

North Carolina

2003 Tax Law Changes

North Carolina Department of Revenue
Tax Administration

PREFACE

This document is designed for use by personnel in the North Carolina Department of Revenue. It is available to those outside the Department as a resource document. It gives a brief summary of the following tax law changes:

- (1) Changes made by prior General Assemblies that take effect for tax year 2003. Each change enacted by a prior General Assembly is also discussed in the Department's Tax Law Change document for the year the change was enacted.
- (2) Changes made by the 2003 General Assembly, regardless of when they take effect.

The changes are listed by type of tax. The order of the tax types is their order in the General Statutes, except for local sales and use tax changes. The local sales and use tax changes follow the State sales and use tax changes, and both changes are grouped under the heading "Sales and Use Tax." Within a tax type, the changes are listed in numerical order. The document does not include law changes that affect the Department of Revenue but do not affect the tax laws.

For further information on a tax law change, refer to the legislation that made the change. Administrative rules, bulletins, directives, and other instructions issued by the Department, as well as opinions issued by the Attorney General's Office, may provide further information on the application of a tax law change.

Table of Contents

<u>Type of Tax</u>	<u>Page</u>
I. Estate Tax.....	3
II. Tobacco Products License and Excise Taxes	3
III. Alcoholic Beverage License and Excise Taxes	4
IV. Corporate Franchise Tax.....	5
V. Tax Incentives for New and Expanding Businesses	5
VI. Historic Rehabilitation Tax Credits	7
VII. Low-Income Housing Tax Credits	9
VIII. Corporate Income Tax	9
IX. Individual Income Tax	13
X. Tax Credits for Qualified Business Investments.....	16
XI. Withholding of Income Tax.....	17
XII. Sales and Use Tax.....	17
XIII. Insurance Premiums Tax	28
XIV. General Administration.....	30
XV. Property Tax.....	32
XVI. Motor Fuels Tax	34
XVII. Debt Set-Off	37

ESTATE TAX

G.S. 105-32(b) – Calculation of Estate Tax Under Prior Law: The 2002 General Assembly modified the formula for calculating North Carolina estate tax for estates that include property located in North Carolina and in one or more other states. This subsection was amended so that if using the new formula creates an increase in tax for a decedent dying before August 22, 2002, the estate tax may be calculated under prior law.

(Effective January 1, 2002; and applies to estates of decedents dying on or after that date, SB 97, s. 1, S.L. 03-416.)

G.S. 105-32.2(b) Delay Sunset of Estate Tax: The federal Economic Growth and Tax Relief Act of 2001 made changes to the federal estate tax laws by increasing the amount excluded from federal estate tax and by phasing out the state death tax credit over four years beginning in 2002. The federal changes were effective for estates of decedents dying on or after January 1, 2002.

In 2002, the General Assembly conformed North Carolina's exclusion amounts to the federal exclusion amounts. However, G.S. 105-32.2(b) was amended to provide that the North Carolina estate tax is equal to the state death tax credit for federal purposes before the phase-out of the federal credit. The amendment was scheduled to sunset effective for estates of decedents dying on or after January 1, 2004.

The 2003 General Assembly amended this subsection by delaying the sunset to July 1, 2005. This means that the North Carolina estate tax will continue to be equal to the state death tax credit for federal purposes without regard to the phase-out and termination of the federal credit.

(Effective for estates of decedents dying on or after July 1, 2005. HB 397, s. 37A.5, S.L. 03-284.)

TOBACCO PRODUCTS LICENSE AND EXCISE TAXES

G.S. 105-113.21 – Repeal of Cigarette Tax Discount: Subsection (a) of this section was repealed to eliminate the 4% discount previously allowed to cigarette distributors who both timely filed the monthly cigarette tax report and timely paid the cigarette tax due. Subsection (b) was rewritten to delete language regarding the discount to conform with the repeal of subsection (a).

(Effective for reporting periods beginning on or after August 1, 2003; HB 397, s. 45A.1(a), S.L. 03-284.)

G.S. 105-113.35(c) – Conforming Change: This subsection was amended to delete language regarding the discount against the tax on other tobacco products to conform with the changes to G.S. 105-113.39 that eliminated the discount.

(Effective for reporting periods beginning on or after August 1, 2003; HB 397, s. 45A.1(b), S.L. 03-284.)

G.S. 105-113.39 – Repeal of Discount Against Tax on Other Tobacco Products: This section was repealed to eliminate the 4% discount previously allowed to wholesale dealers or retail dealers who both timely filed the monthly tax on other tobacco products report and timely paid the tax due.

(Effective for reporting periods beginning on or after August 1, 2003; HB 397, s. 45A.1(c), S.L. 03-284.)

ALCOHOLIC BEVERAGE LICENSE AND EXCISE TAXES

G.S. 105-113.68(a) – Definition Added: This subsection was amended by adding new subdivision (15) to define “Wine shipper permittee.” This is one of a series of changes that enable out-of-state wineries to legally ship wine directly to consumers in North Carolina.

(Effective October 1, 2003; SB 668, s. 8, S.L. 03-402.)

G.S. 105-113.83(b) – Liability for Payment of Wine Excise Tax: This subsection was amended to impose liability for the wine excise tax on wine shipped directly to consumers in North Carolina on the wine shipper permittee. This is one of a series of changes that enable out-of-state wineries to legally ship wine directly to consumers in North Carolina.

(Effective October 1, 2003; SB 668, s. 10, S.L. 03-402.)

G.S. 105-113.84 – Reporting Requirements: This section was amended to require wine shipper permittees to file a monthly report of the amount of wine shipped directly to North Carolina consumers during the month. This is one of a series of changes that enable out-of-state wineries to legally ship wine directly to consumers in North Carolina.

(Effective October 1, 2003; SB 668, s. 11, S.L. 03-402.)

G.S. 105-113.85 – Repeal of Alcoholic Beverage Tax Discount: This section was repealed to eliminate the 4% discount previously allowed to wholesalers or importers who both timely filed the monthly alcoholic beverage tax report and timely paid the tax due.

(Effective for reporting periods beginning on or after August 1, 2003; HB 397, s. 45A.2(a), S.L. 03-284.)

CORPORATE FRANCHISE TAX

G.S. 105-122(c)(1) – Technical Changes: This subdivision was rewritten to modernize some of the language and to replace the term “business” with the term “apportionable” every time the subdivision referred to “business income.” This conforms to the language used in recent court decisions and by the Department of Revenue on the 2002 corporate income and franchise tax returns after the definition of “business income” was amended by the 2002 General Assembly.

(Effective August 14, 2003; SB 97, s. 5(j), S.L. 03-416.)

TAX INCENTIVES FOR NEW AND EXPANDING BUSINESSES Article 3A

G.S. 105-129.2(17a) – Definition of Overdue Tax Debt: This section was amended to add a new subdivision (17a) to define overdue tax debt. The definition is the same as in G.S. 105-243.1. It is a debt that remains unpaid 90 days after a notice of final assessment is mailed to the taxpayer. The definition was added along with new G.S. 105-129.4(b6) to accomplish the goal of not giving tax credits to taxpayers that are not in compliance with the tax laws.

(Effective for taxable years beginning on or after January 1, 2003; HB 1734, s. 1.5, S.L. 02-172.)

G.S. 105-129.3A – Definition of Development Zone Expanded: This section was amended by adding a new subsection (d) to define when a parcel of property that is partially in a development zone is considered to be entirely within the development zone and, therefore, eligible for the Article 3A enhancements for development zones. All of the following conditions must be satisfied for the parcel of property to be considered entirely within the development zone:

- (1) At least fifty percent of the parcel is located within the development zone.
- (2) The parcel was in existence and under common ownership prior to the most recent federal decennial census.
- (3) The parcel is a portion of land made up of one or more tracts or tax parcels of land that is surrounded by a continuous perimeter boundary.

(Effective for taxable years beginning on or after January 1, 2003; HB 1734, s. 1.4, S.L. 02-172.)

G.S. 105-129.4(a)(7) – Clarifying Change With Respect to Eligibility for the Research and Development Credit: This subdivision was added to provide special rules with respect to determining eligibility for the research and development credit. If the primary activity of an establishment of the taxpayer in

this State is computer services, the taxpayer's qualified research expenditures in this State are considered to be used in computer services. For all other taxpayers, the taxpayer's qualified research expenditures in this State are considered to be used in the primary business of the taxpayer.

(This amendment clarifies the intent of the existing law and does not represent a change in the law. Therefore, the special rule with respect to computer services is effective for taxable years beginning on or after January 1, 2001, and the special rule with respect to all other taxpayers is effective for taxable years beginning on or after January 1, 1996; SB 236, s. 8.1, S.L. 03-349.)

G.S. 105-129.4(b) – Wage Standard Changes: Two amendments were made to this subsection. One of these changes eliminates the wage standard test for tier one and two areas and for the credit for worker training. Elimination of the wage standard test for tier one areas also eliminates the test for development zones, which have the status of a tier one area under G.S. 105-129.3A for purposes of the wage standard. As part of this change, the reference to the credit for substantial investment in other property is deleted. This is because that credit, in G.S. 105-129.12A, applies only in an enterprise tier one or two area.

