

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

FILED SENATE
Mar 21, 2017
S.B. 325
PRINCIPAL CLERK

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SENATE BILL DRS45219-RBx-6 (03/09)

Short Title: Billion Dollar Middle Class Tax Cut. (Public)

Sponsors: Senators Tillman, Brock, and Tucker (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE THE PERSONAL INCOME TAX RATE AND INCREASE THE
3 STANDARD DEDUCTION; TO ELIMINATE THE TAX PENALTY IN THE
4 MORTGAGE INTEREST TAX DEDUCTION; TO EXPAND AND INCREASE THE
5 CHILD TAX DEDUCTION; TO REDUCE THE CORPORATE INCOME TAX RATE;
6 AND TO ADOPT MARKET-BASED SOURCING FOR BUSINESS TAX
7 APPORTIONMENT.

8 The General Assembly of North Carolina enacts:

9
10 **PART I. PERSONAL INCOME TAX CHANGES**

11 **SECTION 1.1.** G.S. 105-153.7(a) reads as rewritten:

12 "(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income
13 of every individual. The tax shall be levied, collected, and paid annually. The tax is ~~five and~~
14 ~~four hundred ninety nine thousandths percent (5.499%)~~ five and thirty-five hundredths percent
15 (5.35%) of the taxpayer's North Carolina taxable income."

16 **SECTION 1.2.** G.S. 105-153.5 reads as rewritten:

17 **"§ 105-153.5. Modifications to adjusted gross income.**

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

- 23 (1) Standard deduction amount. – The standard deduction amount is zero for a
24 person who is not eligible for a standard deduction under section 63 of the
25 Code. For all other taxpayers, the standard deduction amount is equal to the
26 amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly/surviving spouse	\$17,500 <u>\$20,000</u>
Head of Household	14,000 <u>15,000</u>
Single	8,750 <u>10,000</u>
Married, filing separately	8,750 <u>10,000</u> .

- 32 (2) Itemized deduction amount. – An amount equal to the sum of the items listed
33 in this subdivision. The amounts allowed under this subdivision are not
34 subject to the overall limitation on itemized deductions under section 68 of
35 the Code:

36 ...



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b. Mortgage Expense and Property Tax. – The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount allowed as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. ~~For taxable years 2014, 2015, and 2016, the amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence shall not include the amount for mortgage insurance premiums treated as qualified residence interest.~~ The amount allowed under this sub-subdivision may not exceed ~~twenty thousand dollars (\$20,000).~~ For spouses filing as married filing separately or married filing jointly, the total mortgage interest and real estate taxes claimed by both spouses combined may not exceed twenty thousand dollars (\$20,000). For spouses filing as married filing separately with a joint obligation for mortgage interest and real estate taxes, the deduction for these items is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real estate taxes paid by both spouses exceeds twenty thousand dollars (\$20,000), these deductions must be prorated based on the percentage paid by each spouse. For joint obligations paid from joint accounts, the proration is based on the income reported by each spouse for that taxable year. the amount listed in the table below based on the taxpayer's filing status:

<u>Filing Status</u>	<u>Cap Amount</u>
<u>Married, filing jointly/surviving spouse</u>	<u>\$22,000</u>
<u>Head of Household</u>	<u>16,500</u>
<u>Single</u>	<u>11,000</u>
<u>Married, filing separately</u>	<u>11,000.</u>

...
 (a1) Child Deduction Amount. – A taxpayer who is allowed a federal child tax credit under section 24 of the Code for the taxable year is allowed a deduction under this subsection for each dependent child for whom the taxpayer is allowed the federal tax credit. The amount of the deduction is equal to the amount listed in the table below based on the taxpayer's adjusted gross income, as calculated under the Code:

<u>Filing Status</u>	<u>AGI</u>	<u>Deduction Amount</u>
<u>Married, filing jointly</u>	<u>Up to \$40,000</u>	<u>\$2,500.00</u>
	<u>Over \$40,000</u>	
	<u>Up to \$60,000</u>	<u>2,000.00</u>
	<u>Over \$60,000</u>	
	<u>Up to \$80,000</u>	<u>1,500.00</u>
	<u>Over \$80,000</u>	
	<u>Up to \$100,000</u>	<u>1,000.00</u>
<u>Head of Household</u>	<u>Over \$100,000</u>	
	<u>Up to \$120,000</u>	<u>500.00</u>
	<u>Over \$120,000</u>	<u>0</u>
	<u>Up to \$30,000</u>	<u>\$2,500.00</u>
	<u>Over \$30,000</u>	
	<u>Up to \$45,000</u>	<u>2,000.00</u>
	<u>Over \$45,000</u>	
	<u>Up to \$60,000</u>	<u>1,500.00</u>

1		<u>Over \$60,000</u>	
2		<u>Up to \$75,000</u>	<u>1,000.00</u>
3		<u>Over \$75,000</u>	
4		<u>Up to \$90,000</u>	<u>500.00</u>
5		<u>Over \$90,000</u>	<u>0</u>
6			
7	<u>Single</u>	<u>Up to \$20,000</u>	<u>\$2,500.00</u>
8		<u>Over \$20,000</u>	
9		<u>Up to \$30,000</u>	<u>2,000.00</u>
10		<u>Over \$30,000</u>	
11		<u>Up to \$40,000</u>	<u>1,500.00</u>
12		<u>Over \$40,000</u>	
13		<u>Up to \$50,000</u>	<u>1,000.00</u>
14		<u>Over \$50,000</u>	
15		<u>Up to \$60,000</u>	<u>500.00</u>
16		<u>Over \$60,000</u>	<u>0</u>
17			
18	<u>Married, filing separately</u>	<u>Up to \$20,000</u>	<u>\$2,500.00</u>
19		<u>Over \$20,000</u>	
20		<u>Up to \$30,000</u>	<u>2,000.00</u>
21		<u>Over \$30,000</u>	
22		<u>Up to \$40,000</u>	<u>1,500.00</u>
23		<u>Over \$40,000</u>	
24		<u>Up to \$50,000</u>	<u>1,000.00</u>
25		<u>Over \$50,000</u>	
26		<u>Up to \$60,000</u>	<u>500.00</u>
27		<u>Over \$60,000</u>	<u>0.</u>

28"

29 **SECTION 1.3.** G.S. 105-153.10 is repealed.

30 **SECTION 1.4.** This part becomes effective for taxable years beginning on or after
 31 January 1, 2018.

32
 33 **PART II. BUSINESS TAX CHANGES**

34 **SECTION 2.1.** G.S. 105-130.3 reads as rewritten:

35 **"§ 105-130.3. Corporations.**

36 A tax is imposed on the State net income of every C Corporation doing business in this
 37 State at the rate of ~~three percent (3%)~~. two and three-quarters percent (2.75%). An S
 38 Corporation is not subject to the tax levied in this section."

39 **SECTION 2.2.** G.S. 105-130.3, as amended by Section 2.1 of this act, reads as
 40 rewritten:

41 **"§ 105-130.3. Corporations.**

42 A tax is imposed on the State net income of every C Corporation doing business in this
 43 State at the rate of ~~two and three-quarters percent (2.75%)~~. two and one-half percent (2.5%).
 44 An S Corporation is not subject to the tax levied in this section."

45 **SECTION 2.3.** G.S. 105-122 reads as rewritten:

46 **"§ 105-122. Franchise or privilege tax on domestic and foreign corporations.**

47 (a) Tax Imposed. – An annual franchise or privilege tax is imposed on a corporation
 48 doing business in this ~~State~~. State for the privilege of doing business in this State and for the
 49 continuance of articles of incorporation or domestication of each corporation in this State. The
 50 tax is determined on the basis of the books and records of the corporation as of the close of its
 51 income year. A corporation subject to the tax must file a return under affirmation with the

1 Secretary at the place and in the manner prescribed by the Secretary. The return must be signed
 2 by the president, vice-president, treasurer, or chief financial officer of the corporation. The
 3 return is due on or before the fifteenth day of the fourth month following the end of the
 4 corporation's income year.

