

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 941

Short Title: Rev Laws Tech, Clarifying, and Admin Changes. (Public)

Sponsors: Representatives Setzer, Szoka, and Bradford (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Finance, if favorable, Rules, Calendar, and Operations of the House

May 12, 2021

A BILL TO BE ENTITLED
AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES
TO THE REVENUE LAWS AS RECOMMENDED BY THE DEPARTMENT OF
REVENUE.

The General Assembly of North Carolina enacts:

PART I. PERSONAL INCOME TAX CHANGES

SECTION 1.1. G.S. 105-153.5(b) reads as rewritten:

"(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

...

~~(14)~~(15) The amount granted to the taxpayer during the taxable year under the Extra Credit grant program. This subdivision expires for taxable years beginning on or after January 1, ~~2021~~2022."

SECTION 1.2. G.S. 105-153.5(c2) reads as rewritten:

"(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer must make the following adjustments to the taxpayer's adjusted gross income:

...

(17) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the amount by which the taxpayer's interest expense deduction under section 163(j) of the Code exceeds the interest expense deduction that would have been allowed under the Internal Revenue Code as enacted as of January 1, 2020. An add-back under this subdivision is not required to the extent the amount was required to be added back under another provision of this subsection. The purpose of this subdivision is to decouple from the modification of limitation on business interest allowed under section 2306 of the CARES Act.

(17a) A taxpayer who made an addition under subdivision (17) of this subsection may deduct twenty percent (20%) of the addition in each of the first five taxable years beginning tax year 2021.

...."

SECTION 1.3. G.S. 105-153.9(a)(2) reads as rewritten:

"(2) The fraction of the gross income, as modified as provided in ~~G.S. 105-134.6A~~, ~~G.S. 105-153.5~~, G.S. 105-153.5 and G.S. 105-153.6, that is subject to income



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1 tax in another state or country shall be ascertained, and the North Carolina net
2 income tax before credit under this section shall be multiplied by that fraction.
3 The credit allowed is either the product thus calculated or the income tax
4 actually paid the other state or country, whichever is smaller."

5 **SECTION 1.4.** G.S. 105-163.7(b) reads as rewritten:

6 "(b) Informational Return to Secretary. – Every employer shall annually file an
7 informational return with the Secretary that contains the information given on each of the
8 employer's written statements to an employee. The Secretary may require additional information
9 to be included on the informational return, provided the Secretary has given a minimum of 90
10 days' notice of the additional information required. The informational return ~~is due on or before~~
11 ~~January 31 of the succeeding year and~~ must be filed in an electronic format as prescribed by the
12 ~~Secretary. If Secretary and is due on or before January 31 of the succeeding year or, if the~~
13 ~~employer terminates its business or permanently ceases paying wages during before the close of~~
14 ~~the calendar year, the informational return must be filed within 30 days of the last payment of~~
15 ~~remuneration, on or before the last day of the month following the end of the calendar quarter in~~
16 ~~which the employer terminates its business, but no later than January 31 of the succeeding year.~~
17 The informational return required by this subsection is in lieu of the report required by
18 G.S. 105-154."

19 **SECTION 1.5.** G.S. 105-163.8 is amended by adding a new subsection to read:

20 "(c) If a withholding agent fails to file a return and pay the tax due under this Article or
21 files a grossly incorrect or false or fraudulent return, the Secretary must estimate the tax due and
22 assess the withholding agent based on the estimate."

23 **SECTION 1.6.** G.S. 105-241.6(b)(5) reads as rewritten:

24 "(5) Contingent Event. – The period to request a refund of an overpayment may be
25 extended once as provided in this subdivision:

26 ...

27 b. Other Event. – If a taxpayer contends that an event has occurred that
28 prevents the taxpayer from filing an accurate and definite request for
29 a refund of an overpayment within the period under this section, the
30 taxpayer may submit a written request to the Secretary seeking an
31 extension of the statute of limitations. The taxpayer must file a written
32 request to the Secretary prior to expiration of the statute of limitations
33 under this section. The request must establish by clear, convincing
34 proof that the event is beyond the taxpayer's control and prevents the
35 taxpayer from timely filing an accurate and definite request for a
36 refund of an overpayment. The Secretary's decision on the request is
37 final and is not subject to administrative or judicial review. If the
38 Secretary agrees to the request, the period to file a request for a refund
39 of an overpayment is six months after the event concludes."

40 **SECTION 1.7.** G.S. 105-252.1 reads as rewritten:

41 "**§ 105-252.1. Use of a TTIN.**

42 A TTIN may not be used on any return, statement, or other document required to be filed
43 with or furnished to the Department unless specifically authorized ~~in this Chapter by the~~
44 Secretary."

45 **SECTION 1.8.** Section 1.2(a) of S.L. 2021-16 reads as rewritten:

46 "**SECTION 1.2.(a)** Nonaccrual of Interest. – As a result of the automatic extension of the
47 federal tax filing due date for individuals for the 2020 calendar year, the Secretary of Revenue
48 has automatically extended the State tax filing due date for individuals for the 2020 tax year from
49 April 15, 2021, to May 17, 2021. The Secretary will waive the penalty for failure to file an
50 individual income tax return, including a partnership and estate and trust tax return, or pay
51 individual income tax due if the return is filed and the tax due is paid by May 17, 2021.

