
34 ~~thousand dollars (\$3,000) of State income taxes from wages each month shall file a~~
35 ~~return by the date set under the Code for filing a return for federal income taxes~~
36 ~~withheld from the same wages and shall pay the withheld State taxes by the date set~~
37 ~~under the Code for depositing or paying federal income taxes withheld from the same~~
38 ~~wages. An extension of time granted to file a return for federal income taxes withheld~~
39 ~~from wages is an automatic extension of time for filing a return for State income taxes~~
40 ~~withheld from the same wages, and an extension of time granted to pay federal income~~
41 ~~taxes withheld from wages is an automatic extension of time for paying State income~~
42 ~~taxes withheld from the same wages. An employer who pays withheld State income~~
43 ~~taxes under this subsection is not subject to interest on or penalties for an underpayment~~

1 of an amount due if the employer timely pays at least ninety-five percent (95%) of the
2 amount due and includes the underpayment with the next payment the employer makes.

3 (e) ~~Every employer who fails to withhold or pay to the Secretary any sums~~
4 ~~required by this Article to be withheld and paid shall be personally and individually~~
5 ~~liable therefor to the Secretary; and any sum or sums withheld in accordance with the~~
6 ~~provisions of G.S. 105-163.2 shall be deemed to be held in trust for the Secretary.~~
7 ~~Category.— The Secretary shall monitor the amount of taxes withheld by an employer~~
8 ~~or estimate the amount of taxes to be withheld by a new employer and shall direct each~~
9 ~~employer to pay withheld taxes in accordance with the appropriate schedule. An~~
10 ~~employer shall file a return and pay withheld taxes in accordance with the Secretary's~~
11 ~~direction until notified in writing to file and pay under a different schedule.~~

12 (f) ~~Any person required to collect, truthfully account for, and pay over any~~
13 ~~amounts required to be deducted and withheld under G.S. 105-163.2, who fails to~~
14 ~~collect and pay over such amount shall, in addition to other penalties provided by law,~~
15 ~~be personally liable to a penalty equal to the total amount not collected or not accounted~~
16 ~~for and paid over. No penalty shall be imposed under G.S. 105-163.17 for any offense~~
17 ~~to which this subsection is applicable."~~

18 Sec. 11. G.S. 105-163.7(b) reads as rewritten:

19 "(b) ~~The written statement above referred to shall be furnished at such other times,~~
20 ~~shall contain such other information, and shall be in such form as the Secretary may by~~
21 ~~regulations prescribe. Secretary may require an employer to include information not~~
22 ~~listed in subsection (a) on the employer's written statement to an employee and to file~~
23 ~~the statement at a time not required by subsection (a). Every employer shall file an~~
24 ~~annual report with the Secretary that contains the information given on each of the~~
25 ~~employer's written statements to an employee and other information required by the~~
26 ~~Secretary. The annual report is due on the same date the employer's federal information~~
27 ~~return of federal income taxes withheld from wages is due under the Code. returns or~~
28 ~~reports setting forth such information as the Secretary may require, and the Secretary~~
29 ~~may require the filing of such additional copies of all written statements described~~
30 ~~above as he may deem necessary. On and after January 1, 1961, the annual returns or~~
31 ~~reports required to be made to the Secretary under the provisions of this section shall be~~
32 ~~in lieu of such returns required under G.S. 105-154 as would furnish identical~~
33 ~~information.—The report required by this subsection is in lieu of the report required by~~
34 ~~G.S. 105-154."~~

35 Sec. 12. G.S. 105-163.8 reads as rewritten:

36 "**§ 105-163.8. Liability of employer, employer and others.**

37 ~~An employer shall be liable for the payment to the Secretary of the amounts required~~
38 ~~to be deducted and withheld under G.S. 105-163.2, and an employer who has withheld~~
39 ~~and paid such amounts to the Secretary shall not otherwise be liable to any person for~~
40 ~~the amounts of any such payments. Upon failure of an employer to pay over any~~
41 ~~amounts withheld or required to be withheld by said employer under this Article, the~~
42 ~~Secretary may make assessments, issue warrants for the collection of such amounts,~~
43 ~~issue certificates of tax liability, collect by attachment or garnishment proceedings, or~~

1 ~~bring actions for the collection of such amounts and for penalties due under the~~
2 ~~provisions of G.S. 105-241.1, G.S. 105-242 and G.S. 105-243.~~

3 (a) Employer. An employer who withholds the proper amount of taxes under
4 G.S. 105-163.2 and pays the withheld amount to the Secretary is not liable to any person
5 for the amount paid. An employer who fails to withhold the proper amount of taxes or
6 pay the amount withheld to the Secretary is liable for the amount not withheld or not
7 paid. An employer who fails to withhold the amount of income taxes required by this
8 Article or who fails to pay withheld taxes by the due date for paying the taxes is subject
9 to a penalty equal to twenty-five percent (25%) of the amount of taxes not withheld or
10 not timely paid to the Secretary.

11 (b) Others. A person who has a duty to deduct, account for, or pay taxes required
12 to be withheld under G.S. 105-163.2 and who fails to do so is liable for the amount not
13 deducted, not accounted for, or not paid."