5 ...

6 (d) ~~Tax Base and Tax Rate.—After determining the Base. — A corporation's tax base is~~
 7 ~~the greater of the following:~~

8 (1) ~~The proportion of its net worth as set out in subsection (c1) of this section,~~
 9 ~~which amount shall not be less than fifty five percent (55%) section.~~

10 (2) ~~Fifty-five percent (55%) of the corporation's appraised value as determined~~
 11 ~~for ad valorem taxation of all the real and tangible personal property in this~~
 12 ~~State of each corporation nor less than its State. For purposes of this~~
 13 ~~subdivision, the appraised value of tangible property including real estate is~~
 14 ~~the ad valorem valuation for the calendar year next preceding the due date of~~
 15 ~~the franchise tax return.~~

16 (3) ~~The corporation's total actual investment in tangible property in this State,~~
 17 ~~every corporation taxed under this section shall annually pay to the Secretary~~
 18 ~~of Revenue, at the time the return is due, a franchise or privilege tax at the~~
 19 ~~rate of one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of~~
 20 ~~the total amount of net worth as provided in this section. The tax imposed in~~
 21 ~~this section shall not be less than two hundred dollars (\$200.00) and is for~~
 22 ~~the privilege of carrying on, doing business, and/or the continuance of~~
 23 ~~articles of incorporation or domestication of each corporation in this State.~~
 24 ~~Appraised value of tangible property including real estate is the ad valorem~~
 25 ~~valuation for the calendar year next preceding the due date of the franchise~~
 26 ~~tax return. The term "total State. For purposes of this subdivision, the total~~
 27 ~~actual investment in tangible property" as used in this section means~~
 28 ~~property in this State is the total original purchase price or consideration to~~
 29 ~~the reporting taxpayer of its tangible properties, including real estate, in this~~
 30 ~~State plus additions and improvements thereto less reserve for depreciation~~
 31 ~~as permitted for income tax purposes.~~

32 ...

33 (d2) ~~Tax Rate. — For a C Corporation, as defined in G.S. 105-130.2, the tax rate is one~~
 34 ~~dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the corporation's tax base as~~
 35 ~~determined under subsection (d) of this section. For an S Corporation, as defined in~~
 36 ~~G.S. 105-130.2, the tax rate is two hundred dollars (\$200.00) for the first one million dollars~~
 37 ~~(\$1,000,000) of the corporation's tax base as determined under subsection (d) of this section,~~
 38 ~~and one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of its tax base that~~
 39 ~~exceeds one million dollars (\$1,000,000). In no event may the tax imposed by this section be~~
 40 ~~less than two hundred dollars (\$200.00).~~

41"

42 **SECTION 2.4.** Section 2.1 of this act becomes effective for taxable years
 43 beginning on or after January 1, 2018. Section 2.2 of this act becomes effective for taxable
 44 years beginning on or after January 1, 2019. Section 2.3 of this act becomes effective for
 45 taxable years beginning on or after January 1, 2019, and is applicable to the calculation of
 46 franchise tax reported on the 2018 and later corporate income tax returns.

47 **PART III. MARKET-BASED SOURCING**

48 **SECTION 3.1.** G.S. 105-130.4 reads as rewritten:

49 **"§ 105-130.4. Allocation and apportionment of income for corporations.**

50 ...

1 (l) ~~(1) The Sales Factor.~~ – The sales factor is a fraction, the numerator of which is the
2 total sales of the corporation in this State during the income year, and the denominator of which
3 is the total sales of the corporation everywhere during the income year. Notwithstanding any
4 other provision under this Part, the receipts from any casual sale of property shall be excluded
5 from both the numerator and the denominator of the sales factor. Where a corporation is not
6 taxable in another state on its apportionable income but is taxable in another state only because
7 of nonapportionable income, all sales shall be treated as having been made in this State.