Under prior law, the wage standard for a tier one area or a development zone was the average weekly wage of the county in which the jobs were located, and the wage standard for a tier two area was 110% of the average weekly wage of the county. Elimination of the wage standard test for the lower tier areas provides an incentive for all jobs created and not just the higher paying jobs.

The wage standard for the worker training credit was eliminated because it was considered redundant and counter to the goal of the credit. A taxpayer cannot qualify for the worker training credit unless the taxpayer also qualifies for the jobs credit or the machinery and equipment credit, both of which have wage standard requirements. Workers in lower-paying jobs may need more training than those in higher-paying jobs.

The other change addresses a practical problem of determining the wage standard that applies to a taxpayer whose taxable year is not a calendar year. Under the statute, wage standards are determined on a calendar year basis. The amendment provides that a taxpayer must use the wage standard for the calendar year in which its taxable year begins.

(Effective for taxable years beginning on or after January 1, 2003; HB 1734, s. 1.3(b), S.L. 02-172.)

G.S. 105-129.4(b6) – Overdue Tax Debts: This subsection was added to make a taxpayer ineligible for an Article 3A tax credit if the taxpayer has an overdue tax debt at the time the taxpayer claims an installment or carryforward of a credit. An overdue tax debt is defined in G.S. 105-243.1(a)(1) as “[a]ny part of a tax debt that remains unpaid 90 days or more after the notice of final assessment was

mailed to the taxpayer. The term does not include a tax debt, however, if the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after the notice of final assessment was mailed and has not failed to make any payments due under the installment agreement.”

(Effective for taxable years beginning on or after January 1, 2003; HB 1734, s. 1.2, S.L. 02-172.)

G.S. 105-129.9 – Changes to Credit for Investing in Machinery and Equipment: Two substantive changes were made to this section. Those changes decrease the credit percentage in some tiers and increase the investment thresholds for some tiers. Reports on the tax credits show that most of the tax credit dollars for the credit for machinery and equipment go to companies in tiers 4 and 5. The changes reduce the machinery and equipment credits for the higher tiers.

Subsection (a) was amended to decrease the credit percentage in tiers 3, 4, and 5. Under prior law, a taxpayer was allowed a credit equal to 7% of the excess of the eligible investment amount over the applicable threshold, regardless of the tier in which the investment was placed in service. As amended, the credit percentage remains 7% for tiers 1 and 2 but is decreased to 6% for tier 3, 5% for tier 4, and 4% for tier 5.

Subsection (c) was amended to increase the investment thresholds for tiers 4 and 5. For tier 4, the threshold is increased from \$500,000 to \$1,000,000. For tier 5, the threshold is increased from \$1,000,000 to \$2,000,000.

(Effective for taxable years beginning on or after January 1, 2003, and apply to business activities that occur on or after that date except for business activities subject to a letter of commitment signed before that date; HB 1734, s. 1.1, S.L. 02-172.)

HISTORIC REHABILITATION TAX CREDITS

Article 3D

G.S. 105-129.35(a) – Certification Required to Claim Credit for Rehabilitating an Income-Producing Historic Structure: This subsection was amended to require a taxpayer, when claiming a credit for rehabilitating an income-producing historic structure, to provide a copy of the certification obtained from the State Historic Preservation Officer verifying that the historic structure has been properly rehabilitated.

(Effective July 15, 2003; HB 397, s. 35A.1, S.L. 03-284)

G.S. 105-129.35(b) – Sunset of Special Allocation Provisions Extended; Substantive Changes to Allocation Rules: Two amendments were made to this subsection. The first amendment extended the sunset for the special allocation rules applicable to pass-through entities that are eligible for the credit for rehabilitating an income-producing historic structure from January 1, 2004 to January 1, 2008. The second amendment made substantive changes to those special allocation rules. Under prior law, the special allocation provisions prohibited the allocation of a credit to an owner in excess of the owner's adjusted basis in the pass-through entity. As amended, the owner's basis must be at least 40% of the amount of credit allocated to that owner.

(Extension of sunset effective August 14, 2003; substantive changes effective for taxable years beginning on or after January 1, 2003; SB 119, ss. 1 and 2, S.L. 03-415.)

G.S. 105-129.35(c) – Definitions: There were two amendments to this subsection. The first amendment added a new subdivision (4) to define "State Historic Preservation Officer" by cross-reference to G.S. 105-129.6. The second change to subsection (c) amended the definition of "Pass-through entity" as part of a series of changes that moved the definition to Article 9 of Chapter 105 and cross-referenced that definition where appropriate.

(First amendment to subsection (c) effective July 15, 2003; HB 397, s. 35A.1, S.L. 03-284; second amendment to subsection (c) effective August 14, 2003; SB 97, s. 4(c), S.L. 03-416.)

G.S. 105-129.36(a) – Conforming Change to Credit for Rehabilitating a Nonincome-Producing Historic Structure: This subsection was amended to conform to the changes to G.S. 105-129.35(a) with respect to providing a copy of the certification when claiming the credit for rehabilitating a nonincome-producing historic structure.

(Effective July 15, 2003; HB 397, s. 35A.3, S.L. 03-284.)

G.S. 105-129.36(c) – Rule-Making Authority Recodified: This subsection was recodified as G.S. 105-129.36A. By moving this provision to G.S. 105-129.36A, it also applies to the credit for rehabilitating an income-producing historic structure. The provision previously applied only to the credit for rehabilitating a nonincome-producing historic structure.

(Effective July 15, 2003; HB 397, s. 35A.2, S.L. 03-284.)

G.S. 105-129.36A – Rules and Fees With Respect to the Historic Rehabilitation Tax Credits: This section was enacted to address the rule-making authority and fees associated with the historic rehabilitation tax credits. Subsection (a) provides that the North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, may adopt rules needed to administer the certification process. This subsection was previously codified

as G.S. 105-129.36(c). Subsection (b) is a new provision that allows the North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, to impose fees for providing certifications of the rehabilitations. In establishing the amount of the fee, the administrative and personnel costs incurred by the Department of Cultural Resources shall be considered. The fee may not exceed 1% of the completed qualifying rehabilitation expenditures. The proceeds of the fees are receipts of the Department of Cultural Resources and must be used for performing its duties under this Article.

(Effective July 15, 2003; HB 397, s. 35A.2, S.L. 03-284.)

LOW-INCOME HOUSING TAX CREDITS

Article 3E

G.S. 105-129.40 – Clarifying and Technical Changes: The title of this section was renamed as “Scope and definitions” and subsection (a) was added to clarify the effective date of the low-income housing tax credit as amended by the 2002 General Assembly. The existing language of this section was recodified as subsection (b) and the definition of “Pass-through entity” (G.S. 105-129.40(b)(2)) was amended as part of a series of changes that moved the definition to Article 9 of Chapter 105 and cross-referenced that definition where appropriate.

(Effective August 14, 2003; SB 97, s. 3, S.L. 03-416).

G.S. 105-129.42(a)(3) – Technical Change: This subdivision was amended to correct capitalization errors.

(Effective August 14, 2003; SB 97, s. 6, S.L. 03-416).

G.S. 105-129.42(g) – Technical Change: This subsection was amended to correct a grammatical error.

(Effective August 14, 2003; SB 97, s. 7, S.L. 03-416).

G.S. 105-129.42(i) – Clarifying Change: This subsection was amended to clarify that, when calculating the liability resulting from forfeiture of the low-income housing credit, the interest, not the interest rate, is determined from the date the Secretary transferred the credit amount to the Housing Finance Agency.

(Effective August 14, 2003; SB 97, s. 8, S.L. 03-416).

CORPORATE INCOME TAX

G.S. 105-130.4(a)(1) - Technical Change: This subdivision was rewritten to replace the term “business” with the term “apportionable” when referring to

“business income.” This conforms to the language used in recent court decisions and by the Department of Revenue on the 2002 corporate income and franchise tax returns after the definition of “business income” was amended by the 2002 General Assembly.

(Effective August 14, 2003; SB 97, s. 5(a), S.L. 03-416.)

G.S. 105-130.4(a)(5) - Technical Changes: This subdivision was rewritten to replace the term “business” with the term “apportionable” when referring to “business income” and the term “nonbusiness” with the term “nonapportionable” when referring to “nonbusiness income.” This conforms to the language used in recent court decisions and by the Department of Revenue on the 2002 corporate income and franchise tax returns after the definition of “business income” was amended by the 2002 General Assembly.

(Effective August 14, 2003; SB 97, s. 5(b), S.L. 03-416.)

G.S. 105-130.4(c) - Technical and Conforming Changes: This subsection was amended to make a technical change by replacing the term “nonbusiness” with the term “nonapportionable” when referring to “nonbusiness income.” This conforms to the language used in recent court decisions and by the Department of Revenue on the 2002 corporate income and franchise tax returns after the definition of “business income” was amended by the 2002 General Assembly. This subsection was also amended to conform to the repeal of G.S. 105-130.7 as part of the changes made to the corporate tax laws so that dividends received by a corporation from regulated investment companies (RICs) or real estate investment trusts (REITs) are taxable for State income tax purposes to the same extent as for federal income tax purposes.

(Technical change effective August 14, 2003; SB 97, s. 5(c), S.L. 03-416; conforming change effective for taxable years beginning on or after January 1, 2003; SB 236. s. 1.2, S.L. 03-349.)