14 Sec. 13. G.S. 105-163.9 reads as rewritten:

15 **"§ 105-163.9. Refund to employer; application. of overpayment to employer.**

16 ~~(a) Where there has been an overpayment to the Secretary by the employer or~~
17 ~~withholding agent under the provisions of this Article, refund shall be made to the~~
18 ~~employer or withholding agent, as the case may be, only to the extent that the amount of~~
19 ~~such overpayment was not deducted and withheld by the employer or withholding agent~~
20 ~~from the employee's wages, and such refund shall be paid together with interest thereon~~
21 ~~at the rate established in G.S. 105-241.1(i) for assessments; provided, that interest on~~
22 ~~any such refund shall be computed from a date 90 days after the date the overpayment~~
23 ~~was originally made by the employer or withholding agent. An employer who pays the~~
24 ~~Secretary more under this Article than the Article requires the employer to pay may~~
25 ~~obtain a refund of the overpayment by filing an application for a refund with the~~
26 ~~Secretary. No refund is allowed, however, if the employer withheld the amount of the~~
27 ~~overpayment from the wages of the employer's employees. An employer must file an~~
28 ~~application for a refund within the time period set in G.S. 105-266. Interest accrues on~~
29 ~~a refund as provided in G.S. 105-266.~~

30 ~~(b) Unless written application for refund is received by the Secretary from the~~
31 ~~employer within two years from the date the overpayment was made, no refund shall be~~
32 ~~allowed."~~

33 Sec. 14. G.S. 105-163.17 reads as rewritten:

34 **"§ 105-163.17. Enforcement. Administration.**

35 ~~Except as otherwise provided in this Article, all provisions of Articles 4 and The~~
36 ~~provisions of Article 9 of this Chapter relating to assessments, interest on delinquent~~
37 ~~payments, liens and collections with respect to taxes shall apply to all taxes and to the~~
38 ~~withholding of proper amounts from employees' wages for which an employer is~~
39 ~~responsible pursuant to this Article, and the procedure with respect thereto shall be the~~
40 ~~same as provided in said Articles 4 and 9 with respect to assessment and collection of~~
41 ~~taxes.~~

42 ~~Any employer required under the provisions of this Article to deduct and withhold~~
43 ~~from wages and make returns and payment of amounts withheld to the Secretary, who~~
44 ~~fails to withhold such amounts, or to make such returns, or who fails to remit amounts~~

1 collected to the Secretary, or otherwise fails to remit to the Secretary as required by this
2 Article, shall be subject to a penalty equal to twenty five percent (25%) of the amount
3 that should have been properly withheld and paid over to the Secretary for each such
4 failure. Such penalty shall be assessed and collected by the Secretary in the same
5 manner as is provided with respect to penalties on delinquent income tax payments
6 under the provisions of Articles 4 and 9 of this Chapter.

7 The withholding of the proper amounts of an employee's wages pursuant to this
8 Article and the payment of proper amounts to the Secretary as herein required, whether
9 withheld in fact or not, shall be subject to all the provisions of Articles 4 and 9 of this
10 Chapter relating to payment of income taxes, not inconsistent with this Article. apply to
11 the amount of State income taxes this Article requires an employer to withhold and pay
12 to the Secretary."

13 Sec. 15. G.S. 105-259 reads as rewritten:

14 **"§ 105-259. Secrecy required of officials; penalty for violation.**

15 With respect to any one of the following persons: (i) the Secretary of Revenue
16 and all other officers or employees, and former officers and employees, of the
17 Department of Revenue; (ii) local tax officials, as defined in G.S. 105-273, and former
18 local tax officials; (iii) members and former members of the Property Tax Commission;
19 (iv) any other person authorized in this section to receive information concerning any
20 item contained in any report or return, or authorized to inspect any report or return; and
21 (v) the Commissioner of Insurance and all other officers or employees and former
22 officers and employees of the Department of Insurance with respect to State and federal
23 income tax returns filed with the Commissioner of Insurance by domestic insurance
24 companies; and except in accordance with proper judicial order or as otherwise
25 provided by law, it shall be unlawful for any of these persons to divulge or make known
26 in any manner the amount of income, income tax or other taxes of any taxpayer, or
27 information relating thereto or from which the amount of income, income tax or other
28 taxes or any part thereof might be determined, deduced or estimated, whether it is set
29 forth or disclosed in or by means of any report or return required to be filed or furnished
30 under this Subchapter, or in or by means of any audit, assessment, application,
31 correspondence, schedule or other document relating to the taxpayer, notwithstanding
32 the provisions of Chapter 132 of the General Statutes or of any other law or laws
33 relating to public records. It shall likewise be unlawful to reveal whether or not any
34 taxpayer has filed a return, and to abstract, compile or furnish to any person, firm or
35 corporation not otherwise entitled to information relating to the amount of income,
36 income tax or other taxes of a taxpayer, any list of names, addresses, social security
37 numbers or other personal information concerning the taxpayer, whether or not the list
38 discloses a taxpayer's income, income tax or other taxes, or any part thereof, except that
39 when an election is made by a husband and wife under G.S. 105-152.1 to file a joint
40 return, any information given to one spouse concerning the income or income tax of the
41 other spouse reported or reportable on the joint return shall not be a violation of the
42 provisions of this section.

43 Nothing in this section shall be construed to prohibit the publication of statistics, so
44 classified as to prevent the identification of particular reports or returns, and the items

1 thereof; the inspection of these reports or returns by the Governor, Attorney General, or
2 their duly authorized representative; or the inspection by a legal representative of the
3 State of the report or return of any taxpayer who shall bring an action to set aside or
4 review the tax based thereon, or against whom an action or proceeding has been
5 instituted to recover any tax or penalty imposed by this Subchapter; nor shall the
6 provisions of this section prohibit the Department of Revenue furnishing information to
7 other governmental agencies of persons and firms properly licensed under Schedule B,
8 G.S. 105-33 to 105-113. The Department of Revenue may exchange information with
9 the officers of organized associations of taxpayers under Schedule B, G.S. 105-33 to
10 105-113, with respect to parties liable for these taxes and as to parties who have paid
11 these license taxes.

