

- 1 (8) Governor's Office.  
 2 (9) Office of State Budget and Management.  
 3 (10) Office of State Human Resources.  
 4 (11) Repealed by Session Laws 2016-94, s. 7.11(a), effective July 1, 2016.  
 5 (12) Department of Military and Veterans Affairs.  
 6 (13) Department of Public Safety, with the exception of the following:  
 7 a. State Bureau of Investigation.  
 8 b. State Highway Patrol.  
 9 c. Division of Emergency Management.

10 The State CIO shall ensure that agencies' operations are not adversely impacted during the  
 11 transition."

12 **SECTION 37.5.(c)** G.S. 143B-1325(d) reads as rewritten:

13 "(d) Report on Transition Planning. – The Community College System Office, the  
 14 Department of Public Instruction, ~~the Department of Revenue,~~ and the Bipartisan State Board of  
 15 Elections and Ethics Enforcement shall work with the State CIO to plan their transition to the  
 16 Department. The information technology transfer and consolidation from the Department of  
 17 Revenue to the Department ~~may~~ shall not take place until the Secretary of the Department of  
 18 Revenue determines that the system and data security of the Department meets the heightened  
 19 security standards required by the federal government for purposes of sharing taxpayer  
 20 information. By October 1, 2018, these agencies, in conjunction with the State CIO, shall report  
 21 to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research  
 22 Division on their respective transition plans."

23 **SECTION 37.5.(d)** Subsection (c) of this section becomes effective July 1, 2018.

24 The remainder of this section is effective when it becomes law.

## 25 **PART XXXVIII. FINANCE PROVISIONS**

### 26 **IRC UPDATE**

27 **SECTION 38.1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

28 "(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2017,~~ February  
 29 9, 2018, including any provisions enacted as of that date that become effective  
 30 either before or after that date."

31 **SECTION 38.1.(b)** G.S. 105-130.5 reads as rewritten:

32 **"§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

33 (a) The following additions to federal taxable income shall be made in determining State  
 34 net income:

35 ...

36 (26) The amount of gain that would be included for federal income tax purposes  
 37 without regard to section 1400Z-2(b) of the Code. The adjustment made in  
 38 this subsection does not result in a difference in basis of the affected assets for  
 39 State and federal income tax purposes. The purpose of this subdivision is to  
 40 decouple from the deferral of gains reinvested into an Opportunity Fund  
 41 available under federal law.

42 (27) The amount of gain that would be included in the taxpayer's federal taxable  
 43 income but for the step-up in basis under section 1400Z-2(c) of the Code. The  
 44 purpose of this subdivision is to decouple from the exclusion of gains from  
 45 the sale or exchange of an investment in an Opportunity Fund available under  
 46 federal law.

47 (28) The amount deducted under section 250 of the Code.

48 (29) The amount deducted under section 965(c) of the Code.

1 (b) The following deductions from federal taxable income shall be made in determining  
 2 State net income:

3 ...  
 4 (3b) Any amount included in federal taxable income under ~~section 78 or section~~  
 5 ~~951~~section 78, 951, 951A, or 965 of the Code, net of related expenses.

6 ...  
 7 (29) The amount of gain included in the taxpayer's federal taxable income under  
 8 section 1400Z-2(a) of the Code to the extent the same income was included in  
 9 the taxpayer's federal taxable income in a prior taxable year under subdivision  
 10 (a)(26) of this section. The purpose of this subdivision is to prevent double  
 11 taxation of income the taxpayer was previously required to include in the  
 12 calculation of State net income.

13 ...."

14 **SECTION 38.1.(c)** G.S. 105-153.5 reads as rewritten:

15 **"§ 105-153.5. Modifications to adjusted gross income.**

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

21 ...  
 22 (2) Itemized deduction amount. – An amount equal to the sum of the items listed  
 23 in this subdivision. The amounts allowed under this subdivision are not  
 24 subject to the overall limitation on itemized deductions under section 68 of  
 25 the Code:

26 ...  
 27 b. Mortgage Expense and Property Tax. – The amount allowed as a  
 28 deduction for interest paid or accrued during the taxable year under  
 29 section 163(h) of the Code with respect to any qualified residence plus  
 30 the amount allowed as a deduction for property taxes paid or accrued  
 31 on real estate under section 164 of the Code for that taxable year. For  
 32 taxable years 2014, 2015, ~~and 2016,~~2016, and 2017, the amount  
 33 allowed as a deduction for interest paid or accrued during the taxable  
 34 year under section 163(h) of the Code with respect to any qualified  
 35 residence shall not include the amount for mortgage insurance  
 36 premiums treated as qualified residence interest. The amount allowed  
 37 under this sub-subdivision may not exceed twenty thousand dollars  
 38 (\$20,000). For spouses filing as married filing separately or married  
 39 filing jointly, the total mortgage interest and real estate taxes claimed  
 40 by both spouses combined may not exceed twenty thousand dollars  
 41 (\$20,000). For spouses filing as married filing separately with a joint  
 42 obligation for mortgage interest and real estate taxes, the deduction for  
 43 these items is allowable to the spouse who actually paid them. If the  
 44 amount of the mortgage interest and real estate taxes paid by both  
 45 spouses exceeds twenty thousand dollars (\$20,000), these deductions  
 46 must be prorated based on the percentage paid by each spouse. For  
 47 joint obligations paid from joint accounts, the proration is based on the  
 48 income reported by each spouse for that taxable year.

49 ...

1 (c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer  
2 must ~~add~~ make the following adjustments to the taxpayer's adjusted gross ~~income~~ any of the  
3 ~~following items that are not included in the taxpayer's adjusted gross income:~~

- 4 (1) For taxable years 2014, 2015, ~~and 2016,~~ 2016, and 2017, the taxpayer must  
5 add the amount excluded from the taxpayer's gross income for the discharge  
6 of qualified principal residence indebtedness under section 108 of the Code.  
7 The purpose of this subdivision is to decouple from the income exclusion  
8 available under federal tax law. If the taxpayer is insolvent, as defined in  
9 section 108(d)(3) of the Code, then the addition required under this  
10 subdivision is limited to the amount of discharge of qualified principal  
11 residence indebtedness excluded from adjusted gross income under section  
12 108(a)(1)(E) of the Code that exceeds the amount of discharge of indebtedness  
13 that would have been excluded under section 108(a)(1)(B) of the Code.
- 14 (2) For taxable year 2014, 2015, ~~and 2016,~~ 2016, and 2017, the taxpayer must add  
15 the amount of the taxpayer's deduction for qualified tuition and related  
16 expenses under section 222 of the Code. The purpose of this subdivision is to  
17 decouple from the above-the-line deduction available under federal tax law.
- 18 (3) For taxable years beginning on or after 2014, the taxpayer must add the  
19 amount excluded from the taxpayer's gross income for a qualified charitable  
20 distribution from an individual retirement plan by a person who has attained  
21 age 70 1/2 under section 408(d)(8) of the Code. The purpose of this  
22 subdivision is to decouple from the income exclusion available under federal  
23 tax law.
- 24 (4) For taxable years prior to 2014, the taxpayer must add the amount excluded  
25 from the taxpayer's gross income for amounts received by a wrongfully  
26 incarcerated individual under section 139F of the Code for which the taxpayer  
27 took a deduction under former G.S. 105-134.6(b)(14). The purpose of this  
28 subdivision is to prevent a double benefit where federal tax law provides an  
29 income exclusion for income for which the State previously provided a  
30 deduction.
- 31 (5) The taxpayer must add the amount of gain that would be included for federal  
32 income tax purposes without regard to section 1400Z-2(b) of the Code. The  
33 adjustment made in this subsection does not result in a difference in basis of  
34 the affected assets for State and federal income tax purposes. The purpose of  
35 this subdivision is to decouple from the deferral of gains reinvested into an  
36 Opportunity Fund available under federal law.
- 37 (6) The taxpayer may deduct the amount of gain included in the taxpayer's  
38 adjusted gross income under section 1400Z-2(a) of the Code to the extent the  
39 same income was included in the taxpayer's adjusted gross income in a prior  
40 taxable year under subdivision (5) of this subsection. The purpose of this  
41 subdivision is to prevent double taxation of income the taxpayer was  
42 previously required to include in the calculation of North Carolina taxable  
43 income.
- 44 (7) The taxpayer must add the amount of gain that would be included in the  
45 taxpayer's adjusted gross income but for the step-up in basis under section  
46 1400Z-2(c) of the Code. The purpose of this subdivision is to decouple from  
47 the exclusion of gains from the sale or exchange of an investment in an  
48 Opportunity Fund available under federal law.

49 ...."

50 **SECTION 38.1.(d)** G.S. 105-163.1(13) reads as rewritten:

51 **"§ 105-163.1. Definitions.**

1 The following definitions apply in this Article:

2 ...

3 (13) Wages. – The term has the same meaning as in section 3401 of the Code  
4 ~~except it does not include the amount an employer pays an employee as~~  
5 ~~reimbursement for ordinary and necessary expenses incurred by the employee~~  
6 ~~on behalf of the employer and in the furtherance of the business of the~~  
7 ~~employer.~~Code."

8 **SECTION 38.1.(e)** G.S. 105-130.5(a)(17) is repealed.

9 **SECTION 38.1.(f)** G.S. 105-153.5(c)(4) is repealed.

10 **SECTION 38.1.(g)** G.S. 105-153.8(a) reads as rewritten:

11 "(a) Who Must File. – The following individuals must file with the Secretary an income  
12 tax return under affirmation:

13 (1) Every resident ~~required to file an income tax return who~~ for the taxable year  
14 has gross income under the Code that exceeds the standard deduction  
15 amount provided in G.S. 105-153.5(a)(1).

16 (2) Every nonresident individual who meets all of the following requirements:

17 a. Receives during the taxable year gross income that is derived from  
18 North Carolina sources and is attributable to the ownership of any  
19 interest in real or tangible personal property in this State, is derived  
20 from a business, trade, profession, or occupation carried on in this  
21 State, or is derived from gambling activities in this State.

22 b. ~~Is required to file an income tax return for the taxable year under the~~  
23 ~~Code.~~Has gross income under the Code that exceeds the applicable  
24 standard deduction amount provided in G.S. 105-153.5(a)(1).

25 (3) Any individual whom the Secretary believes to be liable for a tax under this  
26 Part, when so notified by the Secretary and requested to file a return."

27 **SECTION 38.1.(h)** G.S. 105-153.5(c)(7) reads as rewritten:

28 "(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the  
29 taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's  
30 adjusted gross income:

31 ...

32 (7) The amount deducted in a prior taxable year to the extent this amount was  
33 withdrawn from the Parental Savings Trust Fund of the State Education  
34 Assistance Authority established pursuant to G.S. 116-209.25 and not used to  
35 pay for ~~the qualified higher education expenses of the designated beneficiary,~~  
36 beneficiary as permitted under section 529 of the Code, unless the withdrawal  
37 ~~was made without penalty under section 529 of the Code due to the death or~~  
38 ~~permanent disability of the designated beneficiary.~~meets at least one of the  
39 following conditions:

40 a. The withdrawal was not subject to the additional tax imposed by  
41 section 529(c)(6) of the Code.

42 b. The withdrawal was rolled over to an ABLE account as defined in  
43 G.S. 147-86.70(b)."

44 **SECTION 38.1.(i)** G.S. 116-209.25 reads as rewritten:

45 **"§ 116-209.25. Parental Savings Trust Fund.**

46 (a) Policy. – The General Assembly of North Carolina hereby finds and declares that  
47 encouraging parents and other interested parties to save for the ~~postsecondary~~  
48 of eligible students is fully consistent with and furthers the long-established policy of the State  
49 to encourage, promote, and assist education as more fully set forth in G.S. 116-201(a).

50 (b) Parental Savings Trust Fund. – There is established a parental savings trust fund to be  
51 administered by the State Education Assistance Authority to enable qualified parents and other

1 interested parties to save funds to meet the costs of the postsecondary education expenses of  
 2 eligible students. students in accordance with section 529 of the Code. For purposes of this  
 3 section, the term "Code" has the same meaning as defined in G.S. 105-228.90.

4 ...."

5 **SECTION 38.1.(j)** Subsections (e), (f), and (h) of this section are effective for  
 6 taxable years beginning on or after January 1, 2018. The remainder of this section is effective  
 7 when it becomes law.

## 9 BUSINESS TAX CHANGES

10 **SECTION 38.2.(a)** G.S. 105-114(b)(2) reads as rewritten:

11 "(2) Corporation. – A domestic corporation, a foreign corporation, an electric  
 12 membership corporation organized under Chapter 117 of the General Statutes  
 13 or doing business in this State, or an association that is organized for pecuniary  
 14 gain, has capital stock represented by shares, whether with or without par  
 15 value, and has privileges not possessed by individuals or partnerships. The  
 16 term includes a mutual or capital stock savings and loan association or  
 17 building and loan association chartered under the laws of any state or of the  
 18 United States. The term includes a limited liability company or a partnership  
 19 that elects to be taxed as a corporation under the Code, but does not otherwise  
 20 include a limited liability ~~company~~ company or a partnership."

21 **SECTION 38.2.(b)** G.S. 105-122(b) reads as rewritten:

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

32 (1) A deduction for accumulated depreciation, depletion, and amortization as  
 33 determined in accordance with the method used for federal tax purposes.

34 ...

35 (1b) Assets for which a deduction is allowed under subdivision (1) of this  
 36 subsection are valued in accordance with the method used in computing  
 37 depreciation, depletion, and amortization for federal income tax purposes.

38 ...

39 ~~(3) A corporation may deduct the cost of treasury stock.~~

40 ...."

41 **SECTION 38.2.(c)** G.S. 105-130.4(l) reads as rewritten:

42 "(l) (1) The sales factor is a fraction, the numerator of which is the total sales of the  
 43 corporation in this State during the income year, and the denominator of which  
 44 is the total sales of the corporation everywhere during the income year.  
 45 Notwithstanding any other provision under this Part, the receipts from any  
 46 casual sale of property shall be excluded from both the numerator and the  
 47 denominator of the sales factor. Where a corporation is not taxable in another  
 48 state on its apportionable income but is taxable in another state only because  
 49 of nonapportionable income, all sales shall be treated as having been made in  
 50 this State.