Notwithstanding G.S. 105-241.21(b), interest shall not accrue from April 15, 2021, through May 17, 2021, on an underpayment of tax imposed on an individual income tax ~~return~~ return, including a partnership and estate and trust tax return, due April 15, 2021."

PART II. CORPORATE INCOME TAX CHANGES

SECTION 2.1.(a) G.S. 105-83(d) reads as rewritten:

"(d) This section does not apply to the following:

(1) ~~corporations liable for the tax levied under G.S. 105-102.3 or to savings Banks.~~ For purposes of this subdivision, the term "bank" has the same meaning as defined in G.S. 105-130.7B(b).

(2) Savings and loan associations."

SECTION 2.1.(b) This section is effective when it becomes law and applies retroactively for taxable years beginning on or after July 1, 2016.

SECTION 2.2.(a) G.S. 105-130.5(a)(31) reads as rewritten:

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

...

(31) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the amount by which the taxpayer's interest expense deduction under section 163(j) of the Code exceeds the interest expense deduction that would have been allowed under the Internal Revenue Code as enacted as of January 1, 2020, as calculated on a separate entity basis. An add-back under this subdivision is not required to the extent the amount was required to be added back under another provision of this subsection. The purpose of this subdivision is to decouple from the modification of limitation on business interest allowed under section 2306 of the CARES Act."

SECTION 2.2.(b) G.S. 105-130.5(b) reads as rewritten:

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

...

(32) A taxpayer who made an addition under subdivision (a)(31) of this section may deduct twenty percent (20%) of the addition that was not otherwise disallowed by G.S. 105-130.7B in each of the first five taxable years beginning tax year 2021."

SECTION 2.3.(a) G.S. 105-130.7B(b)(4) reads as rewritten:

"(4) Qualified interest expense. – The amount of net interest expense paid or accrued to a related member in a taxable year with the amount limited to the taxpayer's proportionate share of interest paid or accrued to a person who is not a related member during the same taxable year. This limitation does not apply to interest paid or accrued to a related member if one or more of the following applies:

...

e. The proportionate amount of interest paid or accrued to a related member that has already been disallowed by the application of section 163(j) of the Code."

SECTION 2.3.(b) This section is effective when it becomes law and applies retroactively for taxable years beginning on or after January 1, 2018.

SECTION 2.4. G.S. 105-130.8A(c) reads as rewritten:

"(c) Mergers and Acquisitions. – The Secretary must apply the standards contained in regulations adopted under sections 381 and 382 of the Code in determining the extent to which a loss survives a merger or an acquisition. For mergers and acquisitions occurring prior to January

1, 2015, the Secretary must apply the standards under G.S. 105-130.8 for taxable years beginning before January 1, 2015, and the standards of this section for taxable years beginning on or after January 1, 2015."

SECTION 2.5. G.S. 105-251(a) reads as rewritten:

"(a) Scope of Information. – A taxpayer must give information to the Secretary when the Secretary requests the information. The Secretary may request a taxpayer to provide only the following kinds of information on a return, a report, or otherwise:

(1) Information that identifies the taxpayer.

(2) Information needed to determine the liability of the taxpayer for a tax.

(3) Information needed to determine whether an item is subject to a tax.

(4) Information that enables the Secretary to collect a tax.

(5) Financial or tax documentation required to determine the appropriate adjustment under G.S. 105-130.5A. If such information is not timely provided as required under G.S. 105-130.5A(a), the Secretary may propose any adjustment allowable under Part 1 of Article 4 of this Chapter.

~~(5)~~(6) Other information the law requires a taxpayer to provide or the Secretary needs to perform a duty a law requires the Secretary to perform."

PART III. SALES AND USE TAX CHANGES

SECTION 3.1.(a) G.S. 105-164.13E(a)(7) reads as rewritten:

"(7) Any of the following animals:

a. ~~Baby chicks and poults.~~Fowl.

b. Livestock."

SECTION 3.1.(b) This section is effective retroactively to July 1, 2020, and applies to purchases made on or after that date.

SECTION 3.2. G.S. 105-259(b) reads as rewritten:

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

...

~~(5b) To furnish to the finance officials of a city a list of the utility taxable gross receipts and piped natural gas tax revenues attributable to the city under G.S. 105-116.1 and G.S. 105-187.44 or under former G.S. 105-116 and G.S. 105-120.~~

...."

PART IV. EXCISE TAX HEARINGS CHANGES

SECTION 4.1. G.S. 105-113.4B reads as rewritten:

"§ 105-113.4B. **Cancellation or revocation of license.**

...

(a1) ~~Revocation.~~Summary Revocation and Procedure. – The Secretary may summarily revoke a license issued under this Article when the Secretary ~~finds~~determines that the licensee is incurring liability for the tax imposed under this Article after failing to pay a tax when due under this Article. The Secretary must send a revoked licensee a notice of the revocation and a notice of hearing. The hearing must be held within 10 days after the date of the notice of revocation unless the revoked licensee requests, before the day of the hearing, that the hearing be rescheduled. Upon receipt of a timely request, the Secretary must reschedule the hearing and provide at least 10 days' notice of the rescheduled hearing. The revocation is not stayed pending

the hearing decision. A notice of hearing under this subsection must be in writing and indicate the date, time, and place of the hearing. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the revoked licensee in writing within 10 days of the hearing. The final decision must state the basis for the decision. The statement of the basis of a revocation does not limit the Department from changing the basis.