G.S. 105-130.4(f) – Conforming Change: This subsection was amended to conform to the repeal of G.S. 105-130.7 as part of the changes made to the corporate tax laws so that dividends received by a corporation from regulated investment companies (RICs) or real estate investment trusts (REITs) are taxable for State income tax purposes to the same extent as for federal income tax purposes.

(Effective for taxable years beginning on or after January 1, 2003; SB 236. s. 1.3, S.L. 03-349.)

G.S. 105-130.4(i) - Technical Change: This subsection was rewritten to replace the term “business” with the term “apportionable” when referring to “business income.” This conforms to the language used in recent court decisions and by the Department of Revenue on the 2002 corporate income and franchise tax

returns after the definition of “business income” was amended by the 2002 General Assembly.

(Effective August 14, 2003; SB 97, s. 5(d), S.L. 03-416.)

G.S. 105-130.4(j)(2) - Technical Changes: This subdivision was rewritten to replace the term “business” with the term “apportionable” when referring to “business income” and the term “nonbusiness” with the term “nonapportionable” when referring to “nonbusiness income.” This conforms to the language used in recent court decisions and by the Department of Revenue on the 2002 corporate income and franchise tax returns after the definition of “business income” was amended by the 2002 General Assembly.

(Effective August 14, 2003; SB 97, s. 5(e), S.L. 03-416.)

G.S. 105-130.4(k)(1) – Technical Change: This subdivision was rewritten to replace the term “nonbusiness” with the term “nonapportionable” when referring to “nonbusiness income.” This conforms to the language used in recent court decisions and by the Department of Revenue on the 2002 corporate income and franchise tax returns after the definition of “business income” was amended by the 2002 General Assembly.

(Effective August 14, 2003; SB 97, s. 5(f), S.L. 03-416.)

G.S. 105-130.4(l)(1) – Technical Changes: This subdivision was rewritten to replace the term “business” with the term “apportionable” when referring to “business income” and the term “nonbusiness” with the term “nonapportionable” when referring to “nonbusiness income.” This conforms to the language used in recent court decisions and by the Department of Revenue on the 2002 corporate income and franchise tax returns after the definition of “business income” was amended by the 2002 General Assembly.

(Effective August 14, 2003; SB 97, s. 5(g), S.L. 03-416.)

G.S. 105-130.4(m) through (s) – Technical Changes: These subsections were rewritten to modernize some of the language and to replace the term “business” with the term “apportionable” every time the subsections referred to “business income.” This conforms to the language used in recent court decisions and by the Department of Revenue on the 2002 corporate income and franchise tax returns after the definition of “business income” was amended by the 2002 General Assembly.

(Effective August 14, 2003; SB 97, s. 5(h), S.L. 03-416.)

G.S. 105-130.5(a)(15) – Additional First-Year Depreciation Add-Back Extended: This subdivision was amended to extend the requirement to add to federal taxable income a percentage of the additional first-year depreciation allowance to the taxable year 2004. The 2002 General Assembly had enacted

this add-back provision to delay the impact on North Carolina's budget of the federal 30% bonus depreciation allowance enacted in 2002. The add-back percentage was originally set at 100% for taxable year 2002, 70% for taxable year 2003, and 0% for taxable year 2004 and subsequent years. Federal law was changed in 2003 to increase the bonus depreciation rate from 30% to 50%. To delay the impact of this change on the North Carolina budget, the add-back percentage for the taxable year 2004 was increased from 0% to 70%. The add-back percentages for all other years remain the same.

(Effective June 30, 2003; HB 397, s. 37A.3, S.L. 03-284.)

G.S. 105-130.5(b)(3) - RIC and REIT Dividend Deduction Repealed: This subsection was repealed as part of the changes made to the corporate tax laws so that dividends received by a corporation from regulated investment companies (RICs) or real estate investment trusts (REITs) are taxable for State income tax purposes to the same extent as for federal income tax purposes. Under prior law, this subsection provided a deduction from federal taxable income for the deductible portion of dividends as provided under G.S. 105-130.7. Under that statute, a corporation could deduct the proportionate share of dividends received from RICs and REITs that would not have been subject to North Carolina tax if received directly by the corporation.

The change has no practical effect on the amount of dividends received from RICs that are taxed because dividends from RICs are subject to the same dividend received deduction as dividends from corporations for federal income tax purposes. However, the amount deducted is now subject to the attribution of expenses provisions in G.S. 105-130.5(c)(3). For dividends received from REITs, this is a more substantive change in that dividends received from REITs are not subject to the federal dividends received deduction provisions.

(Effective for taxable years beginning on or after January 1, 2003; SB 236. s. 1.1, S.L. 03-349.)

G.S. 105-130.7 – RIC and REIT Dividend Deduction Repealed: This statute was repealed as part of the changes made to the corporate tax laws so that dividends received by a corporation from regulated investment companies (RICs) or real estate investment trusts (REITs) are taxable for State income tax purposes to the same extent as for federal income tax purposes. Under prior law, a corporation could deduct the proportionate share of dividends received from RICs and REITs that would not have been subject to North Carolina tax if received directly by the corporation.

The change has no practical effect on the amount of dividends received from RICs that are taxed because dividends from RICs are subject to the same dividend received deduction as dividends from corporations for federal income tax purposes. However, the amount deducted is now subject to the attribution of expenses provisions in G.S. 105-130.5(c)(3). For dividends received from

REITs, this is a more substantive change in that dividends received from REITs are not subject to the federal dividends received deduction provisions.

Subsection (b) of this statute, which provided for the State subsidiary dividend deduction, was repealed by the 2001 General Assembly to conform North Carolina's taxation of dividends received by a corporation from other corporations to federal law.

(Effective for taxable years beginning on or after January 1, 2003; SB 236. s. 1.1, S.L. 03-349.)

G.S. 105-130.7A(b)(4)b – Technical Change: This subparagraph was amended to correct a technical error in the description of one of the classifications of entities that are considered related entities. The description listed several entities, including non-corporate entities, and classified them as related entities if they were component members of the taxpayer. The term “component member”, as defined in Internal Revenue Code section 1563(b), does not include non-corporate members. The component member test is replaced with a stock ownership test. The entities identified in the subparagraph are considered related members if they, in the aggregate, own at least 50% of the value of the taxpayer's outstanding stock.

(Effective August 14, 2003; SB 97, s. 15, S.L. 03-416.)

G.S. 105-130.8(a)(5) – Technical change: This subdivision was rewritten to replace the term “nonbusiness” with the term “nonapportionable” when referring to “nonbusiness income.” This conforms to the language used in recent court decisions and by the Department of Revenue on the 2002 corporate income and franchise tax returns after the definition of “business income” was amended by the 2002 General Assembly.

(Effective August 14, 2003; SB 97, s. 5(i), S.L. 03-416.)

G.S. 105-130.41 – Ports Tax Credit Extended: This section was amended to extend the sunset for the ports tax credit to taxable years beginning on or after January 1, 2009. Previously, the credit was scheduled to expire for taxable years beginning on or after January 1, 2004.

(Effective August 14, 2003; HB 1294, s. 7, S.L. 03-414.)

INDIVIDUAL INCOME TAX

G.S. 105-134.2(a): Delay Sunset of Temporary Tax Rate Increase: The temporary individual income tax rate of 8.25% was scheduled to expire for tax years beginning on or after January 1, 2004. This subsection was amended to delay the sunset until January 1, 2006.

The 8.25% individual income tax rate bracket applies as follows: Married individuals filing joint returns – 8.25% on taxable income over \$200,000; Heads of households – 8.25% on taxable income over \$160,000; Unmarried individuals other than surviving spouses and heads of households – 8.25% on taxable income over \$120,000; and Married individuals filing separately – 8.25% on taxable income over \$100,000.

(Effective for taxable years beginning on or after January 1, 2001, and expires for taxable years beginning on or after January 1, 2006; HB 397; s. 39.1 and 2, S.L. 03-284.)

G.S. 105-134.6(c)(3) and (4) – Elimination of Standard Deduction Marriage

Penalty Takes Effect: The 2001 General Assembly amended these subdivisions in two phases to eliminate the marriage penalty with respect to the standard deduction. The 2002 General Assembly postponed the 2001 changes.

The 2001 Legislation eliminated the standard deduction marriage penalty by increasing the standard deduction for married filers from its current level of \$5,000 for married filing jointly to twice the amount allowed single filers and from its current level of \$2,500 for married filing separately to the amount allowed single filers. The standard deduction for single filers is \$3,000. The increase was to be phased in over the 2002 and 2003 tax years; however, the 2002 General Assembly postponed the phase-in to tax years 2003 and 2004 as follows:

<u>Status</u>	<u>2003</u>	<u>2004</u>
Married filing jointly	\$5,500	\$6,000
Married filing separately	\$2,750	\$3,000

(Increase originally effective for taxable years beginning on or after January 1, 2002; SB 1005, s. 34.19(a) and (b), S.L. 01-424; delay effective September 30, 2002, SB 1115, ss. 30B.1, 30B.2, and 30I, S.L. 02-126.)

