GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2010-95
SENATE BILL 1177

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. The introductory language to G.S. 105-113.40A reads as rewritten:

"The Secretary must credit the net proceeds of the tax collected under this ~~Article~~ Part as follows:".

SECTION 2. G.S. 105-129.16D(b1) reads as rewritten:

"(b1) Alternative Production Credit. – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that constructs and places in service in this State three or more commercial facilities for processing renewable fuel and that invests a total amount of at least four hundred million dollars ($400,000,000) in the facilities is allowed a credit equal to thirty-five percent (35%) of the cost to the taxpayer of constructing and equipping the facilities. In order to claim the credit, the taxpayer must obtain a written determination from the Secretary of Commerce that the taxpayer is expected to invest within a five-year period a total amount of at least four hundred million dollars ($400,000,000) in three or more facilities. The credit must be taken in seven equal annual installments beginning with the taxable year in which the first facility is placed in service. If, in one of the years in which the installment of credit accrues, a facility with respect to which the credit was claimed is disposed of or taken out of service and the investment requirements of this subsection are no longer satisfied, the credit expires and the taxpayer may take any remaining installment of the credit only to the extent allowed under subsection (b) of this section. The taxpayer may, however, take the portion of an installment under this subsection that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. Notwithstanding the provisions of G.S. 105-129.17, a taxpayer may carry forward unused portions of the credit allowed under this subsection for the succeeding 10 years.

If a taxpayer that claimed a credit under this subsection fails to meet the requirements of this subsection but meets the requirements of subsection (b) of this section, the taxpayer forfeits the difference between the alternative credit claimed under this subsection and the credit allowed under subsection (b) of this section. A taxpayer that forfeits part of the alternative credit under this subsection is liable for the additional taxes avoided plus interest at the rate established under ~~G.S. 105-241.1(i),~~ G.S. 105-241.21, computed from the date the additional taxes would have been due if the credit had not been allowed. The additional taxes and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the additional taxes and interest by the due date is subject to penalties provided in G.S. 105-236."

SECTION 3. G.S. 105-159.1(a) reads as rewritten:

"(a) Every individual whose income tax liability for the taxable year is three dollars ($3.00) or more may designate on his or her income tax return that three dollars ($3.00) of the tax shall be credited to the North Carolina Political Parties Financing Fund for the use of the political party designated by the taxpayer. In the case of a married couple filing a joint return whose income tax liability for the taxable year is six dollars ($6.00) or more, each spouse may designate on the income tax return that three dollars ($3.00) of the tax shall be credited to the North Carolina Political Parties Financing Fund for the use of the political party designated by the taxpayer. Amounts credited to the Fund shall be allocated among the political parties according to the designation of the taxpayer. Where any taxpayer elects to designate but does not specify a particular political party, those funds shall be distributed among the political parties on a pro rata basis according to their respective party voter registrations as determined by the most recent certification of the State Board of Elections. As used in this section, the term

"political party" has the same meaning as defined in G.S. 163-96.~~means one of the following that has at least one percent (1%) of the total number of registered voters in the State~~:

~~(1) A political party that at the last preceding general State election received at least ten percent (10%) of the entire vote cast in the State for Governor or for presidential electors.~~

~~(2) A group of voters who by July 1 of the preceding calendar year, by virtue of a petition as a new political party, had duly qualified as a new political party within the meaning of Chapter 163 of the General Statutes.~~"

SECTION 4.(a) G.S. 105-164.14(c) is amended by adding a new subdivision to read:

"(23) A public library created pursuant to an act of the General Assembly."

SECTION 4.(b) This section becomes effective July 1, 2008, and applies to purchases made on or after that date.

SECTION 5. G.S. 105-187.3 reads as rewritten:

…."

(b) Retail Value. – The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a retailer is the sales price of the motor vehicle, including all accessories attached to the vehicle when it is delivered to the purchaser, less the amount of any allowance given by the retailer for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. ~~The~~

The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a seller who is not a retailer is the market value of the vehicle, less the amount of any allowance given by the seller for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. A transaction in which two parties exchange motor vehicles is considered a sale regardless of whether either party gives additional consideration as part of the transaction. ~~The~~

The retail value of a motor vehicle for which a certificate of title is issued because of a reason other than the sale of the motor vehicle is the market value of the vehicle. The market value of a vehicle is presumed to be the value of the vehicle set in a schedule of values adopted by the Commissioner.