12 When any record of the Department of Revenue has been photographed,
13 photocopied, or microphotocopied pursuant to the authority contained in G.S. 8-45.3,
14 the original of that record may thereafter be destroyed at any time upon the order of the
15 Secretary of Revenue, notwithstanding the provisions of G.S. 121-5, G.S. 132-2, or any
16 other law relating to the preservation of public records. Any record that has not been so
17 photographed, photocopied, or microphotocopied shall be preserved for three years, and
18 thereafter until the Secretary of Revenue orders it destroyed.

19 Any person, officer, agent, clerk, employee, or local tax official or any former
20 officer, employee, or local tax official who violates the provisions of this section shall
21 be guilty of a misdemeanor and fined not less than two hundred dollars (\$200.00) nor
22 more than one thousand dollars (\$1,000) and/or imprisoned, in the discretion of the
23 court; and if the person committing the violation is a public officer or employee, that
24 person shall be dismissed from such office or employment, and may not hold any public
25 office or employment in this State for a period of five years thereafter.

26 Notwithstanding the provisions of this section, the Secretary of Revenue may permit
27 the Commissioner of Internal Revenue of the United States, or the revenue officer of
28 any other state imposing any of the taxes imposed in this Subchapter, or the duly
29 authorized representative of either, to inspect the report or return of any taxpayer; or
30 may furnish that person an abstract of the report or return of any taxpayer; or supply that
31 person with information concerning any item contained in any report or return, or
32 disclosed by the report of any investigation of any report or return of any taxpayer. The
33 permission, however, may be granted or the information furnished to the officer or
34 agent only if the statutes of the United States or of the other state grant substantially
35 similar privilege to the Secretary of Revenue of this State or the Secretary's duly
36 authorized representative. Notwithstanding any other provision of law, the Secretary
37 may also furnish names, addresses, and account and identification numbers of (i)
38 taxpayers who may be entitled to property held in the Escheat Fund to the
39 Department of State Treasurer when that Department requests the information for the
40 purpose of administering Chapter 116B of the General Statutes, and (ii) taxpayers to the
41 Employment Security Commission when that Commission requests the information for
42 the purpose of administering Article 2 of Chapter 96 of the General Statutes. Neither
43 this section nor any other law prevents the exchange of information between the
44 Department of Revenue and the Department of Transportation's Division of Motor

1 Vehicles when the information is needed by either to administer the laws with which
2 they are charged. Notwithstanding any other provision of law, State officers and
3 employees who perform computerized data processing functions pursuant to G.S. 143-
4 341(9) for the Department of Revenue are authorized to receive and process for the
5 Department of Revenue information in reports and returns and are subject to the
6 criminal provisions of this section.

7 Notwithstanding the provisions of this section, the Secretary of Revenue may
8 contract with any person, firm or corporation to receive and address, sort, bag, or deliver
9 to the United States Postal Service any bulk mailing originated by the Department of
10 Revenue, and may deliver the mail to the contractor pursuant to the contract. To ensure
11 performance of the contract, the contractor shall furnish a bond in a form and amount
12 acceptable to the Secretary.

13 Notwithstanding the provisions of this section, the Secretary of Revenue may
14 contract with a financial institution for the receipt of withheld income tax payments
15 under G.S. 105-163.6."

16 PART III.

17 TAX ON CIGARETTE MANUFACTURERS.

18 Sec. 16. Article 2 of Chapter 105 of the General Statutes is amended by
19 inserting a new section before G.S. 105-103 to read:

20 "§ 105-102.6. Cigarette manufacturers.

21 (a) Tax. Every person engaged in the business of manufacturing cigarettes shall
22 apply for and obtain from the Secretary of Revenue a license for the privilege of doing
23 business in this State. The manufacturer shall pay a tax of five dollars (\$5.00) for this
24 license. In addition, the manufacturer shall, within 10 days after the last day of each
25 month, report to the Secretary the number of cigarettes made by the manufacturer
26 during the month and pay a tax at the rate of one-fourth of a mill for each cigarette
27 manufactured. This additional tax is due when the report is filed. No county, city, or
28 town may impose a license tax on the business taxed under this section.

29 (b) Cigarette Defined. As used in this section, 'cigarette' means:

30 (1) A roll of tobacco wrapped in paper or another substance that does not
31 contain tobacco.

32 (2) A roll of tobacco wrapped in a substance that contains tobacco and
33 that, because of its appearance, the type of tobacco used in the filler, or
34 its packaging or labeling, is likely to be offered to or purchased by a
35 consumer as a cigarette described in subdivision (1)."

36 Sec. 17. G.S. 105-109.1 reads as rewritten:

37 "§ 105-109.1. Interest.

38 ~~With respect to the~~ The taxes on gross receipts levied in G.S. 105-37.1(a), 105-38(7),
39 ~~105-39(e) 105-38(f), and 105-65.1(b)(2), and the tax on installment paper dealers levied~~
40 ~~in G.S. 105-83(b),~~ G.S. 105-83(b), and the tax on cigarette manufacturers levied in G.S.
41 105-102.6 all such taxes, including assessments of taxes or additional taxes, shall bear
42 interest at the rate established under G.S. 105-241.1(i) from the time such the taxes were
43 due to have been paid until paid, at rates established pursuant to G.S. 105-241.1(i) until the
44 taxes are paid."

1 Sec. 18. Article 2A of Chapter 105 of the General Statutes is repealed.

2 Sec. 19. The Secretary of Revenue shall redeem any unused or mutilated but
3 identifiable tax stamps purchased pursuant to Article 2A of Chapter 105 of the General
4 Statutes that a taxpayer presents for redemption and shall refund the face value of the
5 stamps, less the discount allowed at the time of the purchase of the stamps by the
6 taxpayer.