G.S. 105-134.6(c)(8) – Additional First-Year Depreciation Add-Back

Extended: This subdivision was amended to extend the requirement to add to federal taxable income a percentage of the additional first-year depreciation allowance to the taxable year 2004. The 2002 General Assembly had enacted this add-back provision to delay the impact on North Carolina's budget of the federal 30% bonus depreciation allowance enacted in 2002. The add-back percentage was originally set at 100% for taxable year 2002, 70% for taxable year 2003, and 0% for taxable year 2004 and subsequent years. Federal law was changed in 2003 to increase the bonus depreciation rate from 30% to 50%. To delay the impact of this change on the North Carolina budget, the add-back percentage for the taxable year 2004 was increased from 0% to 70%. The add-back percentages for all other years remain the same.

(Effective June 30, 2003; HB 397, s. 37A.2, S.L. 03-284.)

G.S. 105-151.22 – Ports Tax Credit Extended: This credit was amended to extend the sunset for the ports tax credit to taxable years beginning on or after January 1, 2009. Previously, the credit was scheduled to expire for taxable years beginning on or after January 1, 2004.

(Effective August 14, 2003; HB 1294, s. 8, S.L. 03-414.)

G.S. 105-151.24 – Two-Step Increase in Credit for Children Takes Effect; Conforming Change: The 2001 General Assembly amended this section to make a two-step increase in the tax credit for a dependent child for whom the taxpayer is allowed to claim a personal exemption. Under the 2001 legislation, the first step was scheduled to become effective for taxable years beginning on or after January 1, 2002, and to increase the credit from \$60 to \$75. The second step was scheduled to become effective for taxable years beginning on or after January 1, 2003, and to increase the credit from \$75 to \$100.

The 2002 General Assembly amended the effective dates of the 2001 legislation to delay the scheduled increases in the credit amounts for tax years 2002 and 2003 to tax years beginning on or after January 1, 2003 and January 1, 2004, respectively. Therefore, the tax credit is \$75 for tax year 2003 and \$100 for 2004.

The 2003 General Assembly amended this section to conform to the age limits for the credit for children to the federal age limits. The change allows the tax credit on the North Carolina return only to an individual who was allowed the credit on the federal return. The federal child tax credit is limited to dependent children who are under age 17 on the last day of the taxable year. Previously, the North Carolina child tax credit was allowed for dependent children who were under 19 on the last day of the tax year or for a student under the age of 24 on the last day the year.

(Two-step increase originally effective for taxable years beginning on or after January 1, 2002; SB 1005, s. 34.20 (a) and (b), S.L. 01-424; delay effective September 30, 2002, SB 1115, ss. 30B.2.(a), 30B.2.(b), and 30I, S.L. 02-126; conforming change effective for taxable years beginning on or after January 1, 2003; HB 397, s. 39B.2, S.L. 03-284.)

G.S. 105-159.2 – Designation of Tax to North Carolina Public Campaign Fund: This statute was enacted to permit an individual to agree to allocate \$3.00 of the individual's tax liability to the North Carolina Public Campaign Financing Fund if the individual has an income tax liability of at least that amount. The North Carolina Public Campaign Financing Fund was established under G.S. 163-278.63 to provide campaign money to nonpartisan candidates for the North Carolina Supreme Court and Court of Appeals who voluntarily accept strict campaign spending and fund-raising limits. On a joint return, each individual may agree to allocate \$3.00 to the Fund. Agreeing to allocate \$3.00 to the Fund neither increases the tax nor reduces a refund.

The statute requires the Department to make it clear to taxpayers that the allocation supports a nonpartisan court system and does not affect their tax liability or the amount of their refund. The Department must include a specified statement in the individual income tax instructions and must consult with the State Board of Elections concerning information given to taxpayers about the allocation.

The statute makes it clear that a decision to make an allocation to the Fund can be made only by the taxpayer. It prohibits a paid preparer from marking the return to make an allocation to the Fund without the consent of the taxpayer. It also prohibits software packages used to produce North Carolina returns from defaulting to an agreement or an objection.

(Effective for taxable years beginning on or after January 1, 2003; SB 1054, s. 4, S.L. 02-158.)

TAX CREDITS FOR QUALIFIED BUSINESS INVESTMENTS

G.S. 105-163.010 – New Definitions Provided: This section was amended to add the following new definitions for (a) granting entity, (b) qualified business, and (c) qualified licensee business.

(5a) Granting Entity - A granting entity is any of the following: (1) a tax exempt corporation whose principal purpose is stimulation of the development of the biotechnology industry and who has received State appropriations, (2) a tax exempt entity that is a private foundation whose principal purpose is conducting research and development in certain high technology fields or investing in companies that provide research and development in certain high technology fields, or (3) an institute that is administratively located within the UNC University system, is financed by a tax exempt corporation, whose principal purpose is the stimulation of economic development, and who funds other small businesses engaged in developing technology.

(7b) Qualified Business - A qualified business venture, a qualified grantee business, or a qualified licensee business.

(9a) Qualified Licensee Business - A qualified licensee business is a business that is registered with the Securities Division of the Department of the Secretary of State, has no more than \$1,000,000 in gross revenues annually, and is performing under a licensing agreement with a UNC system institution or a doctoral research university for the purpose of commercializing technology developed at the institution or university.

(Effective January 1, 2004; HB 1294, s. 2, S.L. 03-414.)

G.S. 105-163.010(7) – Definition of Pass-through Entity Revised: This subsection was amended to cross-reference G.S. 105-228.90. which now provides the definition of a pass-through entity.

(Effective August 14, 2003; SB 97, s. 4.(a), S.L. 03-416.)

G.S. 105-163.010(9) – Definition of Qualified Grantee Business Revised:

The definition of a qualified grantee business was expanded to include businesses that receive grants or investments from “granting entities”, which is defined in subsection (5a).

(Effective January 1, 2004; HB 1294, s. 2, S.L. 03-414.)

G.S.105-163.013(b1) – Investments Allowed in Qualified Licensee

Businesses: This subsection was added to provide a third category of qualified businesses. Under previous law, only investments in qualified business ventures and qualified grantee businesses qualified for the tax credit. Investments in qualified licensee businesses, defined in subsection (9a), now qualify for the tax credit.

(Effective for investments made on or after January 1, 2004; HB 1294, s. 5, S.L. 03-414.)

G.S. 163.015 - Sunset Extended: The credit for qualified business investments was scheduled to sunset for investments made on or after January 1, 2004. The credit now sunsets for investments made on or after January 1, 2007.

(Effective for taxable years beginning on or after January 1, 2004; HB 1294, s. 1, S.L. 03-414.)

WITHHOLDING TAX

G.S. 105-163.1(9) – Definition of Pass-through Entity Revised: This subsection was amended to cross-reference G.S. 105-228.90. which now provides the definition of a pass-through entity.

(Effective August 14, 2003; SB 97, s. 4(b), S.L. 03-416.)

SALES AND USE TAX

G.S. 105-164.3 – Definition Changes: Some definitions were revised, some were recodified, and some are new. The changes are as follows and become effective as noted after each definition:

Computer – (4a). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. The term is defined as “an

electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.”

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Computer software – (4b). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. The term is defined as “a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.”

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Custom computer software – (5c). This definition was rewritten and recodified by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. The term was previously defined within the statutory exemption for custom computer software. The term is defined as “computer software that is not prewritten computer software.”

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Delivered electronically – (5d). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. The term is defined as “delivered to the purchaser by means other than tangible storage media.” North Carolina does not tax property delivered electronically.

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Direct mail – (7a). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. Direct mail is defined, in part, as “printed material delivered or distributed by the United States Postal Service or other delivery service to a mass audience...” Special provisions regarding the sourcing of direct mail and use of a direct pay permit by purchasers of direct mail were also added.

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Drug – (8a). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. North Carolina law previously defined “prescription drug”; this legislation defines “prescription” and “drug” separately. The change does not represent a substantive change in the law.

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Durable medical equipment – (8b). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. Durable medical equipment was included in the exemption for medical products (G.S. 105-164.13(12) under prior law; however, the term was not defined. The term includes items that serve a medical purpose, can withstand repeated use, and are not worn on the body.

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Durable medical supplies – (8c). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. Durable medical supplies were included in the exemption for medical products under prior law; however, the term was not defined. Durable medical supplies are “supplies related to use with durable medical equipment that are eligible to be covered under the Medicare or Medicaid program.”

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Electronic – (8d). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. The term is defined as “relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.”

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Engaged in business – (9). This definition was amended to provide that the term includes the direct shipment of wine to a purchaser in the State by a wine shipper permittee under G.S. 18B-1001.1.

(Effective October 1, 2003; SB 668, s. 12, S.L. 03-402.)

Lease or rental – (17). This definition was rewritten by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. There was no substantive change in the law. Sourcing principles were added for periodic rental payments.

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Load and leave – (17a). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. The term is defined as “delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.” North Carolina does not tax property delivered by load and leave.

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Manufactured home – (20). This definition was rewritten to delete the reference to specifications for modular homes. There is now a separate definition for “modular home.”

(Effective January 1, 2004 for sales made on and after that date; HB 1006, s. 13, S.L. 03-400.)

Mobility enhancing equipment – (21a). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. The term includes equipment that is primarily and customarily used to provide or increase the ability of an individual to move from one place to another.

