

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 1963\*

Short Title: Revenue Laws Tech. & Motor Fuel Tax Changes. (Public)

Sponsors: Representatives Luebke; Carney, Church, Hill, McComas, Wainwright,  
and Wilkins.

Referred to: Finance.

May 15, 2006

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE  
CHANGES TO THE REVENUE LAWS AND RELATED STATUTES AND TO  
IMPROVE THE COLLECTION AND ADMINISTRATION OF THE MOTOR  
FUEL TAX.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-113.82(a) reads as rewritten:

**"§ 105-113.82. Distribution of part of beer and wine taxes.**

(a) Amount, Method. – The Secretary shall distribute annually the following percentages of the net amount of excise taxes collected on the sale of malt beverages and wine during the preceding 12-month period ending March 31, less the amount of the net proceeds credited to the Department of ~~Agriculture and Consumer Services~~ Commerce under G.S. 105-113.81A, to the counties and cities in which the retail sale of these beverages is authorized in the entire county or city:

- (1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-three and three-fourths percent (23¾%);
- (2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-two percent (62%); and
- (3) Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-two percent (22%).

If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. If one of these beverages may be licensed to be sold at retail in a city located in a county in which the sale of the beverage is otherwise prohibited, only the city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. The amounts distributed under subdivisions (1), (2), and (3) shall be computed separately."

1           **SECTION 2.** G.S. 105-122(d) reads as rewritten:

2           "(d) After determining the proportion of its total capital stock, surplus and  
3 undivided profits as set out in subsection (c) of this section, which amount ~~so~~  
4 ~~determined shall in no case not~~ be less than fifty-five percent (55%) of the appraised  
5 value as determined for ad valorem taxation of all the real and tangible personal  
6 property in this State of each ~~such~~ corporation ~~plus the total appraised value of~~  
7 ~~intangible property returned for taxation of intangible personal property as herein~~  
8 ~~specified~~ nor less than its total actual investment in tangible property in this State, every  
9 corporation taxed under this section shall annually pay to the Secretary of Revenue, at  
10 the time the report and statement are due, a franchise or privilege tax, ~~which is hereby~~  
11 ~~levied tax~~ at the rate of one dollar and fifty cents (\$1.50) per one thousand dollars  
12 (\$1,000) of the total amount of capital stock, surplus and undivided profits as ~~herein~~  
13 ~~provided.~~ provided in this section. The tax imposed in this section shall ~~in no case not~~  
14 be less than thirty-five dollars (\$35.00) and shall be for the privilege of carrying on,  
15 doing business, and/or the continuance of articles of incorporation or domestication of  
16 each ~~such~~ corporation in this State. Appraised value of tangible property including real  
17 estate ~~shall be~~ is the ad valorem valuation for the calendar year next preceding the due  
18 date of the franchise tax return. ~~Appraised value of intangible property shall be the total~~  
19 ~~gross valuation required to be reported for intangible tax purposes on April 15~~  
20 ~~coincident with or next preceding the due date of the franchise tax return.~~ The term  
21 "total actual investment in tangible property" as used in this section ~~shall be construed~~  
22 ~~to mean~~ means the total original purchase price or consideration to the reporting  
23 taxpayer of its tangible properties, including real estate, in this State plus additions and  
24 improvements thereto less reserve for depreciation as permitted for income tax  
25 purposes, and also less any indebtedness incurred and existing by virtue of the purchase  
26 of any real estate and any permanent improvements made thereon. In computing "total  
27 actual investment in tangible personal property" there shall also be deducted reserves  
28 for the entire cost of any air-cleaning device or sewage or waste treatment plant,  
29 including waste lagoons, and pollution abatement equipment purchased or constructed  
30 and installed which reduces the amount of air or water pollution resulting from the  
31 emission of air contaminants or the discharge of sewage and industrial wastes or other  
32 polluting materials or substances into the outdoor atmosphere or into streams, lakes, or  
33 rivers, upon condition that the corporation claiming ~~such~~ this deduction shall furnish to  
34 the Secretary a certificate from the Department of Environment and Natural Resources  
35 or from a local air pollution control program for air-cleaning devices located in an area  
36 where the Environmental Management Commission has certified a local air pollution  
37 control program pursuant to G.S. 143-215.112 certifying that said Department or local  
38 air pollution control program has found as a fact that the air-cleaning device, waste  
39 treatment plant or pollution abatement equipment purchased or constructed and installed  
40 as above described has actually been constructed and installed and that ~~such~~ the device,  
41 plant or equipment complies with the requirements of the Environmental Management  
42 Commission or local air pollution control program with respect to ~~such~~ the devices,  
43 plants or equipment, that ~~such~~ the device, plant or equipment is being effectively  
44 operated in accordance with the terms and conditions set forth in the permit, certificate

1 of approval, or other document of approval issued by the Environmental Management  
 2 Commission or local air pollution control program and that the primary purpose thereof  
 3 is to reduce air or water pollution resulting from the emission of air contaminants or the  
 4 discharge of sewage and waste and not merely incidental to other purposes and  
 5 functions. The cost of constructing facilities of any private or public utility built for the  
 6 purpose of providing sewer service to residential and outlying areas shall be ~~is~~ treated as  
 7 deductible for the purposes of this section; the deductible liability allowed by this  
 8 section shall apply only with respect to such ~~pollution~~ abatement plants or equipment  
 9 constructed or installed on or after January 1, 1955."