8 Receipts are in this State if the taxpayer's market for the receipts is in this State. If the
9 market for a receipt cannot be determined, the state or states of assignment shall be reasonably
10 approximated. In a case in which a taxpayer cannot ascertain the state or states to which
11 receipts of a sale are to be assigned through the use of a method of reasonable approximation,
12 the receipts must be excluded from the denominator of a taxpayer's sales factor. Except as
13 otherwise provided by this section, a taxpayer's market for receipts is in this State as provided
14 below:

15 (1) In the case of sale, rental, lease, or license of real property, if and to the
16 extent the property is located in this State.

17 (2) ~~Sales of tangible personal property are in this State if the property is~~
18 ~~received in this State by the purchaser. In the case of delivery of goods by~~
19 ~~common carrier or by other means of transportation, including transportation~~
20 ~~by the purchaser, the place at which the goods are ultimately received after~~
21 ~~all transportation has been completed shall be considered as the place at~~
22 ~~which the goods are received by the purchaser. Direct delivery into this State~~
23 ~~by the taxpayer to a person or firm designated by a purchaser from within or~~
24 ~~without the State shall constitute delivery to the purchaser in this State. In the~~
25 ~~case of rental, lease, or license of tangible personal property, if and to the~~
26 ~~extent the property is located in this State.~~

27 (3) ~~Other sales are in this State if:~~In the case of sale of tangible personal
28 property, if and to the extent the property is received in this State by the
29 purchaser. In the case of delivery of goods by common carrier or by other
30 means of transportation, including transportation by the purchaser, the place
31 at which the goods are ultimately received after all transportation has been
32 completed is considered the place at which the goods are received by the
33 purchaser. Direct delivery into this State by the taxpayer to a person or firm
34 designated by a purchaser from within or without the State constitutes
35 delivery to the purchaser in this State.

36 a. ~~The receipts are from real or tangible personal property located in~~
37 ~~this State; or~~

38 b. ~~The receipts are from intangible property and are received from~~
39 ~~sources within this State; or~~

40 c. ~~The receipts are from services and the income producing activities~~
41 ~~are in this State.~~

42 (4) In the case of sale of a service, if and to the extent the service is delivered to
43 a location in this State.

44 (5) In the case of intangible property that is rented, leased, or licensed, if and to
45 the extent the property is used in this State. Intangible property utilized in
46 marketing a good or service to a consumer is "used in this State" if that good
47 or service is purchased by a consumer who is in this State.

48 (6) In the case of intangible property that is sold, if and to the extent the
49 property is used in this State. A contract right, government license, or similar
50 intangible property that authorized the holder to conduct a business activity
51 in a specific geographic area is "used in this State" if the geographic area

1 includes all or part of this State. Receipts from a sale of intangible property
2 that is contingent on the productivity, use, or disposition of the intangible
3 property shall be treated as receipts from the rental, lease, or licensing of the
4 intangible property as provided under subdivision (5) of this subsection. All
5 other receipts from a sale of intangible property shall be excluded from the
6 numerator and denominator of the sales factor.

7 (1) Banks. – A bank's market for receipts is in this State as provided in
8 G.S. 105-130.4A. For purposes of this section, the term "bank" has the same meaning as
9 defined in G.S. 105-130.4A.

10"

11 **SECTION 3.2.** Part 1 of Article 4 of Chapter 105 of the General Statutes is
12 amended by adding a new section to read:

13 **"§ 105-130.4A. Market-based sourcing for banks.**

14 (a) Definitions. – The definitions in G.S. 105-130.4 apply to this section, and the
15 following definitions apply to this section:

16 (1) Bank. – Defined in G.S. 105-130.7B.

17 (2) Billing address. – The location indicated in the books and records of the
18 taxpayer on the first day of the taxable year, or on the date in the taxable
19 year when the customer relationship began, as the address where any notice,
20 statement, or billing relating to the customer's account is mailed.

