



HOUSE BILL 1030: Finance Provisions in 2016 Appropriations Act.

2016-2017 General Assembly

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| Committee: | | Date: | June 1, 2016 |
| Introduced by: | Reps. Dollar, L. Johnson, Lambeth, McGrady | Prepared by: | Cindy Avrette |
| Analysis of: | Part XXXVIII, Fifth Edition | | Committee Co-Counsel; Nicholas Giddings Committee Co-Counsel |

SUMMARY: *Part XXXVIII (page 170) of the Senate Committee Substitute for House Bill 1030, the 2016 Appropriations Act, makes the following tax law changes previously adopted by the Senate:*

- ***Increases the standard deduction by \$2,000 over two years for taxpayers filing a joint return, and a comparable amount for taxpayers filing separately, single, and head of household. This provision would be effective for taxable years beginning on or after January 1, 2016. (Senate Bill 818) The House version of the budget would increase the standard deduction amount by \$2,000 over four years, beginning in 2017. SB 818 is currently in the House Rules Committee.***
- ***Includes parts and accessories of specialized equipment used to unload and process bulk cargo at a ports facility as part of the Article 5F tax base, effective retroactively to July 1, 2013. (Senate Bill 832) The House version of the budget would make the same change. In addition to this change, the House budget would expand the 1%, \$80 excise tax under Article 5F to secondary metal recyclers, precious metal processors (retroactively effective for tax years 2010-2016); metal fabricators; and ready-mix concrete mills. The House budget would also repeal Article 5F AND exempt the machinery and equipment from sales tax, effective July 1, 2016. SB 832 is currently in the House Finance Committee.***

The Senate Committee Substitute for House Bill 1030 makes the following tax law changes discussed by the Senate Finance Committee; there is no comparable provision in the House budget bill:

- ***The use of market-based sourcing for multistate income tax apportionment, effective for taxable years beginning on or after the later of (i) the first taxable year in which the corporate income tax rate is 3%, or (ii) January 1, 2018. (Senate Bill 869) Under this provision, a multi-state corporation would calculate the sales factor based on the percentage of income attributed to consumption of products and services in the North Carolina marketplace, not based on production costs in North Carolina. North Carolina is phasing-in single sales factor apportionment for all multi-state corporations; the phase-in will be complete in 2018.***
- ***The current sales tax on repair, maintenance, and installation services treats similar transactions differently, depending on the classification of the person providing the service and whether the service is for real property or tangible personal property. The sales tax changes portion of Section 38.5 of the Senate Committee Substitute for House Bill 1030 would treat similar transactions the same, identify taxable transactions more clearly, and provide a grace period for retailers who provide repair, maintenance, and installation services. This provision differs from the PCS for Senate Bill 870 discussed in Senate Finance on May 31st. This***

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provision would exclude from the definition of RMI services real property contracts for capital improvements and it would not include a statutory limitation on what transactions may be considered capital improvements. Under the definition of capital improvement, almost any installation of tangible personal property to real property would be construed as a capital improvement, regardless of whether it is new construction, reconstruction, remodel, or renovation of the property. This change limits the fiscal impact of the sales and use tax clarifications.

The Senate Committee Substitute for House Bill 1030 makes two additional changes to the sales and use tax statutes:

- ***Provides an effective cap on the amount of sales and use tax payable on a RMI service provided for a boat or aircraft, effective July 1, 2016.*** Under the Streamlined Sales and Use Tax Agreement, North Carolina can either tax a service or exempt a service from sales tax; it cannot impose a cap on the amount of sales tax payable. To accomplish the objective, the bill provides that a taxpayer may apply for a direct pay permit from the Department of Revenue. A direct pay permit allows the purchaser of the service to be exempt from paying the tax to the retailer, and the permit holder agrees to pay the applicable amount of tax due to the Department of Revenue. Under the direct pay permit, there is a use tax exemption for any RMI service on a boat or aircraft that exceeds \$25,000. That means the maximum amount of State use tax on a transaction would be \$1,187.50; the maximum amount of local use tax due would be \$25,000 multiplied by the applicable local sales tax rate. The full cost of any parts used to make the repair would continue to be subject to the State and local sales tax.
- ***Repeals the \$17.6 million State contribution that is allocated to all 100 counties as part of the 2% local option sales tax revenue.*** The State contribution was enacted last session as part of the legislation to distribute additional sales tax revenue to certain counties. The purpose of the State contribution was to provide additional revenue for the distribution to those 79 counties such that the total distribution would be equal to \$84.8 million. The State contribution made up the difference between what the sales tax base expansion to RMI services was estimated to generate for local sales tax revenue and the \$84.8 million distribution. New data regarding the sales tax base expansion indicates local revenues from the base expansion exceed the \$84.8 million distributed to certain counties. Therefore, the State contribution is not needed.

Section 38.6 of the Senate Committee Substitute for House Bill 1030 would continue to allow a property tax exemption for contiguous tracts of land donated to nonprofits which were previously used for commercial or industrial purposes and significantly damaged by fire or explosion.

- *This exemption was enacted in response to the explosion of the ConAgra plant in June 2009. The plant site was given to the Town of Garner, and the Town created the Garner Economic Development Corporation to maintain and develop the damaged property in order to market or put it up for sale. Under current law, the property tax exemption expires July 1, 2016. This section would extend the sunset until July 1, 2021. The property tax exemption will not apply to the property once it is leased or sold.*