

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

**SESSION LAW 2019-237
HOUSE BILL 399**

AN ACT TO MAKE CERTAIN TAX CHANGES, TO EXTEND CERTAIN TAX BENEFITS,
AND TO APPROPRIATE FUNDS FROM THE COLLECTIONS ASSISTANCE FEE
SPECIAL FUND TO THE DEPARTMENT OF REVENUE.

The General Assembly of North Carolina enacts:

**INCOME EXCLUSION FOR IRA DISTRIBUTIONS TO CHARITIES BY TAXPAYERS
AGE 70 1/2 OR OLDER**

SECTION 1.(a) G.S. 105-153.5(a)(2)a. reads as rewritten:

"a. Charitable Contribution. – The amount allowed as a deduction for charitable contributions under section 170 of the Code for that taxable year. For taxable years ~~beginning on or after 2014,~~ 2014 through 2018, a taxpayer who elected to take the income exclusion under section 408(d)(8) of the Code for a qualified charitable distribution from an individual retirement plan by a person who has attained the age of 70 1/2 may deduct the amount that would have been allowed as a charitable deduction under section 170 of the Code had the taxpayer not elected to take the income exclusion."

SECTION 1.(b) G.S. 105-153.5(c2)(3) reads as rewritten:

"(3) For taxable years ~~beginning on or after 2014,~~ 2014 through 2018, the taxpayer must add the amount excluded from the taxpayer's gross income for a qualified charitable distribution from an individual retirement plan by a person who has attained age 70 1/2 under section 408(d)(8) of the Code. The purpose of this subdivision is to decouple from the income exclusion available under federal tax law."

SECTION 1.(c) This section is effective when it becomes law.

DEDUCTION FOR AMOUNTS RECEIVED AS ECONOMIC INCENTIVES

SECTION 2.(a) 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:

...

(31) To the extent included in federal taxable income, the amount received by a taxpayer as an economic incentive pursuant to G.S. 143B-437.012 or Part 2G or Part 2H of Article 10 of Chapter 143B of the General Statutes."

SECTION 2.(b) 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) The amount received by a taxpayer as an economic incentive pursuant to G.S. 143B-437.012 or Part 2G or Part 2H of Article 10 of Chapter 143B of the General Statutes."

SECTION 2.(c) This section is effective for taxable years beginning on or after January 1, 2019, and applies to amounts received by a taxpayer on or after that date.

EXTEND HISTORIC REHABILITATION TAX CREDIT AND EXPAND THE MILL REHABILITATION TAX CREDIT

SECTION 3.(a) G.S. 105-129.110 reads as rewritten:

"§ 105-129.110. Sunset.

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after ~~January 1, 2020.~~ January 1, 2024. For qualified rehabilitation expenditures and rehabilitation expenses incurred prior to ~~January 1, 2020, January 1, 2024,~~ this Article expires for property not placed in service by ~~January 1, 2028.~~ January 1, 2032."

SECTION 3.(b) G.S. 105-129.71 is amended by adding a new subsection to read:

"(a1) Credit for Rehabilitated Railroad Station. – A taxpayer who is allowed a credit under section 47 of the Code for making qualified rehabilitation expenditures of at least ten million dollars (\$10,000,000) with respect to a certified rehabilitation of an eligible railroad station is allowed a credit equal to a percentage of the expenditures that qualify for the federal credit. In order to be eligible for a credit allowed by this Article, the taxpayer must provide to the Secretary a copy of the eligibility certification and the cost certification. The amount of the credit is equal to forty percent (40%) of the qualified rehabilitation expenditures. The credit cannot be claimed for a taxable year beginning prior to January 1, 2021. The tax credit must be taken in two equal installments on returns filed for taxable years 2021 and 2022. The sum of the two installments is equal to the credit amount allowed for qualified rehabilitation expenditures incurred in taxable years 2019, 2020, and 2021.

For purposes of this subsection, the term "eligible railroad station" is a site located in this State that satisfies all of the following conditions:

- (1) It was used as a manufacturing facility and either (i) was used as a railroad station or (ii) is located adjacent to a site that is or was used as a railroad station.
- (2) It is a certified historic structure or a State-certified historic structure.
- (3) It has been at least eighty percent (80%) vacant for a period of at least two years immediately preceding the date the eligibility certification is made.
- (4) It is a designated local landmark as certified by a city on or before June 30, 2019.
- (5) It is located in a development tier one or tier two area, determined as of the date of the eligibility certification.
- (6) It is located in a designated qualified opportunity zone under sections 1400Z-1 and 1400Z-2 of the Code, determined as of the date of the eligibility certification.
- (7) It is issued a certificate of occupancy on or before December 31, 2021."