(2) Sales of tangible personal property are in this State if the property is received in this State by the purchaser. In the case of delivery of goods by common carrier or by other means of transportation, including transportation by the purchaser, the place at which the goods are ultimately received after all transportation has been completed shall be considered as the place at which the goods are received by the purchaser. Direct delivery into this State by the taxpayer to a person or firm designated by a purchaser from within or without the State shall constitute delivery to the purchaser in this State.

(3) Other sales are in this State ~~if~~ if any of the following occur:

- a. The receipts are from real or tangible personal property located in this State; or State, and includes receipts from incidental services sold as part of, or in connection with, the sale of tangible personal property in this State.
- b. The receipts are from intangible property and are received from sources to the extent the intangible property is used within this State; or State.
- c. The receipts are from services and the income-producing activities are in this State. For the purposes of this subdivision, an "income-producing activity" means an activity directly performed by the taxpayer or its agents for the ultimate purpose of generating the sale of the service. Receipts from income-producing activities performed within and without this State are attributed to this State in proportion to the income-producing activities performed in this State to total income-producing activities performed everywhere that generate the sale of service."

**SECTION 38.2.(d)** G.S. 105-130.5(a) reads as rewritten:

**"§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

(a) The following additions to federal taxable income shall be made in determining State net income:

- ...
- (10) ~~The total amounts allowed under this Chapter during the taxable year as a credit against the taxpayer's income tax. This subdivision does not apply to a credit allowed under G.S. 105-130.47.~~ A corporation that apportions part of its income to this State shall make the addition required by this subdivision after it determines the amount of its income that is apportioned and allocated to this State and shall not apply to a credit taken under this Chapter the apportionment factor used by it in determining the amount of its apportioned income.

...

~~(20) The amount of a donation made to a nonprofit organization or a unit of State or local government for which a credit is claimed under G.S. 105-129.16H.~~

...."

**SECTION 38.2.(e)** G.S. 105-228.3 is amended by adding a new subdivision to read:  
**"(1b) Foreign captive insurance company. – A captive insurance company as defined in G.S. 58-10-340(9), except that such company is not formed or licensed under the laws of this State but is formed and licensed under the laws of any jurisdiction within the United States other than this State."**

**SECTION 38.2.(f)** G.S. 105-228.4A reads as rewritten:

**"§ 105-228.4A. Tax on captive insurance companies.**

(a) Tax Levied. – A tax is levied in this section on a captive insurance company doing business in this State. In the case of a branch captive insurance company, the tax levied in this

1 section applies only to the branch business of the company. Two or more captive insurance  
 2 companies under common ownership and control are taxed under this section as a single captive  
 3 insurance company. The tax levied in this section does not apply to a foreign captive insurance  
 4 company.

5 (b) Other Taxes. – A captive insurance company that is subject to the tax levied by this  
 6 section ~~is and a foreign captive insurance company are~~ not subject to any of the following:

- 7 (1) Franchise taxes imposed by Article 3 of this Chapter.
- 8 (2) Income taxes imposed by Article 4 of this ~~Chapter.~~Chapter, subject to the  
 9 provisions of G.S. 105-130.5A.
- 10 (3) Local privilege taxes or local taxes computed on the basis of gross premiums.
- 11 (4) The insurance regulatory charge imposed by G.S. 58-6-25.

12 ...."

13 **SECTION 38.2.(g)** G.S. 105-228.5(g) reads as rewritten:

14 "(g) Exemptions. – This section does not apply to any of the following:

- 15 (1) A farmers' mutual assessment fire insurance companies or to company.
- 16 (2) A fraternal orders or societies that do order or society that does not operate for  
 17 a profit and ~~do~~ does not issue policies on any person except members. This  
 18 section does not apply to a
- 19 (3) A captive insurance company taxed under G.S. 105-228.4A.
- 20 (4) A foreign captive insurance company that is licensed in and taxed on its gross  
 21 premiums in a jurisdiction within the United States other than this State."

22 **SECTION 38.2.(h)** Section 4 of S.L. 2017-151 is reenacted.

23 **SECTION 38.2.(i)** G.S. 105-130.11(b) reads as rewritten:

24 "(b) Unrelated Business Income. – Except as provided in this subsection, an organization  
 25 described in subdivision (a)(1), (3), (4), (5), (6), (7), (8), or (9) of this section and any  
 26 organization exempt from federal income tax under the Code is subject to the tax provided in  
 27 G.S. 105-130.3 on its unrelated business taxable income, as defined in section 512 of the Code,  
 28 adjusted as provided in G.S. 105-130.5. The tax does not apply, however, to net income derived  
 29 from any of the following:

- 30 (1) Research performed by a college, university, or hospital.
- 31 (2) Research performed for the United States or its instrumentality or for a state  
 32 or its political subdivision.
- 33 (3) Research performed by an organization operated primarily to carry on  
 34 fundamental research, the results of which are freely available to the general  
 35 public.
- 36 (4) Amounts paid or incurred by an organization that is exempt from federal  
 37 income tax under section 501(c)(3) of the Code for a parking facility that  
 38 would otherwise be included as unrelated business income under section  
 39 512(a)(7) of the Code."

40 **SECTION 38.2.(j)** Subsections (a) and (b) of this section are effective beginning on  
 41 or after January 1, 2019, and apply to the calculation of franchise tax reported on the 2018 and  
 42 later corporate income tax return. Subsection (h) of this section is effective when it becomes law  
 43 and applies to taxable years beginning on or after July 1, 2018. Subsection (i) of this section is  
 44 effective for taxable years beginning on or after January 1, 2018. The remainder of this section  
 45 is effective when it becomes law.

## 47 FEDERAL DETERMINATIONS AND AMENDED RETURNS

48 **SECTION 38.3.(a)** G.S. 105-130.20 reads as rewritten:

49 "**§ 105-130.20. Federal ~~corrections, determinations and amended returns.~~**

50 (a) Federal Determination. – If a taxpayer's federal taxable income or a federal tax credit  
 51 ~~that is~~ changed or corrected by the Commissioner of Internal Revenue or other officer of the

1 United States or other competent authority, and the change or correction affects the amount of  
2 State tax payable is corrected or otherwise determined by the federal government, payable, the  
3 taxpayer must, must file an income tax return reflecting each change or correction from a federal  
4 determination within six months after being notified of the correction or final determination by  
5 the federal government, file an income tax return with the Secretary reflecting the corrected or  
6 determined taxable income, each change or correction. The Secretary must propose an assessment  
7 for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The  
8 Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. ~~A taxpayer~~  
9 ~~that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits its~~  
10 ~~rights to any refund due by reason of the determination.~~ A federal determination has the same  
11 meaning as defined in G.S. 105-228.90.

12 (b) Amended Return. – The following applies to an amended return filed by a taxpayer  
13 with the Commissioner of Internal Revenue:

14 (1) If the amended return contains an adjustment that would increase the amount  
15 of State tax payable under this Part, then notwithstanding the provisions of  
16 G.S. 105-241.8(a), the taxpayer must file within six months thereafter an  
17 amended return with the Secretary.

18 (2) If the amended return contains an adjustment that would decrease the amount  
19 of State tax payable under this Part, the taxpayer may file an amended return  
20 with the Secretary within the provisions of G.S. 105-241.6.

21 (c) Penalties. – A taxpayer that fails to comply with this section is subject to the penalties  
22 in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

23 **SECTION 38.3.(b)** G.S. 105-159 reads as rewritten:

24 "**§ 105-159. Federal corrections, determinations and amended returns.**

25 (a) Federal Determination. – If a taxpayer's adjusted gross income, filing status, personal  
26 exemptions, standard deduction, itemized deductions, or federal tax credit that are changed or  
27 corrected by the Commissioner of Internal Revenue or other officer of the United States or  
28 competent authority, and the change or correction affects the amount of State tax payable is  
29 corrected or otherwise determined by the federal government, payable, the taxpayer must, must  
30 file an income tax return reflecting each change or correction from a federal determination  
31 within six months after being notified of the correction or final determination by the federal government,  
32 file an income tax return with the Secretary reflecting the corrected or determined adjusted gross  
33 income or federal tax credit that affects the amount of State tax payable, each change or  
34 correction. The Secretary must propose an assessment for any additional tax due from the  
35 taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any overpayment of  
36 tax as provided in Article 9 of this Chapter. ~~A taxpayer who fails to comply with this section is~~  
37 ~~subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the~~  
38 ~~determination.~~ A federal determination has the same meaning as defined in G.S. 105-228.90.

39 (b) Amended Return. – The following applies to an amended return filed by a taxpayer  
40 with the Commissioner of Internal Revenue:

41 (1) If the amended return contains an adjustment that would increase the amount  
42 of State tax payable under this Part, then notwithstanding the provisions of  
43 G.S. 105-241.8(a), the taxpayer must file within six months thereafter an  
44 amended return with the Secretary.

45 (2) If the amended return contains an adjustment that would decrease the amount  
46 of State tax payable under this Part, the taxpayer may file an amended return  
47 with the Secretary within the provisions of G.S. 105-241.6.

48 (c) Penalties. – A taxpayer that fails to comply with this section is subject to the penalties  
49 in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

50 **SECTION 38.3.(c)** G.S. 105-160.8 reads as rewritten:

51 "**§ 105-160.8. Federal corrections, determinations.**



1 For purposes of this Part, the provisions of G.S. 105-159 ~~requiring an individual to report the~~  
2 ~~correction or determination of taxable income by the federal government~~ apply to fiduciaries  
3 required to file returns for estates and trusts."

4 **SECTION 38.3.(d)** G.S. 105-163.6A reads as rewritten:

5 **"§ 105-163.6A. Federal ~~corrections.~~determinations.**

6 If the amount of taxes an employer is required to withhold and pay under the Code is ~~corrected~~  
7 ~~or otherwise determined by the federal government, the employer must, within six months after~~  
8 ~~being notified of the correction or final determination by the federal government, file a return~~  
9 ~~with the Secretary reflecting the corrected or determined amount. The Secretary must propose an~~  
10 ~~assessment for any additional tax due from the employer as provided in Article 9 of this Chapter.~~  
11 ~~If there has been an overpayment of the tax, the Secretary must either refund the overpayment to~~  
12 ~~the employer in accordance with G.S. 105-163.9 or credit the amount of the overpayment to the~~  
13 ~~individual in accordance with G.S. 105-163.10. An employer who fails to comply with this~~  
14 ~~section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by~~  
15 ~~reason of the determination.~~ changed or corrected, the provisions of G.S. 105-159 apply to  
16 employers, pension payers, and every other payer required to withhold taxes under this Article.  
17 Failure of an employer to comply with this section does not, however, affect an individual's right  
18 to a credit under G.S. 105-163.10."

19 **SECTION 38.3.(e)** G.S. 105-241.8(b) reads as rewritten:

20 "(b) Exceptions. – The exceptions to the general statute of limitations for proposing an  
21 assessment are as follows:

22 ...

23 (1a) Federal amended return. – If a taxpayer files a return as a result of filing a  
24 federal amended return and the return is filed within the time required by this  
25 Subchapter, the period for proposing an assessment of any tax due is one year  
26 after the return is filed or three years after the original return was filed or due  
27 to be filed, whichever is later. If the taxpayer does not file the return within  
28 the required time, the period for proposing an assessment of any tax due is  
29 three years after the date the federal amended return was filed with the  
30 Commissioner of Internal Revenue.

31 ...."

32 **SECTION 38.3.(f)** G.S. 105-241.10 reads as rewritten:

33 **"§ 105-241.10. Limit on refunds and assessments after a federal determination.**

34 The limitations in this section apply when a taxpayer files a timely return reflecting a federal  
35 determination that affects the amount of State tax payable and the general statute of limitations  
36 for requesting a refund or proposing an assessment of the State tax has expired. ~~A federal~~  
37 ~~determination is a correction or final determination by the federal government of the amount of~~  
38 ~~a federal tax due.~~ A return reflecting a federal determination is timely if it is filed within the time  
39 required by G.S. 105-130.20, 105-159, 105-160.8, or 105-163.6A, as appropriate. A federal  
40 determination has the same meaning as defined in G.S. 105-228.90. The limitations are:

- 41 (1) Refund. – A taxpayer is allowed a refund only if the refund is the result of  
42 adjustments related to the federal determination.
- 43 (2) Assessment. – A taxpayer is liable for additional tax only if the additional tax  
44 is the result of adjustments related to the federal determination. A proposed  
45 assessment may not include an amount that is outside the scope of this  
46 liability."

47 **SECTION 38.3.(g)** G.S. 105-228.90(b) is amended by adding a new subdivision to

48 read:

49 "(3a) Federal determination. – A change or correction of the amount of a federal tax  
50 due arising from an audit by the Commissioner of Internal Revenue."

1           **SECTION 38.3.(h)** This section is effective when it becomes law and applies to  
2 federal amended returns filed on or after that date.

3  
4 **AUTOMATIC EXTENSION OF TIME TO FILE TAX RETURNS**

5           **SECTION 38.4.(a)** G.S. 105-263 reads as rewritten:

6 "**§ 105-263. Timely filing of mailed documents and requests for extensions.**

7           (a) Mailed Document. – Sections 7502 and 7503 of the Code govern when a return,  
8 report, payment, or any other document that is mailed to the Department is timely filed.

9           (b) Extension. – The Secretary may extend the time in which a person must file a return  
10 with the Secretary. ~~To obtain an extension of time for filing a return, Except as provided in~~  
11 subsection (c) of this section, a person must comply with any application requirement set by the  
12 ~~Secretary. Secretary to obtain an extension of time for filing a return.~~ An extension of time for  
13 filing a franchise tax return or an income tax return does not extend the time for paying the tax  
14 due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing  
15 any return other than a franchise tax return or an income tax return extends the time for paying  
16 the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of  
17 time for filing a return extends the time for paying the tax expected to be due with the return,  
18 interest, at the rate established pursuant to G.S. 105-241.21, accrues on the tax due from the  
19 original due date of the return to the date the tax is paid.

20           (c) Automatic Extension. – A person who is granted an automatic extension to file a  
21 federal income tax return, including a return of partnership income, is granted an automatic  
22 extension to file the corresponding State income tax return and franchise tax return. The person  
23 must certify on the State tax return that the person was granted a federal extension."

24           **SECTION 38.4.(b)** This section becomes effective for taxable years beginning on  
25 or after January 1, 2019.