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Modular home – (21a). This definition was added as a result of the levy of a 2½% State sales and use tax under G.S. 105-164.4(a)(8) on modular homes. A modular home is a factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina Residential Building Code, and bears a seal or label issued by the Department of Insurance pursuant to G.S. 143-139.1.

(Effective January 1, 2004 for sales made on and after that date; HB 1006, s. 14, S.L. 03-400.)

***Note:** The definitions for mobility enhancing equipment and modular home were both enacted as subdivision (21a). One of the definitions will have to be recodified.

Modular homebuilder – (21b). This definition was added as a result of the levy of a 2½% State sales and use tax under G.S. 105-164.4(a)(8) on modular homes. The term is defined as “a person who furnishes for consideration a modular home to a purchaser that will occupy the modular home. The purchaser can be a person that will lease or rent the unit as real property.” As a result, the tax will be collected by the manufacturer or other seller when he sells the modular home to a dealer or homeowner. The sale by a dealer to the individual purchasing the home will not be subject to tax.

(Effective January 1, 2004 for sales made on and after that date; HB 1006, s. 14, S.L. 03-400.)

Over-the-counter drug – (25a). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. The term is defined as “a drug that can be dispensed under federal law without a prescription and is

required by 21 C.F.R. §210.66 to have a label containing a ‘Drug Facts’ panel and a statement of its active ingredients.”

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Prepared food – (28). This definition was rewritten by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. Prepared food will continue to be subject to the combined State and county tax, and as a result of the revised definition and a change in the exemption of food from the State tax, some items are taxable that were exempt under prior law.

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Prescription – (29). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. The term is defined as “an order, formula, or recipe issued orally, in writing, electronically, or by another means of transmission by a physician, dentist, veterinarian, or another person licensed to prescribe drugs.” North Carolina law previously defined “prescription drug”; this legislation defines “prescription” and “drug” separately. There is no substantive change in the law.

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Prewritten computer software – (29a). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. The term is defined as “computer software, including prewritten upgrades, that is not designed and developed by the author or another creator to the specifications of a specific purchaser. The term includes software designed and developed by the author or another creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser.”

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Prosthetic device – (30a). This definition was added by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. The term includes a device that artificially replaces a missing portion of the body, prevents or corrects a physical deformity or malfunction, or supports a weak or deformed portion of the body.

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

Tangible personal property – (46). This definition was amended by the 2003 legislation bringing North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. Electricity, water,

gas, steam, and prewritten computer software are specifically set out as items included in the term.

(Effective July 15, 2003; HB 397, s. 45.2, S.L. 03-284.)

G.S. 105-164.4(a) – Maintain State Sales Tax Rate: The additional ½% State sales and use tax was extended. The tax was originally scheduled to be repealed for sales made on or after July 1, 2003. The ½% State tax is repealed for sales made on and after July 1, 2005.

(Effective July 1, 2003; HB 397, s. 38.1, S.L. 03-284.)

G.S. 105-164.4(a)(8) – Tax on Modular Homes: This new subdivision levies a 2½% State tax on the sales price of a modular home, including accessories attached when delivered to the purchaser. The retail sale is the sale of the modular home to a modular homebuilder, who is defined as the person selling the home to the purchaser who will be occupying the home. The effect of this provision is that the manufacturer or other seller will be liable for collecting the tax on the sale to the modular home “dealer.” The sale of the home by the dealer to the home owner/occupant will not be taxable.

(Effective January 1, 2004 for sales made on and after that date; HB 1006, s. 15, S.L. 03-400.)

G.S. 105-164.4B – Change in Sourcing Rules: This section was rewritten to bring North Carolina law closer to the standards that must be met in order for the State to comply with the national Streamlined Sales Tax Agreement. The statute sets out sourcing principles for periodic rental payments for leases or rentals of specific categories of tangible personal property; it also defines “transportation equipment.” There are special provisions for sourcing of direct mail. The principles apply to both State and local taxes, if applicable.

(Effective July 15, 2003; HB 397, s. 45.3, S.L. 03-284.)

G.S. 105-164.4C(f) – Call Center Cap: A technical correction was made to delete an obsolete reference to interstate service.

(Effective August 14, 2003; SB 97, s. 16(a), S.L. 03-416.)

G.S. 105-164.6(f) – Use Tax Collection: A statement was added to clarify that a retailer required to obtain a certificate of registration is required to pay the use tax levied under G.S. 105-164.6.

(Effective August 14, 2003; SB 97, s. 17, S.L. 03-416.)

G.S. 105-164.6A(b) – Voluntary Collection of Use Tax: This subsection was rewritten to provide that the collection period for sellers voluntarily collecting use

tax cannot be more often than annually if the seller's State and local tax collections are less than one thousand dollars (\$1,000) in a calendar year.

(Effective July 15, 2003; HB 397, s. 45.4, S.L. 03-284.)

G.S. 105-164.8(b) – Mail Order Sales: A new subdivision (8) was added to include a retailer that is a holder of a wine shipper permit issued by the ABC Commission pursuant to G.S. 18B-1001.1 as a retailer engaged in business in this State for the purpose of making mail order sales. A retailer holding a wine shipper permit is required to collect sales or use tax on its retail sales of wine to purchasers in the State.

(Effective October 1, 2003; SB 668, s. 13, S.L. 03-402.)

G.S. 105-164.13 – Exemptions and Exclusions: A technical correction was made to the introductory language to this section to add the term "services." This clarifies that exemptions and exclusions apply to both tangible personal property and services on which tax is imposed.

(Effective August 14, 2003; SB 97, s. 18(a), S.L. 03-416.)

The 2003 General Assembly added several new subdivisions to this section and amended some of the existing subdivisions. The changes and their effective dates are as follows:

Manufactured Products – (5). A technical change was made to update a statutory reference to the definition of "wholesale merchant."

(Effective August 14, 2003; SB 97, s. 21, S.L. 03-416.)

Medical Equipment – (12). This exemption was rewritten to bring North Carolina law closer to standards that must be met in order for the State to comply with the national Streamlined Sales Tax Agreement. The exemption applies to sales of prosthetic devices, mobility enhancing equipment sold on prescription, durable medical equipment sold on prescription, and durable medical supplies sold on prescription. The application of tax for most items remains the same as under prior law. However, some articles that were exempt under prior law regardless of to whom they were sold will now only be exempt when sold on prescription. An example of this is a wheelchair, which is now considered mobility enhancing equipment and is exempt only when sold on prescription.

(Effective July 15, 2003; HB 397, s. 45.5, S.L. 03-284.)

Drugs – (13). This exemption was rewritten to bring North Carolina closer to the standards that must be met in order for the State to comply with the national Streamlined Sales Tax Agreement. The exemption applies to drugs required by federal law to be dispensed only on prescription, over-the-counter drugs sold on

prescription, and insulin. There is no substantive change in the application of tax for these items.

(Effective July 15, 2003; HB 397, s. 45.5, S.L. 03-284.)

Worthless Accounts – (15). This exemption was amended to clarify that municipalities that sell electricity are entitled to the deduction for worthless accounts provided all the conditions for charge-off that would apply if the municipality were subject to income tax were met.

(Effective July 27, 2003; SB 236, s. 11, S.L. 03-349.)

Custom Computer Software – (43). This exemption was rewritten. Custom computer software and the portion of prewritten computer software that is modified or enhanced if the modification or enhancement is designed and developed to the specifications of a specific purchaser and the charges for the modification or enhancement are separately stated are exempt from tax. Prior to this change, prewritten software that was modified or enhanced based on the specifications of a specific customer was considered custom computer software and the total charge was exempt from the tax. The canned or prewritten portion of software is not exempt as a result of customized modification or enhancement.

(Effective July 15, 2003; HB 397, s. 45.5, S.L. 03-284.)

Computer Software Delivered Electronically – (43a). This exemption was added to provide an exemption for computer software delivered electronically and by load and leave. Under prior law, computer software delivered electronically was not taxed since it was not considered to constitute tangible personal property.

(Effective July 15, 2003; H.B. 397, s. 45.5, S.L. 03-284.)

Vending Items - (50). This exemption was rewritten. Until January 1, 2004, fifty percent (50%) of the sales price of tangible personal property sold through vending machines except for closed container soft drinks and tobacco products is taxable; one hundred percent (100%) of the sales price of tobacco products and closed container soft drinks is taxable. Effective January 1, 2004, the partial exemption will include closed container soft drinks; therefore, only fifty percent (50%) of the sales price of closed container soft drinks sold through vending machines will be taxable.

(Effective January 1, 2004; HB 397, s. 45.5A, S.L. 03-284.)

Water Delivered Through Main Lines or Pipes - (51). This exemption was added; formerly water delivered through main lines or pipes was excluded from tax under the definition of tangible personal property. Water delivered in this manner continues to be exempt.

(Effective July 15, 2003; HB 397, s. 45.5, S.L. 03-284.)

State Agencies - (52). This new exemption provides that items subject to sales tax under G.S. 105-164.4, excluding electricity and telecommunications service, sold to State agencies are not subject to tax at the time of purchase. The exemption is effective for sales made on or after July 1, 2004. State agencies will be required to secure an exemption number from the Department and provide the number to vendors in order to exempt a sale from tax. The exemption does not apply to purchases made by contractors in connection with performance contracts entered into with State agencies.