21 (3) Borrower, card holder, or payor is located in this State. – A borrower, credit
22 card holder, or payor whose billing address is in this State.

23 (4) Card issuer's reimbursement fee. – The fee a taxpayer receives from a
24 merchant's bank because one of the persons to whom the taxpayer has issued
25 a credit, debit, or similar type of card has charged merchandise or services to
26 the card.

27 (5) Credit card. – A card, or other means of providing information, that entitles
28 the holder to charge the cost of purchases, or a cash advance, against a line
29 of credit.

30 (6) Debit card. – A card, or other means of providing information, that enables
31 the holder to charge the cost of purchases, or a cash withdrawal, against the
32 holder's bank account or a remaining balance on the card.

33 (7) Loan. – Any extension of credit resulting from direct negotiations between
34 the taxpayer and its customer, and/or the purchase, in whole or in part, of
35 such an extension of credit from another. The term includes participations,
36 syndications, and leases treated as loans for federal income tax purposes.

37 (8) Loan secured by real property. – A loan or other obligation of which fifty
38 percent (50%) or more of the aggregate value of the collateral used to secure
39 the loan or other obligation, when valued at fair market value as of the time
40 the original loan or obligation was incurred, was real property.

41 (9) Merchant discount. – The fee, or negotiated discount, charged to a merchant
42 by the taxpayer for the privilege of participating in a program whereby a
43 credit, debit, or similar type of card is accepted in payment for merchandise
44 or services sold to the card holder, net of any cardholder chargeback and
45 unreduced by any interchange transaction or issuer reimbursement fee paid
46 to another for charges or purchases made by its cardholder.

47 (10) Participation. – An extension of credit in which an undivided ownership
48 interest is held on a prorated basis in a single loan or pool of loans and
49 related collateral. In a loan participation, the credit originator initially makes
50 the loan and then subsequently resells all or a portion of it to other lenders.
51 The participation may or may not be known to the borrower.

- 1 (11) Payor. – The person who is legally responsible for making payment to the
2 taxpayer.
- 3 (12) Real property owned. – Real property (i) on which the taxpayer may claim
4 depreciation for federal income tax purposes or (ii) to which the taxpayer
5 holds legal title and on which no other person may claim depreciation for
6 federal income tax purposes or could claim depreciation if subject to federal
7 income tax. Real property does not include coin, currency, or property
8 acquired in lieu of or pursuant to a foreclosure.
- 9 (13) Syndication. – An extension of credit in which two or more persons fund,
10 and each person is at risk only up to a specified percentage of the total
11 extension of credit or up to a specified dollar amount.
- 12 (14) Tangible personal property owned. – Tangible personal property (i) on
13 which the taxpayer may claim depreciation for federal income tax purposes
14 or (ii) to which the taxpayer holds legal title and on which no other person
15 may claim depreciation for federal income tax purposes could claim
16 depreciation if subject to federal income tax. Tangible personal property
17 does not include coin, currency, or property acquired in lieu of or pursuant to
18 a foreclosure.
- 19 (15) Transportation property. – Vehicles and vessels capable of moving under
20 their own power as well as any equipment or containers attached to such
21 property. Examples of transportation property include aircraft, trains, water
22 vessels, motor vehicles, rolling stock, barges, and trailers.
- 23 (b) General Rule. – The receipts factor of a bank is a fraction, the numerator of which is
24 the total receipts of the taxpayer in this State during the income year, and the denominator of
25 which is the total receipts of the taxpayer everywhere during the income year. The method of
26 calculating receipts for purposes of the denominator is the same as the method used in
27 determining receipts for purposes of the numerator. The receipts factor includes only those
28 receipts described herein that are apportionable income for the taxable year. Notwithstanding
29 any other provision under this Part, the receipts from the following are excluded from both the
30 numerator and the denominator of the receipts factor:
- 31 (1) Receipts from a casual sale of property.
- 32 (2) Receipts exempt from taxation.
- 33 (3) The portion of receipts realized from the sale or maturity of securities or
34 other obligations that represents a return of principal.
- 35 (4) Receipts in the nature of dividends subtracted under G.S. 105-130.5(b)(3a)
36 and (3b) and dividends excluded for federal tax purposes.
- 37 (5) The portion of receipts from financial swaps and other similar financial
38 derivatives that represent the notional principal amount that generates the
39 cash flow traded in the swap agreement.
- 40 (c) Receipts From the Sale, Lease, or Rental of Real Property. – The numerator of the
41 receipts factor includes receipts from the sale, lease, or rental of real property owned by the
42 taxpayer if the property is located within this State or receipts from the sublease of real
43 property if the property is located within this State.
- 44 (d) Receipts From the Sale, Lease, or Rental of Tangible Personal Property. – The
45 method for calculating receipts from the sale, lease, or rental of tangible personal property is as
46 follows:
- 47 (1) Tangible personal property. – Except as provided in subdivision (2) of this
48 subsection, the numerator of the receipts factor includes receipts from the
49 sale, lease, or rental of tangible personal property owned by the taxpayer if
50 the property is located within this State when it is first placed in service by
51 the lessee.