~~(b1) Retail Value of Transferred Department of Defense Vehicles. —~~ The retail value of a vehicle for which a certificate of title is issued because of a transfer by a State agency that assists the United States Department of Defense with purchasing, transferring, or titling a vehicle to another State agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad is the sales price paid by the State agency, unit of local government, volunteer fire department, or volunteer rescue squad.

…."

SECTION 6. G.S. 105-187.6(a) is amended by adding a new subdivision to read:

"(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

…

(11) To a revocable trust from an owner who is the sole beneficiary of the trust."

SECTION 7. Reserved.

SECTION 8.(a) G.S. 105-241.9(c) is amended by adding a new subdivision to read:

"(c) Notice. – The Secretary must give a taxpayer written notice of a proposed assessment. The notice of a proposed assessment must contain the following information:

(1) The basis for the proposed assessment. The statement of the basis for the proposed assessment does not limit the Department from changing the basis.

(2) The amount of tax, interest, and penalties included in the proposed assessment. The amount for each of these must be stated separately.

(2a) The date a failure to pay penalty will apply to the proposed assessment if the proposed assessment is not paid by that date and the amount of the penalty. If the proposed assessment is not paid by the specified date, the failure to pay penalty is considered to be assessed and applies to the proposed assessment without further notice.

(3) The circumstances under which the proposed assessment will become final and collectible."

SECTION 8.(b) G.S. 105-241.11 is amended by adding a new subsection to read:

"(c) FTP Penalty. – A request for a Departmental review of a proposed assessment is considered a request for a Departmental review of a failure to pay penalty that is based on the assessment. A taxpayer who does not request a Departmental review of a proposed assessment may not request a Departmental review of a failure to pay penalty that is based on the assessment."

SECTION 9. G.S. 105-241.16 reads as rewritten:

"**§ 105-241.16. Judicial review of decision after contested case hearing.**

A taxpayer aggrieved by the final decision in a contested case commenced at the Office of Administrative Hearings may seek judicial review of the decision in accordance with Article 4 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-45, a petition for judicial review must be filed in the Superior Court of Wake County and in accordance with the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). ~~A taxpayer who files~~ Before filing a petition for judicial ~~review~~ review, a taxpayer must pay the amount of tax, penalties, and interest the final decision states is due. A taxpayer may appeal a decision of the Business Court to the appellate division in accordance with G.S. 150B-52."

SECTION 10.(a) G.S. 105-263 reads as rewritten:

"**§ 105-263. ~~Extensions of time for filing a report or return.~~Timely filing of mailed documents and requests for extensions.**

(a) Mailed Document. – Section 7502 of the Code governs when a return, report, payment, or any other document that is mailed to the Department is timely filed.

(b) Extension. – The Secretary may extend the time in which a person must file a report or return with the Secretary. To obtain an extension of time for filing a report or return, a person must comply with any application requirement set by the Secretary. An extension of time for filing a franchise tax return or an income tax return does not extend the time for paying the tax due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing a report or any return other than a franchise tax return or an income tax return extends the time for paying the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of time for filing a report or return extends the time for paying the tax expected to be due with the report or return, interest, at the rate established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the report or return to the date the tax is paid."

SECTION 10.(b) G.S. 105-241.11(b) reads as rewritten:

"(b) Filing. – A request for a Departmental review of a proposed denial of a refund or a proposed assessment is considered filed on the following dates:

(1) For a request that is delivered in person, the date it is delivered.

(2) For a request that is mailed, the date determined in accordance with G.S. 105-263.

(3) For a request ~~not delivered in person,~~ delivered by another method, the date the Department receives it."

SECTION 11. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

…

(40) To furnish a nonparticipating manufacturer, as defined in G.S. 66-292, the amount of the manufacturer's tobacco products that a taxpayer sells in this State and that the Secretary reports to the Attorney General under G.S. 105-113.4C."