26  
27 **SALES AND USE TAX CHANGES**

28           **SECTION 38.5.(a)** G.S. 105-164.3(20b) reads as rewritten:

29 "**§ 105-164.3. Definitions.**

30 The following definitions apply in this Article:

31 ...

32 (20b) Mixed transaction contract. – A contract that includes both a real property  
33 contract for a capital improvement and a repair, maintenance, and installation  
34 service for real property that is not related to the capital improvement."

35           **SECTION 38.5.(b)** G.S. 105-164.3, as amended by subsection (a) of this section,  
36 reads as rewritten:

37 "**§ 105-164.3. Definitions.**

38 The following definitions apply in this Article:

39 ...

40 (2c) Capital improvement. – One or more of the following:

41 ...

42 e. Painting or wallpapering of real property, except where painting or  
43 wallpapering is incidental to the repair, maintenance, and installation  
44 ~~service.~~services.

45 ...

46 k. ~~Addition~~An addition or alteration to real property that is permanently  
47 affixed or installed to real property and is not an activity listed in  
48 subdivision (33l) of this section as a ~~repair, maintenance, and~~  
49 installation ~~service.~~services.

50 ...

- 1 (11d) Freestanding appliance. – A machine commonly thought of as an appliance  
2 operated by gas or electric current. Examples include ~~installation of a~~  
3 dishwasher, washing machine, clothes dryer, refrigerator, freezer, microwave,  
4 and range, regardless of whether the range is slide-in or drop-in.  
5 ...
- 6 (20b) Mixed transaction contract. – A contract that includes both a real property  
7 contract for a capital improvement and ~~a~~ repair, maintenance, and installation  
8 ~~service~~ services for real property that ~~is~~ are not related to the capital  
9 improvement.  
10 ...
- 11 (24) Net taxable sales. – The gross sales or gross receipts of ~~the business of a~~  
12 retailer or another person taxed under this Article after deducting exempt sales  
13 and nontaxable sales.  
14 ...
- 15 (33c) Qualifying datacenter. – A datacenter that satisfies each of the following  
16 conditions:  
17 a. The datacenter certifies that it satisfies or will satisfy the wage  
18 standard for the development tier area or zone in which the datacenter  
19 is located. There is no wage standard for a development tier one area.  
20 If an urban progress zone or an agrarian growth zone is not in a  
21 development tier one area, then the wage standard for that zone is an  
22 average weekly wage that is at least equal to ninety percent (90%) of  
23 the lesser of the average wage for all insured private employers in the  
24 State and the average wage for all insured private employers in the  
25 county in which the datacenter is located. The wage standard for a  
26 development tier two area or a development tier three area is an  
27 average weekly wage that is at least equal to one hundred ten percent  
28 (110%) of the lesser of the average wage for all insured private  
29 employers in the State and ninety percent (90%) of the average wage  
30 for all insured private employers in the county in which the datacenter  
31 is located.  
32 b. The Secretary of Commerce has made a written determination that at  
33 least seventy-five million dollars (\$75,000,000) in private funds has  
34 been or will be invested by one or more owners, users, or tenants of  
35 the datacenter within five years of the date the owner, user, or tenant  
36 of the datacenter makes its first real or tangible property investment in  
37 the datacenter on or after January 1, 2012. Investments in real or  
38 tangible property in the datacenter made prior to January 1, 2012, may  
39 not be included in the investment required by this subdivision.  
40 c. The datacenter certifies that it provides or will provide health  
41 insurance for all of its full-time ~~employees~~ employees as long as the  
42 datacenter operates. The datacenter provides health insurance if it pays  
43 or will pay at least fifty percent (50%) of the premiums for health care  
44 coverage that equals or exceeds the minimum provisions of the basic  
45 health care plan of coverage recommended by the Small Employer  
46 Carrier Committee pursuant to G.S. 58-50-125.  
47 ...
- 48 (33i) Remodeling. – A transaction comprised of multiple services performed by one  
49 or more persons to restore, improve, alter, or update real property that may  
50 otherwise be subject to tax as repair, maintenance, and installation services if  
51 separately performed. The term includes a transaction where the internal

1 structure or design of one or more rooms or areas within a room or building  
 2 are substantially changed. The term does not include a single service that is  
 3 included in repair, maintenance, and installation ~~service-services~~. The term  
 4 does not include a transaction where the true purpose is a repair, maintenance,  
 5 and installation ~~service-services~~ no matter that another service included in  
 6 repair, maintenance, and installation ~~service-services~~ is performed that is  
 7 incidental to the true purpose of the transaction; examples include repair of  
 8 sheetrock that includes applying paint, replacement of cabinets that includes  
 9 installation of caulk or molding, and the installation of hardwood floors that  
 10 includes installation of shoe molding.

11 ...

12 (33l) Repair, maintenance, and installation services. – The term includes the  
 13 activities listed in this subdivision and applies to tangible personal property,  
 14 motor vehicle, digital property, and real property. The term does not include  
 15 services used to fulfill a real property contract taxed in accordance with  
 16 G.S. 105-164.4H:

17 ...

18 d. To install, apply, connect, adjust, or set into position tangible personal  
 19 property, digital property, or a motor vehicle. ~~property or digital~~  
 20 property. The term includes floor refinishing and the installation of  
 21 carpet, flooring, floor coverings, windows, doors, cabinets,  
 22 countertops, and other installations where the item being installed may  
 23 replace a similar existing item. The replacement of more than one of a  
 24 like-kind item, such as replacing one or more windows, is a ~~single~~  
 25 repair, maintenance, and installation ~~service-services~~. The term does  
 26 not include an installation defined as a capital improvement under  
 27 subdivision (2c)d. of this ~~section~~ section and substantiated as a capital  
 28 improvement under G.S. 105-164.4H(a1).

29 e. To inspect or monitor property or install, apply, or connect tangible  
 30 personal property or digital property on a motor vehicle, but does not  
 31 include security or similar monitoring services for real  
 32 property. ~~vehicle or adjust a motor vehicle.~~

33 ...

34 (36) Sale or selling. – The transfer for consideration of title, license to use or  
 35 consume, or possession of tangible personal property or digital property or the  
 36 performance for consideration of a service. The transfer or performance may  
 37 be conditional or in any manner or by any means. The term ~~includes~~ applies  
 38 to the following:

- 39 a. Fabrication of tangible personal property for consumers by persons  
 40 engaged in business who furnish either directly or indirectly the  
 41 materials used in the fabrication work.
- 42 b. Furnishing or preparing tangible personal property consumed on the  
 43 premises of the person furnishing or preparing the property or  
 44 consumed at the place at which the property is furnished or prepared.
- 45 c. A transaction in which the possession of the property is transferred but  
 46 the seller retains title or security for the payment of the consideration.
- 47 d. A lease or rental.
- 48 e. Transfer of a digital code.
- 49 f. An accommodation.
- 50 g. A service contract.
- 51 h. Any other item subject to tax under this Article.

1 (37) Sales price. – The total amount or consideration for which tangible personal  
 2 property, digital property, or services are sold, leased, or rented. The  
 3 consideration may be in the form of cash, credit, property, or services. The  
 4 sales price must be valued in money, regardless of whether it is received in  
 5 money.

6 a. The term includes all of the following:

7 ...

8 7. Credit for trade-in. The amount of any credit for trade-in is not  
 9 a reduction of the sales price.

10 8. ~~Discounts~~ The amount of any discounts that are reimbursable  
 11 by a third party and can be determined at the time of sale  
 12 through any of the following:

13 I. Presentation by the consumer of a coupon or other  
 14 documentation.

15 II. Identification of the consumer as a member of a group  
 16 eligible for a discount.

17 III. The invoice the retailer gives the consumer.

18 b. The term does not include any of the following:

19 ...

20 (38b) Service contract. – A contract where the obligor under the contract agrees to  
 21 maintain, monitor, inspect, repair, or provide another service included in the  
 22 definition of repair, maintenance, and installation ~~service~~ services to digital  
 23 property, tangible personal property, or real property for a period of time or  
 24 some other defined measure. The term does not include a single service  
 25 included in repair, maintenance, or installation ~~service~~ services, but does  
 26 include a contract where the obligor may provide a service included in the  
 27 definition of repair, maintenance, and installation services as a condition of  
 28 the contract. The term includes a service contract for a pool, fish tank, or  
 29 similar aquatic feature and a home warranty. Examples include a warranty  
 30 agreement other than a manufacturer's warranty or dealer's warranty provided  
 31 at no charge to the purchaser, an extended warranty agreement, a maintenance  
 32 agreement, a repair agreement, or a similar agreement or contract.

33 ...

34 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as  
 35 amended as of ~~May 11, 2017~~ May 3, 2018.

36 ...

37 (49) Use. – The exercise of any right, power, or dominion whatsoever over tangible  
 38 personal property, digital property, or a service by the purchaser of the  
 39 property or service. The term includes withdrawal from storage, distribution,  
 40 installation, affixation to real or personal property, and exhaustion or  
 41 consumption of the property or service by the owner or purchaser. The term  
 42 does not include ~~the following~~:

43 ~~a. A sale of property~~ tangible personal property, digital property, or a  
 44 service in the regular course of business.

45 ~~b. A purchaser's use of tangible personal property or digital property in~~  
 46 ~~any of the circumstances that would exclude the storage of the property~~  
 47 ~~from the definition of "storage" in subdivision (44) of this section.~~

48 ...."

49 **SECTION 38.5(c)** G.S. 105-164.4(a) reads as rewritten:

50 **"§ 105-164.4. Tax imposed on retailers and certain facilitators.**

1 (a) A privilege tax is imposed on a retailer engaged in business in the State at the  
2 percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The  
3 general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as follows:

4 (1) The general rate of tax applies to the sales price of each item or article of  
5 tangible personal property that is sold at retail and is not subject to tax under  
6 another subdivision in this section. A sale of a freestanding appliance is a retail  
7 sale of tangible personal property. This subdivision applies to the sales price  
8 of or gross receipts derived from repair, maintenance, and installation services  
9 to tangible personal property. This subdivision does not apply to repair,  
10 maintenance, and installation services for real property; these services are  
11 taxable under subdivision (16) of this subsection.

12 (1a) The general rate applies to the sales price of each of the following items sold  
13 at retail, including all accessories attached to the item when it is delivered to  
14 the ~~purchaser~~; purchaser, and to the sales price of or the gross receipts derived  
15 from repair, maintenance, and installation services for each of the following  
16 items. The items taxable under this subdivision are as follows:

17 a. A manufactured home.

18 b. A modular home. The sale of a modular home to a modular  
19 homebuilder is considered a retail sale, no matter that the modular  
20 home may be used to fulfill a real property contract. A person who  
21 sells a modular home at retail is allowed a credit against the tax  
22 imposed by this subdivision for sales or use tax paid to another state  
23 on tangible personal property incorporated in the modular home. The  
24 retail sale of a modular home occurs when a modular home  
25 manufacturer sells a modular home to a modular homebuilder or  
26 directly to the end user of the modular home.

27 c. An aircraft. The maximum tax is two thousand five hundred dollars  
28 (\$2,500) per article. The maximum tax does not apply to the sales price  
29 of or gross receipts derived from repair, maintenance, and installation  
30 services, but the use tax exemption in G.S. 105-164.27A(a3) may  
31 apply to these services.

32 d. A qualified jet engine.

33 (1b) The rate of three percent (3%) applies to the sales price of each boat sold at  
34 retail, including all accessories attached to the boat when it is delivered to the  
35 purchaser. The maximum tax is one thousand five hundred dollars (\$1,500)  
36 per article. The maximum tax does not apply to the sales price of or gross  
37 receipts derived from the sales price of or gross receipts derived from repair,  
38 maintenance, and installation services, but the use tax exemption in  
39 G.S. 105-164.27A(a3) may apply to these services.

40 ...

41 (6b) The general rate applies to the sales price of digital property that is sold at  
42 retail and that is listed in this subdivision, is delivered or accessed  
43 electronically, is not considered tangible personal property, and would be  
44 taxable under this Article if sold in a tangible medium. The tax applies  
45 regardless of whether the purchaser of the item has a right to use it  
46 permanently or to use it without making continued payments. This subdivision  
47 applies to the sales price of or gross receipts derived from repair, maintenance,  
48 and installation services to digital property. The tax does not apply to a service  
49 that is taxed under another subdivision of this subsection or to an information  
50 service. The following property is subject to tax under this subdivision:

51 ...

(16) The general rate applies to the sales price of or the gross receipts derived from repair, maintenance, and installation services for real property and generally includes any tangible personal property or digital property that becomes a part of or is applied to a purchaser's property. A mixed transaction contract and a real property contract are taxed in accordance with G.S. 105-164.4H."

**SECTION 38.5.(d)** G.S. 105-164.4B reads as rewritten:

**"§ 105-164.4B. Sourcing principles.**

(a) General Principles. – The following principles apply in determining where to source the sale of a ~~product~~ product for the seller's purpose and do not alter the application of the tax imposed under G.S. 105-164.6. Except as otherwise provided in this section, a service is sourced where the purchaser can potentially first make use of the service. These principles apply regardless of the nature of the product, except as otherwise noted in this section:

...

(i) Computer Software Renewal. – The gross receipts derived from the renewal of a service contract for prewritten software is generally sourced pursuant to subdivision (a) of this section. However, sourcing the renewal to an address where the purchaser received the underlying prewritten software does not constitute bad faith provided the seller has not received information from the purchaser that indicates a change in the location of the underlying software."

**SECTION 38.5.(e)** G.S. 105-164.4G(e) reads as rewritten:

"(e) Exceptions. – The tax imposed by this section does not apply to the following:

- (1) An amount paid solely for the right to ~~participate~~ participate, other than to be a spectator, in sporting activities. Examples of these types of charges include bowling fees, golf green fees, and gym memberships.
- (2) Tuition, registration fees, or charges to attend instructional seminars, conferences, or workshops for educational purposes.
- (3) A political contribution.
- (4) A charge for lifetime seat rights, lease, or rental of a suite or box for an entertainment activity, provided the charge is separately stated on an invoice or similar billing document given to the purchaser at the time of sale.
- (5) An amount paid solely for transportation.
- (6) An amount paid for the right to participate, other than to be a spectator, in the following activities:
  - a. Rock climbing, skating, skiing, snowboarding, sledding, zip lining, or other similar activities.
  - b. Instruction classes related to the items included in sub-subdivision a. of this subdivision.
  - c. Riding on a carriage, boat, train, plane, horse, chairlift, or other similar rides.
  - d. Amusement rides, including a waterslide."