7 PART IV.

8 EVENLY-WEIGHTED CORPORATE APPORTIONMENT FORMULA.

9 Sec. 20. G.S. 105-130.4(i) reads as rewritten:

10 "(i) All business income of corporations other than public utilities and excluded
11 corporations shall be apportioned to this State by multiplying the income by a fraction,
12 the numerator of which is the property factor plus the payroll factor plus ~~twice~~ the sales
13 factor, and the denominator of which is three. ~~four. Provided, that where the sales factor~~
14 ~~does not exist, the denominator of the fraction shall be the number of existing factors and~~
15 ~~where the sales factor exists but the payroll factor or the property factor does not exist, the~~
16 ~~denominator of the fraction shall be the number of existing factors plus one. If one or more of~~
17 these factors does not exist, the denominator of the fraction shall be the number of
18 existing factors."

19 PART V.

20 TAX ON HIGHER-INCOME TAXPAYERS.

21 Sec. 21. G.S. 105-134.2 reads as rewritten:

22 "§ 105-134.2. Individual income tax imposed.

23 (a) A tax is imposed upon the North Carolina taxable income of every individual.
24 The tax shall be levied, collected, and paid annually and shall be computed at the
25 following percentages of the taxpayer's North Carolina taxable income.

26 (1) For married individuals who file a joint return under G.S. 105-152.1
27 and for surviving spouses, as defined in section 2(a) of the Code:

28 On the North Carolina taxable income up to twenty-one
29 thousand two hundred fifty dollars (\$21,250), six percent ~~(6%);~~
30 ~~and (6%).~~

31 On the ~~excess~~ amount over twenty-one thousand two
32 hundred fifty dollars ~~(\$21,250), (\$21,250)~~ and up to one hundred
33 thousand dollars (\$100,000), seven percent (7%).

34 On the amount over one hundred thousand dollars
35 (\$100,000), eight percent (8%).

36 (2) For heads of households, as defined in section 2(b) of the Code:

37 On the North Carolina taxable income up to seventeen
38 thousand dollars (\$17,000), six percent ~~(6%); and (6%).~~

39 On the ~~excess~~ amount over seventeen thousand dollars
40 ~~(\$17,000), (\$17,000)~~ and up to eighty thousand dollars
41 ~~(\$80,000),~~ seven percent (7%).

42 On the amount over eighty thousand dollars (\$80,000), eight
43 percent (8%).

- 1 (3) For unmarried individuals other than surviving spouses and heads of
2 households:

3 On the North Carolina taxable income up to twelve thousand
4 seven hundred fifty dollars (\$12,750), six percent ~~(6%)~~; and
5 (6%).

6 On the ~~excess amount~~ over twelve thousand seven hundred
7 fifty dollars ~~(\$12,750)~~, (\$12,750) and up to sixty thousand
8 dollars (\$60,000), seven percent (7%).

9 On the amount over sixty thousand dollars (\$60,000), eight
10 percent (8%).

- 11 (4) For married individuals who do not file a joint return under G.S. 105-
12 152.1:

13 On the North Carolina taxable income up to ten thousand six
14 hundred twenty-five dollars (\$10,625), six percent ~~(6%)~~; and
15 (6%).

16 On the ~~excess amount~~ over ten thousand six hundred twenty-
17 five dollars ~~(\$10,625)~~, (\$10,625) and up to fifty thousand dollars
18 (\$50,000), seven percent (7%).

19 On the amount over fifty thousand dollars (\$50,000), eight
20 percent (8%)."

21 Sec. 22. Notwithstanding G.S. 105-163.15, no addition to tax may be made
22 under that statute for a taxable year beginning on or after January 1, 1990, and before
23 January 1, 1991, with respect to an underpayment of individual income tax to the extent
24 the underpayment was created or increased by Section 21 of this act.

25 PART VI.

26 SOFT DRINK TAX CHANGES.

27 Sec. 23. G.S. 105-113.44 reads as rewritten:

28 "§ 105-113.44. Definitions.

29 ~~As used in this Article, unless the context otherwise requires: The following~~
30 definitions apply in this Article:

- 31 (1) ~~'Base products' means hot chocolate flavored drink mix, flavored milk~~
32 ~~shake bases, concentrate products to which milk or other liquid is~~
33 ~~added to complete a soft drink, and all like items or products as herein~~
34 ~~defined which will be taxed as syrups. product.' A powder, syrup, or~~
35 other product to which liquid is added to complete a soft drink.
36 (2) ~~'Bottled' means enclosed in any closed or sealed glass, metal, paper or~~
37 ~~other type of bottle, can, carton or container, regardless of the size of~~
38 ~~such container. 'Bottled.' Enclosed in a sealed container of any kind.~~
39 (3) ~~'Soft drink' means any complete, finished, ready to use, nonalcoholic~~
40 ~~drink, whether carbonated or not, such as soda water, ginger ale, Nu-~~
41 ~~Grape, Coca-Cola, lime cola, Pepsi-Cola, bud wine, near beer, fruit~~
42 ~~juice, vegetable juice, milk drinks when any flavoring or syrup is~~
43 ~~added, cider, carbonated water and all preparations commonly referred~~
44 ~~to as soft drinks of whatever kind or description.~~