SECTION 12. G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, must begin and continue only on and after the first day of ~~the month of either January or July,~~ a calendar quarter, as set by the board of county commissioners in the resolution levying the tax. In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution. The county must give the Secretary at least 90 days advance notice of a new tax levy or tax rate change. The applicability of a new tax or a tax rate change to purchases from printed catalogs becomes effective on the first day of a calendar

quarter after a minimum of 120 days from the date the Secretary notifies the seller that receives orders by means of a catalog or similar publication of the new tax or tax rate change."

SECTION 13. G.S. 105-164.15 is repealed.

SECTION 14. G.S. 105-523(d) reads as rewritten:

"(d) Method. – The Secretary must estimate a county's repealed sales tax amount, city hold harmless amount, and hold harmless threshold for a fiscal year to determine if the county is eligible for a hold harmless payment. The Secretary must send to an eligible county with the distribution made under G.S. 105-472 for March of that year an amount equal to ninety percent (90%) of its estimated hold harmless payment. At the end of each fiscal year, the Secretary must determine each county's hold harmless payment for that year. The Secretary must send by August 15 the remainder of the county's hold harmless payment for the fiscal year that ended on June 30. The Secretary of the Department of ~~Human Resources~~ Health and Human Services must give the Secretary of Revenue the data needed to determine a county's hold harmless ~~threshold.~~threshold by February 24th of each year, and the data needed for the final calculation of each county's hold harmless threshold by July 24th of each year."

PROPERTY TAX CHANGES

SECTION 15. G.S. 105-275(29a) reads as rewritten:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

…

(29a) Land that is within an historic district and is held by a nonprofit corporation organized for historic preservation purposes for use as a future site for an historic structure that is to be moved to the site from another location. Property may be classified under this subdivision for no more than five years. The taxes that would otherwise be due on land classified under this subdivision shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when an historic structure is not moved to the property within five years from the first day of the fiscal year the property was classified under this subdivision. In addition to the provisions in G.S. 105-277.1F, all liens arising under this subdivision are extinguished upon the location of an historic structure on the site within the time period allowed under this subdivision."

SECTION 16. G.S. 105-277.1C(b)(1) reads as rewritten:

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

(1) Disabled veteran. – A veteran of any branch of the Armed Forces of the United States whose character of service at separation was honorable or under honorable conditions and who satisfies one of the following requirements:

a. As of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, the veteran had received benefits under 38 U.S.C. § 2101.

b. The veteran has received a certification by the United States Department of Veterans Affairs or another federal agency indicating that, as of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, he or she has a service-connected, permanent, and total disability.

c. ~~If the veteran is deceased, the certificate must indicate that he or she had the disability prior to the date of death or that the death was~~ The veteran is deceased and the United States Department of Veterans Affairs or another federal agency has certified that, as of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, the veteran's death was the result of a service-connected condition.

(2) Repealed by Session Laws 2009-445, s. 22(c), effective for taxes imposed for taxable years beginning on or after July 1, 2009.
(3) Permanent residence. – Defined in G.S. 105-277.1.
(4) Property tax relief. – Defined in G.S. 105-277.1.
(4a) Qualifying owner. – An owner, as defined in G.S. 105-277.1, who is a North Carolina resident and one of the following:
a. A disabled veteran.
b. The surviving spouse of a disabled veteran who has not remarried.
(5), (6) Repealed by Session Laws 2009-445, s. 22(c), effective for taxes imposed for taxable years beginning on or after July 1, 2009.
(7) Service-connected. – Defined in 38 U.S.C. § 101."

SECTION 17. G.S. 105-278(b) reads as rewritten:

"(b) The difference between the taxes due on the basis of fifty percent (50%) of the true value of the property and the taxes that would have been payable in the absence of the classification provided for in subsection (a) shall be a lien on the property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1F when the property loses the benefit of this classification as a result of a disqualifying event. A disqualifying event occurs when there is a change in an ordinance designating a historic property or a change in the property, other than by fire or other natural disaster, that causes the property's historical significance to be lost or substantially impaired. In addition to the provisions in G.S. 105-277.1F, no deferred taxes are due and all liens arising under this subsection are extinguished when the property's historical significance is lost or substantially impaired due to fire or other natural disaster."