**SECTION 38.5.(f)** G.S. 105-164.4I reads as rewritten:

**"§ 105-164.4I. Service contracts.**

...

(e) ~~Exceptions.—The tax imposed by this section does not apply to any of the following:~~

- (1) ~~A security or similar monitoring contract for real property.~~
- (2) ~~A contract to provide a certified operator for a wastewater system.~~

...."

**SECTION 38.5.(g)** G.S. 105-164.6(b) reads as rewritten:

"(b) Liability. – The tax imposed by this section is payable by the person who purchases, leases, or rents tangible personal property or digital property or who purchases a service. If the property purchased becomes a part of real property in the State, the real property contractor, the

1 retailer-contractor, the subcontractor, the lessee, and the owner are jointly and severally liable  
 2 for the tax, except as provided in ~~G.S. 105-164.4H(a)~~G.S. 105-164.4H(a1) regarding receipt of  
 3 an affidavit of capital improvement. The liability of a real property contractor, a  
 4 retailer-contractor, a subcontractor, a lessee, or an owner who did not purchase the property is  
 5 satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

6 **SECTION 38.5.(h)** Part 2 of Article 5 of Chapter 105 of the General Statutes is  
 7 amended by adding a new section to read:

8 "**§ 105-164.11B. Recover sales tax paid.**

9 A retailer who pays sales and use tax on property or services and subsequently resells the  
 10 property or services at retail, without the property or service being used by the retailer, may  
 11 recover the sales or use tax originally paid to a seller as provided in this section. A retailer entitled  
 12 to recover tax under this section may reduce taxable receipts by the taxable amount of the  
 13 purchase price of the property or services resold for the period in which the retail sale occurs. A  
 14 recovery of tax allowed under this section is not an overpayment of tax and, where such recovery  
 15 is taken, a refund of the tax originally paid should not be requested pursuant to the authority  
 16 under G.S. 105-164.11. Any amount for tax recovered under this section in excess of tax due for  
 17 a reporting period under this Article is not subject to refund. Any tax recovered under this section  
 18 may be carried forward to a subsequent reporting period and taken as an adjustment to taxable  
 19 receipts. The records of the retailer must clearly reflect and support the adjustment to taxable  
 20 receipts for the period in which the adjustment is made."

21 **SECTION 38.5.(i)** G.S. 105-164.11(b) reads as rewritten:

22 "(b) Refund Procedures First Remedy. – The first course of remedy available to purchasers  
 23 seeking a refund of over-collected sales or use taxes from the seller are the customer refund  
 24 procedures provided in this Chapter or otherwise provided by administrative rule, bulletin, or  
 25 directive on the law issued by the Secretary. Where a person recovers tax under  
 26 G.S. 105-164.11B, a refund or credit under this section is not allowed by the Secretary."

27 **SECTION 38.5.(j)** G.S. 105-164.13 reads as rewritten:

28 "**§ 105-164.13. Retail sales and use tax.**

29 The sale at retail and the use, storage, or consumption in this State of the following tangible  
 30 personal property, digital property, and services are specifically exempted from the tax imposed  
 31 by this Article:

32 ...

33 (5e) Sales of mill machinery or mill machinery parts or accessories to any of the  
 34 ~~following persons listed in this subdivision. For purposes of this subdivision,~~  
 35 the term "accessories" does not include electricity. The persons are:

- 36 a. A manufacturing industry or plant. A manufacturing industry or plant  
 37 does not include (i) a delicatessen, cafe, cafeteria, restaurant, or  
 38 another similar retailer that is principally engaged in the retail sale of  
 39 foods prepared by it for consumption on or off its premises or (ii) a  
 40 production company.  
 41 b. A contractor or subcontractor if the purchase is for use in the  
 42 performance of a contract with a manufacturing industry or plant.  
 43 c. A subcontractor if the purchase is for use in the performance of a  
 44 contract with a general contractor that has a contract with a  
 45 manufacturing industry or plant.

46 ...

47 (9) Boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints,  
 48 parts, accessories, and supplies sold to any of the following:

- 49 a. The holder of a standard commercial fishing license issued under  
 50 G.S. 113-168.2 for principal use in commercial fishing operations.



- 1                   b.     The holder of a shellfish license issued under G.S. 113-169.2 for
- 2                   principal use in commercial shellfishing operations.
- 3                   c.     The operator of a for-hire ~~boat, vessel,~~ as defined in G.S. 113-174, for
- 4                   principal use in the commercial use of the boat.
- 5                   ...
- 6           (13)   All of the ~~following drugs,~~ drugs listed in this subdivision, including their
- 7                   packaging materials and any instructions or information about the drugs
- 8                   included in the package with ~~them:them.~~ This subdivision does not apply to
- 9                   pet food or feed for animals. The drugs exempt under this subdivision are as
- 10                  follows:
- 11                  a.     Drugs required by federal law to be dispensed only on prescription.
- 12                  b.     Over-the-counter drugs sold on prescription. This sub-subdivision
- 13                  does not apply to purchases of over-the-counter drugs by hospitals and
- 14                  other medical facilities for use and treatment of patients.
- 15                  c.     Insulin.
- 16                  ...
- 17           (15)   Accounts of purchasers, representing taxable sales, on which the tax imposed
- 18                   by this Article has been paid, that are found to be worthless and actually
- 19                   charged off for income tax purposes may, at corresponding periods, be
- 20                   deducted from gross sales. In the case of a municipality that sells electricity,
- 21                   the account may be deducted if it meets all the conditions for charge-off that
- 22                   would apply if the municipality were subject to income tax. Any accounts
- 23                   deducted pursuant to this subdivision must be added to gross sales if
- 24                   afterwards collected. For purposes of this exemption, a worthless account of
- 25                   a purchaser is a "bad debt" as allowed under section 166 of the Code. The
- 26                   amount calculated pursuant to section 166 of the Code must be adjusted to
- 27                   exclude financing charges or interest, sales or use taxes charged on the sales
- 28                   price, uncollectible amounts on property that remains in the possession of the
- 29                   seller until the full purchase price is paid, expenses incurred in attempting to
- 30                   collect any debt, and repossessed property.
- 31                  ...
- 32           (61a)   The sales price of or the gross receipts derived from the repair, maintenance,
- 33                   and installation services and service contracts listed in this subdivision are
- 34                   exempt from tax. Except as otherwise provided in this subdivision, property
- 35                   and services used to fulfill either a repair, maintenance, or installation service
- 36                   or a service contract exempt from tax under this subdivision are taxable. The
- 37                   list of repair, maintenance, and installation services and service contracts
- 38                   exempt from tax under this subdivision is as follows:
- 39                  a.     ~~An A service and a service contract for an~~ item exempt from tax under
- 40                   this Article. Article, except as otherwise provided in this subdivision.
- 41                   Property and services used to fulfill a service or service contract
- 42                   exempt under this sub-subdivision are exempt from tax under this
- 43                   Article. This exemption does not apply to water for a pool, fish tank,
- 44                   or similar aquatic feature or to a motor vehicle, except as provided
- 45                   under subdivision (62a) of this ~~section~~ section and fees under
- 46                   sub-subdivision b. of this subdivision.
- 47                  ...
- 48                  p.     A security or similar monitoring contract for real property. The
- 49                   exemption provided in this subdivision does not apply to charges for
- 50                   repair, maintenance, and installation services to repair security, alarm,
- 51                   and other similar monitoring systems for real property.

1 q. A contract to provide a certified operator for a wastewater system.

2 ...

3 (70) Gross receipts derived from a rental of an accommodation are exempt as  
4 provided in G.S. 105-164.4F."

5 **SECTION 38.5(k)** G.S. 105-164.13E reads as rewritten:

6 "**§ 105-164.13E. Exemption for farmers.**

7 (a) Exemption. – A qualifying farmer is a person who has an annual income from farming  
8 operations for the preceding taxable year of ten thousand dollars (\$10,000) or more or who has  
9 an average annual income from farming operations for the three preceding taxable years of ten  
10 thousand dollars (\$10,000) or more. For purposes of this section, the term "income from farming  
11 operations" means sales plus any other amounts treated as gross income under the Code from  
12 farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg  
13 producer, and a livestock farmer, a farmer of crops, ~~and~~ a farmer of an aquatic species, as defined  
14 in ~~G.S. 106-758~~. G.S. 106-758, and a person who boards horses. A qualifying farmer may apply  
15 to the Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption  
16 certificate expires when a person fails to meet the income threshold for three consecutive taxable  
17 years or ceases to engage in farming operations, whichever comes first.

18 ~~The following tangible personal property, digital property, and services are exempt from sales~~  
19 ~~and use tax if~~ Except as otherwise provided in this section, the items exempt under this section  
20 must be purchased by a qualifying farmer and for use used by the farmer in farming operations.  
21 For purposes of this section, an item is used by a farmer for farming operations if it is used for  
22 the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy  
23 products, eggs, ~~or animals~~ or animals. The following tangible personal property and services that  
24 may be exempt from sales and use tax under this section are as follows:

25 ...

26 (c1) Services for Farmer. – A qualifying item listed in subdivision (6) of subsection (a) of  
27 this section purchased to fulfill a service for a person who holds a qualifying farmer exemption  
28 certificate or a conditional farmer exemption certificate issued under G.S. 105-164.28A is  
29 exempt from sales and use tax to the same extent as if purchased directly by the person who holds  
30 the exemption certificate. A person that purchases one of the items allowed an exemption under  
31 this subsection must provide an exemption certificate to the retailer that includes the name of the  
32 purchaser and an exemption number issued to the purchaser by the Department pursuant to  
33 G.S. 105-164.28A. A person that purchases an item exempt from tax pursuant to this subsection  
34 must maintain records to substantiate that an item is used to provide a service for a person who  
35 holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate.

36 ...."

37 **SECTION 38.5(l)** G.S. 105-164.14(a) reads as rewritten:

38 "(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance with this  
39 section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars  
40 and locomotives, and fuel, lubricants, repair parts, accessories, service contracts, and repair,  
41 maintenance, and installation services for a motor vehicle, railroad car, locomotive, or airplane  
42 the carrier operates. An "interstate carrier" is a person who is engaged in transporting persons or  
43 property in interstate commerce for compensation. The Secretary shall prescribe the periods of  
44 time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may  
45 be claimed, and shall prescribe the time within which, following these periods, an application for  
46 refund may be made.

47 An applicant for refund shall furnish the following information and any proof of the  
48 information required by the Secretary:

49 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts,  
50 accessories, service contracts, and repair, maintenance, and installation

1 services purchased by the applicant inside or outside this State during the  
2 refund period.

3 (2) The purchase price of the taxable items listed in subdivision (1) of this  
4 subsection. For purposes of this subdivision, the term "taxable" is based on  
5 the imposition of tax on the items and services in the State.

6 (3) The sales and use taxes paid in this State on the listed items.

7 (4) The number of miles the applicant's motor vehicles, railroad cars,  
8 locomotives, and airplanes were operated both inside and outside this State  
9 during the refund period. Airplane miles are not in this State if the airplane  
10 does not depart or land in this State.

11 (5) Any other information required by the Secretary.

12 For each applicant, the Secretary shall compute the amount to be refunded as follows. First,  
13 the Secretary shall determine the mileage ratio. The numerator of the mileage ratio is the number  
14 of miles the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes in  
15 this State during the refund period. The denominator of the mileage ratio is the number of miles  
16 the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes both inside  
17 and outside this State during the refund period. Second, the Secretary shall determine the  
18 applicant's proportional liability for the refund period by multiplying this mileage ratio by the  
19 purchase price of the items identified in subdivision (1) of this subsection and then multiplying  
20 the resulting product by the tax rate that would have applied to the items if they had all been  
21 purchased in this State. Third, the Secretary shall refund to each applicant the excess of the  
22 amount of sales and use taxes the applicant paid in this State during the refund period on these  
23 items over the applicant's proportional liability for the refund period."

24 **SECTION 38.5.(m)** G.S. 105-164.15A(b) reads as rewritten:

25 "(b) Combined General Rate Items. – The effective date of a rate change for an item that  
26 is taxable under this Article at the combined general rate is administered as follows:

27 ...."

28 **SECTION 38.5.(n)** G.S. 105-164.19 reads as rewritten:

29 **"§ 105-164.19. Extension of time for making returns and payment.**

30 The Secretary for good cause may extend the time for filing any return under the provisions  
31 of this Article and may grant additional time within which to file the return ~~as he may deem~~  
32 ~~proper, but the time for filing any return shall not be extended for more than 30 days after the~~  
33 ~~regular due date of the return. If the time for filing a return is extended, interest accrues at the~~  
34 ~~rate established pursuant to G.S. 105-241.21 from the time the return was due to be filed to the~~  
35 ~~date of payment and pay the tax due pursuant to G.S. 105-263(b)."~~

36 **SECTION 38.5.(o)** G.S. 105-164.27A(a) reads as rewritten:

37 "(a) General. – A general direct pay permit authorizes its holder to purchase certain  
38 tangible personal property, digital property, or service without paying tax to the seller and  
39 authorizes the seller to not collect any tax on a sale to the permit holder. A general direct pay  
40 permit may not be used for purposes identified in subsections (a1), (a2), (a3), or (b) of this  
41 section. A person who purchases an item under a direct pay permit issued under this subsection  
42 is liable for use tax due on the purchase. The tax is payable when the property is placed in use or  
43 the service is received. A direct pay permit issued under this subsection does not apply to taxes  
44 imposed under G.S. 105-164.4 on sales of ~~electricity~~ electricity, piped natural gas, video  
45 programming, spirituous liquor, or the gross receipts derived from rentals of accommodations.

46 A person who purchases an item for storage, use, or consumption in this State whose tax  
47 status cannot be determined at the time of the purchase because of one of the reasons listed below  
48 may apply to the Secretary for a general direct pay permit:

49 (1) The place of business where the item will be stored, used, or consumed in the  
50 State is not known at the time of the purchase and a different tax consequence  
51 applies depending on where the item is ~~used~~ used in the State.