1 (2) Transportation property. – Receipts from the lease or rental of transportation
2 property owned by the taxpayer are included in the numerator of the receipts
3 factor to the extent that the property is used in this State. The extent an
4 aircraft will be deemed to be used in this State and the amount of receipts
5 that is to be included in the numerator of this State's receipts factor is
6 determined by multiplying all the receipts from the lease or rental of the
7 aircraft by a fraction, the numerator of which is the number of landings of
8 the aircraft in this State and the denominator of which is the total number of
9 landings of the aircraft. If the extent of the use of any transportation property
10 within this State cannot be determined, then the property will be deemed to
11 be used wholly in the state in which the property has its principal base of
12 operations. A motor vehicle will be deemed to be used wholly in the state in
13 which it is registered.

14 (e) Interest, Fees, and Penalties From Loans Secured by Real Property. – The
15 numerator of the receipts factor includes interest, fees, and penalties from loans secured by real
16 property if the property is located within this State. If the property is located both within this
17 State and one or more other states, the receipts described in this subsection are included in the
18 numerator of the receipts factor if more than fifty percent (50%) of the fair market value of the
19 real property is located within this State. If more than fifty percent (50%) of the fair market
20 value of the real property is not located within any one state, then the receipts described in this
21 subsection are included in the numerator of the receipts factor if the borrower is located in this
22 State. The determination of whether the real property securing a loan is located within this State
23 is made as of the time the original agreement was made, and any and all subsequent
24 substitutions of collateral are disregarded.

25 (f) Interest, Fees, and Penalties From Loans Not Secured by Real Property. – The
26 numerator of the receipts factor includes interest, fees, and penalties from loans not secured by
27 real property if the borrower is located in this State.

28 (g) Net Gains From the Sale of Loans. – The numerator of the receipts factor includes
29 net gains from the sale of loans. Net gains from the sale of loans include income recorded under
30 the coupon stripping rules of section 1286 of the Code. The amount of net gains from the sale
31 of loans that is included in the numerator is determined as follows:

32 (1) Secured by real property. – The amount of net gains, but not less than zero,
33 from the sale of loans secured by real property is determined by multiplying
34 the net gains by a fraction, the numerator of which is the amount included in
35 the numerator of the receipts factor pursuant to subsection (e) of this section,
36 and the denominator of which is the total amount of interest, fees, and
37 penalties from loans secured by real property.

38 (2) Not secured by real property. – The amount of net gains, but not less than
39 zero, from the sale of loans not secured by real property is determined by
40 multiplying the net gains by a fraction, the numerator of which is the amount
41 included in the numerator of the receipts factor pursuant to subsection (f) of
42 this section, and the denominator of which is the total amount of interest,
43 fees, and penalties from loans not secured by real property.