(a2) In addition, the Non-Summary Revocation. – The Secretary may revoke the license of a licensee that commits one or more of the following acts after holding a hearing on whether the license should be revoked, affording the licensee an opportunity to have a hearing as provided in subsections (a3) through (b2) of this section:

- (1) Fails to obtain a license in a timely manner or for all places of business as required by this Article.
- (2) Willfully fails to file a return required by this Article.
- (3) Willfully fails to pay a tax when due under this Article.
- (4) Makes a false statement in an application or return required under this Article.
- (5) Fails to keep records as required by this Article.
- (6) Refuses to allow the Secretary or a representative of the Secretary to examine the person's books, accounts, and records concerning tobacco product.
- (7) Fails to disclose the correct amount of tobacco product taxable in this State.
- (8) Fails to file a replacement bond or an additional bond if required by the Secretary under this Article.
- (9) Violates G.S. 14-401.18.
- (10) Fails to meet or maintain the requirements set out in G.S. 105-113.4A(b).

(a3) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice of proposed revocation that includes all of the following information:

- (1) The basis for the proposed revocation. The statement of the basis for the proposed revocation does not limit the Department from changing the basis.
- (2) The effective date of the revocation, which must be one of the following:
 - a. Forty-five days from the date of the notice of proposed revocation if the licensee does not file a timely request for hearing.
 - b. The tenth day after the date an adverse final decision is issued if the adverse final decision is mailed.
 - c. The date an adverse final decision is delivered if the adverse final decision is delivered in person.
- (3) The circumstances, if any, under which the Secretary will not revoke the license.
- (4) An explanation of how the licensee may contest the proposed revocation.

(a4) Request for Hearing and Decision. – A licensee may contest a proposed revocation by filing a written hearing request within 45 days of the date the notice of proposed revocation was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b). If the licensee does not file a timely hearing request, the license is revoked as provided in the notice of proposed revocation, and the revocation is final and not subject to further administrative or judicial review.

~~(b) Hearing Procedure. – The Secretary must send a person whose license is summarily revoked a notice of the revocation and must give the person an opportunity to have a hearing on the revocation within 10 days after the revocation. The Secretary must give a person whose license may be revoked after a hearing at least 10 days' written notice licensee who filed a timely hearing request in accordance with subsection (a4) of this section at least 20 days' written notice of the date, time, and place of the hearing. A notice of a summary license revocation and a notice of hearing must be sent by certified mail to the last known address of the licensee. If the person whose license may be revoked fails to attend the noticed hearing, the license revocation is~~

effective 15 days after the noticed hearing, unless the Department and the licensee agree to a shorter period. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the licensee in writing within 60 days of the hearing. The Department and the licensee may extend this time by mutual agreement. Failure to issue a final decision within the required time does not affect the validity of the decision. The final decision must state the basis for the decision and, if the final decision includes revocation of the license, the effective date of the revocation in accordance with subdivision (2) of subsection (a3) of this section. The statement of the basis of a revocation does not limit the Department from changing the basis.

(b1) Delivery of Notice. – The Secretary must deliver a notice in accordance with G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give notice by email or other electronic means if the licensee has consented to receiving notices via electronic means.

(b2) Return of Credentials. – If a license is revoked, the revoked licensee must return to the Secretary, within 10 days of the issuance of the final decision, all licenses previously issued. If a license is unable to be returned, the revoked licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license cannot be returned.

(c) Release of Bond. – When the Secretary cancels or revokes a license and the licensee has paid all taxes and penalties due under this Article, the Secretary must take one of the following actions concerning a bond or an irrevocable letter of credit filed by the licensee:

- (1) Return an irrevocable letter of credit to the licensee.
- (2) Return a bond to the licensee or notify the person liable on the bond and the licensee that the person is released from liability on the bond."

SECTION 4.2. Article 36B of Chapter 105 of the General Statutes is amended by adding the following new section:

"§ 105-449.47B. Revocation of license.

(a) Revocation. – The Secretary may revoke a license or a decal when a motor carrier fails to comply with this Article or Article 36C or 36D of this Subchapter after affording the motor carrier an opportunity to have a hearing as provided in this section.

(b) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice of proposed revocation that includes all of the following information:

- (1) The basis for the proposed revocation. The statement of the basis for the proposed revocation does not limit the Department from changing the basis.
- (2) The effective date of the revocation, which must be one of the following:
 - a. Forty-five days from the date of the notice of proposed revocation if the licensee does not file a timely request for hearing.
 - b. The tenth day after the date an adverse final decision is issued if the adverse final decision is mailed.
 - c. The date an adverse final decision is delivered if the adverse final decision is delivered in person.
- (3) The circumstances, if any, under which the Secretary will not revoke the license.
- (4) An explanation of how the licensee may contest the proposed revocation.

(c) Request for Hearing and Decision. – A licensee may contest a proposed revocation by filing a written hearing request within 45 days of the date the notice of proposed revocation was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b). If the licensee does not file a timely hearing request, the license is revoked as provided in the notice of proposed revocation, and the revocation is final and not subject to further administrative or judicial review.