- 1 (2) The manner in which the item will be stored, used, or consumed in the State  
2 is not known at the time of the purchase and one or more of the potential uses  
3 is taxable but others are not ~~taxable-taxable in the State.~~"

4 **SECTION 38.5.(p)** G.S. 105-164.32 reads as rewritten:

5 **"§ 105-164.32. Incorrect returns; estimate.**

6 If a retailer, a wholesale ~~merchant-merchant~~, a facilitator, or a consumer fails to file a return  
7 and pay the tax due under this Article or files a grossly incorrect or false or fraudulent return, the  
8 Secretary must estimate the tax due and assess the retailer, the wholesale merchant, the facilitator,  
9 or the consumer based on the estimate."

10 **SECTION 38.5.(q)** G.S. 105-244.3(a) reads as rewritten:

11 "(a) Grace Period. – The Department shall take no action to assess any tax due for a filing  
12 period beginning on or after March 1, 2016, and ending ~~before-prior to~~ January 1, 2018, 2019, if  
13 one or more of the conditions of this subsection apply and the retailer did not receive specific  
14 written advice from the Secretary for the transactions at issue for the laws in effect for the  
15 applicable periods. Except as otherwise provided, this subsection also applies to use tax liability  
16 imposed on a purchaser under G.S. 105-164.6. The conditions are as follows:

- 17 (1) A retailer failed to charge sales tax due on separately stated installation  
18 charges that are part of the sales price of tangible personal property or digital  
19 property sold at retail.
- 20 (2) A person failed to properly classify themselves as a retailer in retail trade for  
21 the period beginning March 1, 2016, and ending December 31, 2016, and did  
22 not charge sales tax on all retail transactions but rather treated some  
23 transactions as real property contracts in error for sales and use tax purposes.  
24 This subdivision does not prohibit the Secretary from assessing use tax on  
25 purchases used to fulfill a transaction erroneously treated as a real property  
26 contract.
- 27 (3) A person treated a transaction as a real property contract in error and did not  
28 collect sales tax on the transaction as a retail sale. This subdivision does not  
29 prohibit the Secretary from assessing use tax on purchases used to fulfill a  
30 transaction erroneously treated as a real property contract.
- 31 (4) A person failed to collect sales tax on the sales price of a service contract for  
32 one or more components, systems, or accessories for a motor vehicle on or  
33 after March 1, 2016, and prior to January 1, 2017, where the contract was sold  
34 by a motor vehicle dealer, a motor vehicle service agreement company, or a  
35 motor vehicle dealer on behalf of a motor vehicle service agreement company.
- 36 (5) A person failed to collect sales tax on the retail sale of a service contract for  
37 tangible personal property that becomes a part of or is affixed to real property.
- 38 (6) A person failed to collect sales tax on the retail sale of a service contract for a  
39 pool, a fish tank, or similar aquatic feature on or after January 1, 2017, and  
40 prior to January 1, ~~2018, 2019~~, provided the person paid tax on any purchases  
41 used to fulfill the service contract.
- 42 (7) A person failed to collect sales tax on the sales price of or the gross receipts  
43 derived from the retail sale of a home warranty on or after January 1, 2017,  
44 and prior to January 1, ~~2018, 2019~~, provided the warranty includes coverage  
45 for real property.
- 46 (8) A person failed to collect sales tax on the taxable portion of a mixed service  
47 contract ~~for repair, maintenance, and installation services~~ that exceeds ten  
48 percent (10%) for a transaction prior to January 1, 2017, on or after January 1,  
49 2017, and prior to January 1, 2019. This subdivision does not prohibit the  
50 Secretary from assessing use tax on purchases used to fulfill a mixed contract.

1           (8a) A person failed to collect sales tax on the taxable portion of a mixed  
2 transaction contract that exceeds twenty-five percent (25%) for a transaction  
3 on or after January 1, 2017, and prior to January 1, 2019. This subdivision  
4 does not prohibit the Secretary from assessing use tax on purchases used to  
5 fulfill a mixed transaction contract.

6           (8b) A person failed to collect sales tax on the taxable portion of a bundled  
7 transaction that included a contract for two more services, one of which was  
8 subject to tax and one of which was not subject to tax, for a transaction on or  
9 after March 1, 2016, and prior to January 1, 2017.

10          (9) A person treats a transaction as a real property contract for remodeling instead  
11 of the retail sale of repair, maintenance, and installation services sold at retail  
12 prior to January 1, ~~2018.~~ 2019. This subdivision does not prohibit the  
13 Secretary from assessing use tax on purchases used to fulfill the transaction.

14          (10) A person failed to collect sales tax on repair, maintenance, and installation  
15 services for tangible personal property, motor vehicles, and digital property."

16          **SECTION 38.5.(r)** G.S. 105-187.52(c) reads as rewritten:

17          "(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this  
18 Article. The exemption in G.S. 105-164.13(62) does not apply to an item used to maintain or  
19 repair tangible personal property pursuant to a service contract exempt from tax under  
20 ~~G.S. 105-164.4I(b)(4).~~ G.S. 105-164.13(61a)a."

21          **SECTION 38.5.(s)** G.S. 105-164.4H(a1) reads as rewritten:

22          "(a1) Substantiation. – Generally, services to real property are retail sales of or the gross  
23 receipts derived ~~from,~~ from repair, maintenance, and installation services and subject to tax in  
24 accordance with G.S. 105-164.4(a)(16), unless a person substantiates that a transaction is subject  
25 to tax as a real property contract in accordance with subsection (a) of this section, subject to tax  
26 as a mixed transaction in accordance with subsection (d) of this section, or the transaction is not  
27 subject to tax. A person may substantiate that a transaction is a real property contract or a mixed  
28 transaction by records that establish the transaction is a real property contract or by receipt of an  
29 affidavit of capital improvement. The receipt of an affidavit of capital improvement, absent fraud  
30 or other egregious activities, establishes that the subcontractor or other person receiving the  
31 affidavit should treat the transaction as a capital improvement, and the transaction is subject to  
32 tax in accordance with subsection (a) of this section. A person that issues an affidavit of capital  
33 improvement is liable for any additional tax due on the transaction, in excess of tax paid on  
34 related purchases under subsection (a) of this section, if it is determined that the transaction is  
35 not a capital improvement but rather the transaction is subject to tax as a retail sale. A person  
36 who receives an affidavit of capital improvement from another person, absent fraud or other  
37 egregious activities, is not liable for any additional tax on the gross receipts from the transaction  
38 if it is determined that the transaction is not a capital improvement.

39          The Secretary may establish guidelines for transactions where an affidavit of capital  
40 improvement is not required, but rather a person may establish by records that such transactions  
41 are subject to tax in accordance with subsection (a) of this section."

42          **SECTION 38.5.(t)** G.S. 105-164.22 reads as rewritten:

43          "**§ 105-164.22. Record-keeping requirements, inspection authority, and effect of failure to**  
44 **keep records.**

45          Retailers, wholesale merchants, and consumers must keep records that establish their tax  
46 liability under this Article. The Secretary or a person designated by the Secretary may inspect  
47 these records at any reasonable time during the day.

48          A retailer's records must include records of the retailer's gross income, gross sales, net taxable  
49 sales, and all items purchased for resale. Failure of a retailer to keep records that establish that a  
50 sale is exempt under this Article subjects the retailer to liability for tax on the sale.

1 A wholesale merchant's records must include a bill of sale for each customer that contains  
2 the name and address of the purchaser, the date of the purchase, the item purchased, and the price  
3 at which the wholesale merchant sold the item. Failure of a wholesale merchant to keep these  
4 records for the sale of an item subjects the wholesale merchant to liability for tax at the rate that  
5 applies to the retail sale of the item.

6 A consumer's records must include an invoice or other statement of the purchase price of an  
7 item the consumer purchased from inside or outside the State. Failure of the consumer to keep  
8 these records subjects the consumer to liability for tax on the purchase price of the item, as  
9 determined by the Secretary."

10 **SECTION 38.5.(u)** G.S. 105-164.4G(f) reads as rewritten:

11 "(f) Exemptions. – The sale at retail and the use, storage, or consumption in this State of  
12 the following gross receipts derived from an admission charge to an entertainment activity are  
13 specifically exempt from the tax imposed by this Article:

14 (1) The portion of a membership charge that is deductible as a charitable  
15 contribution under section 170 of the ~~Code~~.Code or that is described in section  
16 170(l)(2) of the Code.

17 (2) A donation that is deductible as a charitable contribution under section 170 of  
18 the ~~Code~~.Code or that is described in section 170(l)(2) of the Code.

19 ...."

20 **SECTION 38.5.(v)** G.S. 105-164.7 reads as rewritten:

21 "**§ 105-164.7. Retailer or facilitator to collect sales tax from purchaser as trustee for State.**

22 The sales tax imposed by this Article is intended to be passed on to the purchaser of a taxable  
23 item or service and borne by the purchaser instead of by the retailer. A retailer must collect the  
24 tax due on an item or service when ~~the item is sold~~ at retail. The requirements of this section  
25 apply to facilitators liable for tax under this Article. The tax is a debt from the purchaser to the  
26 retailer until paid and is recoverable at law by the retailer in the same manner as other debts. A  
27 retailer is considered to act as a trustee on behalf of the State when it collects tax from the  
28 purchaser ~~of on~~ a taxable ~~item sale~~. The tax must be stated and charged separately on the invoices  
29 or other documents of the retailer given to the purchaser at the time of the sale except for either  
30 of the following:

31 (1) Vending machine sales.

32 (2) Where a retailer displays a statement indicating the sales price includes the  
33 tax."

34 **SECTION 38.5.(w)** G.S. 105-471 reads as rewritten:

35 "**§ 105-471. Retailer to collect sales tax.**

36 Every ~~retailer whose place of business is person liable for tax~~ in a taxing county shall on and  
37 after the levy of the tax herein authorized collect the one percent (1%) local sales tax provided  
38 by this Article. A ~~retailer person~~ is required to collect a local use tax on a transaction if a local  
39 sales tax does not apply to the transaction in accordance with G.S. 105-164.8(c).

40 The tax to be collected under this Article shall be collected as a part of the sales price of an  
41 item or transaction subject to tax in accordance with G.S. 105-467. The tax shall be stated and  
42 charged separately from the sales price or purchase price and shall be shown separately on the  
43 ~~retailer's sales record record~~, except as provided in G.S. 105-164.7, and shall be paid by the  
44 purchaser to the ~~retailer person liable for the tax~~ as trustee for and on account of the State or  
45 county wherein the tax is imposed. It is the intent and purpose of this Article that the local sales  
46 and use tax herein authorized to be imposed and levied by a taxing county shall be added to the  
47 sales price and that the tax shall be passed on to the purchaser instead of being borne by the  
48 ~~retailer person liable for the tax~~. The Secretary of Revenue shall ~~design, print and furnish to all~~  
49 ~~retailers in a taxing county in which he shall collect and administer the tax~~ design the necessary  
50 forms for filing returns and instructions to insure the full collection from ~~retailers, a person liable~~

1 for this tax, and the Secretary may adapt the present form used for the reporting and collecting  
2 of the State sales and use tax to this purpose."

3 **SECTION 38.5.(x)** G.S. 105-164.3, as amended by subsections (a) and (b) of this  
4 section, reads as rewritten:

5 "**§ 105-164.3. Definitions.**

6 The following definitions apply in this Article:

7 ...

8 (30b) Property management contract. – A written contract to manage one or more  
9 of the activities listed in this subdivision that are related to real property used  
10 for business, educational, commercial, or income-producing purposes. The  
11 activity may include the lease or rental of the property on behalf of the owner,  
12 other than the lease or rental of an accommodation taxable under  
13 G.S. 105-164.4(a)(3). The term does not include a contract for repair,  
14 maintenance, and installation services for real property. The activities that  
15 may be performed under a property management contract are as follows:

- 16 a. Hiring and supervising employees for the property.  
17 b. Providing a person to manage the property.  
18 c. Receiving and applying revenues received from tenants of the  
19 property.  
20 d. Arranging for services from third parties in order to comply with the  
21 landlord's obligations under a lease or rental agreement or to comply  
22 with facility-related needs of the property's occupants. The activity  
23 may include supplemental repair, maintenance, and installation  
24 services to complement taxable services provided by third-party  
25 vendors if no additional fee is imposed under the contract for that  
26 supplemental service.  
27 e. Incurring and paying expenses derived from the operation of the real  
28 property.  
29 f. Handling administrative affairs for the real property.

30 (30b)(30d) Prosthetic device. – A replacement, corrective, or supporting device worn  
31 on or in the body that meets one of the conditions of this subdivision. The term  
32 includes repair and replacement parts for the device.

- 33 a. Artificially replaces a missing portion of the body.  
34 b. Prevents or corrects a physical deformity or malfunction.  
35 c. Supports a weak or deformed portion of the body.

36 ...."

37 **SECTION 38.5.(y)** G.S. 105-164.13(61a), as amended by subsection (j) of this  
38 section, reads as rewritten:

39 "**§ 105-164.13. Retail sales and use tax.**

40 The sale at retail and the use, storage, or consumption in this State of the following tangible  
41 personal property, digital property, and services are specifically exempted from the tax imposed  
42 by this Article:

43 ...

44 (61a) The sales price of or the gross receipts derived from the repair, maintenance,  
45 and installation services and service contracts listed in this subdivision are  
46 exempt from tax. Except as otherwise provided in this subdivision, property  
47 and services used to fulfill either a repair, maintenance, or installation service  
48 or a service contract exempt from tax under this subdivision are taxable. The  
49 list of repair, maintenance, and installation services and service contracts  
50 exempt from tax under this subdivision is as follows:

51 ...

1           r.       A property management contract."

2           **SECTION 38.5.(z)** The Revenue Laws Study Committee must review the  
3 amendments to G.S. 105-164.3 and G.S. 105-164.13 made by subsections (x) and (y) of this  
4 section and recommend to the 2019 Regular Session of the 2019 General Assembly any changes  
5 necessary to make the law concise, intelligible, easy to administer, and equitable.

6           **SECTION 38.5.(aa)** Except as otherwise provided, this section is effective when it  
7 becomes law.

8           Subsection (a) of this section is effective retroactively to January 1, 2017. If the  
9 amendment to G.S. 105-164.3(20b), as enacted by subsection (a) of this section, increases sales  
10 and use tax liability, then it is effective when this section becomes law.