44 (h) Receipts From Interest, Fees, and Penalties From Card Holders. – The numerator of
45 the receipts factor includes interest, fees, and penalties charged to credit, debit, or similar card
46 holders, including annual fees and overdraft fees, if the card holder is located in this State.

47 (i) Receipts From ATM Fees. – The numerator of the receipts factor includes receipts
48 from fees from the use of an ATM owned or rented by the taxpayer, if the ATM is located in
49 this State. The receipts factor includes all ATM fees that are not forwarded directly to another
50 bank. Receipts from ATM fees that are not sourced under this subsection are sourced pursuant
51 to subsection (l) of this section.

1 (j) Net Gains From the Sale of Credit Card Receivables. – The numerator of the
2 receipts factor includes net gains, but not less than zero, from the sale of credit card receivables
3 multiplied by a fraction, the numerator of which is the amount included in the numerator of the
4 receipts factor pursuant to subsection (h) of this section, and the denominator of which is the
5 taxpayer's total amount of interest, fees, and penalties charged to card holders.

6 (k) Miscellaneous Receipts. – The numerator of the receipts factor includes all of the
7 following:

8 (1) Card issuer's reimbursement fees. – Receipts from card issuer's
9 reimbursement fees if the payor is located in this State.

10 (2) Receipts from merchant's discount. – Receipts from a merchant discount if
11 the payor is located in this State.

12 (3) Loan servicing fees. – Receipts from loan servicing fees if the payor is
13 located in this State.

14 (4) Receipts from services. – Receipts from services not otherwise apportioned
15 under this section if the payor is located in this State.

16 (5) Receipts from investment assets and activities and trading assets and
17 activities. – Receipts from one or more of the following:

18 a. Interest and dividends from investment assets and activities and
19 trading assets and activities if the payor is located in this State.

20 b. Net gains and other income, but not less than zero, from investment
21 assets and activities and trading assets and activities multiplied by a
22 fraction, the numerator of which is the amount included in the
23 numerator of the receipts factor pursuant to sub-subdivision a. of this
24 subdivision, and the denominator of which is the taxpayer's total
25 amount of interest and dividends from investment assets and
26 activities and trading assets and activities.

27 (l) All Other Receipts. – All other receipts not specifically enumerated in this section
28 are included in the numerator of the receipts factor if the payor is located in this State."

29 **SECTION 3.3.** As directed by Section 38.4(a) of S.L. 2016-94, the Department of
30 Revenue adopted rules regarding the implementation and administration of market-based
31 sourcing principles as if the statutory changes in Part I of this act were law. The Department
32 adopted rules and submitted the rules to the Rules Review Commission. The Rules Review
33 Commission approved the rules on February 16, 2017. As directed by Section 38.4(b) of S.L.
34 2016-94, the Codifier of Rules will not enter the rules into the Administrative Code until
35 directed to do so by the General Assembly. The Codifier of Rules is directed to enter the rules
36 approved by the Rules Review Commission at its meeting on February 16, 2017, into the
37 Administrative Code.

38 **SECTION 3.4.** As directed by Section 38.4(d) of S.L. 2016-94, the Utilities
39 Commission shall adjust the rates for public utilities, excluding water public utilities with less
40 than two hundred thousand dollars (\$200,000) in annual operating revenues, for the tax changes
41 in Part I of this act. Each utility shall calculate the cumulative net effect of the tax changes and
42 file the calculations with proposed rate changes to reflect the net prospective tax changes in
43 utility customer rates within 60 days of the enactment of this act. Any adjustments required to
44 existing tax assets or liabilities reflected in the utility's books and records required by the tax
45 changes shall be deferred and reflected in customer rates either in the utility's next rate case or
46 earlier if deemed appropriate by the Commission.

47 **SECTION 3.5.** Sections 3.1 and 3.2 of this act are effective for taxable years
48 beginning on or after January 1, 2018.

49
50 **PART IV. EFFECTIVE DATE**

1 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
2 law.