- 1 (4) ~~'Secretary' means the North Carolina Secretary of Revenue.~~
- 2 (5) ~~'Crowns' means crowns, caps and lids bearing any tax indicia other~~
3 ~~than stamps evidencing the payment of the excise tax levied under this~~
4 ~~Article. 'Crowns' shall also include waxed paper or plastic containers~~
5 ~~used by dairies upon which the tax indicia has been imprinted by the~~
6 ~~manufacturer thereof.~~
- 7 (6) ~~'Distributor' includes any person who manufactures, bottles,~~
8 ~~compounds, mixes or purchases for sale to retail dealers or wholesale~~
9 ~~dealers any bottled soft drink, soft drink syrup or powder, or base~~
10 ~~product for mixing, making or compounding soft drinks. 'Distributor.'~~
11 ~~A person who manufactures bottled soft drinks or base products or~~
12 ~~who purchases bottled soft drinks or base products for sale to another.~~
- 13 (7) ~~'Excise tax' means the soft drink tax levied under G.S. 105-113.45.~~
- 14 (8) ~~'In this State' or 'within this State' means within the exterior limits of~~
15 ~~the State of North Carolina and includes all territory within such limits~~
16 ~~owned by, leased by or ceded to the United States of America.~~
- 17 (9) ~~'Natural undiluted fruit juice' means the natural liquid which results~~
18 ~~from the pressing of sound ripe fruit, and the liquid which results from~~
19 ~~the reconstitution of natural fruit juice concentrate by the restoration of~~
20 ~~water to dehydrated natural fruit juice. juice.' One of the following~~
21 ~~forms of undiluted fruit juice:~~
- 22 a. The liquid that results from pressing fruit.
- 23 b. The concentrate that results from dehydrating undiluted fruit
24 juice.
- 25 c. The liquid that results from adding water to dehydrated
26 undiluted fruit juice.
- 27 (10) ~~'Natural undiluted liquid milk' means natural liquid milk regardless of~~
28 ~~butterfat content, and the liquid milk product which results from the~~
29 ~~reconstitution of natural milk concentrate, regardless of butterfat~~
30 ~~content, by the restoration of water to dehydrated or evaporated natural~~
31 ~~milk. milk.' One of the following forms of milk:~~
- 32 a. Undiluted milk, regardless of butterfat content.
- 33 b. The powder that results from dehydrating undiluted milk.
- 34 c. The liquid that results from adding water to dehydrated
35 undiluted milk.
- 36 (11) ~~'Natural undiluted vegetable juice' means the natural liquid which~~
37 ~~results from the pressing of sound ripe vegetables or the liquid which~~
38 ~~results from the reconstitution of natural vegetable juice concentrate by~~
39 ~~the restoration of water to dehydrated natural vegetable juice. juice.'~~
40 ~~One of the following forms of undiluted vegetable juice:~~
- 41 a. The liquid that results from pressing vegetables.
- 42 b. The concentrate that results from dehydrating undiluted
43 vegetable juice.

- 1 c. The liquid that results from adding water to dehydrated
2 undiluted vegetable juice.
- 3 (12) ~~'Person' includes any 'Person.' An individual, a firm, a partnership, joint~~
4 ~~venture, an association, a corporation, estate, trust, receiver, syndicate or~~
5 ~~any other organization or group or combination acting as a unit, the State~~
6 ~~or any of its political subdivisions, and the plural as well as the singular~~
7 ~~number. unit.~~
- 8 (13) ~~'Powders' means compressed powders, crystals, granules or tablets~~
9 ~~from which soft drinks can be made. 'Powder.' Crystals, granules,~~
10 ~~tablets, and other dry products.~~
- 11 (14) ~~'Retail dealer' includes every person, other than a distributor or~~
12 ~~wholesale dealer, who makes, mixes, compounds or manufactures any~~
13 ~~drink from a soft drink syrup or powder or base product, and sells or~~
14 ~~otherwise dispenses the same to the ultimate consumer, and every~~
15 ~~person, other than a distributor or wholesale dealer, who sells or~~
16 ~~otherwise dispenses any bottled soft drink to the ultimate consumer.~~
17 ~~dealer.' A person who sells at retail bottled soft drinks and soft drinks~~
18 ~~made by that person from base products.~~
- 19 (15) ~~'Selling' or 'sale' means any sale, transfer, exchange, barter, gift or~~
20 ~~offer for sale and distribution, in any manner or by any means~~
21 ~~whatsoever. 'Sale.' A transfer, a trade, an exchange, or a barter, in any~~
22 ~~manner or by any means, for consideration.~~
- 23 (16) ~~'Simple syrup' means the product resulting from the making, mixing,~~
24 ~~compounding or manufacturing by dissolving sugar and water or any~~
25 ~~other mixture that will create syrup to which may be added~~
26 ~~concentrates or extracts. 'Secretary.' The Secretary of Revenue.~~
- 27 (17) ~~'Soda fountain' includes all places where soft drinks are compounded~~
28 ~~for sale, including automatic vending machines. 'Soft drink.' A~~
29 ~~beverage that is not an alcoholic beverage, as defined in G.S. 105-~~
30 ~~113.68.~~
- 31 (18) ~~'Soft drink syrups and powders' includes the compound mixture or the~~
32 ~~basic ingredients, whether dry or liquid, practically and commercially~~
33 ~~usable in making, mixing or compounding soft drinks by the mixing~~
34 ~~thereof with carbonated or plain water, ice, fruit juice, milk or any~~
35 ~~other product suitable to make soft drinks, among such syrups being~~
36 ~~such products as Coca-Cola syrup, Chero-Cola syrup, Pepsi-Cola~~
37 ~~syrup, Dr. Pepper syrup, root beer syrup, Nu-Grape syrup, lemon~~
38 ~~syrup, vanilla syrup, chocolate syrup, cherry smash syrup, rock candy~~
39 ~~syrup, simple syrup, chocolate drink powder, malt drink powder, or~~
40 ~~any other prepared syrups or powders sold or used for the purpose of~~
41 ~~mixing soft drinks commercially at soda fountains, restaurants or~~
42 ~~similar places as well as those powder bases prepared for the purpose~~
43 ~~of domestically mixing soft drinks such as kool-aid, oh boy drink, tip-~~
44 ~~top, miracle aid and all other similar products. Concentrated natural~~

1 frozen or unfrozen fruit juices or vegetable juices when used
 2 domestically are specifically excluded from this definition.

