

Tax and Revenue Law Change Proposals We Expect to See in the North Carolina Short Session: Taking Off The Gloves

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Between legislative sessions the Joint Legislation Commission on Revenue Laws meets to determine how to handle tax and finance issues including repeals, clarifications and new proposals. We expect the following bills to be introduced:

An Act to address the imposition of the sales tax on admission charges to entertainment activity. This bill intends to clarify that similar entertainment events be treated similarly for sales tax purposes but acknowledges the administrative burden of imposing, collecting and remitting sales tax for smaller nonprofits. The bill eliminates the current sales tax exemptions for agricultural fairs, youth athletic contests, nonprofit events and state attractions. Events sponsored and held at elementary and secondary schools retain their current sales tax exemption. Nonprofits who meet the following criteria are exempt from State income tax: 1) The entire proceeds of the activity are used for the nonprofit's nonprofit purposes; 2) The entity does not declare dividends, receive profits, or pay salary or other compensation to any members or employees; 3) The entity does not compensate any person for participating in the event, performing in the event, placing in the event, or producing the event.

An Act to increase the compensation of License Plate Agents contracting with the Division of Motor Vehicles. Increases the compensation of the agents to reflect that property tax is now collected with license plate fees and registration.

An Act to make various changes to the administration of tobacco excise taxes, alcohol excise taxes, and motor fuel excise taxes. Allows a wholesaler or importer of malt beverages and wine to provide a letter of credit as an alternative to a bond. Allows a dealer of tobacco products to use a manufacturer's tax affidavit rather than a notarized tax affidavit as supporting documentation for a tax refund for taxes paid on stale or unsold tobacco.

Amends secrecy provisions to allow the Department of Revenue to share information with the provider of a surety bond or other instrument on behalf of a taxpayer if that taxpayer does not comply with tax laws. Adds state tax to all biodiesel fuel even though it is not subject to federal tax. Gives the Secretary flexibility to waive or reduce some civil penalties imposed under the motor fuels tax statutes. Requires that all vessels transporting motor fuel must keep permanent records.

An Act to address the sales tax certificate of exemption for qualifying purchases for use by a farmer. Clarifies the implementation of the gross income requirements and establishes a \$10,000 threshold. There are currently 49,437 agricultural exemption certificates outstanding in North Carolina. USDA estimates NC has 52,000 farms.

An Act to replace the corporate income tax deduction for net economic loss with a deduction for state net loss. Effective for tax years beginning January 1, 2015 this bill would do the following things: 1) Replace the net economic loss calculation with a State net loss calculation that is more comparable to the federal net operating loss calculation; 2) Remove the requirement that net income loss carried forward must first be offset by nontaxable income; 3) Instruct the Secretary of Revenue to apply the standards under sections 381 and 382 of the Code when determining to what extent a loss survives a merger or acquisition. (*This removes applicability of North Carolina case law that governs to what extent a net economic loss survives a merger or acquisition). This bill does not reduce the 15 year carry forward period but changes the calculation. The cost to the State of administering this tax change is estimated at \$5 million per year.

An Act to address the sales tax on prepaid meal plans. This bill imposes the sales tax on the gross receipts derived from a prepaid meal plan at a dining room of a regularly operated educational institution. The tax is imposed on purchases made with food dollars at the time of the purchases.

An Act to repeal the antiquated, inconsistent, and unfair system of local privilege license taxation and replace it with a flat local business tax that applies to all businesses equally. This bill repeals the current authority for cities and counties to levy a privilege tax. Cities would be authorized to levy a business tax of up to \$100 per business location within that city. All prior caps and restrictions are removed excepting certain utilities for which cities receive a share of the tax revenue. Many NC cities stand to lose substantial income under this proposal: Raleigh (\$3.3 million), Hickory (\$751,000), Durham (\$294,263), Fayetteville (\$1 million), Greensboro (\$717,902), High Point (\$1 million), Hendersonville (\$359,616), Pineville (\$472,333), Winston-Salem (\$1 million), Charlotte (\$8.5 million),

Wilmington (\$699,873), Jacksonville (\$318,397), Lumberton (\$1 million), Cary (\$303,666), Morrisville (\$656,492) and Monroe (\$317,506). The bill would become effective July 1, 2015.

An Act to address the applicability of the sales tax laws to retailer-contractors. Clarifies that a retailer-contractor is liable for the tax on tangible personal property used in a real property improvement contract with a customer. The tangible personal property becomes part of the real property as a result of the real property improvement contract.

An Act to address the imposition of the sales tax on service contracts. This bill deals with administrative issues related to implementation of the sales tax on service contracts beginning January 1, 2015 as a result of Session Law 2013-316.

An Act to require tax compliance for ABC Permit and to increase the amount authorized for taxpayer locator services from the collection assistance account. The bill requires holders of ABC Permits to pay all State taxes and file all returns. The bill requires the same for retailers of the NC Lottery games. The bill also allows the Department of Revenue to increase its use of the collection assistance fee to contract for taxpayer locator services from \$150,000 to \$500,000.

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