(d) Hearing Procedure. – The Secretary must give a licensee who filed a timely hearing request in accordance with subsection (c) of this section at least 20 days' written notice of the date, time, and place of the hearing, unless the Department and the licensee agree to a shorter period. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the licensee in writing within 60 days of the hearing. The Department and the licensee may extend this time limit by mutual agreement. Failure to issue a final decision within the required time does not affect the validity of the decision. The final decision must state the basis for the decision and, if the final decision includes revocation of a license or a decal, the effective date of the revocation in accordance with subdivision (b)(2) of this section. The statement of the basis of the revocation does not limit the Department from changing the basis.

(e) Delivery of Notice. – The Secretary must deliver a notice in accordance with G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give notice by email or other electronic means if the licensee has consented to receiving notices via electronic means.

(f) Return of Credentials. – If the license is revoked, the former licensee shall return to the Secretary, within 10 days of the issuance of the final decision, all licenses and decals previously issued. If the licenses or decals are not returned, the credentials are subject to seizure or removal from the motor vehicle or defacement. If a license or decal is unable to be returned, the licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license or decal cannot be returned."

SECTION 4.3. G.S. 105-449.76 reads as rewritten:

"§ 105-449.76. Cancellation or revocation of license.

(a) Cancellation. – The Secretary may cancel a license issued under this Article upon the written request of the licensee. The licensee's request must include a proposed effective date of cancellation and must return the license to the Secretary on or before the proposed effective date. If the licensee's request does not include a proposed effective date of cancellation, the license is cancelled 15 days after the Department receives the written request. If the license is unable to be returned, the licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license cannot be returned. The Secretary shall notify the licensee when the license is cancelled.

~~(a1) Revocation.~~ Summary Revocation and Procedure. – The Secretary may summarily revoke a license issued under this Article when the Secretary ~~finds~~ determines that the licensee is incurring liability for the tax imposed under this Article after failing to pay a tax when due under this Article. The Secretary must send a revoked licensee a notice of the revocation and a notice of hearing. The hearing must be held within 10 days after the date of the notice of revocation unless the revoked licensee requests, before the day of the hearing, that the hearing be rescheduled. Upon receipt of a timely request, the Secretary must reschedule the hearing and provide at least 10 days' notice of the rescheduled hearing. The revocation is not stayed pending the hearing decision. A notice of hearing under this subsection must be in writing and indicate the date, time, and place of the hearing. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the revoked licensee in writing within 10 days of the hearing. The final decision must state the basis for the decision. The statement of the basis of a revocation does not limit the Department from changing the basis.

~~(a2) In addition, the Non-Summary Revocation.~~ – The Secretary may revoke the license of a licensee that commits one or more of the acts listed in G.S. 105-449.120 after ~~holding a hearing on whether the license should be revoked~~ affording the licensee an opportunity to have a hearing as provided in subsections (a3) through (b2) of this section.

(a3) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice of proposed revocation that includes all of the following information:

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

- (2) The effective date of the revocation, which must be one of the following:
- a. Forty-five days from the date of the notice of proposed revocation if the licensee does not file a timely request for hearing.
 - b. The tenth day after the date an adverse final decision is issued if the adverse final decision is mailed.
 - c. The date an adverse final decision is delivered if the adverse final decision is delivered in person.
- (3) The circumstances, if any, under which the Secretary will not revoke the license.
- (4) An explanation of how the licensee may contest the proposed revocation.
- (a4) Request for Hearing and Decision. – A licensee may contest a proposed revocation by filing a written hearing request within 45 days of the date the notice of proposed revocation was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b). If the licensee does not file a timely hearing request, the license is revoked as provided in the notice of proposed revocation, and the revocation is final and not subject to further administrative or judicial review.
- (b) Hearing Procedure. – The Secretary must send a person whose license is summarily revoked a notice of the revocation and must give the person an opportunity to have a hearing on the revocation within 10 days after the revocation. The Secretary must give a person whose license may be revoked after a hearing at least 10 days' written notice of the date, time, and place of the hearing. A notice of a summary license revocation and a notice of hearing must be sent by certified mail to the last known address of the licensee. If the person whose license may be revoked fails to attend the noticed hearing, the license revocation is effective 15 days after the noticed hearing, unless the Department and the licensee agree to a shorter period. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the licensee in writing within 60 days of the hearing. The Department and the licensee may extend this time by mutual agreement. Failure to issue a final decision within the required time does not affect the validity of the decision. The final decision must state the basis for the decision and, if the final decision includes revocation of the license, the effective date of the revocation in accordance with subdivision (2) of subsection (a3) of this section. The statement of the basis of a revocation does not limit the Department from changing the basis.
- (b1) Delivery of Notice. – The Secretary must deliver a notice in accordance with G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give notice by email or other electronic means if the licensee has consented to receiving notices via electronic means.
- (b2) Return of Credentials. – If the license is revoked, the former licensee shall return to the Secretary, within 10 days of the issuance of the final decision, all licenses and decals previously issued. If a license or decal is unable to be returned, the licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license or decal cannot be returned.
- (c) Release of Bond. – When the Secretary cancels or revokes a license and the licensee has paid all taxes and penalties due under this Article, the Secretary must take one of the following actions concerning a bond or an irrevocable letter of credit filed by the licensee:
- (1) Return an irrevocable letter of credit to the licensee.
 - (2) Return a bond to the licensee or notify the person liable on the bond and the licensee that the person is released from liability on the bond."

SECTION 4.4. G.S. 119-19 reads as rewritten:

"§ 119-19. Authority of Secretary to cancel or revoke a license.