3 (19) ~~'Stamp' means the North Carolina taxpaid stamp evidencing the~~
 4 ~~payment of the excise tax levied by this Article, and which may be~~
 5 ~~used as permitted by the Secretary in lieu of taxpaid crowns.~~
 6 'Undiluted.' Without added ingredients of any kind other than
 7 vitamins. Added ingredients include sugar, salt, preservatives, and
 8 coloring.

9 (20) ~~'Wholesale dealer' includes any person who sells bottled soft drinks,~~
 10 ~~soft drink syrups or powders, or base products for mixing,~~
 11 ~~compounding or making soft drinks to retail dealers or other wholesale~~
 12 ~~dealers for resale purposes. dealer.'~~ A person who sells bottled soft
 13 drinks or base products to another for resale."

14 Sec. 24. G.S. 105-113.45 reads as rewritten:

15 **"§ 105-113.45. Taxation rate. Excise taxes on soft drinks and base products.**

16 (a) Bottled Soft Drinks. ~~A soft drink excise tax is hereby levied and imposed on~~
 17 ~~and after midnight, September 30, 1969, upon the sale, use, handling and distribution of~~
 18 ~~all soft drinks, soft drink syrups and powders, base products and other items referred to~~
 19 ~~in this section. An excise tax of ten cents (10¢) a gallon is levied on the sale of bottled~~
 20 soft drinks.

21 (b) ~~The rate of tax on each bottled soft drink shall be one cent (1¢).~~

22 (c) Liquid Base Products. ~~The rate of tax on each gallon of soft drink syrup or~~
 23 ~~simple syrup shall be one dollar (\$1.00), and on a fraction of a gallon the rate shall be an~~
 24 ~~amount which represents one dollar (\$1.00) multiplied by the same fraction of a gallon.~~
 25 ~~The rate of a tax on each ounce or fraction of an ounce of soft drink syrup or simple~~
 26 ~~syrup shall be four fifths of a cent (4/5¢), and no exemption or refund shall be allowed~~
 27 ~~on such syrup even though it may subsequently be diverted to some purpose other than~~
 28 ~~the making of soft drinks. An excise tax of one dollar (\$1.00) a gallon, or four-fifths~~
 29 cents (4/5¢) an ounce, is levied on the sale of a liquid base product.

30 (d) Dry Base Products. ~~The rate of tax on dry soft drink powders and base~~
 31 ~~products which are used to make soft drinks without being converted into syrup shall be~~
 32 ~~one cent (1¢) per ounce or fraction thereof of the dry powder or base product weight.~~
 33 ~~However, the tax on dry soft drink powder or base product which is to be converted into~~
 34 ~~syrup shall be the same as that which would be due upon the syrup produced, if the~~
 35 ~~syrup were being taxed according to the rates set out in subsection (c) above. An excise~~
 36 tax is levied on the sale of a dry base product at the rate:

37 (1) Of one cent (1¢) an ounce if the dry base product is not converted into
 38 a syrup or other liquid base product before it is used to make a soft
 39 drink.

40 (2) That would apply under subsection (c) to the resulting liquid base
 41 product if the dry base product is converted into a liquid base product
 42 before it is used to make a soft drink.

43 (e) ~~The excise tax herein levied on syrups, powders and base products shall not~~
 44 ~~apply to syrups, powders and base products used by persons in the manufacture of~~

1 ~~bottled soft drinks which are otherwise subject to tax under this Article. The Secretary~~
2 ~~may by administrative rules or regulation, provide for the storage of such syrups,~~
3 ~~powders and base products when they are not for use in the manufacture of bottled soft~~
4 ~~drinks."~~

5 Sec. 25. G.S. 105-113.46 reads as rewritten:

6 "**§ 105-113.46. Exemption of certain milk drinks. Exemptions.**

7 (a) Items. The taxes imposed by this Article do not apply to:

8 (1) Natural undiluted fruit juice.

9 (2) Natural undiluted milk.

10 (3) Natural undiluted vegetable juice.

11 (4) A base product used to make a bottled soft drink subject to tax under
12 this Article.

13 (5) A bottled soft drink or base product made or acquired for sale outside
14 the State.

15 (6) Coffee and tea in any form.

16 (7) A bottled soft drink or base product for which federal law prohibits
17 collection of the tax imposed by this Article.

18 (8) Uncarbonated water.

19 ~~All natural liquid milk drinks produced by farmers or dairies shall be exempt from~~
20 ~~the payment of the soft drink excise tax. Where a product other than the above is~~
21 ~~produced, such product is subject to the tax unless otherwise exempt under this Article.~~

22 (b) Registration. The Secretary may require a distributor, wholesale dealer, or
23 retail dealer who claims a bottled soft drink is exempt from the tax imposed by this
24 section to file an affidavit stating that the bottled soft drink qualifies for exemption and
25 the reason why it qualifies for exemption."

26 Sec. 26. G.S. 105-113.50 reads as rewritten:

27 "**§ 105-113.50. Soft drink licenses required.**

28 (a) Distributors And Wholesale Dealers. Distributors and wholesale dealers shall
29 obtain for each place of business a continuing soft drink license for which a fee of
30 twenty-five dollars (\$25.00) shall be paid. For the purpose of this section, 'place of
31 business' means any place where soft drinks are manufactured by a distributor, or any
32 place where ~~unstamped bottled soft drinks, soft drink syrups and powders, base products and~~
33 ~~other items taxed under this Article~~ bottled soft drinks or base products are received or
34 stored by a distributor or wholesale dealer.