SECTION 18. G.S. 105-278.6(e) reads as rewritten:

"(e) Real property held by an organization described in subdivision (a)(8) for a charitable purpose under this section as a future site for housing for individuals or families with low or moderate incomes may be classified under this section for no more than five years. The taxes that would otherwise be due on real property exempt under this subsection shall be a lien on the property as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the organization fails to construct low- or moderate-income housing on the site within five years from the first day of the fiscal year the property was classified under this subsection. In addition to the provisions in G.S. 105-277.1F, all liens arising under this subdivision are extinguished when the property is used for low- or moderate-income housing within the time period allowed under this subsection."

SECTION 19. G.S. 105-333(14) reads as rewritten:

"(14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, a telegraph company, a bus line company, an airline company, or a motor freight carrier company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, ~~a radio common carrier company as defined in G.S. 62-119(3),~~ a cable television company, or a radio or television broadcasting company."

SECTION 20. G.S. 105-333 is amended by adding a new subdivision to read:

"(21) Terminal. – A motor freight carrier facility that includes buildings for the handling and temporary storage of freight pending transfer between locations. The term also includes a facility that handles truckloads only and typically consists of a wide, open space where rolling stock is parked and a building for offices and maintenance of rolling stock."

SECTION 21. Section 4 of S.L. 2009-308 reads as rewritten:

"**SECTION 4**. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2010. This act is repealed effective for taxes imposed for taxable years beginning

on or after July 1, 2013. ~~Residences receiving the property tax benefit provided by this act are not affected by the repeal of this act until the occurrence of a disqualifying event.~~Notwithstanding the repeal of this act, residences that are receiving the property tax benefit provided by this act in the year immediately prior to the repeal are not affected by the repeal of this act and remain eligible for approval of this benefit for subsequent taxable years until the occurrence of a disqualifying event."

SECTION 22.(a) Section 22(d) of S.L. 2007-527 reads as rewritten:

"**SECTION 22.(d)** Subsection (c) of this section becomes effective ~~January 1, 2010.~~July 1, 2010. The remainder of this section is effective when it becomes law."

SECTION 22.(b) Section 22(d) of S.L. 2007-527, as amended by Section 66 of S.L. 2008-134, reads as rewritten:

"**SECTION 22.(d)** Subsection (c) of this section becomes effective ~~January 1, 2011,~~July 1, 2013, or when the Division of Motor Vehicles of the Department of Transportation and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. The remainder of this section is effective when it becomes law."

SECTION 22.(c) Section 24(c) of S.L. 2009-445 reads as rewritten:

"**SECTION 24.(c)** G.S. 105-330.9 and G.S. 105-330.11, as amended in subsection (a) of this section, are effective when this act becomes law. Subsection (b) of this section and the remainder of subsection (a) of this section become effective ~~July 1, 2011,~~July 1, 2013, and apply to combined tax and registration notices issued on or after that date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system or registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. The remainder of this section is effective when it becomes law."

SECTION 22.(d) Section 8 of S.L. 2007-471, as amended by Section 25(a) of S.L. 2009-445, reads as rewritten:

"**SECTION 8.** Unless otherwise stated, this act becomes effective ~~July 1, 2011,~~July 1, 2013, and applies to combined tax and registration notices issued on or after that date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first."

SECTION 22.(e) Section 79 of S.L. 2008-134, as amended by Section 25(b) of S.L. 2009-445, reads as rewritten:

"**SECTION 79.** Sections 16 through 60 of this act become effective January 1, 2009. Except as otherwise provided, the remainder of this act is effective when it becomes law. Section 63 of this act is repealed July 1, 2013."

SECTION 23. Reserved.

SECTION 24. Reserved.

MOTOR FUEL TAX CHANGES

SECTION 25. G.S. 105-241(b)(2a) reads as rewritten:

"(b) Electronic Funds Transfer. – Payment by electronic funds transfer is required as provided in this subsection.

…

(2a) Motor fuel taxes. – A taxpayer that is required to file an electronic return under ~~Article 36C or Article 36D~~ Subchapter V of this Chapter or Article 3 of Chapter 119 of the General Statutes must pay the tax by electronic funds transfer."