11           Subsection (g) of this section is effective retroactively to January 1, 2017, and applies  
12 to sales and purchases made on or after that date.

13           Subsection (k) of this section is effective retroactively to July 1, 2014. A person who  
14 paid sales and use tax for a return period ending prior to the date this section becomes law on an  
15 item exempt from sales and use tax pursuant to G.S. 105-164.13E, as amended by subsection (k)  
16 of this section, may apply to the Department of Revenue for a refund of any excess tax paid to  
17 the extent the refund is the result of the change in the law enacted by subsection (k) of this section.  
18 A request for a refund must be made on or before October 1, 2018. Notwithstanding  
19 G.S. 105-241.6, a request for a refund received after this date is barred and the provisions of  
20 G.S. 105-164.11 do not apply.

21           Subsections (x) and (y) of this section become effective January 1, 2020.

## 22 23 **EXCISE TAX CHANGES**

24           **SECTION 38.6.(a)** G.S. 105-113.9(2) reads as rewritten:

25           "(2) The sale of cigarettes to a nonresident ~~wholesaler or retailer registered through~~  
26 ~~the Secretary-purchaser~~ who has no place of business in North Carolina and  
27 who purchases the cigarettes for the purposes of resale not within this State  
28 and where the cigarettes are delivered to the purchaser at the business location  
29 in North Carolina of the distributor who is also licensed as a distributor under  
30 the laws of the state of the nonresident purchaser."

31           **SECTION 38.6.(b)** G.S. 105-113.36 reads as rewritten:

32           "**§ 105-113.36. Wholesale dealer and retail dealer must obtain license.**

33           A wholesale dealer shall obtain for each place of business a continuing tobacco products  
34 license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A retail dealer shall  
35 obtain for each place of business a continuing tobacco products license and shall pay a tax of ten  
36 dollars (\$10.00) for the license. A "place of business" is a place where a wholesale dealer ~~or~~  
37 ~~where a retail dealer~~ makes tobacco products other than cigarettes or a wholesale dealer or a retail  
38 dealer receives or stores non-tax-paid tobacco products other than cigarettes."

39           **SECTION 38.6.(c)** Part 5 of Article 2C of Chapter 105 of the General Statutes is  
40 amended by adding a new section to read:

41           "**§ 105-113.83A. Registration and discontinuance requirements; penalties.**

42           (a) Registration Required. – A person who holds a wine shipper permit issued under  
43 G.S. 18B-1001.1 or one or more of the following ABC permits issued under Article 11 of Chapter  
44 18B of the General Statutes must register with the Secretary:

- 45           (1) Unfortified winery.  
46           (2) Fortified winery.  
47           (3) Brewery.  
48           (4) Distillery.  
49           (5) Wine importer.  
50           (6) Wine wholesaler.  
51           (7) Malt beverages importer.



- 1           (8)    Malt beverages wholesaler.  
2           (9)    Nonresident malt beverage vendor.  
3           (10) Nonresident wine vendor.  
4           (11) Wine Producer.

5       (b)    Registration Form. – Registration must be in a form required by the Secretary and  
6 include all information requested. If a permittee fails to register, the Secretary must notify the  
7 ABC Commission of the violation.

8       (c)    Discontinuance of Authorized Activities. – A permittee required to be registered, who  
9 changes ownership or stops engaging in the activities authorized by an issued ABC permit, must  
10 notify the Secretary in writing of the change. The permittee is responsible for maintaining a bond  
11 or irrevocable letter of credit as required by G.S. 105-113.86 and submitting all returns and the  
12 payment of all taxes for which the permittee is liable under this Article while the issued ABC  
13 permit is active.

14       (d)    Penalty. – The Secretary must notify the ABC Commission when a permittee required  
15 to register is not eligible to hold an ABC permit for failure to satisfy G.S. 18B-900(a)(8). Upon  
16 notification, the ABC Commission must impose any penalty permitted under G.S. 18B-104."

17       **SECTION 38.6.(d)** G.S. 105-113.86(b) reads as rewritten:

18       "(b)    Nonresident Vendors. – The Secretary may require the holder of a nonresident vendor  
19 ABC permit to furnish a bond in an amount not to exceed two thousand dollars (\$2,000). The  
20 bond ~~shall~~must be conditioned on compliance with this Article, ~~shall be payable to the State,~~  
21 ~~shall be State~~ in a form acceptable to the Secretary, and ~~shall be secured by a corporate surety or~~  
22 ~~by a pledge of obligations of the federal government, the State, or a political subdivision of the~~  
23 ~~State surety."~~

24       **SECTION 38.6.(e)** G.S. 105-259(b)(50) reads as rewritten:

25       "(50)   To provide public access to a list containing the ~~name~~name, physical address,  
26           and account number of entities licensed under Article 2A of this Chapter to  
27           aid in the administration of the tobacco products tax."

28       **SECTION 38.6.(f)** G.S. 105-449.80(a) reads as rewritten:

29       "(a)    Rate. – For the period that begins on January 1, 2016, and ends on June 30, 2016, the  
30 motor fuel excise tax rate is a flat rate of thirty-five cents (35¢) per gallon. For the period that  
31 begins on July 1, 2016, and ends on December 31, 2016, the motor fuel excise tax rate is a flat  
32 rate of thirty-four cents (34¢) per gallon. For the calendar years beginning on January 1, 2017,  
33 the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon, multiplied by a  
34 percentage. For calendar years beginning on or after January 1, 2018, the motor fuel excise tax  
35 rate is the amount for the preceding calendar year, multiplied by a percentage. The percentage is  
36 one hundred percent (100%) plus or minus the sum of the following:

- 37       (1)    The percentage change in population for the applicable calendar year, as  
38           estimated under G.S. 143C-2-2, multiplied by seventy-five percent (75%).  
39       (2)    The annual percentage change in the Consumer Price Index for All Urban  
40           Consumers, multiplied by twenty-five percent (25%). For purposes of this  
41           subdivision, "Consumer Price Index for All Urban Consumers" means the  
42           United States city average for energy index contained in the detailed report  
43           released in the October prior to the applicable calendar year by the Bureau of  
44           Labor Statistics of the United States Department of ~~Labor~~Labor, or data  
45           determined by the Secretary to be equivalent."

46       **SECTION 38.6.(g)** Section 2(b) of S.L. 2016-23 reads as rewritten:

47       "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
48 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section  
49 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment  
50 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel  
51 excise tax rate for an establishment to which permits may be issued pursuant to

1 G.S. 18B-1006(n1), as enacted by this act, is ~~sixteen cents (16¢)~~ eighteen cents (18¢) per gallon.  
2 The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate  
3 imposed by this section with the rate levied by the State of South Carolina on motor fuels and  
4 may recommend a change in the rate imposed by this section to an amount no greater than the  
5 rate then in effect for the State of South Carolina. An establishment designated as a special class  
6 of property by this section may obtain monthly refunds on the difference between the motor fuel  
7 excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section.  
8 The Department shall calculate for each calendar year the difference between the motor fuel  
9 excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an  
10 establishment classified by this section in the absence of this classification and the motor fuel  
11 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.  
12 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,  
13 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The  
14 difference in taxes shall be carried forward in the records of the Department as deferred taxes.  
15 The deferred taxes for the preceding three calendar years are due and payable on the day this  
16 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,  
17 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the  
18 tax value of the property. A disqualifying event occurs when the title to the real property  
19 underlying the establishment is transferred to a new owner. A lien for deferred taxes is  
20 extinguished when the amount required by this subsection is paid."

21 **SECTION 38.6.(h)** Effective July 1, 2018, Section 2(b) of S.L. 2016-23, as rewritten  
22 by subsection (g) of this section, reads as rewritten:

23 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
24 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section  
25 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment  
26 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel  
27 excise tax rate for an establishment to which permits may be issued pursuant to  
28 G.S. 18B-1006(n1), as enacted by this act, is ~~eighteen cents (18¢)~~ twenty cents (20¢) per gallon.  
29 The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate  
30 imposed by this section with the rate levied by the State of South Carolina on motor fuels and  
31 may recommend a change in the rate imposed by this section to an amount no greater than the  
32 rate then in effect for the State of South Carolina. An establishment designated as a special class  
33 of property by this section may obtain monthly refunds on the difference between the motor fuel  
34 excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section.  
35 The Department shall calculate for each calendar year the difference between the motor fuel  
36 excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an  
37 establishment classified by this section in the absence of this classification and the motor fuel  
38 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.  
39 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,  
40 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The  
41 difference in taxes shall be carried forward in the records of the Department as deferred taxes.  
42 The deferred taxes for the preceding three calendar years are due and payable on the day this  
43 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,  
44 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the  
45 tax value of the property. A disqualifying event occurs when the title to the real property  
46 underlying the establishment is transferred to a new owner. A lien for deferred taxes is  
47 extinguished when the amount required by this subsection is paid."

48 **SECTION 38.6.(i)** Effective July 1, 2019, Section 2(b) of S.L. 2016-23, as rewritten  
49 by subsection (h) of this section, reads as rewritten:

50 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
51 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section

1 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment  
2 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel  
3 excise tax rate for an establishment to which permits may be issued pursuant to  
4 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty cents (20¢)~~twenty-two cents (22¢) per  
5 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax  
6 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels  
7 and may recommend a change in the rate imposed by this section to an amount no greater than  
8 the rate then in effect for the State of South Carolina. An establishment designated as a special  
9 class of property by this section may obtain monthly refunds on the difference between the motor  
10 fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this  
11 section. The Department shall calculate for each calendar year the difference between the motor  
12 fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by  
13 an establishment classified by this section in the absence of this classification and the motor fuel  
14 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.  
15 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,  
16 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The  
17 difference in taxes shall be carried forward in the records of the Department as deferred taxes.  
18 The deferred taxes for the preceding three calendar years are due and payable on the day this  
19 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,  
20 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the  
21 tax value of the property. A disqualifying event occurs when the title to the real property  
22 underlying the establishment is transferred to a new owner. A lien for deferred taxes is  
23 extinguished when the amount required by this subsection is paid."

24 **SECTION 38.6.(j)** Effective July 1, 2020, Section 2(b) of S.L. 2016-23, as rewritten  
25 by subsection (i) of this section, reads as rewritten:

26 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
27 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section  
28 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment  
29 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel  
30 excise tax rate for an establishment to which permits may be issued pursuant to  
31 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-two cents (22¢)~~twenty-four cents (24¢) per  
32 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax  
33 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels  
34 and may recommend a change in the rate imposed by this section to an amount no greater than  
35 the rate then in effect for the State of South Carolina. An establishment designated as a special  
36 class of property by this section may obtain monthly refunds on the difference between the motor  
37 fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this  
38 section. The Department shall calculate for each calendar year the difference between the motor  
39 fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by  
40 an establishment classified by this section in the absence of this classification and the motor fuel  
41 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.  
42 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,  
43 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The  
44 difference in taxes shall be carried forward in the records of the Department as deferred taxes.  
45 The deferred taxes for the preceding three calendar years are due and payable on the day this  
46 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,  
47 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the  
48 tax value of the property. A disqualifying event occurs when the title to the real property  
49 underlying the establishment is transferred to a new owner. A lien for deferred taxes is  
50 extinguished when the amount required by this subsection is paid."

1           **SECTION 38.6.(k)** Effective July 1, 2021, Section 2(b) of S.L. 2016-23, as rewritten  
2 by subsection (j) of this section, reads as rewritten:

3           **"SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
4 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section  
5 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment  
6 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel  
7 excise tax rate for an establishment to which permits may be issued pursuant to  
8 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-four cents (24¢)~~twenty-six cents (26¢) per  
9 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax  
10 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels  
11 and may recommend a change in the rate imposed by this section to an amount no greater than  
12 the rate then in effect for the State of South Carolina. An establishment designated as a special  
13 class of property by this section may obtain monthly refunds on the difference between the motor  
14 fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this  
15 section. The Department shall calculate for each calendar year the difference between the motor  
16 fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by  
17 an establishment classified by this section in the absence of this classification and the motor fuel  
18 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.  
19 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,  
20 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The  
21 difference in taxes shall be carried forward in the records of the Department as deferred taxes.  
22 The deferred taxes for the preceding three calendar years are due and payable on the day this  
23 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,  
24 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the  
25 tax value of the property. A disqualifying event occurs when the title to the real property  
26 underlying the establishment is transferred to a new owner. A lien for deferred taxes is  
27 extinguished when the amount required by this subsection is paid."

28           **SECTION 38.6.(l)** Effective July 1, 2022, Section 2(b) of S.L. 2016-23, as rewritten  
29 by subsection (k) of this section, reads as rewritten:

30           **"SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
31 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section  
32 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment  
33 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel  
34 excise tax rate for an establishment to which permits may be issued pursuant to  
35 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-six cents (26¢)~~twenty-eight cents (28¢) per  
36 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax  
37 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels  
38 and may recommend a change in the rate imposed by this section to an amount no greater than  
39 the rate then in effect for the State of South Carolina. An establishment designated as a special  
40 class of property by this section may obtain monthly refunds on the difference between the motor  
41 fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this  
42 section. The Department shall calculate for each calendar year the difference between the motor  
43 fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by  
44 an establishment classified by this section in the absence of this classification and the motor fuel  
45 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.  
46 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,  
47 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The  
48 difference in taxes shall be carried forward in the records of the Department as deferred taxes.  
49 The deferred taxes for the preceding three calendar years are due and payable on the day this  
50 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,  
51 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the

1 tax value of the property. A disqualifying event occurs when the title to the real property  
2 underlying the establishment is transferred to a new owner. A lien for deferred taxes is  
3 extinguished when the amount required by this subsection is paid."

4 **SECTION 38.6.(m)** Subsection (c) of this section becomes effective July 1, 2018,  
5 and permittees must register in accordance with subsection (c) of this section on or before  
6 December 1, 2018. Except as otherwise provided, the remainder of this section is effective when  
7 it becomes law.

## 8 9 **MODIFIED RISK TOBACCO PRODUCT TAX REDUCTION**

10 **SECTION 38.7.(a)** Part 1 of Article 2A of Chapter 105 of the General Statutes is  
11 amended by adding a new section to read:

### 12 **"§ 105-113.4E. Modified risk tobacco products.**

13 (a) Definition. – The term "modified risk tobacco product" means a tobacco product that  
14 is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with  
15 commercially marketed tobacco products.