(a) ~~Reasons. Cancellation.~~ – The Secretary of Revenue may cancel a license issued under this Article upon the written request of the licensee. The licensee's request must include a proposed effective date of the cancellation and must return the license to the Secretary on or before the proposed effective date. If the licensee's request does not include a proposed effective date of cancellation, the license is cancelled 15 days after the Department receives the written request. If the license is unable to be returned, the licensee must include a written statement of the reason, satisfactory to the Secretary, why the license cannot be returned. The Secretary must notify the licensee when the license is cancelled.

(a1) ~~Summary Revocation and Procedure.~~ – The Secretary may summarily revoke a license issued under this Article or under Article 36C or 36D of ~~Chapter 105 of the General Statutes~~ this Chapter when the Secretary ~~finds~~ determines that the licensee is incurring liability for the tax imposed by this Article after failing to pay a tax when due under this Article. The Secretary must send a revoked licensee a notice of the revocation and a notice of hearing. The hearing must be held within 10 days after the date of the notice of revocation unless the revoked licensee requests, before the day of the hearing, that the hearing be rescheduled. Upon receipt of a timely request, the Secretary must reschedule the hearing and provide at least 10 days' notice of the rescheduled hearing. The revocation is not stayed pending the hearing decision. A notice of hearing under this subsection must be in writing and indicate the date, time, and place of the hearing. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the revoked licensee in writing within 10 days of the hearing. The final decision must state the basis for the decision. The statement of the basis of a revocation does not limit the Department from changing the basis.

(a2) ~~Non-Summary Revocation.~~ – The Secretary may revoke the license of a licensee who files a false report under this Article or fails to file a report required under this ~~Article~~ after holding a hearing on whether the license should be revoked. ~~Article~~ after affording the licensee an opportunity to have a hearing as provided in subsections (a3) through (b2) of this section.

(a3) ~~Notice of Proposed Revocation.~~ – The Secretary must provide a licensee with a notice of proposed revocation that includes all of the following information:

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

(2) The effective date of the revocation, which must be one of the following:

a. Forty-five days from the date of the notice of proposed revocation if the licensee does not file a timely request for hearing.

b. The tenth day after the date an adverse final decision is issued if the adverse final decision is mailed.

c. The date an adverse final decision is delivered if the adverse final decision is delivered in person.

(3) The circumstances, if any, under which the Secretary will not revoke the license.

(4) An explanation of how the licensee may contest the proposed revocation.

(a4) ~~Request for Hearing and Decision.~~ – A licensee may contest a proposed revocation by filing a written hearing request within 45 days of the date the notice of proposed revocation was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b). If the licensee does not file a timely hearing request, the license is revoked as provided in the notice of proposed revocation, and the revocation is final and not subject to further administrative or judicial review.

(b) ~~Hearing Procedure.~~ – The Secretary must ~~send a person whose license is summarily revoked a notice of the revocation and must give the person an opportunity to have a hearing on the revocation within 10 days after the revocation. The Secretary must give a person whose license may be revoked after a hearing~~ give a licensee who filed a timely hearing request in

accordance with subsection (a4) of this section at least ~~10-20~~ days' written notice of the date, time, and place of the hearing. ~~A notice of a summary license revocation and a notice of hearing must be sent by certified mail to the last known address of the licensee.~~ hearing, unless the Department and the licensee agree to a shorter period. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the licensee in writing within 60 days of the hearing. The Department and the licensee may extend this time by mutual agreement. Failure to issue a final decision within the required time does not affect the validity of the decision. The final decision must state the basis for the decision and, if the final decision includes revocation of the license, the effective date of the revocation in accordance with subdivision (2) of subsection (a3) of this section. The statement of the basis of a revocation does not limit the Department from changing the basis.

(b1) Delivery of Notice. – The Secretary must deliver a notice in accordance with G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give notice by email or other electronic means if the licensee has consented to receiving notices via electronic means.

(b2) Return of Credentials. – If the license is revoked, the former licensee shall return to the Secretary, within 10 days of the issuance of the final decision, all licenses previously issued. If a license is unable to be returned, the licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license cannot be returned.

(c) Release of Bond. – When the Secretary cancels or revokes a license and the licensee has paid all taxes and penalties due under this Article, the Secretary must either return to the licensee the bond filed by the licensee or notify the person liable on the bond and the licensee that the person is released from liability on the bond."

SECTION 4.5. This Part becomes effective January 1, 2022, and applies to summary revocations and non-summary revocations initiated by the Department on or after that date.

PART V. OTHER EXCISE TAX CHANGES

SECTION 5.1. G.S. 105-113.8 is recodified as G.S. 105-113.4H.

SECTION 5.2.(a) G.S. 105-113.11 is recodified as G.S. 105-113.4I.

SECTION 5.2.(b) G.S. 105-113.4I, as recodified by subsection (a) of this section, reads as rewritten:

"§ 105-113.4I. Licenses required.

~~After the effective date of this Article, no A person shall may not engage in business as a distributor distributor, wholesale dealer, or retail dealer in this State, without having first obtained from the Secretary the appropriate license for that purpose as prescribed herein. Any in this Article. A license required by this Article shall be is in addition to any and all other licenses which that may be required by law."~~

SECTION 5.3.(a) G.S. 105-113.29 is recodified as G.S. 105-113.4J.

SECTION 5.3.(b) G.S. 105-113.4J, as recodified by subsection (a) of this section, reads as rewritten:

"§ 105-113.4J. Unlicensed place of business.