SECTION 26.(a) G.S. 105-449.39 reads as rewritten:

"**§ 105-449.39. Credit for payment of motor fuel tax.**

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly ~~report~~ return for tax paid by the carrier on fuel purchased in the State. The amount of the credit is determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter covered by the ~~report.~~ return. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor carrier's liability for that quarter, the excess is refundable in accordance with G.S. 105-241.7."

SECTION 26.(b) G.S. 105-449.40(a) reads as rewritten:

"(a) Authority. – The Secretary may require a motor carrier to furnish a bond when any of the following occurs:

(1) The motor carrier fails to file a ~~report~~ return within the time required by this Article.

(2) The motor carrier fails to pay a tax when due under this Article.

(3) After auditing the motor carrier's records, the Secretary determines that a bond is needed to protect the State from loss in collecting the tax due under this Article."

SECTION 26.(c) G.S. 105-449.42 reads as rewritten:

"**§ 105-449.42. Payment of tax.**

The tax levied by this Article is due when a motor carrier files a quarterly ~~report~~ return under G.S. 105-449.45. The amount of tax due is calculated on the amount of motor fuel or alternative fuel used by the motor carrier in its operations within this State during the quarter covered by the ~~report.~~return."

SECTION 26.(d) G.S. 105-449.42A reads as rewritten:

"**§ 105-449.42A. Leased motor vehicles.**

(a) Lessor in Leasing Business. – A lessor who is regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation is the motor carrier for a leased or rented motor vehicle unless the lessee of the leased or rented motor vehicle gives the Secretary written notice, by filing a ~~report~~ return or otherwise, that the lessee is the motor carrier. In that circumstance, the lessee is the motor carrier for the leased or rented motor vehicle.

Before a lessee gives the Secretary written notice under this subsection that the lessee is the motor carrier, the lessee and lessor must make a written agreement for the lessee to be the motor carrier. Upon request of the Secretary, the lessee must give the Secretary a copy of the agreement.

(b) Independent Contractor. – The lessee of a motor vehicle that is leased from an independent contractor is the motor carrier for the leased motor vehicle unless ~~either of the following applies:~~one of the circumstances listed in this subsection applies. If either of these circumstances applies, the lessor is the motor carrier for the leased motor vehicle.

(1) The motor vehicle is leased for fewer than 30 days.

(2) The motor vehicle is leased for at least 30 days and the lessor gives the Secretary written notice, by filing a ~~report~~ return or otherwise, that the lessor is the motor carrier. Before a lessor gives the Secretary written notice that the lessor is the motor carrier, the lessor and lessee must make a written agreement for the lessor to be the motor carrier. Upon request of the Secretary, the lessor must give the Secretary a copy of the agreement.

~~If either of these circumstances applies, the lessor is the motor carrier for the leased motor vehicle.~~

~~Before a lessor gives the Secretary written notice under subdivision (2) that the lessor is the motor carrier, the lessor and lessee must make a written agreement for the lessor to be the motor carrier. Upon request of the Secretary, the lessor must give the Secretary a copy of the agreement.~~

(c) Liability. – An independent contractor who leases a motor vehicle to another for fewer than 30 days is liable for compliance with this Article and the person to whom the motor vehicle is leased is not liable. Otherwise, both the lessor and lessee of a motor vehicle are jointly and severally liable for compliance with this Article."

SECTION 26.(e) G.S. 105-449.44(b) reads as rewritten:

"(b) Presumption. – The Secretary must check ~~reports~~ returns filed under this Article against the weigh station records and other records of the Division of Motor Vehicles of the Department of Transportation and the State Highway Patrol of the Department of Crime Control and Public Safety concerning motor carriers to determine if motor carriers that are operating in this State are filing the ~~reports~~ returns required by this Article. If the records indicate that a motor carrier operated in this State in a quarter and either did not file a ~~report~~ return for that quarter or understated its mileage in this State on a ~~report~~ return filed for that quarter by at least twenty-five percent (25%), the Secretary may assess the motor carrier for an amount based on the motor carrier's presumed operations. The motor carrier is presumed to have mileage in this State equal to 10 trips of 450 miles each for each of the motor carrier's qualified motor vehicles and to have fuel usage of four miles per gallon."