SECTION 3.(c) G.S. 105-129.74 reads as rewritten:

"§ 105-129.74. Coordination with ~~Article 3D of this Chapter.~~ Historic Rehabilitation Tax Credit.

A taxpayer that claims a credit under this Article may not also claim a credit under Article 3D or 3L of this Chapter with respect to the same activity. The rules and fee schedule adopted under G.S. 105-129.36A or G.S. 105-129.107 apply to this Article."

SECTION 3.(d) G.S. 105-129.75 reads as rewritten:

"§ 105-129.75. ~~Sunset.~~ Sunset and applicable expenditures.

(a) This Sunset. – Except for credits allowed under G.S. 105-129.71(a1), this Article expires January 1, 2015, for rehabilitation projects for which an application for an eligibility certification is submitted on or after that date. Eligibility certifications under this Article expire January 1, 2023.

(b) Delayed Sunset and Applicable Expenditures. – For credits allowed under G.S. 105-129.71(a1), the following applies:

- (1) The qualified rehabilitation expenditures must be incurred on or after January 1, 2019, and before January 1, 2022.
- (2) This Article expires, and a tax credit allowed under G.S. 105-127.71(a1) may not be claimed, for rehabilitation projects not completed and placed in service prior to January 1, 2022."

SECTION 3.(e) This section is effective when it becomes law.

EXTEND SALES TAX EXEMPTION FOR QUALIFYING AIRLINES

SECTION 4.(a) G.S. 105-164.13(11b) reads as rewritten:

"(11b) Sales of aviation gasoline and jet fuel to an interstate air business for use in a commercial aircraft. For purposes of this subdivision, the term "commercial aircraft" has the same meaning as defined in subdivision (45a) of this section. This exemption also applies to aviation gasoline and jet fuel purchased for use in a commercial aircraft in interstate or foreign commerce by a person whose primary business is scheduled passenger air transportation. This subdivision expires ~~January 1, 2020.~~January 1, 2024."

SECTION 4.(b) This section is effective when it becomes law.

EXTEND SALES TAX EXEMPTIONS FOR PROFESSIONAL MOTORSPORTS TEAMS

SECTION 5.(a) G.S. 105-164.13(65) and (65a) read as rewritten:

"(65) This subdivision expires ~~January 1, 2020.~~January 1, 2024. Sales of the following to a professional motorsports racing team or a related member of a team for use in competition in a sanctioned race series:

- a. The sale, lease, or rental of an engine.
- b. The sales price of or gross receipts derived from a service contract on, or repair, maintenance, and installation services for, a transmission, an engine, rear-end gears, and any other item that is purchased, leased, or rented and that is exempt from tax under this subdivision or that is allowed a sales tax refund under G.S. 105-164.14A(a)(5).
- c. The gross receipts derived from an agreement to provide an engine to a professional motorsports racing team or related member of a team for use in competition in a sanctioned race series, where such agreement does not meet the definition of a "service contract" as defined in G.S. 105-164.3 but may meet the definition of the term "lease or rental" as defined in G.S. 105-164.3.

(65a) An engine or a part to build or rebuild an engine for the purpose of providing an engine under an agreement to a professional motorsports racing team or a related member of a team for use in competition in a sanctioned race series. This subdivision expires ~~January 1, 2020.~~January 1, 2024."

SECTION 5.(b) G.S. 105-164.14A(a)(4) and (a)(5) read as rewritten:

"(4) Motorsports team or sanctioning body. – A professional motorsports racing team, a motorsports sanctioning body, or a related member of such a team or body is allowed a refund of the sales and use tax paid by it in this State on aviation gasoline or jet fuel that is used to travel to or from a motorsports event

in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For purposes of this subdivision, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motorsports testing. This subdivision is repealed for purchases made on or after ~~January 1, 2020~~January 1, 2024.

- (5) Professional motorsports team. – A professional motorsports racing team or a related member of a team is allowed a refund of fifty percent (50%) of the sales and use tax paid by it in this State on tangible personal property, other than tires or accessories, that comprises any part of a professional motorsports vehicle. For purposes of this subdivision, "motorsports accessories" includes instrumentation, telemetry, consumables, and paint. This subdivision is repealed for purchases made on or after ~~January 1, 2020~~January 1, 2024."

SECTION 5.(c) This section is effective when it becomes law.

DRY CLEANING SOLVENT PROGRAM EXTENSION

SECTION 6.(a) G.S. 143-215.104A reads as rewritten:

"§ 143-215.104A. Title; sunset.