10 **SECTION 3.(a)** G.S. 105-130.2 reads as rewritten:

11 "...

12 (4a) Gross income. – Defined in section 61 of the Code.

13 ~~(4a)~~(4b) Income year. – The calendar year or the fiscal year upon the basis of  
 14 which the net income is computed under this Part. If no fiscal year has  
 15 been established, the income year is the calendar year. In the case of a  
 16 return made for a fractional part of a year under the provisions of this  
 17 Part or under rules adopted by the Secretary, the income year is the  
 18 period for which the return is made.

19 "..."

20 **SECTION 3.(b)** G.S. 105-114(b)(4) reads as rewritten:

21 "(4) Income year. – Defined in G.S. ~~105-130.2(5).~~105-130.2(4b)."

22 **SECTION 4.(a)** G.S. 105-130.47(a) reads as rewritten:

23 "(a) Definitions. – The following definitions apply in this section:

24 (1) Highly compensated individual. – An individual who receives  
 25 compensation in excess of one million dollars (\$1,000,000) for  
 26 services with respect to a single production.

27 (2) Live sporting event. – A scheduled sporting competition, game, or race  
 28 that is not originated by a production company, but originated solely  
 29 by an amateur, collegiate, or professional organization, institution, or  
 30 association for live or tape-delayed television or satellite broadcast. A  
 31 live sporting event shall not include commercial advertising, an  
 32 episodic television series, a television pilot, music video, motion  
 33 picture, or documentary production where any sporting events are  
 34 presented through archived historical footage or similar footage  
 35 depicting earlier live sporting events that originated more than thirty  
 36 days before the time of such usage.

37 (3) Production company. – Defined in G.S. 105-164.3.

38 (4) Qualifying expenses. – The sum of the total amount spent in this State  
 39 for the following by a production company in connection with a  
 40 production:

41 a. Goods and services leased or purchased by the production  
 42 company. For goods with a purchase price of twenty-five  
 43 thousand dollars (\$25,000) or more, the amount included in

1 qualifying expenses is the purchase price less the fair market  
2 value of the good at the time the production is completed.

- 3 b. Compensation and wages paid by the production company,  
4 other than amounts paid to a highly compensated individual,  
5 either directly or indirectly, on which the production company  
6 remitted-withholding payments are remitted to the Department  
7 of Revenue under Article 4A of this Chapter."

8 **SECTION 4.(b)** G.S. 105-151.29(a) reads as rewritten:

9 "(a) Definitions. – The following definitions apply in this section:

- 10 (1) Highly compensated individual. – An individual who receives  
11 compensation in excess of one million dollars (\$1,000,000) for  
12 services with respect to a single production.

- 13 (2) Live sporting event. – A scheduled sporting competition, game, or race  
14 that is not originated by a production company, but originated solely  
15 by an amateur, collegiate, or professional organization, institution, or  
16 association for live or tape-delayed television or satellite broadcast. A  
17 live sporting event shall not include commercial advertising, an  
18 episodic television series, a television pilot, music video, motion  
19 picture, or documentary production where any sporting events are  
20 presented through archived historical footage or similar footage  
21 depicting earlier live sporting events that originated more than thirty  
22 days before the time of such usage.

- 23 (3) Production company. – Defined in G.S. 105-164.3.

- 24 (4) Qualifying expenses. – The sum of the total amount spent in this State  
25 for the following by a production company in connection with a  
26 production:

- 27 a. Goods and services leased or purchased by the production  
28 company. For goods with a purchase price of twenty-five  
29 thousand dollars (\$25,000) or more, the amount included in  
30 qualifying expenses is the purchase price less the fair market  
31 value of the good at the time the production is completed.

- 32 b. Compensation and wages paid by the production company,  
33 other than amounts paid to a highly compensated individual,  
34 either directly or indirectly, on which the production company  
35 remitted-withholding payments are remitted to the Department  
36 of Revenue under Article 4A of this Chapter."

37 **SECTION 4.(c)** G.S. 105-259(b) reads as rewritten:

38 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State  
39 who has access to tax information in the course of service to or employment by the State  
40 may not disclose the information to any other person unless the disclosure is made for  
41 one of the following purposes:

- 42 (32) ~~To provide the report required under G.S. 105-164.14(c) to the~~  
43 ~~Department of Public Instruction and the Fiscal Research Division of~~  
44 ~~the General Assembly.~~

1 ...

2 (36) To furnish to a taxpayer claiming a credit under G.S. 105-130.47 or  
3 G.S. 105-151.29 information from a third party to the extent the  
4 information was used by the Secretary to adjust the amount of the  
5 credit claimed by the taxpayer."