SECTION 26.(f) G.S. 105-449.45 reads as rewritten:

"**§ 105-449.45. ~~Reports~~ Returns of carriers.**

(a) ~~Report.~~ Return. – A motor carrier must report its operations to the Secretary on a quarterly basis unless subsection (b) of this section exempts the motor carrier from this requirement. A quarterly ~~report~~ return covers a calendar quarter and is due by the last day in April, July, October, and January. A ~~report~~ return must be filed in the form required by the Secretary.

(b) Exemptions. – A motor carrier is not required to file a quarterly ~~report~~ return if any of the following applies:

(1) All the motor carrier's operations during the quarter were made under a temporary permit issued under G.S. 105-449.49.

(2) The motor carrier is an intrastate motor carrier, as indicated on the motor carrier's application for registration with the Secretary.

(c) ~~Other Reports.~~ Informational Returns. – A motor carrier must file with the Secretary ~~other reports~~ any informational returns concerning its operations that the Secretary requires.

(d) Penalties. – A motor carrier that fails to file a ~~report~~ return under this section by the required date is subject to a penalty of fifty dollars ($50.00)."

SECTION 27. G.S. 105-449.37(a)(1) reads as rewritten:

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

(1) International Fuel Tax Agreement. – The Articles of Agreement adopted by the International Fuel Tax Association, Inc., as amended as of ~~June 1, 2008.~~June 1, 2010."

SECTION 28. G.S. 105-449.47A reads as rewritten:

"**§ 105-449.47A. Reasons why the Secretary can deny an application for a registration and decals.**

The Secretary may refuse to register and issue a decal to an applicant that does not meet the requirements set out in G.S. 105-449.69(b) or that has done any of the following:

(1) Had a registration issued under Chapter 105 or Chapter 119 of the General Statutes cancelled by the Secretary for cause.

(2) Had a registration issued by another jurisdiction, pursuant to the International Fuel Tax Agreement, cancelled for cause.

(3) Been convicted of fraud or misrepresentation.

(4) Been convicted of any other offense that indicates that the applicant may not comply with this Article if registered and issued a decal.

(5) Failed to remit payment for a tax debt under Chapter 105 or Chapter 119 of the General Statutes. The term "tax debt" has the same meaning as defined in G.S. 105-243.1.

(6) Failed to file a return due under Chapter 105 or Chapter 119 of the General Statutes."

SECTION 29.(a) G.S. 105-449.105A reads as rewritten:

"**§ 105-449.105A. Monthly refunds for kerosene.**

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

~~(1) The end-user of the kerosene, if the distributor dispenses the kerosene into a storage facility of the end-user that contains fuel used only for one of the following purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable:~~

~~a. Heating.~~

~~b. Drying crops.~~

~~c. A manufacturing process.~~

~~(2) A retailer of kerosene, if the distributor dispenses the kerosene into a storage facility that meets both of the following conditions:~~

~~a. It is marked with the phrase "Undyed, Untaxed Kerosene, Nontaxable Use Only" or a similar phrase that clearly indicates that the fuel is not to be used to operate a highway vehicle.~~

~~b. It either has a dispensing device that is not suitable for use in fueling a highway vehicle or is kept locked by the retailer and must be unlocked by the retailer for each sale of kerosene.~~

~~(3) An airport, if the distributor dispenses the kerosene into a storage facility that contains fuel used only for fueling airplanes and that meets at least one of the following conditions:~~

~~a. It is marked with the phrase "Undyed, Untaxed Kerosene, Nontaxable Use Only" or a similar phrase that clearly indicates that the fuel is not to be used to operate a highway vehicle.~~

~~b. It has a dispensing device that is not suitable for use in fueling a highway vehicle.~~

Refund for Undyed Kerosene Sold to an End User for Non-Highway Use. – A distributor who sells kerosene to an end user for one of the purposes listed in this subsection may obtain a monthly refund for the excise tax the distributor paid on the kerosene, less the amount of any discount allowed on the kerosene under G.S. 105-449.93, if the distributor dispenses the kerosene into a storage facility of the end user that contains fuel used only for one of those purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable.

(1) Heating.

(2) Drying crops.