(Effective July 1, 2004; SB 100, s. 1, S.L.03-431.)

G.S. 105-164.13B – Basis for Exempting Food: This section was rewritten and changes the basis for exempting food from State sales or use tax. With the exception of candy, the exemption no longer references items for home consumption and items eligible under the Federal Food Stamp Program. The following items are subject to State and local tax: alcoholic beverages, tobacco products, candy (unless purchased for home consumption and exempt if purchased under the food stamp program), soft drinks, prepared food, dietary supplements, and food sold through vending machines.

(Effective July 15, 2003; HB 397, s. 45.6, S.L. 03-284.)

Subdivision (a)(6) is repealed effective January 1, 2004. As a result, all candy will be exempt from the State tax and subject to only the 2% local tax.

(Effective January 1, 2004; HB 397, s. 45.6B, S.L. 03-284.)

G.S. 105-164.13B(b) – Administration of Food Tax: This subsection was added to provide that the local sales and use tax on food is to be administered as if it were imposed as a State sales and use tax.

(Effective October 1, 2003; HB 397, s. 45.6A, S.L. 03-284.)

G.S. 105-164.13C – Sales Tax Holiday: This section was rewritten to delete printers, printer supplies, and educational software from the list of items that qualify for the exemption during the sales tax holiday. Computers with a sales price of three thousand five hundred dollars (\$3,500) or less per item will continue to be exempt during the holiday. Sales involving layaway contracts and similar deferred payment and delivery transactions will no longer be excluded from the exemption. School supplies with a sales price of one hundred dollars (\$100) or less per item will continue to be exempt.

(Effective October 1, 2003; HB 397, 45.7, S.L. 03-284.)

G.S. 105-164.14(b) – Refunds to Nonprofit Entities and Hospital Drugs: This subsection was amended to clarify that refunds of sales and use taxes are

authorized for purchases of taxable services, other than electricity and telecommunications service. There was no substantive change in the law.

(Effective August 14, 2003; SB 97, s. 18(b), S.L. 03-416.)

G.S. 105-164.14(c) – Refunds to Governmental Agencies: This subsection was amended to clarify that refunds of sales and use taxes are authorized for purchases of taxable services, other than electricity and telecommunications service. There was no substantive change in the law.

(Effective August 14, 2003; SB 97, s. 18(c), S.L. 03-416.)

G.S. 105-164.14(c) – Refunds to Joint Purchasing Agencies of Local School Administrative Units: This subsection was rewritten to add a new entity to the list of governmental agencies eligible for a refund of sales and use tax. New subdivision (2c) provides that a joint agency created by interlocal agreement among local school administrative units to jointly purchase food service-related materials, supplies, and equipment on their behalf is eligible for refunds.

(Effective for taxes paid on or after July 1, 2003; SB 100, s. 2, S.L. 03-431.) Subdivision (20) was rewritten to clarify that the refund provision applies to services eligible for refund as well as tangible personal property.

(Effective August 14, 2003; SB 97, s. 18(d), S.L. 03-416.)

Subdivision (21) was rewritten to reflect a change in the name of the governmental entity from the University of North Carolina Hospitals at Chapel Hill to the University of North Carolina Health Care System.

(Effective August 14, 2003; SB 97, s. 23, S.L. 03-416.)

G.S. 105-164.14(e) – Refunds of Local Tax to State Agencies: This subsection was amended to clarify that refunds of sales and use taxes are authorized for purchases of taxable services, other than electricity and telecommunications service. There was no substantive change in the law.

(Effective August 14, 2003; SB 97, s. 18(e), S.L. 03-416.)

This subsection was further amended to remove direct purchases of tangible personal property as items eligible for refund since State agencies will be exempt from tax on these purchases as of July 1, 2004.

(Effective July 1, 2004, SB 100, s. 3, S.L. 03-431.)

G.S. 105-164.16(b1) – Due Date for Monthly Returns: This subsection was rewritten to change the due date for monthly sales and use tax returns from the 15th of the month following the calendar month covered by the return to the 20th of the month. This change brings North Carolina law closer to the standards that must be met in order for the State to comply with the national Streamlined Sales

Tax Agreement. A return for the month of October 2003 will be the first return affected by the change in due date.

(Effective October 1, 2003; HB 397, s. 45.8, S.L. 03-284.)

G.S. 105-164.27A(a) – Direct Pay Permit for Direct Mail: This subsection was rewritten to allow purchasers of direct mail to apply to the Secretary of Revenue for a direct pay permit. A qualifying purchaser is authorized to make purchases of direct mail without payment of sales or use tax to the vendor. The permit may only be used to purchase direct mail. The purchaser will be liable for remitting use tax on the taxable portion of printed material used in North Carolina.

(Effective July 15, 2003; HB 397, s. 45.9, S.L. 03-284.)

G.S. 105-164.27A(b) – Direct Pay Permit for Telecommunications: This subsection was amended to remove an obsolete reference to interstate telecommunications.

(Effective August 14, 2003; SB 97, s. 16(b), S.L. 03-416.)

G.S. 105-164.29A – State Government Exemption Process: This section was added to provide the process by which State agencies must obtain an exemption number from the Department in order to be able to purchase items without payment of sales and use tax.

(Effective January 1, 2004; SB 100, s. 4, S.L. 03-431.)

G.S. 105-164.44G – Distribution to Counties: This new section was added and sets out the distribution made to counties of 20% of the taxes collected on the sales of modular homes. The amount will be included with local tax revenue not attributable to a particular county and will be distributed monthly in the same manner as the third one-half cent local tax.

(Effective January 1, 2004; HB 1006, s. 16, S.L. 03-400.)

G.S. 105-187.18 – Scrap Tire Disposal Tax: A technical correction was added to clarify that the scrap tire disposal tax is not applicable to sales that a state cannot constitutionally tax.

(Effective August 14, 2003; SB 97, s. 19(a), S.L. 03-416.)

G.S. 105-187.23 – White Goods Disposal Tax: A technical correction was added to clarify that the white goods disposal tax is not applicable to sales that a state cannot constitutionally tax.

(Effective August 14, 2003; SB 97, s. 19(b), S.L. 03-416.)

G.S. 105-187.33 – Dry-Cleaning Solvent Tax: A technical correction was added to clarify that the dry-cleaning solvent tax is not applicable to sales that a state cannot constitutionally tax.

(Effective August 14, 2003, SB 97, s. 19(c), S.L. 03-416.)

G.S. 105-466(c) – Advance Notice of New Tax or Rate Change: This subsection was amended to bring North Carolina law closer to the standards that must be met to comply with the national Streamlined Sales Tax Agreement. A provision was added to make the applicability of a new tax or tax rate change to purchases made from printed catalogs effective on the first day of a calendar quarter after a minimum of 120 days from the date the Secretary notifies the seller of the new tax or tax rate change.

(Effective July 15, 2003; HB 397, s. 45.10, S.L. 03-284.)

G.S. 105-469 – Collection and Administration of Tax on Food: This section was rewritten to provide that the 2% local tax on food is to be administered as if it were a State tax. A specific method of allocating the tax on food to local government is set out.

(Effective October 1, 2003; HB 397, s. 45.11(a), S.L. 03-284; and SB 97, s. 27(a), S.L. 03-416.)

G.S. 105-472(a) – Local Sales Tax Distribution: This subsection was amended to provide that amounts collected by electronic funds transfer payments are included in the distribution for the month in which the return that applies to the payment is received.

(Effective July 1, 2003; SB 236, s. 5, S.L. 03-349.)

G.S. 105-521 – Hold Harmless Distribution: The date for which the hold harmless distribution made pursuant to Article 44 must be made to applicable local governments was changed from September 15 to August 15 of the year. The distribution is intended to be extended through 2012.

(Effective July 1, 2003; HB 397, s. 37.1, S.L. 03-284.)

INSURANCE PREMIUMS TAX

G.S. 58-6-25 – Insurance Regulatory Charge; Conforming Change: The percentage rate to be used in calculating the insurance regulatory charge under this statute is 5% for the 2003 calendar year. This charge is a percentage of gross premiums tax liability. Subsections (a) and (e) were amended to conform to changes in G.S. 105-228.5 that subject Article 65 corporations to the same rate of tax as other insurance contracts.

(2003 regulatory rate effective June 30, 2003; HB 397, s. 33.1(a), S.L. 03-284; conforming change effective for taxable years beginning on or after January 1, 2004 and repealed for taxable years beginning on or after the January 1 immediately following the date the Commissioner of Insurance certifies to the Department of Revenue that there are no remaining Article 65 corporations offering medical service plans or hospital service plans; HB 397, s. 43.2, S.L. 03-284.)

G.S. 105-228.5 – Tax Scope, Rate, and Technical Changes: The 2001 General Assembly made numerous changes to this section that affect tax years 2002, 2003, and 2004. The section was amended several times to adjust its scope and rate. The first act that amended this section made health maintenance organizations (HMOs) subject to a gross premiums tax at the rate of 0.833% and increased the rate for Article 65 corporations from 0.5% to 0.833%. Both of these changes were to be effective for tax year 2002. In addition to these changes, the first act that amended this section increased the rate for both HMOs and Article 65 corporations to 1% effective for the 2003 tax year.