6 **SECTION 5.(a)** G.S. 105-164.3(49) reads as rewritten:

7 "(49) Use. – Means and includes the exercise of any right or power or  
8 dominion whatsoever over tangible personal property or over any  
9 service subject to tax under this Article by a purchaser thereof and  
10 includes, but is not limited to, any withdrawal from storage,  
11 distribution, installation, affixation to real or personal property, or  
12 exhaustion or consumption of tangible personal property or any service  
13 subject to tax under this Article by the owner or purchaser thereof, but  
14 does not include the sale of tangible personal property or of any  
15 service subject to tax under this Article in the regular course of  
16 business."

17 **SECTION 5.(b)** G.S. 105-164.16(a) reads as rewritten:

18 "(a) General. – Sales and use taxes are payable quarterly, monthly, or  
19 semimonthly as specified in this section. A return is due quarterly or monthly as  
20 specified in this section. A return must be filed with the Secretary on a form prescribed  
21 by the Secretary and in the manner required by the Secretary. A return must be signed  
22 by the taxpayer or the taxpayer's agent.

23 A sales tax return must state the taxpayer's gross sales for the reporting period, the  
24 amount and type of sales made in the period that are exempt from tax under  
25 G.S. 105-164.13 or are elsewhere excluded from tax, the amount of tax due, and any  
26 other information required by the Secretary. A use tax return must state the purchase  
27 price of tangible personal property or services sourced to this State that was—were  
28 purchased or received during the reporting period and is—are subject to tax under  
29 G.S. 105-164.6, the amount of tax due, and any other information required by the  
30 Secretary. Returns that do not contain the required information will not be accepted.  
31 When an unacceptable return is submitted, the Secretary will require a corrected return  
32 to be filed."

33 **SECTION 6.** G.S. 105-164.6(c) reads as rewritten:

34 "(c) Credit. – A credit is allowed against the tax imposed by this section for the  
35 following:

- 36 (1) The amount of sales or use tax paid on the item to this State. Payment  
37 of sales or use tax to this State on an item by a retailer extinguishes the  
38 liability of a purchaser for the tax imposed under this section.
- 39 (2) The amount of sales or use tax paid on the item to another state. If the  
40 amount of tax paid to the other state is less than the amount of tax  
41 imposed by this section, the difference is payable to this State. The  
42 credit allowed by this subdivision does not apply to tax paid to a state  
43 that does not grant a similar credit for sales or use taxes paid in North  
44 Carolina."

1           **SECTION 7.** G.S. 105-164.7 reads as rewritten:

2   "**§ 105-164.7. Sales tax part of purchase price.**

3       Every retailer subject to the tax levied in G.S. 105-164.4 shall at the time of selling  
4 or delivering or taking an order for the sale or delivery of taxable tangible personal  
5 property or a taxable service, or collecting the sales price, add to the sales price the  
6 amount of tax due. The tax constitutes a part of the purchase price, is a debt from the  
7 purchaser to the retailer until paid, and is recoverable at law in the same manner as other  
8 debts. The tax must be stated and charged separately from the sales price, shown  
9 separately on the retailer's sales records, and paid by the purchaser to the retailer as  
10 trustee for and on account of the State. The retailer is liable for the collection of the tax  
11 and for its payment to the Secretary. The retailer's failure to charge the tax to or to  
12 collect the tax from the purchaser does not affect this liability. It is the intent of this  
13 Article that the tax be added to the sales price of tangible personal property and services  
14 when sold at retail and be borne and passed on to the customer, instead of being borne  
15 by the retailer."

16           **SECTION 8.(a)** G.S. 105-164.13(1a) reads as rewritten:

17       "(1a) Sales of the following to a farmer, as defined in subdivision (1) of this  
18 section:

- 19       a.     A container ~~sold to a farmer, as defined in subdivision (1) of~~  
20 ~~this section,~~ used for a purpose set out in ~~that~~ subdivision (1) of  
21 this section or in packaging and transporting the farmer's  
22 product for sale.  
23       b.     A grain, feed, or soybean storage facility, and parts and  
24 accessories attached to the facility."

25           **SECTION 8.(b)** G.S. 105-164.13(4e) is repealed.

26           **SECTION 9.** G.S. 105-164.14(k) reads as rewritten:

27       "(k) Reports. – The Department of Revenue shall publish by May 1 of each year  
28 the following information itemized by taxpayer for the 12-month period ending the  
29 preceding December 31:

- 30       (1)    The number of taxpayers claiming a refund allowed in subsections  
31 (a1), (g), (h), (i), and (j), and (l) of this section.  
32       (2)    The total amount of purchases with respect to which refunds were  
33 claimed.  
34       (3)    The total cost to the General Fund of the refunds claimed."

35           **SECTION 10.** G.S. 105-164.15A reads as rewritten:

36   "**§ 105-164.15A. Effective date of rate changes for services.**

37       The effective date of a rate change for a service taxable under this Article is  
38 administered as follows:

- 39       (1)    For a rate increase, the new rate applies to the first billing period that  
40 starts on or after the effective date. For a service billed after it is  
41 provided, the first billing period starts on the effective date. For a  
42 service billed before it is provided, the first billing period starts on the  
43 first day of the month after the effective date.