(3) A manufacturing process.

(b) Liability. – If the Secretary determines that the Department overpaid a distributor by refunding more tax to the distributor than is due under this section, the distributor is liable for the amount of the overpayment. ~~This liability applies regardless of whether the actions of a retailer of kerosene contributed to the overpayment.~~"

SECTION 29.(b) This section becomes effective January 1, 2011, and applies to sales of kerosene made by a distributor on or after that date.

SECTION 30. G.S. 105-449.105B reads as rewritten:

"**§ 105-449.105B. Monthly hold harmless refunds for licensed distributors and some licensed importers.**

~~quarter~~

If a licensed distributor or licensed importer purchases motor fuel from a licensed supplier during a month and the discount the distributor or importer receives under G.S. 105-449.93(b) on the motor fuel is less than the amount the distributor or importer would have received during that month if the distributor or importer had been allowed a discount on taxable gasoline purchased by the distributor or importer from a supplier under the following schedule, the distributor or importer is allowed a monthly refund of the difference:

Amount of Gasoline Purchased Each Month	Percentage Discount
First 150,000 gallons	2%
Next 100,000 gallons	1 1/2%
Amount over 250,000 gallons	1%.

In determining the amount of discounts a distributor or importer received under G.S. 105-449.93(b) for motor fuel purchased in a month, a distributor or importer is considered to have received the amount of any discounts the distributor or importer could have received under that subsection but did not receive because the distributor or importer failed to pay the tax due to the supplier by the date the supplier had to pay the tax to the State."

SECTION 31.(a) G.S. 105-449.106(b) reads as rewritten:

"(b) Taxi. – A person who purchases and uses motor fuel in a ~~taxicab, as defined in G.S. 20-87(1),~~ taxicab while the taxicab is engaged in transporting passengers for hire, or in a bus operated as part of a city transit system that is exempt from regulation by the North Carolina Utilities Commission under G.S. 62-260(a)(8), may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. For purposes of this subsection, the term "taxicab" means a motor vehicle that seats no more than nine passengers, transports passengers for hire, operates on call or demand, and accepts and solicits passengers indiscriminately. An application for a refund must be made in accordance with this Part."

SECTION 31.(b) G.S. 105-449.106(c) reads as rewritten:

"(c) Special Mobile Equipment. – A person who purchases and uses motor fuel ~~to operate special mobile equipment off-highway~~ for the off-highway operation of special mobile equipment registered under Chapter 20 of the General Statutes may receive a quarterly refund,

for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax or privilege tax due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

SECTION 31.(c) Subsection (b) of this section becomes effective October 1, 2010, and applies to motor fuel purchased on or after that date. The remainder of this section is effective when it becomes law.

SECTION 32. G.S. 105-449.108(b) reads as rewritten:

"(b) Requirements. – An application for ~~an annual~~ a refund allowed under this Part must be filed with the Secretary and be in the form required by the Secretary. The application ~~must state whether or not the applicant has filed a North Carolina income tax return for the preceding taxable year. An application for a refund allowed under this Part~~ must state that the applicant has paid for the fuel for which a refund is claimed or that payment for the fuel has been secured to the seller's satisfaction. An application for an annual refund must state whether or not the applicant has filed a North Carolina income tax return for the preceding taxable year."

SECTION 33. Reserved.

SECTION 34. Reserved.

OTHER CHANGES

SECTION 35. G.S. 20-81.12(b11) reads as rewritten:

"(b11) Animal Lovers Plates. – The Division must receive 300 or more applications before an animal lovers plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the animal lovers plate to the Spay/Neuter Account established in ~~G.S. 19A-60.~~G.S. 19A-62."

SECTION 37.(a) G.S. 143B-437.012(j) reads as rewritten:

"(j) Agreement. – Unless the Secretary of Commerce determines that the project is no longer eligible or appropriate for a grant under this section, the Department shall enter into an agreement to provide a grant or grants for a project recommended by the Committee. Each grant agreement is binding and constitutes a continuing contractual obligation of the State and the business. The grant agreement shall include the performance criteria, remedies, and other safeguards recommended by the Committee or required by the Department.