It is unlawful for a person to maintain a place of business within this State required by this Article to be licensed to engage in the business of selling, offering for sale, or possessing with the intent to sell ~~cigarettes or other tobacco products without first obtaining the licenses.~~ all licenses required by this Article."

SECTION 5.4. G.S. 105-113.33 is recodified as G.S. 105-113.4K.

SECTION 5.5. G.S. 105-113.18(2) reads as rewritten:

"(2) Use Tax Report. – ~~Every other A~~ person who is not a licensed distributor and has acquired non-tax-paid cigarettes for sale, use, or ~~consumption~~ consumption, subject to the tax imposed by this Part shall, must, within 96 hours after receipt of the cigarettes, file a report in the form prescribed by the

Secretary showing the amount of cigarettes so received and any other information required by the Secretary. The report ~~shall~~must be accompanied by payment of the full amount of the tax."

SECTION 5.6. G.S. 105-113.35(d) reads as rewritten:

"(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. ~~A manufacturer who is not a retail dealer and who ships vapor products to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the vapor products shipped to either a wholesale dealer or retail dealer.~~ Once granted permission, a manufacturer may choose not to pay the tax until otherwise notified by the Secretary but is not relieved from filing a report as required by this Part. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary.

Permission granted under this subsection to a manufacturer to be relieved of paying the tax imposed by this section applies to an integrated wholesale dealer with whom the manufacturer is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with whom it is an affiliate when the manufacturer applies to the Secretary for permission to be relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the manufacturer after the Secretary has given the manufacturer permission to be relieved of paying the tax.

If a person is both a manufacturer of cigarettes and a wholesale dealer of tobacco products other than cigarettes and the person is granted permission under G.S. 105-113.10 to be relieved of paying the cigarette excise tax, the permission applies to the tax imposed by this section on tobacco products other than cigarettes. A cigarette manufacturer who becomes a wholesale dealer after receiving permission to be relieved of the cigarette excise tax must notify the Secretary of the permission received under G.S. 105-113.10 when applying for a license as a wholesale dealer."

SECTION 5.7. G.S. 105-113.37 reads as rewritten:

"§ 105-113.37. Payment of tax.

(a) Monthly Report. – Taxes levied by this ~~Article~~Part are payable by a licensed wholesale dealer or licensed retail dealer when a report is required to be filed. A report is due on a monthly basis. A monthly report covers tobacco ~~products-products~~, other than cigarettes, sold, shipped, delivered, or otherwise disposed of in this State occurring in a calendar month and is due within 20 days after the end of the month covered by the report. A report ~~shall~~must be filed on a form provided by the Secretary and ~~shall~~must contain the information required by the Secretary.

(a1) Use Tax Report. – A person who is not a licensed wholesale dealer or licensed retail dealer and has acquired non-tax-paid tobacco products, other than cigarettes, for sale, use, or consumption, subject to the tax imposed by this Part must, within 96 hours after receipt of the tobacco products, file a report in the form prescribed by the Secretary showing the amount of tobacco products received and any other information required by the Secretary. The report must be accompanied by payment of the full amount of the tax.

...."

SECTION 5.8. G.S. 105-113.83 reads as rewritten:

"§ 105-113.83. Payment of excise taxes.

...

(b) Malt Beverage and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. ~~The excise taxes levied under G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to~~

~~G.S. 18B-1001.1 must be paid by the wine shipper permittee.~~ The taxes on malt beverages and wine are payable only once on the same beverages. Unless otherwise provided, the tax is due on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the wholesaler or importer. When excise taxes are paid on wine or malt beverages, the wholesaler or importer must submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report must indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply. ~~A wine shipper permittee shall submit verified reports once a year on forms provided by the Secretary detailing sales records for the year the taxes are paid. The verified report is due on or before the fifteenth day of the first month of the following calendar year.~~

(b1) Brewery and Winery Option. – A brewery or winery may be relieved of paying the tax levied under G.S. 105-113.80(a) and (b) if all of the following apply:

- (1) The brewery or winery holds a permit issued under G.S. 18B-1101, 18B-1102, or 18B-1104.
- (2) The brewery or winery transfers malt beverages or wine to a wholesaler permitted under G.S. 18B-1107 or G.S. 18B-1109.
- (3) The wholesaler agrees in writing to be responsible for the tax due on the transferred malt beverages or wine.
- (4) The brewery or winery files a report when the tax would otherwise be due reporting the transfer of malt beverages or wine to the wholesaler.

(b2) Backup Tax Liability. – If a brewery or winery is relieved of paying the excise tax as provided under subsection (b1) of this section, the wholesaler receiving the malt beverages or wine is liable for any tax due under this section.

(b3) Wine Shipper Permittee. – A wine shipper permittee must pay the excise tax levied under G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to G.S. 18B-1001.1. A wine shipper permittee must submit verified reports once a year on forms provided by the Secretary detailing sales records for the year taxes are paid. The verified report is due on or before the fifteenth day of the first month of the following calendar year.

...."

SECTION 5.9. G.S. 105-113.86 reads as rewritten:

"§ 105-113.86. Bond or irrevocable letter of credit.