(2) For a rate decrease, the new rate applies to bills rendered on or after the effective date."

**SECTION 11.** G.S. 105-187.52 reads as rewritten:

**"§ 105-187.52. Administration.**

(a) Administration. – The privilege taxes imposed by this Article are in addition to the State use tax. Except as otherwise provided in this Article, the collection and administration of these taxes is the same as the State use tax imposed by Article 5 of this Chapter.

(b) Credit. – A credit is allowed against the tax imposed by this Article for the amount of a sales or use tax, privilege or excise tax, or substantially equivalent tax paid to another state. The credit allowed by this subsection does not apply to tax paid to another state that does not grant a similar credit for the privilege tax paid in North Carolina."

**SECTION 12.(a)** G.S. 105-233 and G.S. 105-234 are repealed.

**SECTION 12.(b)** G.S. 105-236 reads as rewritten:

**"§ 105-236. Penalties.~~Penalties; situs of violations; penalty disposition.~~**

(a) Penalties. – ~~Penalties assessed by the Secretary under this Subchapter are assessed as an additional tax. The clear proceeds of any civil penalties levied pursuant to subdivisions (3), (4), (5)a., and (6) of this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C 457.2. Except as otherwise provided by law, and subject to the provisions of G.S. 105 237, the following penalties shall be applicable:~~The following civil penalties and criminal offenses apply:

(1) Penalty for Bad Checks. – When the bank upon which any uncertified check tendered to the Department of Revenue in payment of any obligation due to the Department returns the check because of insufficient funds or the nonexistence of an account of the drawer, the Secretary shall assess a penalty equal to ten percent (10%) of the check, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000). This penalty does not apply if the Secretary finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution ~~in this State~~ to pay the check and, by inadvertence, the drawer of the check failed to draw the check on the account that had sufficient funds.

...  
 (11) ~~Any violation of Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General Statutes is considered an act committed in part at the office of the Secretary in Raleigh. The certificate of the Secretary that a tax has not been paid, a return has not been filed, or information has not been supplied, as required by law, is prima facie evidence that the tax has not been paid, the return has not been filed, or the information has not been supplied.~~

(12) Repealed by Session Laws 1991, c. 45, s. 27.

1       (b) Situs. – Violation of a tax law is considered an act committed in part at the  
2 office of the Secretary in Raleigh. The certificate of the Secretary that a tax has not been  
3 paid, a return has not been filed, or information has not been supplied, as required by  
4 law, is prima facie evidence that the tax has not been paid, the return has not been filed,  
5 or the information has not been supplied.

6       (c) Penalty Disposition. – Civil penalties assessed by the Secretary are assessed  
7 as an additional tax. The clear proceeds of civil penalties assessed by the Secretary must  
8 be credited to the Civil Penalty and Forfeiture Fund, established in G.S. 115C-457.1."

9               **SECTION 12.(c)** G.S. 105-449.48 and G.S. 105-449.127 are repealed.

10              **SECTION 12.(d)** G.S. 105-449.49 reads as rewritten:

11       "**§ 105-449.49. Temporary permits.**

12       (a) Issuance. – Upon application to the Secretary and payment of a fee of fifty  
13 dollars (\$50.00), a motor carrier may obtain a temporary permit authorizing the carrier  
14 to operate a vehicle in the State for three days without registering the vehicle in  
15 accordance with G.S. ~~105-449.47 for not more than three days.~~ 105-449.47. A motor  
16 carrier to whom a temporary permit has been issued may elect not to report its operation  
17 of the vehicle during the three-day period. Fees collected under this subsection are  
18 credited to the Highway Fund.

19       (b) Refusal. – The Secretary may refuse to issue a temporary permit to any of the  
20 following:

21              (1) A motor carrier whose registration has been withheld or revoked.

22              (2) A motor carrier who the Secretary determines is evading payment of  
23 tax through the successive purchase of temporary permits."

24              **SECTION 13.(a)** G.S. 105-449.65(b) reads as rewritten:

25       "(b) Multiple Activity. – A person who is engaged in more than one activity for  
26 which a license is required must have a separate license for each activity, unless this  
27 subsection provides otherwise. A person who is licensed as a supplier is considered to  
28 have a license as a distributor. A person who is licensed as an occasional importer or a  
29 tank wagon importer is not required to obtain a separate license as a distributor unless  
30 the importer is also purchasing motor fuel, at the terminal rack, from an elective or  
31 permissive supplier who is authorized to collect and remit the tax to the State. A person  
32 who is licensed as a distributor is not required to obtain a separate license as an importer  
33 if the distributor acquires fuel for import only from an elective supplier or a permissive  
34 supplier and is not required to obtain a separate license as an exporter. A person who is  
35 licensed as a distributor or a blender ~~is not required to obtain a separate license and who~~  
36 transports fuel is considered to be licensed as a motor fuel transporter if the distributor  
37 or blender does not transport motor fuel for others for hire.~~transporter."~~

38              **SECTION 13.(b)** G.S. 105-449.101 reads as rewritten:

39       "**§ 105-449.101. Motor fuel transporter to file informational return showing**  
40 **deliveries of imported or exported motor fuel.**

41       (a) Requirement. – A motor fuel transporter ~~that imports motor fuel into this~~  
42 ~~State or exports motor fuel from this State~~ must file a monthly informational return with  
43 the Secretary that shows motor fuel ~~received or delivered for import or export~~



1 transported in this State by the transporter during the month. ~~This requirement does not~~  
 2 ~~apply to a distributor that is not required to be licensed as a motor fuel transporter.~~

3 (b) Content. – The return required by this section is due ~~by the 25th day of the~~  
 4 ~~month following the month covered by the return, on the same date as a monthly return~~  
 5 ~~due under G.S. 105-449.90.~~ The return must contain the following information and any  
 6 other information required by the Secretary:

7 (1) The name and address of each person from whom the transporter  
 8 received motor fuel outside the State for delivery in the State, the  
 9 amount of motor fuel received, the date the motor fuel was received,  
 10 and the destination state of the fuel.

11 (2) The name and address of each person from whom the transporter  
 12 received motor fuel in the State for delivery outside the State, the  
 13 amount of motor fuel delivered, the date the motor fuel was delivered,  
 14 and the destination state of the fuel.

15 (3) The name and address of each person from whom the transporter  
 16 received motor fuel in the State for delivery in the State, the amount of  
 17 motor fuel received, the date the motor fuel was received, and the  
 18 destination state of the fuel."

19 **SECTION 14.(a)** G.S. 105-449.60 is amended by adding a new subdivision  
 20 to read:

21 "**§ 105-449.60. Definitions.**

22 The following definitions apply in this Article:

23 ...

24 (10a) Exempt card or code. – A credit card or an access code that enables the  
 25 person to whom the card or code is issued to buy motor fuel at retail  
 26 without paying the motor fuel excise tax on the fuel."

27 **SECTION 14.(b)** G.S. 105-449.88A reads as rewritten:

28 "**§ 105-449.88A. Liability for tax due on motor fuel designated as exempt by the**  
 29 **use of cards or codes.**

30 (a) ~~Exempt Cards at Rack.~~—When a licensed distributor or licensed importer  
 31 ~~removes motor fuel from a terminal by means of an exempt card or exempt access code~~  
 32 ~~issued by the supplier, the distributor or importer represents that the fuel removed will~~  
 33 ~~be resold to a governmental unit that is exempt from the tax. A supplier may rely on this~~  
 34 ~~representation. A licensed distributor or licensed importer that does not resell motor fuel~~  
 35 ~~removed from a terminal by means of an exempt card or exempt access code to an~~  
 36 ~~exempt governmental unit is liable for any tax due on the fuel.~~

37 (b) ~~Exempt Cards at Retail. Card or Code.~~—An "exempt card or code" is a credit  
 38 ~~card or an access code that enables the person to whom the card or code is issued to buy~~  
 39 ~~motor fuel at retail without paying the motor fuel excise tax on the fuel.~~ An entity that  
 40 issues an exempt card or code has a duty to determine if the person to whom it is issued  
 41 is exempt from the motor fuel excise tax. An entity that issues an exempt card or code to  
 42 a person who is not exempt from tax is liable for tax due on motor fuel the person  
 43 purchases at retail by use of the exempt card or code. If a supplier authorizes another  
 44 entity to issue an exempt card or code to a person who is not exempt from tax, the

1 supplier and the entity that issued the card are jointly and severally liable for tax due on  
2 motor fuel the person purchases at retail by use of the exempt card or code.

3 (c) Card Holder. – A person to whom an exempt card or ~~exempt access card code~~  
4 is issued ~~for use at a terminal or at retail~~ is liable for any tax due on fuel purchased with  
5 the card or code for a purpose that is not exempt. A person who misuses an exempt card  
6 or code by purchasing fuel with the card or code for a purpose that is not exempt is  
7 liable for the tax due on the fuel."

8 **SECTION 14.(c)** G..S. 105-449.90(c) is repealed.

9 **SECTION 14.(d)** G.S. 105-449.93 reads as rewritten:

10 "**§ 105-449.93. Exempt sale deduction and percentage Percentage discount for**  
11 **licensed distributors and some licensed importers.**

12 (a) Deduction. — ~~A license holder listed below may deduct from the amount of~~  
13 ~~tax otherwise payable to a supplier the amount calculated on motor fuel the license~~  
14 ~~holder received from the supplier and resold to a governmental unit whose purchases of~~  
15 ~~motor fuel are exempt from the tax under G.S. 105-449.88 if, when removing the fuel,~~  
16 ~~the license holder used an access card or code specified by the supplier to notify the~~  
17 ~~supplier of the license holder's intent to resell the fuel in an exempt sale:~~

18 (1) ~~A licensed distributor.~~

19 (2) ~~A licensed importer that removed the motor fuel from a terminal rack~~  
20 ~~of a permissive or an elective supplier.~~

21 (b) Percentage Discount. – A licensed distributor that pays the tax due a supplier  
22 by the date the supplier must pay the tax to the State may deduct from the amount due a  
23 discount of one percent (1%) of the amount of tax payable. A licensed importer that  
24 removes motor fuel from a terminal rack of a permissive or an elective supplier and that  
25 pays the tax due the supplier by the date the supplier must pay the tax to the State may  
26 deduct from the amount due a discount of the same amount allowed a licensed  
27 distributor. The discount covers the expense of furnishing a bond and losses due to  
28 shrinkage or evaporation. A supplier may not directly or indirectly deny this discount to  
29 a licensed distributor or licensed importer that pays the tax due the supplier by the date  
30 the supplier must pay the tax to the State."