The changes made by the first act were undone by subsequent acts. The subsequent acts delayed the effective date of the application of the tax to HMOs and of the tax increase to Article 65 corporations until tax year 2003. Under these acts, the tax rate for both HMOs and Article 65 Corporations is 1.1% effective for the 2003 tax year. The rate decreases to 1% for tax years beginning on or after January 1, 2004.

The 2003 General Assembly further revised the scope and rate of tax with respect to Article 65 corporations. Effective for taxable years beginning on or after January 1, 2004, gross collections from membership dues received by Article 65 corporations are subject to the same tax rate as other insurance contracts. Therefore, the tax rate for Article 65 corporations increases from 1.1% to 1.9% for 2004 instead of decreasing to 1%.

Subsection (f) of this section requires taxpayers to prepay their tax liability in three installments. Special rules apply to HMOs for the tax year 2003 and to Article 65 corporations for the tax year 2003, 2004, and 2005. HMOs must prepay their 2003 tax liability and Article 65 corporations must prepay their 2003, 2004, and 2005 tax liability in two installments, rather than three. One-half of the estimated liability is due with each installment. The installments are due on April 15 and June 15, 2003. An underpayment of estimated tax accrues interest. The penalties in Article 9 of Chapter 105 apply to these estimated tax payments.

(HMOs subject to tax originally effective January 1, 2002; SB 1005, s. 34.22, S.L. 01-424; revision to the effective date, the establishment of the 1.1% tax rate, and the exception to the provisions of G.S. 105-228.5(f) effective for tax year 2003; decrease in the 1.1% rate to 1% effective for tax years beginning on or after January 1, 2004; HB 748, s. 2, S.L. 01-489; increase in tax rate for Article 65

corporations effective for taxable years beginning on or after January 1, 2004 and repealed for taxable years beginning on or after the January 1 immediately following the date the Commissioner of Insurance certifies to the Department of Revenue that there are no remaining Article 65 corporations offering medical service plans or hospital service plans; HB 397, s. 43.2, S.L. 03-284.)

GENERAL ADMINISTRATION

G.S. 105-228.90(b)(1b) – Reference to the Internal Revenue Code Updated:

This subdivision was amended twice during the 2003 session. The first amendment updated the reference to the Internal Revenue Code from May 1, 2002 to January 1, 2003. Any amendments to the Internal Revenue Code enacted in 2002 that increase North Carolina taxable income for the 2002 taxable year become effective for taxable years beginning on or after January 1, 2003. This amendment conforms North Carolina tax law to the tax provisions of the federal Clergy Housing Allowance Clarification Act of 2002, P.L. 107-181, enacted on May 20, 2002, which clarified the amount that may be excluded from gross income by a minister for a rental allowance received as part of the minister's compensation.

The second amendment updated the reference to the Code from January 1, 2003 to June 1, 2003. This implies that North Carolina has conformed to all of the provisions of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, enacted on May 28, 2003, which included increased expensing for small businesses under Code section 179 and changes to bonus depreciation that increase the rate. However, existing provisions in G.S. 105-130.5(a) and G.S. 105-134.6(c) and amendments to those provisions result in the State not immediately conforming with the increased bonus depreciation allowance.

(First amendment effective April 24, 2003; HB 320, ss. 1 and 2, S.L. 03-25; second amendment effective June 30, 2003; HB 397, s. 37A.1, S.L. 03-284.)

G.S. 105-228.90(b)(4d) – Pass-Through Entity Defined: This subdivision was amended to include the definition for a pass-through entity. Previously, the definition for a pass-through entity was codified in G.S. 105-163.010(7). A pass-through entity is an entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their State income tax returns. This change is part of a series of changes that consolidated the definition of a pass-through entity in one statute and cross-referenced that definition in other statutes.

(Effective August 14, 2003; SB 97, s. 4(d), S.L. 03-416.)

G.S. 105-242(a)(2) – Avoid Duplicative Reporting of Sales of Seized

Property: This subdivision was amended to no longer require the Department of Revenue to file a report of seized property with the clerk of superior court as long as the sale is otherwise publicly reported.

The Department is authorized to collect delinquent taxes through the levy upon and sale of the taxpayer's real or personal property. The Department may either direct the sheriff to levy upon and sell property or it may levy upon the property itself. When the Department levies upon personal property without the use of the sheriff, the actual sale of the property is conducted by the Department of Administration's State Surplus Property section. The State Surplus Property section posts information related to bids and sales of seized property both online and in writing. Since the Department of Administration makes a report of the seized property sold through surplus property sales, the Department of Revenue will not have to file a report of sale with the clerk of superior court as required under G.S. 1-339.63.

(Effective July 27, 2003; SB 236, s. 2, S.L. 03-349.)

G.S. 105-243.1(b) – Outsourcing: This subsection was amended to extend the Department's authority to outsource the collection of in-state tax debts to October 1, 2005. Previously, the authority to outsource collection of in-state tax debts was scheduled to expire October 1, 2003.

(Effective July 27, 2003; SB 236, s. 3, S.L. 03-349.)

G.S. 105-259(b)(7) – Conforming Change: This statute was amended to allow the Department to exchange tax information with the law enforcement officers of the Department of Crime Control and Public Safety. This change was made necessary with the reorganization of the Department of Transportation, Division of Motor Vehicles section.

(Effective July 27, 2003; SB 236; s. , S.L. 2003-349.)

G.S. 105-269.6 – Candidates Financing Fund Election Repealed: This statute allowed an individual to contribute all or part of the individual's income tax refund to the North Carolina Candidates Financing Fund. The statute was repealed, effective for the 2003 tax year. Few taxpayers contributed to the Fund and the revenue in the Fund was ever disbursed to candidates because they either did not meet the qualifications for receipt of the funds or did not apply for the funds.

The General Assembly repealed this statute as part of the legislation establishing nonpartisan judicial elections and a method for providing an alternative means of financing campaigns of candidates for the North Carolina Supreme Court or Court of Appeals who accept fundraising and spending limits. A new fund is established in Article 22D of Chapter 163 of the General Statutes, called the

North Carolina Public Campaign Financing Fund. A new individual income tax check-off will appear on the 2003 income tax return for that Fund.

(Effective for taxable years beginning on or after January 1, 2003; SB 1054, s. 6(a), S.L. 02-126.)

G.S. 105-269.14 – Use Tax Line on the Individual Income Tax Return: The statute was amended to extend the inclusion of a line on the individual income tax return to report use tax on non-business purchases through the 2004 tax year.

(Effective June 30, 2003; HB 397, s. 44.1, S.L. 03-284.)

PROPERTY TAX

G.S. 105-273(13) Definition of Real Property: This amendment changes the definition of real property to include a manufactured home on land in which the owner of the manufactured home has a leasehold interest pursuant to a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed and where the lease expressly provides for disposition of the manufactured home upon termination of the lease. The home has to meet all the other parts of this definition which are: it is a residential structure; has the moving hitch, wheels, and axles removed; is placed upon a permanent foundation either on land owned by the owner of the manufactured home or on lease land as defined above.

(Effective August 7, 2003; HB 1006, s. 4, S.L. 2003-400)

G.S. 105-275(8)c – Clarify Property Tax Exclusion for Property used to Reduce Cotton Dust: This subdivision was rewritten to include in the current property tax exclusion, all parts of a ventilation or air conditioning system that are integrated into a system used for the prevention or reduction of cotton dust, except for chillers and cooling towers. Previously, if the air conditioning or ventilation system was used for any additional purpose other than cotton dust removal, they were not considered to qualify for the exclusion.

(Effective July 1, 2003; HB 397, s. 43A.1; S.L. 2003-284)

G.S. 105-277.11, G.S. 105-284, G.S. 159-107, and G.S. 159-108 - Taxation of Property Subject to a Development Financing District Agreement: G.S. 105-277.11 is reenacted and rewritten to read: Property that is in a development financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 and that is subject to an agreement entered into pursuant to G.S. 159-108, shall, pursuant to Article V, Section 14 of the North Carolina Constitution, be assessed for taxation at the greater of its true value or the minimum value established in the agreement.

G.S. 105-284 is amended by adding a new subsection (d) which reads: Property that is in a development financing district and that is subject to an agreement entered into pursuant to G.S. 159-108 shall be assessed at its true value or at the minimum value set out in the agreement, whichever is greater.

G.S. 159-108(c) is rewritten to require the county assessor to assess property subject to a development financing district agreement at its true value or at the minimum value set out in the agreement, whichever is greater.

G.S. 159-107(d) is rewritten to require that the county assessor determine the incremental valuation of the district each year. The incremental value is the difference between current value and the base valuation of the district. If there is no incremental valuation all proceeds of the taxes are retained by the county, city or special district. If there is an incremental valuation the proceeds are distributed as provided in 159-107(d)(2).

G.S. 159-108(d) is rewritten to require that the minimum value set out in a development financing district agreement be adjusted after a county reappraisal of real property to ensure the taxing unit receives the same amount of tax on the property.

(Effective August 7, 2003; SB 725, ss. 2,20, and 21, S.L. 2003-403)

G.S. 105-299 - Employment of Experts: Amendment moves a comma to make a technical correction, which does not change the meaning.