(a) Wholesalers and Importers. – A-~~The Secretary may require a wholesaler or importer must file with the Secretary to furnish a bond in an amount of that adequately protects the State from a wholesaler's or importer's failure to pay taxes due under this Article. The amount of the bond shall not be less than five thousand dollars (\$5,000). The amount of the bond must be proportionate to the anticipated tax liability of the wholesaler or importer.~~

(a1) Distilleries. – The Secretary may require a distillery to furnish a bond in an amount that adequately protects the State from a distillery's failure to pay taxes under this Article. The amount of the bond shall not be less than two thousand dollars (\$2,000).

(a2) Periodic Review. – The Secretary should periodically review the sufficiency of the bonds required under this section. The Secretary may increase the ~~proportionate~~ amount required, not to exceed fifty thousand dollars (\$50,000), if the bond ~~furnished~~ no longer covers the taxpayer's anticipated tax liability. The Secretary may decrease the ~~proportionate~~ amount required when the Secretary determines that a smaller bond amount will adequately protect the State from loss. The bond must be conditioned on compliance with this Article, payable to the State, in a form acceptable to the Secretary, and secured by a corporate surety.

(b) Nonresident Vendors. – The Secretary may require the holder of a nonresident vendor ABC permit to furnish a bond in an amount not to exceed two thousand dollars (\$2,000). The bond must be conditioned on compliance with this Article, payable to the State in a form acceptable to the Secretary, and secured by a corporate surety.

(c) Letter of Credit. – For purposes of this section, a wholesaler or ~~importer or importer,~~ a nonresident ~~vendor-vendor,~~ or a distillery may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section."

SECTION 5.10.(a) G.S. 105-236(a)(2) reads as rewritten:

"(2) Failure to Obtain a License. – For failure to obtain a license before engaging in a business, trade or profession for which a license is required, the Secretary shall assess a penalty equal to five percent (5%) of the amount prescribed for the license per month or fraction thereof until paid, not to exceed twenty-five percent (25%) of the amount so prescribed, but in any event shall not be less than five dollars (\$5.00). In cases in which the taxpayer, after written notification by the Department, fails to obtain a license as required under ~~G.S. 105-449.65~~ G.S. 105-113.4I, G.S. 105-449.65, or G.S. 105-449.131, the Secretary may assess a penalty of one thousand dollars (\$1,000)."

SECTION 5.10.(b) This section becomes effective January 1, 2022, and applies to penalties assessed on or after that date.

SECTION 5.11. G.S. 105-449.45 reads as rewritten:

"§ 105-449.45. Returns of carriers.

...

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

(d1) Failure to Pay Penalty. – A motor carrier that fails to pay a tax when due is subject to a penalty of fifty dollars (\$50.00), or ten percent (10%) of the tax due, whichever is greater. The Secretary shall not assess this penalty if the motor carrier files or pays in accordance with G.S. 105-236(a)(4)a. or b.

(d2) Penalty Waiver. – The Secretary may reduce or waive a penalty as provided under G.S. 105-449.119.

...."

SECTION 5.12.(a) G.S. 105-449.60 reads as rewritten:

"§ 105-449.60. Definitions.

The following definitions apply in this Article:

...

(20a) Fuel grade ethanol. – Ethanol meeting the standard for the American Society Testing Materials Specification D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," or ethanol, regardless of how it was produced, denatured in accordance with 27 C.F.R. § 19.746 as of January 1, 2021.

(21) Gasohol. – A blended fuel composed of gasoline and fuel grade ethanol-alcohol or gasoline and ethanol.

...."

SECTION 5.12.(b) This section becomes effective January 1, 2022.

SECTION 5.13.(a) G.S. 105-449.115 reads as rewritten:

"§ 105-449.115. Shipping document required to transport motor fuel by railroad tank car or transport truck.

...

(d) Duties of Transporter. – A person to whom a shipping document was issued must do all of the following:

(1) Carry the shipping document in the conveyance for which it was issued when transporting the motor fuel described in it.

- 1 (2) Show the shipping document to a law enforcement officer upon request when
2 transporting the motor fuel described in it.
- 3 (2a) Maintain a copy of the shipping at a centralized place of business for at least
4 three years from the date of delivery.
- 5 (3) Deliver motor fuel described in the shipping document to the destination state
6 ~~printed-designated~~ on it unless the ~~person-person~~, in a manner prescribed by
7 the Secretary, does all of the following:
- 8 a. ~~Notifies the Secretary, in a manner designated by the Secretary,~~
9 Secretary before transporting the motor fuel into a state other than the
10 ~~printed-destination state that the person has received instructions since~~
11 ~~the shipping document was issued to deliver the motor fuel to a~~
12 ~~different destination state designated on the shipping document.~~
- 13 b. ~~Receives from the Secretary, in a manner designated by the Secretary,~~
14 Secretary a confirmation number authorizing the ~~diversion-shipment~~
15 of motor fuel to a state other than the state designated on the shipping
16 document.
- 17 c. ~~Writes-Contemporaneously notes on the shipping document the~~
18 change in destination state and the confirmation number for the
19 diversion-received from the Secretary.
- 20 (4) ~~Give-Upon delivery, provide a copy of the shipping document to the~~
21 ~~distributor or other person to whom the motor fuel is delivered.~~
- 22 (e) Duties of Person Receiving Shipment. – A person to whom motor fuel is delivered by
23 railroad tank car or transport truck may ~~not-only~~ accept delivery of the motor fuel if the
24 destination state shown on the shipping document for the motor fuel is ~~a state other than North~~
25 ~~Carolina. To determine if the shipping document shows North Carolina as the destination state,~~
26 ~~the person to whom the fuel is delivered must examine the shipping document and must keep a~~
27 ~~copy of the shipping document.~~ Carolina or has been changed to North Carolina in accordance
28 with subdivision (3) of subsection (d) of this section. The person must keep-maintain a copy of
29 the shipping document for at least three years from the date of delivery and must maintain a copy
30 of the shipping document at the place of business where the motor fuel was delivered for 90 days
31 from the date of delivery and must keep it at that place or another place for at least three years
32 from the date of delivery. A person who accepts delivery of motor fuel in violation of this
33 subsection is jointly and severally liable for any tax due on the fuel.