This part is the "Dry-Cleaning Solvent Cleanup Act of 1997" and may be cited by that name. ~~Except as otherwise provided in this section, this~~ This part expires ~~1 January 2022~~January 1, 2032, except with respect to all of the following:

- (1) G.S. 143-215.104K ~~is not repealed~~does not expire to the extent that it applies to liability arising from dry-cleaning solvent contamination described in a Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent Remediation Agreement entered into by the Environmental Management Commission pursuant to G.S. 143-215.104H and G.S. 143-215.104I.
- (2) Any Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent Remediation Agreement in force as of ~~1 January 2012~~January 1, 2032, shall continue to be governed by the provisions of Part 6 of Article 21A of Chapter 143 of the General Statutes as though those provisions had not been repealed.
- (3) G.S. 143-215.104D(b)(2) ~~is not repealed~~does not expire; rules adopted by the Environmental Management Commission pursuant to G.S. 143-215.104D(b)(2) shall continue in effect; and those rules may be enforced pursuant to G.S. 143-215.104P, 143-215.104Q, and 143-215.104R, which shall remain in effect for that purpose."

SECTION 6.(b) G.S. 105-164.44E reads as rewritten:

"§ 105-164.44E. Transfer to the Dry-Cleaning Solvent Cleanup Fund.

(a) Transfer. – At the end of each quarter, the Secretary must transfer to the Dry-Cleaning Solvent Cleanup Fund established under G.S. 143-215.104C an amount equal to fifteen percent (15%) of the net State sales and use taxes collected under G.S. 105-164.4(a)(4) during the previous fiscal year, as determined by the Secretary based on available data.

(b) Sunset. – This section is repealed effective ~~July 1, 2020~~July 1, 2030."

SECTION 6.(c) G.S. 105-187.35 reads as rewritten:

"§ 105-187.35. Sunset.

This Article is repealed effective ~~January 1, 2020~~January 1, 2030."

INSURANCE REGULATORY FEE

SECTION 7. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2020 calendar year.

DEPARTMENT OF REVENUE APPROPRIATIONS

SECTION 8. Notwithstanding any provision of law to the contrary, there is appropriated from the Collections Assistance Fee Special Fund to the Department of Revenue (i) the sum of twelve million five hundred thousand dollars (\$12,500,000) in nonrecurring funds for the 2019-2020 fiscal year to be used for costs associated with tax systems operations and maintenance upgrades and (ii) the sum of four million four hundred thousand dollars (\$4,400,000) in nonrecurring funds in each fiscal year of the 2019-2021 fiscal biennium to be used to contract with a vendor to perform identity theft and tax fraud analysis using the Government Data Analytics Center (GDAC).

TECHNICAL CHANGES

SECTION 8.1.(a) G.S. 105-164.13(61a) reads as rewritten:

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

...

k. Self-service ~~car~~vehicle wash or vacuum and limited-service vehicle wash. For purposes of this sub-subdivision, the following definitions apply:

1. Limited-service vehicle wash. – The cleaning of a vehicle by mechanical means where the only activities performed by an employee include one or more of the following: (i) receiving payment for the transaction, (ii) guiding the vehicle into the entrance or exit of a conveyor, (iii) applying low-pressure spray of chemicals to the vehicle prior to the cleaning of the vehicle, or (iv) placing protective tape or covers on the vehicle prior to cleaning. The term does not include any activity whereby an employee physically touches the vehicle for the purpose of cleaning or restoring the vehicle, enters or cleans any part of the interior of the vehicle, or performs an activity on the vehicle other than one of those listed in this sub-sub-subdivision.
2. Self-service vehicle wash or vacuum. – The cleaning of a vehicle by a customer without any cleaning or restoring activity performed by an employee."

SECTION 8.1.(b) G.S. 105-164.3 reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

...

(12) Gross sales. – The sum total of the sales price of all sales of ~~items~~tangible personal property, digital property, and services.

...

(16a) Item. – Tangible personal property, ~~certain~~digital property, or a service, unless the context requires otherwise.

...."

MISCELLANEOUS PROVISIONS

SECTION 9. If any provision of this act and G.S. 143C-5-4 are in conflict, the provisions of this act shall prevail.

SECTION 10. If House Bill 966, 2019 Regular Session, becomes law, Sections 12.14, 29.1, 41.2, 41.6, 41.7, 41.8, and 41.9 of that act are repealed.

EFFECTIVE DATE

SECTION 11. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of October, 2019.

s/ Bill Rabon
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 10:45 a.m. this 1st day of November, 2019