35 (b) ~~Out of state distributors and wholesale dealers may obtain appropriate~~
36 ~~distributors' or wholesale dealers' licenses upon compliance with the provisions of this~~
37 ~~Article and such regulations and administrative rules as may be issued by the Secretary~~
38 ~~hereunder, for which a fee of twenty five dollars (\$25.00) shall be paid for each such~~
39 ~~soft drink license.~~

40 (c) Retail Dealers. Each retail dealer manufacturing or purchasing not previously
41 ~~taxed syrups, powders or base products~~ shall secure a continuing soft drink license for
42 which a fee of five dollars (\$5.00) shall be paid for each place of business at which ~~such~~
43 ~~unstamped syrups, powders or base products are received or at which place such retail dealer~~
44 ~~manufactures them.~~ the retail dealer manufactures or receives the base products.

1 ~~(d) Distributors, wholesale dealers and retail dealers licensed under this section~~
2 ~~shall file such reports with the Secretary as he may require not later than the fifteenth~~
3 ~~day of each month showing transactions for the preceding month."~~

4 Sec. 27. G.S. 105-113.50A reads as rewritten:

5 **"§ 105-113.50A. Local taxation.**

6 ~~Except as authorized by G.S. 105-79, no county, city or town shall levy any~~
7 ~~city may not levy a privilege license tax upon the business of bottling, manufacturing,~~
8 ~~producing, purchasing, selling at wholesale or retail, jobbing, consigning, using,~~
9 ~~shipping~~ shipping, ~~or distributing for the purpose of sale within this State~~ bottled soft
10 ~~drinks in bottles or other closed containers.~~ drinks."

11 Sec. 28. G.S. 105-113.51 reads as rewritten:

12 **"§ 105-113.51. Affixing of crowns and stamps to containers; crowns and stamps not**
13 **transferable. Payment of excise taxes.**

14 ~~(a) Any bottled soft drink offered for sale shall within 24 hours of its~~
15 ~~manufacture or receipt in this State have affixed to it a North Carolina taxpaid stamp or~~
16 ~~a North Carolina taxpaid crown at the rate provided for in this Article, unless the tax has~~
17 ~~been or will be paid according to some other method available under the provisions of~~
18 ~~this Article.~~

19 ~~(b) The distributor or dealer who first distributes, sells, uses, consumes or~~
20 ~~handles bottled soft drinks, syrups, powders, base products and other items subject to~~
21 ~~the soft drink excise tax is subject to the tax unless taxpaid stamps or crowns have~~
22 ~~previously been affixed. The distributor, wholesale dealer or retail dealer, or any person~~
23 ~~who is the original consignee of any bottled soft drink, soft drink syrup, powder, base~~
24 ~~product or other item subject to the soft drink excise tax manufactured or produced~~
25 ~~outside this State, or who brings such into this State, shall pay the excise tax.~~

26 ~~(c) Taxpaid stamps shall be affixed to each individual container of soft drink~~
27 ~~syrups, powders, and base products by wholesale dealers or distributors within 48 hours~~
28 ~~after such syrups, powders, or base products are received or made by them and by retail~~
29 ~~dealers within 24 hours after such syrups, powders or base products are received by~~
30 ~~them, and in any event the containers must be stamped before such products are used in~~
31 ~~the preparation of soft drinks.~~

32 ~~(d) The payment of the excise tax provided for in this Article shall be evidenced~~
33 ~~by the affixing of taxpaid stamps or crowns to the original containers and the stamps~~
34 ~~and crowns provided for in this Article shall not be transferable to any person other than~~
35 ~~their original purchaser.~~

36 ~~(e) Notwithstanding any other provision of this Article, the excise tax levied~~
37 ~~upon powders, as herein defined, may be made and evidenced in accordance with rules~~
38 ~~and regulations of the Secretary.~~ The excise taxes levied by this Article on bottled soft
39 drinks and base products are payable monthly to the Secretary by the distributor,
40 wholesale dealer, or retail dealer who first handles the bottled soft drinks or base
41 products in this State. The taxes on bottled soft drinks and base products shall be paid
42 only once on the same bottled soft drinks or base products. The taxes shall be paid on
43 or before the 15th day of the month following the month in which the bottled soft drinks
44 or base products are first manufactured in this State, brought into this State for

1 distribution, or sold in this State. A retail dealer, however, is liable for any tax due but
2 not paid on bottled soft drinks or base products acquired by the retail dealer.

3 When paying excise taxes, a distributor, wholesale dealer, or retail dealer shall
4 submit to the Secretary verified reports on forms provided by the Secretary detailing
5 sales records for the month for which the taxes are paid. The report shall indicate the
6 amount of excise tax due, contain the information required by the Secretary, and
7 indicate separately any transactions to which the excise tax does not apply."