(Effective August 14, 2003; SB 97, s. 9, S.L. 2003-416)

G.S. 105-307, G.S. 105-330.4 and G.S. 105-360 - Waive Various Deadlines, Fees and Penalties for Deployed Military Personnel. Allows deployed military personnel 90 days after the end of their deployment to pay property taxes at par. Allows deployed military personnel 90 days after the end of their deployment to list property.

(Effective July 4, 2003; SB 936, ss. 4(a) and 4(b), S.L. 2003-300)

G.S. 105-358(a) - Waiver of Worthless Check Penalty: Amends 105-358(a) by removing “ten percent (10%)” and leaving just “penalty”. Clarifies that the collector may upon making a record of the reasons therefore reduce or waive the penalty imposed on giving a worthless check under G.S. 105-357(b)(2).

(Effective August 14, 2003; SB 97, s. 10, S.L. 2003-416)

G.S. 105-361 – Tax Certification: This act allows an internet-based alternative to property tax certification procedures.

The governing body of a taxing unit may adopt an ordinance to allow a person to rely on information obtained from the taxing unit's web site as if it were a certificate issued pursuant to G.S. 105-361(a). The ordinance may provide for disclaimers concerning the information. Any person who relies on the web site information must keep a copy and present a copy of the information as necessary. The tax collector shall be liable on the tax collector's bond for any loss to the taxing unit arising from an understatement of the taxes contained in the information available on the web site unless the taxing unit's ordinance provides the disclaimers.

(Effective August 7, 2003; HB 972, s. 1, S.L. 2003-399)

G.S. 158-7.3 and G.S. 160A-466 – Joint Undertaking of Development

Projects: These acts amend G.S. 158-7.3 and G.S. 160A-466 to authorize local governments that are jointly undertaking a development project to enter into agreements to finance the project. The local governments may agree to place the proceeds from some or all property taxes levied on the park or site into a common fund or transfer those proceeds to a nonprofit corporation or other entity.

(Effective August 14, 2003; HB 1301, ss. 1 and 2, S.L. 2003-417)

G.S. 159-11 – Revenue Neutral Tax Rate: Amendment requires the local government budget officer to publish the revenue-neutral tax rate in years when there is a general revaluation of real property. The revenue-neutral tax rate is the rate that is estimated to produce revenue for the next fiscal year equal to the revenue that would have been produced for the next fiscal year by the current tax rate if no reappraisal had occurred.

(Effective July 26, 2003; SB 511, s. 1, S.L. 2003-264)

MOTOR FUELS TAX

G.S. 105-449.49 – Temporary Permits: This statute was amended to reduce the maximum time a motor carrier can operate in the State using a temporary permit from 20 days to 3 days, rather than obtaining a license.

(Effective January 1, 2004; SB 236, s. 10.1, S.L. 2003-349.)

G.S. 105-449.60(33) – Clarifying: This statute was amended to clarify the tank wagon definition to include vehicles that are not a transport truck although they are designed to carry at least 1,000 gallons. The current definition appears to exclude those tank wagon vehicles whose individual compartments are less than 1,000 gallons but are designed to carry in excess of 1,000.

(Effective January 1, 2004; SB 236, s. 10.2, S.L. 2003-349.)

G.S. 105-449.65(a) – License Requirement: This statute was amended to require a taxpayer that imports tax-paid motor fuel from an out-of-state terminal into North Carolina to be licensed as a distributor. Currently the statutes allow the distributor's license to be optional, however, if the product is being imported the taxpayer must then register as a licensed importer and file a tax return. A distributor license allows the taxpayer to import and export product.

(Effective January 1, 2004; SB 236, s. 10.3, S.L. 2003-349.)

G.S. 105-449.67 – Clarification: This statute was amended to clarify that distributors operating solely within this State are not required to obtain a license.

(Effective January 1, 2004; SB 236, s. 10.4, S.L. 2003-349.)

G.S. 105-449.69(d) & (e) – Repeal: This statute was amended to remove the reporting requirement of the license-holder to notify the Department of any states to which they plan to export or from which they plan to import motor fuel. There are no means for tracking this information once the application has been submitted. The taxpayer, by virtue of the supplier license, is able to import and export motor fuel.

(Effective January 1, 2004; SB 236, s. 10.5, S.L. 2003-349.)

G.S. 105-449.72(a)(2) – Bond Increase: This statute was amended to increase the variable bond amount of licensees to a maximum of five hundred thousand dollars (\$500,000). The current bond amount of two hundred fifty thousand dollars (\$250,000) was last adjusted in January 1991.

(Effective January 1, 2004; SB 236, s. 10.6, S.L. 2003-349.)

G.S. 105-449.73 – Denial of License: This statute was amended to enable the Department to deny a motor fuel license to a taxpayer that fails to file a return or pay a tax due in other North Carolina Revenue Tax Laws.

(Effective January 1, 2004; SB 236, s. 10.7, S.L. 2003-349.)

G.S. 105-449.86(a)(1) – Repeal: This statute was amended to conform the statutes with the legislative change made last session to exempt local governments from the motor fuel tax.

(Effective January 1, 2004; SB 236, s. 10.8, S.L. 2003-349.)

G.S. 105-449.115(b) – Technical: This statute was amended to remove the requirement that shipping documents must be machine-printed by the operator of a bulk plant. This requirement was imposed inadvertently when the statutes were reorganized. The act does not change the requirement that terminal operators must machine-print shipping documents.

(Effective January 1, 2004; SB 236, s. 10.9, S.L. 2003-349.)

G.S. 105-449.117 – Enforcement: This statute was amended to clarify the Department's authority to investigate illegal use of non-tax-paid fuel for highway use using State equipment. Currently the statutes exempt from tax the sales of motor fuel sold to the State of North Carolina.

(Effective January 1, 2004; SB 236, s. 10.10, S.L. 2003-349.)

G.S. 105-449.123(a) – Marking Requirements: This statute was amended to clarify that storage facilities for dyed kerosene must be clearly marked for non-tax use only, just like the storage facilities for dyed diesel fuel. It also provides that the dispensing device for dyed fuel must be clearly marked as non-tax use only.

(Effective January 1, 2004; SB 236, s. 10.11, S.L. 2003-349.)

G.S. 119-15 – Definitions: This statute was amended to include definitions in the inspection tax laws for airport terminals and terminal operators. Jet fuel and kerosene is being delivered from the pipeline directly to the airports. This bypasses the motor fuels terminals therefore bypassing product accountability. The Internal Revenue Service has licensed these terminals and the terminal operators are reporting the deliveries to the airports.

(Effective January 1, 2004; SB 236, s. 10.12, S.L. 2003-349.)

G.S. 119-15.1 – License Requirement: This statute was amended to require kerosene terminal operators to be licensed and to file reports. Currently, jet fuel and kerosene are being delivered from the pipeline directly to airports. This method of delivery bypasses the motor fuels terminals and thereby bypasses the record-keeping requirements that help ensure that the Department can uniformly enforce the tax statutes. Kerosene terminal operators are currently subject to tax. The Internal Revenue Service licenses these terminals and the terminal operators must report deliveries to the airports. With the exception of adding the license requirement for the kerosene terminal operators, the rest of the text was reformatted from G.S. 119.16.2 to align the text in the same manner as Article 36C.

(Effective January 1, 2004; SB 236, s. 10.14, S.L. 2003-349.)

G.S. 119-15.2 – License Application: This statute was amended to identify the information required to obtain a license under the kerosene statutes. This text was reformatted from G.S. 119.16.2 to align the text in the same manner as Article 36C.

(Effective January 1, 2004; SB 236, s. 10.14, S.L. 2003-349.)

G.S. 119-15.3 – Bond Requirement: This statute was amended to identify the bond requirements to obtain certain licenses under the kerosene statutes. This

text was reformatted from G.S. 119.16.2 to align the text in the same manner as Article 36C.

(Effective January 1, 2004; SB 236, s. 10.14, S.L. 2003-349.)

G.S. 119-18(a) – Imposition of Tax: This statute was amended to impose the inspection tax on dyed diesel. Currently the statutes impose the inspection tax on all highway fuels, jet fuel, and aviation gasoline. Inspection tax is also imposed on dyed kerosene, which is used for heating or other non-highway purposes.

This statute also requires a kerosene terminal operator to file a return in accordance with the provisions under G.S. 105-449.100.

(Effective January 1, 2004; SB 236, s. 10.15, S.L. 2003-349.)

G.S. 119-18(a1) – Deferred Payment: This statute was added to provide a licensed kerosene distributor the same benefits of deferred payments and discounts that a licensed motor fuel distributor receives. Finally, this Part reorganizes and modernizes the language of the kerosene licensing statutes.

(Effective January 1, 2004; SB 236, s. 10.16, S.L. 2003-349.)

DEBT SETOFF

G.S. 105A-2(6) – Definition of Local Agency Expanded: The definition of “Local agency” has been expanded to include water and sewer authorities. As a result, water and sewer authorities may submit debts to the Department for collection under the Setoff Debt Collection Act.

(Effective January 1, 2004, and applies to income tax refunds determined on or after that date; SB 529, s. 1, S.L. 03-333.)