34"

35 **SECTION 5.13.(b)** G.S. 105-449.115A reads as rewritten:

36 **"§ 105-449.115A. Shipping document required to transport fuel by tank wagon.**

37 ...

38 (b) Duties of Transporter. – A person to whom an invoice, bill of sale, or shipping
39 document was issued must do all of the following:

- 40 (1) Carry the invoice, bill of sale, or shipping document in the conveyance for
41 which it is issued when transporting the motor fuel described in it.
- 42 (2) Show the invoice, bill of sale, or shipping document upon request when
43 transporting the motor fuel described in it.
- 44 (3) ~~Keep-Maintain~~ a copy of the invoice, bill of sale, or shipping document at a
45 centralized place of business for at least three years from the date of delivery.
- 46 (4) Deliver motor fuel described in the shipping document to the state designated
47 on it unless the person, in a manner prescribed by the Secretary, does all of
48 the following:
- 49 a. Notifies the Secretary before transporting the motor fuel into a state
50 other than the state designated on the shipping document.

b. Receives from the Secretary a confirmation number authorizing the shipment of motor fuel to a state other than the state designated on the shipping document.

c. Contemporaneously notes on the shipping document the change in destination state and the confirmation number received from the Secretary.

(5) Upon delivery, provide a copy of the shipping document to the person to whom the motor fuel is delivered.

(b1) Duties of Person Receiving Shipment. – A person to whom motor fuel is delivered by tank wagon may only accept delivery of the motor fuel if the destination state shown on the shipping document for the motor fuel is North Carolina or has been changed to North Carolina in accordance with subdivision (4) of subsection (b) of this section. The person must maintain a copy of the shipping document for at least three years from the date of delivery and must maintain a copy of the shipping document at the place of business where the motor fuel was delivered for 90 days from the date of delivery. A person who accepts delivery of motor fuel in violation of this subsection is jointly and severally liable for any tax due on the fuel.

...."

SECTION 5.13.(c) This section becomes effective January 1, 2022.

SECTION 5.14.(a) G.S. 105-449.123 reads as rewritten:

"§ 105-449.123. Marking requirements for dyed fuel storage facilities.

(a) Requirements. – A person who is a retailer of dyed motor fuel or who stores both dyed and undyed motor fuel for use by that person or another person must mark the storage facility for the dyed motor fuel as follows ~~provided in this subsection and~~ in a manner that clearly indicates the fuel is not to be used to operate a highway vehicle. The storage facility must be marked "Dyed Diesel, Nontaxable Use Only, Penalty For Taxable Use" or "Dyed Kerosene, Nontaxable Use Only, Penalty for Taxable Use" or a similar phrase that clearly indicates the fuel is not to be used to operate a highway vehicle. ~~A person who intentionally fails to mark the storage facility as required by this section is subject to a civil penalty equal to the excise tax at the motor fuel rate on the inventory held in the storage tank at the time of the violation. If the inventory cannot be determined, then the penalty is calculated on the capacity of the storage tank.~~ The marking requirements are:

(1) The storage tank of the storage facility must be marked if the storage tank is visible.

(2) The fillcap or spill containment box of the storage facility must be marked.

(3) The dispensing device that serves the storage facility must be marked.

(4) The retail pump or dispensing device at any level of the distribution system must comply with the marking requirements.

(a1) Penalty. – A person who fails to mark the storage facility as required by subsection (a) of this section is subject to a civil penalty of two hundred fifty dollars (\$250.00). Each inspection that results in a finding of noncompliance constitutes a separate and distinct offense.

(b) Exception. – The marking requirements of this section do not apply to a storage facility that contains fuel used only for one of the purposes listed in G.S. 105-449.105A(a)(1) and is installed in a manner that makes use of the fuel for any other purpose improbable."

SECTION 5.14.(b) This section becomes effective January 1, 2022, and applies to penalties assessed on or after that date.

PART VI. LOCAL GOVERNMENT TAX CHANGES

SECTION 6.1.(a) G.S. 105-278(a) reads as rewritten:

"(a) Real property designated as a historic property by a local ordinance adopted pursuant to former G.S. 160A-399.4 or designated as a historic landmark by a local ordinance adopted pursuant to G.S. 160D-945 or former G.S. 160A-400.5 is designated a special class of property

1 under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Property so classified
2 shall be taxed uniformly as a class in each local taxing unit on the basis of fifty percent (50%) of
3 the true value of the property as determined pursuant to G.S. 105-285 and 105-286, or 105-287."

4 **SECTION 6.1.(b)** This section is effective June 19, 2020.
5

6 **PART VII. EFFECTIVE DATE**

7 **SECTION 7.1.** Except as otherwise provided, this act is effective when it becomes
8 law.