8 Sec. 29. G.S. 105-113.52 reads as rewritten:

9 "~~§ 105-113.52. Taxpaid stamps; rules and regulations; cancellation; discount.~~

10 Discount.

11 ~~(a) The Secretary shall make arrangements with some manufacturer to~~
12 ~~manufacture the taxpaid stamps provided for in this Article. The Secretary shall~~
13 ~~prescribe the form, design, denominations and such other matters as may be necessary~~
14 ~~with respect to said stamps. The Secretary may sell such stamps directly to taxpayers~~
15 ~~and may also make arrangements for release of taxpaid stamps to taxpayers by the~~
16 ~~manufacturer. Said manufacturer shall furnish such bond as the Secretary may deem~~
17 ~~advisable, in such penalty and upon such conditions as in the opinion of the Secretary~~
18 ~~will adequately protect the State in the collection of the excise tax imposed by this~~
19 ~~Article. Such bond shall be executed by the manufacturer as principal and by an~~
20 ~~indemnity company licensed to do business under the insurance laws of this State, as~~
21 ~~surety. The costs of manufacture, transportation and distribution of said stamps shall be~~
22 ~~computed in accordance with administrative rules or regulations of the Secretary and~~
23 ~~payment thereof pursuant to such rules and regulations of the Secretary may be required~~
24 ~~in addition to the amount of taxes which said stamps evidence regardless of whether~~
25 ~~said stamps are released or distributed by the Secretary or by the manufacturer pursuant~~
26 ~~to authorization from the Secretary.~~

27 ~~(b) Upon the sale of taxpaid stamps, the Secretary shall allow a discount of five~~
28 ~~percent (5%) of the entire amount of any sale of fifty dollars (\$50.00) or more of said~~
29 ~~stamps. On sales of stamps of less than fifty dollars (\$50.00), no discount shall be~~
30 ~~allowed. Such discount shall apply only to the tax and not the manufacturer's price or~~
31 ~~transportation or distribution costs.~~

32 ~~(c) When stamps are attached to bottled soft drinks, or to containers of soft drink~~
33 ~~powders or base products, no cancellation or obliteration of them shall be required, but~~
34 ~~stamps affixed to containers of syrup to be used at soda fountains shall be canceled by~~
35 ~~the person affixing them by writing or stamping with ink or indelible pencil across the~~
36 ~~stamps his initials or name and the date on which the stamps were affixed. When the~~
37 ~~container to which the stamp has been affixed has been emptied, the stamp must be~~
38 ~~obliterated by making at least three incisions crisscross through the stamp with a knife~~
39 ~~or other sharp instrument.~~

40 ~~(d) Any person who makes use of any stamp to denote the payment of the tax~~
41 ~~imposed by this Article without canceling or obliterating such stamps if required to do~~
42 ~~so by this section shall be guilty of a misdemeanor and, upon conviction, shall be fined~~
43 ~~not more than one hundred dollars (\$100.00) or be imprisoned for not more than 30~~
44 ~~days for each offense.~~

1 Each distributor, wholesale dealer, or retail dealer who remits the excise taxes on
2 bottled soft drinks or base products may deduct from the amount payable a discount of
3 two percent (2%). This discount covers losses due to spoilage and breakage, expenses
4 incurred in preparing the records and reports required by this Article, and the expense of
5 furnishing a bond. No discount is allowed on taxpaid beverages given as free goods for
6 advertising."

7 Sec. 30. G.S. 105-113.53 reads as rewritten:

8 **"§ 105-113.53. ~~Stamps not required when crowns used.~~ Bonds.**

9 ~~If a distributor of bottled soft drinks either within or without the State shall use~~
10 ~~taxpaid crowns as hereinafter provided, such distributor shall be relieved of the duty of~~
11 ~~affixing taxpaid stamps to each individual bottle. Whenever the Secretary deems it to be~~
12 ~~advantageous for the effective and efficient enforcement of this Article, he may require~~
13 ~~that such crowns be used in lieu of stamps.—The Secretary may require a distributor,~~
14 wholesale dealer, or retail dealer to furnish a bond in an amount that adequately protects
15 the State in the collection of taxes levied by this Article. A bond shall be conditioned
16 on compliance with this Article, shall be payable to the State, and shall be in a form
17 acceptable to the Secretary. The Secretary shall proportion a bond amount to the
18 anticipated tax liability of the distributor, wholesale dealer, or retail dealer. The
19 Secretary shall periodically review the sufficiency of bonds required of distributors,
20 wholesale dealers, and retail dealers and shall increase the amount of a required bond
21 when the amount of the bond furnished no longer covers the distributor's wholesale
22 dealer's, or retail dealer's anticipated tax liability."

23 Sec. 31. G.S. 105-113.57 reads as rewritten:

24 **"§ 105-113.57. Records required of ingredients received.**

25 ~~Every person engaged in the business of making, mixing or compounding bottled~~
26 ~~soft drinks, soft drink syrups and powders, base products and other items taxed under~~
27 ~~this Article shall keep a distinct, legible and permanent record of all extracts, flavoring,~~
28 ~~sugar, syrup or other ingredients except water received by him that may be useful in~~
29 ~~making, mixing or compounding soft drinks, and he making bottled soft drinks or base~~
30 products shall keep a record of the ingredients purchased to make the bottled soft drinks
31 or base products and shall retain invoices on all such the purchases for a period of not
32 less than three years from the date thereof. Such records shall show the quantity of such
33 commodities received, the date of receipt thereof at least three years. The records shall
34 show the quantity of ingredients purchased, the date received, and the name of the
35 person from whom they were secured or received and shall be open at all times for
36 inspection by the Secretary or his duly authorized representative. received."

37 Sec. 32. G.S. 105-113.58 reads as rewritten:

38 **"§ 105-113.58. Records of sale to be kept.**

39 ~~Every distributor, wholesale dealer dealer, and retail dealer shall keep an accurate~~
40 ~~account of all daily sales, sales slips, bills, invoices, delivery slips, statements, bills of~~
41 ~~lading, freight bills, credit memoranda memoranda, and similar documents for a period~~
42 ~~of not less than three years from the date shown thereon. All such on the document.~~
43 These records shall be open at all times for inspection by the Secretary or his duly
44 authorized representative."