16 (b) Tax Rate Reduction. – The tax imposed under this Article is reduced by the following:

17 (1) Fifty percent (50%) for a modified risk tobacco product issued a risk  
18 modification order by the United States Food and Drug Administration under  
19 21 U.S.C. § 387k(g)(1).

20 (2) Twenty-five percent (25%) for a modified risk tobacco product issued an  
21 exposure modification order by the United States Food and Drug  
22 Administration under 21 U.S.C. § 387k(g)(2).

23 (c) Substantiation. – Generally, tobacco products are subject to the tax imposed under  
24 this Article, unless a taxpayer substantiates that a product qualifies as a modified risk tobacco  
25 product and is subject to a reduced rate of tax in accordance with subsection (b) of this section.  
26 A taxpayer may substantiate that a product qualifies as a modified risk tobacco product by  
27 providing the Department a copy of the order issued by the United States Food and Drug  
28 Administration verifying the product as a modified risk tobacco product. Once the taxpayer  
29 provides the order to the Department, the Department must reduce the tax due as required under  
30 subsection (b) of this section effective on the first day of the next calendar month. If the order  
31 indicating a product qualifies as a modified risk tobacco product is renewed, the order renewing  
32 the product must be provided to the Department within 14 days of receipt.

33 If the product no longer qualifies as a modified risk tobacco product, the rate reduction under  
34 subsection (b) of this section is forfeited. A product no longer qualifies when the order qualifying  
35 the product as a modified risk tobacco product expires and is not renewed or the order is  
36 withdrawn by the United States Food and Drug Administration. The taxpayer must provide notice  
37 of such expiration or withdrawal to the Department within 14 days of receipt. Upon determination  
38 by the Department that the product no longer qualifies as a modified risk tobacco product, the  
39 Department must determine if the taxpayer paid a reduced rate after the order expired or was  
40 withdrawn. If the taxpayer did avoid taxes, the taxpayer is liable for all past taxes avoided as a  
41 result of the product no longer qualifying plus interest at the rate established under  
42 G.S. 105-241.21, computed from the date the taxes would have been due if the rate reduction had  
43 not been allowed. The past taxes and interest are due 30 days after the date the rate reduction is  
44 forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the  
45 penalties provided in G.S. 105-236."

46 **SECTION 38.7.(b)** This section is effective when it becomes law.

## 47 48 **ALLOW CITIES TO USE REVENUES FOR PUBLIC EDUCATION**

49 **SECTION 38.8.(a)** G.S. 160A-209(c) is amended by adding a new subdivision to  
50 read:



1           **SECTION 38.8.(e)** G.S. 115C-238.70 is amended by adding a new subsection to  
2 read;  
3       "(d) A regional school may request appropriations directly from a city, as authorized by  
4 G.S. 160A-690."

5           **SECTION 38.8.(f)** G.S. 115C-426(c) reads as rewritten:  
6       "(c) The uniform budget format shall require the following funds:  
7           (1) The State Public School Fund.  
8           (2) The local current expense fund.  
9           (3) The capital outlay fund.

10       In addition, other funds may be used to account for reimbursements, including indirect costs,  
11 fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant  
12 to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds, federal  
13 appropriations made directly to local school administrative units, municipal appropriations made  
14 directly to local school administrative units under G.S. 160A-690, and funds received for  
15 prekindergarten programs. In addition, the appropriation or use of fund balance or interest income  
16 by a local school administrative unit shall not be construed as a local current expense  
17 appropriation included as a part of the local current expense fund.

18       Each local school administrative unit shall maintain those funds shown in the uniform budget  
19 format that are applicable to its operations."

20           **SECTION 38.8.(g)** G.S. 115C-429 is amended by adding a new subsection to read:  
21       "(e) A local board of education may request appropriations directly from a city, as  
22 authorized by G.S. 160A-690."

23           **SECTION 38.8.(h)** G.S. 116-239.11 is amended by adding a new subsection to read:  
24       "(g) A laboratory school may request appropriations directly from a city, as authorized by  
25 G.S. 160A-690."

26           **SECTION 38.8.(i)** This section becomes effective July 1, 2018, and applies to  
27 revenues derived from taxes levied on or after that date.

## 29 **WAIVE CERTAIN PROPERTY TAX PENALTIES AND INTEREST**

30           **SECTION 38.9.(a)** G.S. 105-395.1 reads as rewritten:  
31       "**§ 105-395.1. Applicable date when due date falls on ~~weekend or holiday~~.weekend, holiday,**  
32 **or closure date.**

33       When the last day for doing an act required or permitted by this Subchapter falls on a  
34 Saturday, Sunday, or holiday, day listed in this section, the act is considered to be done within the  
35 prescribed time limit if it is done on the next business day. This section applies to the following  
36 days:

- 37           (1) A Saturday or Sunday.
- 38           (2) A holiday.
- 39           (3) A day for which all of the following conditions are met in the taxing entity:
  - 40           a. The tax office is closed.
  - 41           b. The taxpayer certifies in writing that the United States Postal Service  
42 did not provide service to the taxpayer's address.
  - 43           c. A disaster declaration is declared pursuant to G.S. 166A-19.21 or  
44 G.S. 166A-19.22."

45           **SECTION 38.9.(b)** This section is effective for taxes imposed for taxable years  
46 beginning on or after July 1, 2018.

## 48 **OTHER TAX CHANGES**

49           **SECTION 38.10.(a)** G.S. 105-230(b) reads as rewritten:  
50       "(b) Any act performed or attempted to be performed during the period of suspension is  
51 invalid and of no effect, unless the Secretary of State reinstates the corporation or limited liability

1 company pursuant to G.S. 105-232. However, a suspended entity's state tax filing obligations and  
 2 the payment of its tax liability is not affected by the suspension, nor does a suspension affect the  
 3 liability of a responsible person under G.S. 105-242.2, whether the obligation or liability is  
 4 enforced in the context of a civil or criminal proceeding or otherwise."

5 **SECTION 38.10.(b)** G.S. 105-242.2(a)(1) reads as rewritten:

6 "(1) Business entity. – A corporation, a limited liability company, or a  
 7 ~~partnership~~-partnership, regardless of whether the entity is suspended under  
 8 G.S. 105-230 or is dissolved under Article 14 of Chapter 55 of the General  
 9 Statutes or under Article 6 of Chapter 57D of the General Statutes."

10 **SECTION 38.10.(c)** G.S. 105-237.1(a)(6) reads as rewritten:

11 "(6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the  
 12 assessment is for sales or use tax the retailer failed to collect or the person  
 13 failed to pay on an item taxable under G.S. 105-164.4(a)(10) through (a)(15),  
 14 and the retailer or person made a good-faith effort to comply with the sales  
 15 and use tax laws. This subdivision ~~expires for~~ applies to assessments issued  
 16 ~~after for any tax due for a reporting period ending prior to July 1, 2020."~~

17 **SECTION 38.10.(d)** G.S. 105-282.1(a) reads as rewritten:

18 **"§ 105-282.1. Applications for property tax exemption or exclusion; annual review of**  
 19 **property exempted or excluded from property tax.**

20 (a) Application. – Every owner of property claiming exemption or exclusion from  
 21 property taxes under the provisions of this Subchapter has the burden of establishing that the  
 22 property is entitled to it. If the property for which the exemption or exclusion is claimed is  
 23 appraised by the Department of Revenue, the application shall be filed with the Department.  
 24 Otherwise, the application shall be filed with the assessor of the county in which the property is  
 25 situated. An application must contain a complete and accurate statement of the facts that entitle  
 26 the property to the exemption or exclusion and must indicate the municipality, if any, in which  
 27 the property is located. Each application filed with the Department of Revenue or an assessor  
 28 shall be submitted on a form approved by the Department. Application forms shall be made  
 29 available by the assessor and the Department, as appropriate.

30 Except as provided below, an owner claiming an exemption or exclusion from property taxes  
 31 must file an application for the exemption or exclusion annually during the listing period.

32 ...

33 (2) Single application required. – An owner of one or more of the following  
 34 properties eligible for a property tax benefit must file an application for the  
 35 benefit to receive it. Once the application has been approved, the owner does  
 36 not need to file an application in subsequent years unless new or additional  
 37 property is acquired or improvements are added or removed, necessitating a  
 38 change in the valuation of the property, or there is a change in the use of the  
 39 property or the qualifications or eligibility of the taxpayer necessitating a  
 40 review of the benefit.

41 ...

42 b. Special classes of property excluded from taxation under  
 43 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35),  
 44 (36), (38), (39), (41), ~~or (45)~~(45), (46), (47), (48), or (49) or under  
 45 G.S. 131A-21.

46 ...."

47 **SECTION 38.10.(e)** G.S. 153A-155(c) reads as rewritten:

48 "(c) Collection. – A retailer who is required to remit to the Department of Revenue the  
 49 State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room  
 50 occupancy tax to the taxing county on and after the effective date of the levy of the room  
 51 occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax



1 on accommodations and is calculated in the same manner as that tax. A rental agent or a  
2 facilitator, as defined in ~~G.S. 105-164.4(a)(3)~~, G.S. 105-164.4F, has the same responsibility and  
3 liability under the room occupancy tax as the rental agent or facilitator has under the State sales  
4 tax on accommodations.

5 If a taxable accommodation is furnished as part of a package, the bundled transaction  
6 provisions in G.S. 105-164.4D apply in determining the sales price of the taxable  
7 accommodation. If those provisions do not address the type of package offered, the person  
8 offering the package may determine an allocated price for each item in the package based on a  
9 reasonable allocation of revenue that is supported by the person's business records kept in the  
10 ordinary course of business and calculate tax on the allocated price of the taxable  
11 accommodation.

12 A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a  
13 retailer are held in trust for and on account of the taxing county.

14 The taxing county shall design and furnish to all appropriate businesses and persons in the  
15 county the necessary forms for filing returns and instructions to ensure the full collection of the  
16 tax. A retailer who collects a room occupancy tax may deduct from the amount remitted to the  
17 taxing county a discount equal to the discount the State allows the retailer for State sales and use  
18 tax."

19 **SECTION 38.10.(f)** G.S. 160A-215(c) reads as rewritten:

20 "(c) Collection. – A retailer who is required to remit to the Department of Revenue the  
21 State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room  
22 occupancy tax to the taxing city on and after the effective date of the levy of the room occupancy  
23 tax. The room occupancy tax applies to the same gross receipts as the State sales tax on  
24 accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator,  
25 as defined in ~~G.S. 105-164.4(a)(3)~~, G.S. 105-164.4F, has the same responsibility and liability  
26 under the room occupancy tax as the rental agent or facilitator has under the State sales tax on  
27 accommodations.

28 If a taxable accommodation is furnished as part of a package, the bundled transaction  
29 provisions in G.S. 105-164.4D apply in determining the sales price of the taxable  
30 accommodation. If those provisions do not address the type of package offered, the person  
31 offering the package may determine an allocated price for each item in the package based on a  
32 reasonable allocation of revenue that is supported by the person's business records kept in the  
33 ordinary course of business and calculate tax on the allocated price of the taxable  
34 accommodation.

35 A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a  
36 retailer are held in trust for and on account of the taxing city.

37 The taxing city shall design and furnish to all appropriate businesses and persons in the city  
38 the necessary forms for filing returns and instructions to ensure the full collection of the tax. An  
39 operator of a business who collects a room occupancy tax may deduct from the amount remitted  
40 to the taxing city a discount equal to the discount the State allows the retailer for State sales and  
41 use tax."

42 **SECTION 38.10.(g)** G.S. 130A-247 reads as rewritten:

43 **"§ 130A-247. Definitions.**

44 The following definitions shall apply throughout this Part:

45 ...

46 (5a) "Bed and breakfast home" means a business in a private home of not more  
47 than eight guest rooms that offers bed and breakfast accommodations for a  
48 period of less than one week and that meets all of the following criteria:

49 a. Does not serve food or drink to the general public for pay.

- 1           b.       Serves the breakfast meal, the lunch meal, the dinner meal, or a  
2                    combination of all or some of these three meals, only to overnight  
3                    guests of the home.  
4           c.       Includes the price of breakfast in the room rate. The price of additional  
5                    meals served ~~may be added to the room rate~~ shall be listed as a separate  
6                    charge on the overnight guest's bill at the conclusion of the overnight  
7                    guest's stay.  
8           d.       Is the permanent residence of the owner or the manager of the  
9                    business.
- 10       (6)       "Bed and breakfast inn" means a business of at least nine but not more than  
11                    12 guest rooms that offers bed and breakfast accommodations for a period of  
12                    less than one week, and that meets all of the following requirements:
- 13           a.       Does not serve food or drink to the general public for pay.  
14           b.       Serves the breakfast meal, the lunch meal, the dinner meal, or a  
15                    combination of all or some of these three meals only to overnight  
16                    guests of the business.  
17           c.       Includes the price of breakfast in the room rate. The price of additional  
18                    meals served ~~may be added to the room rate at the conclusion of the~~  
19                    ~~overnight guest's stay~~ shall be listed as a separate charge on the  
20                    overnight guest's bill at the conclusion of the overnight guest's stay.  
21           d.       Is the permanent residence of the owner or the manager of the  
22                    business.

23       ...."

24       **SECTION 38.10.(h)** A municipality that is holding sales and use tax revenue  
25       distributed to it that is restricted for water and sewage capital outlay purposes, as required under  
26       G.S. 105-487(b) and G.S. 105-504, repealed effective August 14, 1998, under S.L. 1998-98, may  
27       use the restricted revenue as follows:

- 28       (1)       A municipality that does not own or operate a water or sewer system may use  
29                    part or all of the restricted sales and use tax revenue for any lawful purpose  
30                    upon adoption of a resolution. A municipality that adopts a resolution  
31                    releasing the sales and use tax revenue from the repealed restriction pursuant  
32                    to this subdivision must provide written notice to the Secretary of the Local  
33                    Government Commission that the funds are unrestricted within 30 days of the  
34                    adoption of the resolution.
- 35       (2)       A municipality that owns or operates a water or sewer system must use the  
36                    revenue for its restricted purpose. The municipality may petition the Local  
37                    Government Commission to waive part or all of the restriction, as allowed  
38                    under G.S. 105-487(c).