31 **SECTION 14.(e)** G.S. 105-449.94 is repealed.

32 **SECTION 14.(f)** G.S. 105-449.97(d) reads as rewritten:

33 "(d) Taxes Paid on Exempt Retail Sales. – When filing a return, a supplier that  
34 issues or authorizes the issuance of an exempt card or ~~an exempt access code~~ to a person  
35 that enables the person to buy motor fuel ~~at retail~~ without paying tax on the fuel may  
36 deduct the amount of excise tax imposed on fuel purchased with the exempt ~~retail~~ card  
37 or code. The amount of excise tax imposed on fuel purchased ~~at retail~~ with an exempt  
38 ~~retail~~ card or code is the amount that was imposed on the fuel when it was delivered to  
39 the retailer of the fuel."

40 **SECTION 14.(g)** G.S. 105-449.105A(a) reads as rewritten:

41 "(a) Refund. – A distributor who sells kerosene to any of the following may obtain  
42 a refund for the excise tax the distributor paid on the kerosene, less the amount of any  
43 discount allowed on the kerosene under G.S. 105-449.93:

- 1 (1) The end user of the kerosene, if the distributor dispenses the kerosene  
2 into a storage facility of the end user that contains fuel used only for  
3 one of the following purposes and the storage facility is installed in a  
4 manner that makes use of the fuel for any other purpose improbable:  
5 a. Heating.  
6 b. Drying crops.  
7 c. A manufacturing process.
- 8 (2) A retailer of kerosene, if the distributor dispenses the kerosene into a  
9 storage facility that meets both of the following conditions:  
10 a. It is marked with the phrase "Undyed, Untaxed Kerosene,  
11 Nontaxable Use Only" or a similar phrase that clearly indicates  
12 that the fuel is not to be used to operate a highway vehicle.  
13 b. It either has a dispensing device that is not suitable for use in  
14 fueling a highway vehicle or is kept locked by the retailer and  
15 must be unlocked by the retailer for each sale of kerosene.
- 16 (3) An airport, if the distributor dispenses the kerosene into a storage  
17 facility that contains fuel used only for fueling airplanes and that meets  
18 at least one of the following conditions:  
19 a. It is marked with the phrase "Undyed, Untaxed Kerosene,  
20 Nontaxable Use Only" or a similar phrase that clearly indicates  
21 that the fuel is not to be used to operate a highway vehicle.  
22 b. It has a dispensing device that is not suitable for use in fueling a  
23 highway vehicle."

24 **SECTION 15.(a)** G.S. 105-449.100 reads as rewritten:

25 **"§ 105-449.100. Terminal operator to file informational return showing changes in**  
26 **amount of motor fuel at the terminal.**

27 A terminal operator must file a monthly informational return with the Secretary that  
28 shows the amount of motor fuel received or removed from the terminal during the  
29 month. The return is due ~~by the 25th day of the month following the month covered by~~  
30 ~~the return.~~ on the same date as a monthly return due under G.S. 105-449.90. The return  
31 must contain the following information and any other information required by the  
32 Secretary:

- 33 (1) The number of gallons of motor fuel received in inventory at the  
34 terminal during the month and each position holder for the fuel.  
35 (2) The number of gallons of motor fuel removed from inventory at the  
36 terminal during the month and, for each removal, the position holder  
37 for the fuel and the destination state of the fuel.  
38 (3) The number of gallons of motor fuel gained or lost at the terminal  
39 during the month."

40 **SECTION 15.(b)** G.S. 105-449.102(a) reads as rewritten:

41 "(a) Return. – A distributor that exports motor fuel from a bulk plant located in  
42 this State must file a monthly return with the Secretary that shows the exports. The  
43 return is due ~~by the 25th day of the month following the month covered by the return.~~

1 on the same date as a monthly return due under G.S. 105-449.90. The return serves as a  
2 claim for refund by the distributor for tax paid to this State on the exported motor fuel."

3 **SECTION 15.(c)** G.S. 105-449.137(b) reads as rewritten:

4 "(b) Payment. – The tax imposed by this Article is payable when a return is due. A  
5 return is due ~~monthly within 25 days after the end of each month.~~ on the same date as a  
6 monthly return due under G.S. 105-449.90. A monthly return covers liabilities that  
7 accrue in the calendar month preceding the date the return is due. A return must be filed  
8 with the Secretary and must be in the form and contain the information required by the  
9 Secretary."

