



HOUSE BILL 59: Revenue Laws Technical Changes.

2017-2018 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2017-39

Date:

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Prepared by:

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OVERVIEW: *S.L. 2017-39 makes technical changes to the Revenue Laws as recommended by the Department of Revenue.*

The section of the act pertaining to tax credits for constructing a railroad intermodal facility became effective June 21, 2017 and applies to taxable years beginning on or after January 1, 2017. The remainder of this act became effective June 21, 2017.

Section	Bill Analysis
PART I. INCOME AND FRANCHISE TAX CHANGES	
1	Updates the reference to the Internal Revenue Code from January 1, 2016, to January 1, 2017.
2	Changes placement of language in the statute to a more appropriate subsection by moving a reference to corporate books and records from being used to determine tax to being used to determine net worth.
3.(a) 3.(b)	<p>Provides that the tax credit for constructing a railroad intermodal facility may be taken when the property is placed into service in this State. For these types of projects, there are often multiple parties involved, and the taxpayer seeking to claim the credit may not necessarily be the entity that places it into service. As long as the taxpayer constructs or leases the facility, and the facility is placed into service during the taxable year, the taxpayer may claim the credit.</p> <p>Prohibits use of the credit for any costs provided by public funds.</p> <p>Provides that a taxpayer who leases the facility may not claim the credit unless the taxpayer obtains certification from the lessor that the lessor will not also claim the credit.</p> <p>This section became effective June 21, 2017 and applies to taxable years beginning on or after January 1, 2017.</p>
4.(a) 4.(b)	Certain changes on a taxpayer's return at the federal level affect State tax liability and are required to be disclosed to the State. Section 4.(a) makes a conforming change that was made to G.S. 105-159 in 2013. Section 4.(b) adds filing status, personal exemptions, standard deduction and itemized deductions to the list of corrections at the federal level that must be disclosed to the State as it may affect tax liability in the State.

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PART II. SALES TAX CHANGES	
5	Removes a reference to "protective equipment" which was left over from the repealed sales tax holiday and updates the reference to the Streamlined Sales and Use Tax Agreement from September 17, 2015 to December 16, 2016.
6	Requires all facilitators liable for sales and use tax to be registered, which provides consistency in the increasing market of facilitator businesses.
7	Changes "aviation fuel" to "aviation gasoline or jet fuel" which is consistent with other Article 5 references.
8	<p>Replaces a reference to G.S. 105-164.4F with a reference to Article 5.</p> <p>Clarifies the circumstances under which a seller's certificate of registration becomes void to be consistent with the Streamlined Sales Tax Agreement. The Agreement requires all "model 1 sellers" to be registered in all States even if they file no returns. A model 1 seller is a seller that has selected a certified service provider as its agent to perform all of the seller's sales and use tax functions (other than the seller's obligation to remit tax on its own purchases). The current law requires a certificate of registration to become void if a person files returns showing no sales for a period of 18 months. The model 1 sellers registered through Streamlined may not have sales into NC, but they are still required to be registered under the Agreement, but the current statutory language does not provide the exception.</p>
PART III. EXCISE TAX CHANGES	
9	Deletes the reference to a "mortician" and substitutes "funeral director" and "funeral service licensee" in the State privilege license tax statute to be consistent with the terminology in G.S. 90-210.25, which governs the licensing of individuals within the funeral service practice.
10	Clarifies that licensure requirement applies to both cigarette and other tobacco vendors, and corrects a typographical error.
11	Updates the reference to the International Fuel Tax Agreement from July 1, 2013 to January 1, 2017.
12	<p>Updates the definition of a "biodiesel provider" and "fuel alcohol provider" to include marine vessels, which are considered part of the terminal transfer system and import these types of fuels.</p> <p>Defines "bulk storage" for audit purposes and refund requests. The term is not currently defined, but it is referenced in the definition of "distributor" and is used throughout the administrative code.</p> <p>Clarifies that a diversion includes all out-of-state movements not listed on the original bill of lading, not just those that originate from a terminal.</p> <p>Clarifies the types of gasoline blend stocks that are taxable as petroleum components of gasoline by referencing the list of gasoline blend stocks in Treasury Regulation 48-4081-1(c)(3), which is a more inclusive list than the examples listed in the current statute.</p> <p>Removes the term "refiner" from the definition of "supplier" because a refiner is not necessarily a supplier.</p> <p>Deletes unnecessary language from the definition of a "system transfer" because fuel grade</p>

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	alcohol is not transported within the terminal transfer system.
13	Removes unnecessary language as biodiesel providers are already included in the definition of "supplier."
14	Removes unnecessary language as licensed exporters no longer remit taxes directly to North Carolina on exported fuel. Instead, exporters pay a supplier, who then remits the taxes to the State.
15	Clarifies when the excise tax on fuel grade ethanol and biodiesel fuel is due. In most instances, the excise tax is due on motor fuel when it is removed from the terminal. A terminal is a motor fuel storage and distribution facility that has been assigned a terminal control number by the IRS, is supplied by pipeline or marine vessel, and from which motor fuel may be removed at a rack. Fuel grade ethanol and biodiesel fuel is not always imported into the State through the terminal transfer system. This section clarifies that the excise tax is due on this fuel when it is imported into the State by a transport truck, a railroad tank car, a tank wagon, or by a marine vessel when the fuel transported by that vessel is not delivered to a terminal. This section does not change when the tax is due for this fuel when it is delivered by a marine vessel to a terminal; in that instance, the tax continues to be due when it is removed from the terminal. ¹
16	Clarifies that the Secretary may designate the manner in which motor fuel diversions are reported as well as the manner in which the confirmation number is provided. Fuel diversions and the issuance of fuel diversion confirmation numbers are accomplished by accessing a web application rather than contacting the Secretary.
PART IV. EFFECTIVE DATE	
17	Except as otherwise provided, this act became effective June 21, 2017.

¹ The Department requested this clarification. The clarification was not intended to change the time the tax was due for fuel delivered to a terminal and removed from the terminal; however, the Department interpreted the change to require a different point of taxation for fuel grade ethanol and biodiesel fuel transported by marine vessel. Section 6.3 of S.L. 2017-204 further clarified the intent of the law, and directed the Department to notify the affected taxpayers accordingly. [DOR notice - Excise tax on ethanol and biodiesel](#)