39       **SECTION 38.10.(i)** G.S. 105-320(b) is repealed.

40       **SECTION 38.10.(j)** G.S. 105-129.39 reads as rewritten:

41       "**§ 105-129.39. Sunset.**

42       This Article expires for qualified rehabilitation expenditures and rehabilitation expenses  
43       incurred on or after January 1, 2015. For qualified rehabilitation expenditures and rehabilitation  
44       expenses incurred prior to January 1, 2015, this Article expires for property not placed in service  
45       by January 1, 2023."

46       **SECTION 38.10.(k)** G.S. 105-129.110 reads as rewritten:

47       "**§ 105-129.110. Sunset.**

48       This Article expires for qualified rehabilitation expenditures and rehabilitation expenses  
49       incurred on or after January 1, 2020. For qualified rehabilitation expenditures and rehabilitation  
50       expenses incurred prior to January 1, 2020, this Article expires for property not placed in service  
51       by January 1, 2028."

1           **SECTION 38.10.(l)** G.S. 105-160.3(b) reads as rewritten:

2           "(b) The tax credits allowed under G.S. 105-153.9 ~~and G.S. 105-153.10~~ may not be  
3 claimed by an estate or trust."

4           **SECTION 38.10.(m)** G.S. 115C-595(c) is repealed.

5           **SECTION 38.10.(n)** G.S. 105-163.7 reads as rewritten:

6           "**§ 105-163.7. Statement to employees; information to Secretary.**

7           ...

8           (b) ~~Report-Informational Return~~ to Secretary. – Every employer shall annually file an  
9 ~~annual report-informational return~~ with the Secretary that contains the information given on each  
10 of the employer's written statements to an employee. The Secretary may require additional  
11 information to be included on the ~~report, informational return,~~ provided the Secretary has given  
12 a minimum of 90 days' notice of the additional information required. The ~~annual-report~~  
13 informational return is due on or before January 31 of the succeeding year and must be filed in  
14 an electronic format as prescribed by the Secretary. ~~The Secretary may, upon a showing of good~~  
15 cause, waive the electronic submission requirement. The report-If the employer terminates its  
16 business or permanently ceases paying wages during the calendar year, the informational return  
17 must be filed within 30 days of the last payment of remuneration. The informational return  
18 required by this subsection is in lieu of the report required by G.S. 105-154.

19           ...

20           (d) Deduction Disallowance. – The Secretary may request a person who fails to timely  
21 file statements of payment to another person with respect to wages, dividends, rents, or interest  
22 paid to that person to file the statements by a certain date. If the payer fails to file the statements  
23 by that date, and, in addition to any applicable penalty under G.S. 105-236, the amounts claimed  
24 on the payer's income tax return as deductions for salaries and wages or rents or interest shall be  
25 disallowed to the extent that the payer failed to comply with the Secretary's request with respect  
26 to the statements."

27           **SECTION 38.10.(o)** G.S. 105-251.2 reads as rewritten:

28           "**§ 105-251.2. Compliance information requests-informational returns.**

29           (a) Occupational Licensing Board. – An occupational licensing board must give  
30 information to the Secretary when the Secretary requests the information. The Secretary may not  
31 request the information more than one time per calendar year. The Secretary may request the  
32 board to provide on a return, a report, or otherwise, a licensee's name, license number, tax  
33 identification number, business address, and any other information pertaining to the licensee in  
34 possession of the board that the Secretary deems necessary to determine the licensee's compliance  
35 with this Chapter. For purposes of this subsection, the term "occupational licensing board" has  
36 the same meaning as defined in G.S. 93B-1.

37           (b) Alcohol Vendor. – An alcohol vendor must give information to the Secretary when  
38 the Secretary requests the information. The Secretary may not request the information more than  
39 one time per calendar year. The Secretary may request the alcohol vendor to provide on a return,  
40 a report, or otherwise, for a permittee to which the alcohol vendor provides alcohol, a permittee's  
41 name, license number, and business address and any other information pertaining to the permittee  
42 in possession of the alcohol vendor that the Secretary deems necessary to determine the  
43 ~~permittee's~~ permittee's compliance with this Chapter. This subsection applies to the following  
44 alcohol vendors:

45           (1) An ABC store in the ABC system, as defined in G.S. 18B-101.

46           (2) A wine wholesaler, as defined in G.S. 18B-1201.

47           (3) A wholesaler, as defined in G.S. 18B-1301.

48           (4) The holder of an unfortified winery permit, a fortified winery permit, a  
49 brewery permit, or a distillery permit under G.S. 18B-1100.

50           (c) Payment Settlement Entity. – For any year in which a payment settlement entity is  
51 required to make a return pursuant to section 6050W of the Code, the entity shall submit the

1 information in the return to the Secretary at the time the return is made. For purposes of this  
 2 subsection, the term "payment settlement entity" has the same meaning as provided in section  
 3 6050W of the Code.

4 (d) Electronic Format. – All reports submitted to the Department of Revenue under this  
 5 section shall be in an electronic format as ~~requested-prescribed~~ by the Secretary. ~~Any report not~~  
 6 ~~timely filed under this section is subject to a penalty of one thousand dollars (\$1,000)."~~

7 **SECTION 38.10.(p)** G.S. 105-236(a) reads as rewritten:

8 "**§ 105-236. Penalties; situs of violations; penalty disposition.**

9 (a) Penalties. – The following civil penalties and criminal offenses apply:

10 ...

11 (10) Failure to File Penalties Regarding Informational Returns. – The following  
 12 penalties apply with regard to an informational return required by Article 4A,  
 13 5, 9, 36C, or 36D of this Chapter:

14 a. Repealed by Session Laws 1998-212, s. 29A.14(m), effective January  
 15 1, 1999.

16 b. ~~The Secretary may request a person who fails to file timely statements~~  
 17 ~~of payment to another person with respect to wages, dividends, rents,~~  
 18 ~~or interest paid to that person to file the statements by a certain date.~~  
 19 ~~If the payer fails to file the statements by that date, the amounts~~  
 20 ~~claimed on the payer's income tax return as deductions for salaries and~~  
 21 ~~wages, or rents or interest shall be disallowed to the extent that the~~  
 22 ~~payer failed to comply with the Secretary's request with respect to the~~  
 23 ~~statements.~~

24 c. For failure to file with the Secretary an informational return required  
 25 by Article 4A, 36C, or 36D of this Chapter by the date the return is  
 26 due, there shall be assessed the Secretary shall assess a penalty of fifty  
 27 dollars (\$50.00)-(\$50.00) per day, up to a maximum penalty of one  
 28 thousand dollars (\$1,000).

29 d. For failure to file in the format prescribed by the Secretary, the  
 30 Secretary shall assess a penalty of two hundred dollars (\$200.00).

31 ...."

32 **SECTION 38.10.(q)** G.S. 105-263 reads as rewritten:

33 "**§ 105-263. Timely filing of mailed documents and requests for extensions.**

34 (a) Mailed Document. – Sections 7502 and 7503 of the Code govern when a return,  
 35 report, payment, or any other document that is mailed to the Department is timely filed.

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

46 (c) Electronic Documents. – The Secretary shall prescribe when a return, report,  
 47 payment, or any other document that is electronically submitted to the Department is timely  
 48 filed."

49 **SECTION 38.10.(r)** Article 9 of Chapter 105 of the General Statutes is amended by  
 50 adding a new section to read:

51 "**§ 105-241A. Electronic filing of returns.**

1       (a) Purpose. – The General Assembly finds that the various statutes within Chapter 105  
2 of the General Statutes that address the filing of tax returns or informational returns were  
3 originally drafted for the use of paper returns submitted either personally or through the mail.  
4 Through technological advances, there are many methods by which tax returns can be filed  
5 electronically that can be processed more efficiently by the Department of Revenue, are easier  
6 and more convenient for taxpayers, improve the accuracy of the return, and are safer to use with  
7 respect to identity theft.

8       The General Assembly further finds that, in some cases, it is proper to require returns to be  
9 filed electronically, while in other cases it is more appropriate to provide electronic filing as an  
10 option instead of a requirement. In addition, the General Assembly recognizes that, because of  
11 constant technological advances, it is necessary to allow the Department of Revenue flexibility  
12 to provide specific guidance for how to file returns electronically, with a goal of continually  
13 improving the process and reducing the costs of and time to process returns.

14       (b) Electronically Filed Returns. – The Department shall offer electronic filing for returns  
15 required under this Chapter if the Department determines that it is cost-effective to do so and the  
16 Department has established and implemented procedures to electronically file specific returns.

17       (c) Form of Filing Electronically; Electronic Signature. – The Secretary shall prescribe  
18 the form of electronically filing each return that is required to or may be filed electronically and  
19 how the taxpayer or return preparer signs an electronically filed return.

20       (d) Waiver of Requirement to File Electronically. – The Secretary may, upon showing of  
21 good cause, waive any electronic submission requirement for returns required to be filed  
22 electronically under this Chapter.

23       (e) Notice to Taxpayers. – The Department shall, by December 1 of each year, publish  
24 on its Web site a list of returns required to be filed electronically and permitted to be filed  
25 electronically during the next calendar year."

26       **SECTION 38.10.(s)** Except as otherwise provided, this section is effective when it  
27 becomes law.

28       Subsection (g) of this section becomes effective July 1, 2018, and applies to gross  
29 receipts derived from the rental of an accommodation that a consumer occupies or has the right  
30 to occupy on or after that date. A retailer is not liable for an undercollection of sales tax,  
31 occupancy tax, or prepared food and beverage tax if the retailer has made a good-faith effort to  
32 comply with the law and collect the proper amount of tax and has, due to the change under  
33 subsection (g) of this section, undercollected the amount of sales tax, occupancy tax, or prepared  
34 food and beverage tax that is due. A retailer is liable for all taxes collected whether in error or  
35 otherwise. The exception for liability provided in this paragraph applies only to the period  
36 beginning January 1, 2018, and ending July 1, 2018.

37       Subsection (m) of this section is effective for taxable years beginning on or after  
38 January 1, 2018.

## 39 **PART XXXIX. MISCELLANEOUS PROVISIONS**

### 40 **STATE BUDGET ACT APPLIES**

41       **SECTION 39.1.** The provisions of the State Budget Act, Chapter 143C of the  
42 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in  
43 this act by reference.  
44  
45  
46

### 47 **COMMITTEE REPORT**

48       **SECTION 39.2.(a)** The Joint Conference Committee Report on the Base and  
49 Expansion Budget (Committee Report) for Senate Bill 99, dated May 28, 2018, which was  
50 distributed in the Senate and the House of Representatives and used to explain this act, shall  
51 indicate action by the General Assembly on this act and shall, therefore, be used to construe this

1 act, as provided in the State Budget Act, Chapter 143C of the General Statutes, as appropriate,  
2 and for these purposes shall be considered a part of this act and, as such, shall be printed as a part  
3 of the Session Laws.

4 **SECTION 39.2.(b)** The budget enacted by the General Assembly is for the  
5 maintenance of the various departments, institutions, and other spending agencies of the State  
6 for the 2018-2019 fiscal year budget as provided in G.S. 143C-3-5. This budget includes the  
7 appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

8 The Director of the Budget submitted a recommended base budget to the General  
9 Assembly in the Governor's Recommended Budget for the 2018-2019 fiscal year, dated May  
10 2018, and in the Budget Support Document for the various departments, institutions, and other  
11 spending agencies of the State. The adjustments to the recommended base budget made by the  
12 General Assembly are set out in the Committee Report.

13 **SECTION 39.2.(c)** The budget enacted by the General Assembly shall also be  
14 interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other  
15 appropriate legislation. In the event that there is a conflict between the line-item budget certified  
16 by the Director of the Budget and the budget enacted by the General Assembly, the budget  
17 enacted by the General Assembly shall prevail.

#### 18 **REPORT BY FISCAL RESEARCH DIVISION**

19 **SECTION 39.3.** The Fiscal Research Division shall issue a report on budget actions  
20 taken by the 2017 Regular Session of the General Assembly in 2018. The report shall be in the  
21 form of a Committee Report adopted for Senate Bill 99 pursuant to G.S. 143C-5-5. The Director  
22 of the Fiscal Research Division shall send a copy of the report issued pursuant to this section to  
23 the Director of the Budget. The report shall be published on the General Assembly's Internet Web  
24 site for public access.  
25

#### 26 **MOST TEXT APPLIES ONLY TO THE 2018-2019 FISCAL YEAR**

27 **SECTION 39.4.** Except for statutory changes or other provisions that clearly indicate  
28 an intention to have effects beyond the 2018-2019 fiscal year, the textual provisions of this act  
29 apply only to funds appropriated for, and activities occurring during, the 2018-2019 fiscal year.  
30

#### 31 **EFFECT OF HEADINGS**

32 **SECTION 39.5.** The headings to the parts, subparts, and sections of this act are a  
33 convenience to the reader and are for reference only. The headings do not expand, limit, or define  
34 the text of this act, except for effective dates referring to a part or subpart.  
35

#### 36 **APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

37 **SECTION 39.6.(a)** Except where expressly repealed or amended by this act, the  
38 provisions of S.L. 2017-57, 2017-119, 2017-187, 2017-189, 2017-192, 2017-197, 2017-204,  
39 2017-206, 2017-209, 2017-212, and 2018-2 remain in effect.

40 **SECTION 39.6.(b)** Notwithstanding any modifications by this act in the amounts  
41 appropriated, except where expressly repealed or amended, the limitations and directions for the  
42 2017-2019 fiscal biennium in S.L. 2017-57, 2017-119, 2017-187, 2017-189, 2017-192,  
43 2017-197, 2017-204, 2017-206, 2017-209, 2017-212, and 2018-2 that applied to appropriations  
44 to particular agencies or for particular purposes apply to the newly enacted appropriations and  
45 budget reductions of this act for those same particular purposes.  
46

#### 47 **SEVERABILITY CLAUSE**

48 **SECTION 39.7.** If any section or provision of this act is declared unconstitutional  
49 or invalid by the courts, it does not affect the validity of this act as a whole or any part other than  
50 the part so declared to be unconstitutional or invalid.  
51

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**EFFECTIVE DATE**

**SECTION 39.8.** Except as otherwise provided, this act becomes effective July 1, 2018.