10 **SECTION 15.(d)** G.S. 119-18(a) reads as rewritten:

11 "(a) Tax. – An inspection tax of one fourth of one cent (1/4 of 1¢) per gallon is  
12 levied upon all of the fuel listed in this subsection regardless of whether the fuel is  
13 exempt from the per-gallon excise tax imposed by Article 36C or 36D of Chapter 105 of  
14 the General Statutes. The inspection tax on motor fuel is due and payable to the  
15 Secretary of Revenue at the same time that the per gallon excise tax on motor fuel is due  
16 and payable under Article 36C of Chapter 105 of the General Statutes. The inspection  
17 tax on alternative fuel is due and payable to the Secretary of Revenue at the same time  
18 that the excise tax on alternative fuel is due and payable under Article 36D of Chapter  
19 105 of the General Statutes. The inspection tax on kerosene is payable monthly to the  
20 Secretary by a supplier that is licensed under Part 2 of Article 36C of Chapter 105 of the  
21 General Statutes and by a kerosene supplier. A monthly report is due ~~by the 22nd of~~  
22 ~~each month~~ on the same date as a monthly return due under G.S. 105-449.90 and applies  
23 to kerosene sold during the preceding month by a supplier licensed under that Part and  
24 to kerosene received during the preceding month by a kerosene supplier. A kerosene  
25 terminal operator must file a return in accordance with the provisions of  
26 ~~G.S. 105-449.100.~~ G.S. 105-449.90.

27 (1) Motor fuel.

28 (2) Alternative fuel used to operate a highway vehicle.

29 (3) Kerosene."

30 **SECTION 16.(a)** G.S. 105-449.106(c) reads as rewritten:

31 "(c) Special Mobile Equipment. – A person who purchases and uses motor fuel to  
32 operate special mobile equipment off-highway may receive a quarterly refund, for the  
33 excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon  
34 rate plus the variable cents-per-gallon rate in effect during the quarter for which the  
35 refund is claimed, less the amount of sales and use tax or privilege tax due on the fuel  
36 under this Chapter, as determined in accordance with G.S. 105-449.107(c). An  
37 application for a refund must be made in accordance with this Part."

38 **SECTION 16.(b)** G.S. 105-449.107 reads as rewritten:

39 **"§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles**  
40 **with power attachments.**

41 (a) Off-Highway. – A person who purchases and uses motor fuel for a purpose  
42 other than to operate a licensed highway vehicle may receive an annual refund for the  
43 excise tax the person paid on fuel used during the preceding calendar year. The amount  
44 of refund allowed is the amount of the flat cents-per-gallon rate in effect during the year

1 for which the refund is claimed plus the average of the two variable cents-per-gallon  
2 rates in effect during that year, less the amount of sales and use tax or privilege tax due  
3 on the fuel under this Chapter. An application for a refund allowed under this section  
4 must be made in accordance with this Part.

5 (b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the  
6 vehicles listed below may receive an annual refund for the amount of fuel consumed by  
7 the vehicle:

- 8 (1) A concrete mixing vehicle.
- 9 (2) A solid waste compacting vehicle.
- 10 (3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a  
11 power takeoff to unload the feed.
- 12 (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a  
13 power takeoff to unload the lime or fertilizer.
- 14 (5) A tank wagon that delivers alternative fuel, as defined in  
15 G.S. 105-449.130, or motor fuel or another type of liquid fuel into  
16 storage tanks and uses a power takeoff to make the delivery.
- 17 (6) A commercial vehicle that delivers and spreads mulch, soils,  
18 composts, sand, sawdust, and similar materials and that uses a power  
19 takeoff to unload, blow, and spread the materials.
- 20 (7) A commercial vehicle that uses a power takeoff to remove and dispose  
21 of septage and for which an annual fee is required to be paid to the  
22 Department of Environment and Natural Resources under  
23 G.S. 130A-291.1.
- 24 (8) A sweeper.

25 The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the  
26 following: the sum of the flat cents-per-gallon rate in effect during the year for which  
27 the refund is claimed and the average of the two variable cents-per-gallon rates in effect  
28 during that year, less the amount of sales and use tax or privilege tax due on the fuel  
29 under this Chapter. An application for a refund allowed under this section must be made  
30 in accordance with this Part. This refund is allowed for the amount of fuel consumed by  
31 the vehicle in its mixing, compacting, or unloading operations, as distinguished from  
32 propelling the vehicle, which amount is considered to be one-third of the amount of fuel  
33 consumed by the vehicle.

34 (c) Sales Tax Amount. – Article 5 of this Chapter determines the amount of sales  
35 and use tax to be deducted under this section from a motor fuel excise tax refund.  
36 Article 5F of this Chapter determines the amount of privilege tax to be deducted under  
37 this section from a motor fuel excise tax refund. The sales price and the cost price of  
38 motor fuel to be used in determining the amount to deduct is the average of the  
39 wholesale prices used under G.S. 105-449.80 to determine the excise tax rates in effect  
40 for the two six-month periods of the year for which the refund is claimed."

41 **SECTION 17.** G.S. 105-449.120(a)(3a) is repealed.