Each grant agreement ~~for a business that is a major employer under subdivision (1) of subsection (d) of this section~~ shall contain a provision prohibiting a business from receiving a payment or other benefit under the agreement at any time when the business has received a notice of an overdue tax debt and the overdue tax debt has not been satisfied or otherwise resolved. Each grant agreement for a business that is a major employer under subdivision (1) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level at the project that is the subject of the agreement that is the lesser of the level it had at the time it applied for a grant under this section or that it had at the time that the investment required under subsection (d) of this section began. For the purposes of this subsection, the employment level includes full-time employees and equivalent full-time contract employees. The agreement shall further specify that the amount of a grant shall be reduced in proportion to the extent the business fails to maintain employment at this level and that the business shall not be eligible for a grant in any year in which its employment level is less than eighty percent (80%) of that required.

Each grant agreement for a business that is a large manufacturing employer under subdivision (2) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level required under that subdivision at the project that is the subject of the grant. The agreement shall further specify that the business is not eligible for a grant in any year in which the business fails to maintain the employment level.

A grant agreement may obligate the State to make a series of grant payments over a period of up to 10 years. Nothing in this section constitutes or authorizes a guarantee or assumption by the State of any debt of any business or authorizes the taxing power or the full faith and credit of the State to be pledged.

The Department shall cooperate with the Attorney General's office in preparing the documentation for the grant agreement. The Attorney General shall review the terms of all proposed agreements to be entered into under this section. To be effective against the State, an agreement entered into under this section shall be signed personally by the Attorney General."

SECTION 37.(b) This section becomes effective July 1, 2010.

SECTION 38.(a) G.S. 143B-437.012(l)(4) reads as rewritten:

"(4) Ninety-five percent (95%) of the sales and use taxes paid on ~~electricity,~~electricity and the excise tax paid on piped natural ~~gas, and the privilege tax paid on other fuel for electricity, piped natural gas, and other fuel consumed at the project that is the subject of the agreement.~~gas."

SECTION 38.(b) This section becomes effective July 1, 2010.

SECTION 39. G.S. 159-107(e) reads as rewritten:

"(e) ~~Increment Agreements. —~~Effect of Annexation on District Established by a County. – If a city annexes land in a development financing district established by a county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property within the district shall be paid to the city unless the city enters into an agreement with the county pursuant to this subsection, and the annexed land in the county's district that subsequently becomes a part of the city does not count against the city's five-percent (5%) limit under G.S. 158-7.3 or G.S. 160A-515.1 unless the city and the county enter into an agreement pursuant to this section. The city and the county may enter into an increment agreement under which the city agrees that city taxes on part or all of the incremental valuation in the district shall be paid into the revenue increment fund for the district. An increment agreement may be entered into when the district is established or at any time after the district is established. The increment agreement may extend for the duration of the district or for a shorter time agreed to by the parties."

SECTION 40. G.S. 160A-239.4(b) reads as rewritten:

"(b) Assessments Pledged. – An assessment imposed under this Article may be pledged to secure revenue bonds under ~~G.S. 153A-210.6~~G.S. 160A-239.6 or as additional security for a project development financing debt instrument under G.S. 159-111. If an assessment imposed under this Article is pledged to secure financing, the city council must covenant to enforce the payment of the assessments."

SECTION 41. G.S. 160A-613(b) is repealed.

SECTION 42. Section 27A.3(c) of S.L. 2009-451 is repealed.

SECTION 43. Section 7(c) of S.L. 2007-383, as amended by Section 1(d) of S.L. 2008-134 and S.L. 2009-90, reads as rewritten:

"**SECTION 7.(c)** Notwithstanding G.S. 62A-43, the charge imposed by that section does not apply to prepaid wireless telephone service for the 2008, 2009, ~~and 2010 calendar years.~~ 2010, and 2011 calendar years."

SECTION 44. Notwithstanding the provisions of G.S. 105-466(c), as amended by Section 12 of this act, during the 2010 calendar year a tax levied under Article 46 of Chapter 105 of the General Statutes may become effective on the first day of any calendar quarter so long as the county gives the Secretary at least 75 days advance notice of the new tax levy.

EFFECTIVE DATE

SECTION 45. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 11:45 a.m. this 17th day of July, 2010