42 **SECTION 18.** The catch line of G.S. 105-249.2 reads as rewritten:

1 "§ 105-249.2. Due date extended and penalties waived for certain military  
2 personnel or ~~individuals~~ persons affected by a presidentially declared  
3 disaster."

4 SECTION 19. The catch line of G.S. 143B-437.71 reads as rewritten:

5 "§ 143B-437.71. One North Carolina Fund established as a ~~nonreverting~~  
6 account.special revenue fund."

7 SECTION 20.(a) G.S. 153A-155(d) reads as rewritten:

8 "(d) Administration. – The taxing county shall administer a room occupancy tax it  
9 levies. A room occupancy tax is due and payable to the county finance officer in  
10 monthly installments on or before the ~~15<sup>th</sup>~~20<sup>th</sup> day of the month following the month in  
11 which the tax accrues. Every person, firm, corporation, or association liable for the tax  
12 shall, on or before the 20<sup>th</sup> day of each month, prepare and render a return on a form  
13 prescribed by the taxing county. The return shall state the total gross receipts derived in  
14 the preceding month from rentals upon which the tax is levied. A room occupancy tax  
15 return filed with the county finance officer is not a public record and may not be  
16 disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

17 SECTION 20.(b) G.S. 160A-215(d) reads as rewritten:

18 "(d) Administration. – The taxing city shall administer a room occupancy tax it  
19 levies. A room occupancy tax is due and payable to the city finance officer in monthly  
20 installments on or before the ~~15<sup>th</sup>~~20<sup>th</sup> day of the month following the month in which the  
21 tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or  
22 before the 20<sup>th</sup> day of each month, prepare and render a return on a form prescribed by  
23 the taxing city. The return shall state the total gross receipts derived in the preceding  
24 month from rentals upon which the tax is levied. A room occupancy tax return filed  
25 with the city finance officer is not a public record and may not be disclosed except in  
26 accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

27 SECTION 21. G.S. 160A-49(f2) reads as rewritten:

28 "(f2) Effective Date of Annexation for Certain Property. – Annexation of property  
29 subject to annexation under subsection (f1) of this section shall become effective:

- 30 (1) Upon the effective date of the annexation ordinance, the property is  
31 considered part of the city only (i) for the purpose of establishing city  
32 boundaries for additional annexations pursuant to this Article and (ii)  
33 for the exercise of city authority pursuant to Article 19 of this Chapter.
- 34 (2) For all other purposes, the annexation becomes effective as to each  
35 tract of such property or part thereof on the last day of the month in  
36 which that tract or part thereof becomes ineligible for classification  
37 pursuant to ~~G.S. 105-227.4~~ G.S. 105-277.4 or no longer meets the  
38 requirements of subdivision (f1)(2) of this section. Until annexation of  
39 a tract or a part of a tract becomes effective pursuant to this  
40 subdivision, the tract or part of a tract is not subject to taxation by the  
41 city under Article 12 of Chapter 105 of the General Statutes nor is the  
42 tract or part of a tract entitled to services provided by the city."

43 SECTION 22. The introductory language for Section 59.2 of S.L. 2005-435  
44 reads as rewritten:

1 "SECTION 59.2.(a) ~~G.S. 105-114.1(a4)~~ G.S. 105-114(a4) reads as rewritten:".

2 SECTION 23. The introductory language of Section 4 of S.L. 2005-413  
3 reads as rewritten:

4 "SECTION 4. ~~G.S. 105-129.15(7)~~ reads Subdivisions (6) and (7) of  
5 G.S. 105-129.15 read as rewritten:".

6 SECTION 24. Section 1(a) of S.L. 2005-261 reads as rewritten:

7 "SECTION 1.(a) Authority; Vote. – If the majority of those voting on the question  
8 pursuant to this section vote for the levy of the tax, the Monroe City Council may, by  
9 ordinance, levy a prepared food and beverages tax of up to one percent (1%) of the sales  
10 price of prepared food and beverages sold within the City of Monroe at retail for  
11 consumption on or off the premises by a retailer subject to sales tax under  
12 ~~G.S. 105-164(a)(1)~~. 105-164.4(a)(1). This tax is in addition to State and local sales tax.

13 The Monroe City Council may direct the county board of elections to submit to the  
14 qualified voters of the city during any election held in 2006 the question of whether to  
15 levy a local prepared food and beverages tax of one percent (1%) as provided in this  
16 section. The election must be held on a date jointly agreed upon by the board of  
17 elections and city council and held in accordance with Chapter 163 of the General  
18 Statutes. The question to be used in the voting systems and ballots shall be:

19 "[ ] FOR [ ] AGAINST

20 One percent (1%) local prepared food and beverages tax, in addition to the  
21 current local sales and use taxes, to be used for the Civic Center Project for the City of  
22 Monroe."

23 SECTION 25. Section 4 is effective for taxable years beginning on or after  
24 January 1, 2006. Sections 13, 14, 15, and 17 of this act become effective January 1,  
25 2007, and apply to motor fuel purchased on or after that date. An exempt card or code  
26 will not be valid for sales of motor fuel at the terminal rack on or after January 1, 2007.  
27 The remainder of this act is effective when it becomes law.