SENATE BILL 322:
2021 Revenue Laws Changes.

2021-2022 General Assembly

Committee:	Senate Appropriations/Base Budget. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	April 29, 2021
Introduced by:	Sens. Newton, Rabon, Daniel	**Prepared by:**	Finance Team
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 322 would make the following tax law changes:

- ***Update the IRC reference date to April 1, 2021.***
- ***Make various tax changes recommended by the Department of Revenue.***
- ***Reduce the impact of the cap on the federal itemized deduction for state and local taxes (SALT) paid by individual income taxpayers by providing a state-level workaround.***
- ***Modify the excise tax on premium cigars.***
- ***Extend the time to complete an eligible project under the mill rehabilitation tax credit program.***
- ***Limit the gross premiums tax on surety bonds.***
- ***Provide parity for short-term vehicle rentals.***
- ***Graduate penalties for late payment of taxes.***
- ***Create a separate State net operating loss calculation for individual income tax purposes.***

CURRENT LAW, BILL ANALYSIS, & EFFECTIVE DATES:

PART I. IRC UPDATE

Section	Explanation	Effective Date
1.1(a)	Updates from May 1, 2020, to April 1, 2021, the reference to the Internal Revenue Code in the North Carolina tax statutes. In doing so, North Carolina will conform to the permanent lowering of the threshold for taking the medical expense deduction from 10% to 7.5%.	When the act becomes law.
1.1(b) & (c)	The bill would decouple from the following provisions that were extended by Congress: • Income exclusion for forgiveness of debt on a primary residence. The General Assembly has decoupled from this provision every year since 2014. • Income exclusion for employer payments of student loans. The General Assembly decoupled for tax year 2020. • Deduction for mortgage insurance premiums treated as interest for taxpayers who itemize. The General Assembly has decoupled from this provision every year since 2014.	When the act becomes law.

	The bill would decouple from the following new provisions enacted by Congress under either the Consolidated Appropriations Act, 2021, or the American Rescue Plan Act of 2021: • 100% deduction for business related expenses for food and beverages provided by a restaurant for 2021 and 2022. NC would continue to allow a 50% deduction for these expenses. • Income exclusion for the discharge of a student loan. The federal provision is limited to student loans discharged in 2021-2025. • Income exclusion for certain unemployment compensation. The federal provision excludes the first $10,500 of 2020 unemployment benefits, limited to households with AGI of less than $150,000.	
1.1(c) & (d)	Clarify that the add-back for expenses deducted under the Code applies to the extent the expense is allocable to income that is either wholly excluded from gross income or wholly exempt from tax. The current provision is limited to a covered loan under the CARES act. The clarification would apply to all similarly treated federal programs, for example: Emergency EIDL grants and targeted EIDL advances, loans under the Debt Relief Program, grants for Shuttered Venue Operators, and Restaurant Revitalization grants.	When the act becomes law.

PART II. REVENUE LAWS TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES, AS RECOMMENDED BY THE DEPARTMENT OF REVENUE

SUBPART A: PERSONAL INCOME TAX CHANGES		
2A.1	Makes technical correction by renumbering a subdivision.	When the act becomes law.
2A.2	Corrects an unintended consequence when NC decoupled from a provision in the CARES Act by allowing a taxpayer to fully deduct the applicable amount of business interest expense over time. NC conformed to the federal TCJA in 2017. Part of the TCJA limited the interest expense deduction under section 163(j) of the Code for taxpayers with $25M or more in receipts per year to 30% of the taxpayer's AGI. Under the CARES Act, Congress increased the interest expense limitation from 30% to 50% for the 2019 and 2020 taxable years. NC decoupled from this change and remains at 30%. To decouple from the federal provision, State law requires a taxpayer to addback the difference. This section does two things: • Subsection (a) provides that the add-back is not required to the extent the amount was added back under another provision of State law to avoid a double add-back. • Subsection (b) provides a taxpayer may deduct over a five-year period the amount of interest expense allowed under federal law that exceeds the State's 30% limit. Without this change, the taxpayer would be permanently disallowed the full amount of the deduction.	When the act becomes law.

2A.3	Makes technical correction by deleting a reference to a repealed statute.	When the act becomes law.
2A.4	Increases the time allowed for an employer to file an informational return reporting wages (Form NC-3) when the employer terminates its business. Under current law, an employer who terminates its business or permanently ceases paying wages must file an informational return within 30 days of the last payment of wages. Informational returns would now be due the month after the end of the calendar quarter when the employer terminates its business (but no later than January 31 of the succeeding year). This section also removes the duty to file when an employer permanently ceases paying wages. This section matches federal filing requirements for IRS Forms W-2, W-3, and 1099.	When the act becomes law.
2A.5	Explicitly states the Secretary of Revenue can assess a withholding agent based on an estimate of the tax due when the withholding agent fails to file a return or files a grossly incorrect, false, or fraudulent return. New G.S. 105-163.8(c) mirrors existing G.S. 105-164.32 which has the same language for sales and use tax.	When the act becomes law.
2A.6	Clarifies that a request for a tax refund is due 6 months after the contingent event concludes. Under current law, refund claims delayed due to litigation or a state tax audit are due 6 months after the litigation or audit concludes. This section clarifies that the same period applies to other contingent events that prevent the taxpayer from filing an accurate and definite request for a refund.	When the act becomes law.
2A.7	Authorizes the Secretary of Revenue to allow the use of truncated taxpayer identification numbers (TTIN) on tax returns and other documents. TTIN helps prevent identity theft by using only the last 4 digits of a Social Security number (e.g., XXX-XX-9999). Under current law, the General Assembly must authorize the use of a TTIN on each type of tax form. The Secretary wants to avoid repeated law changes as IRS forms, payroll forms, and tax return forms change. For example, for the 2020 tax year, the IRS allows payroll providers to submit IRS Form W-2 with TTIN to prevent identity theft. The NC Department of Revenue lacks the authority to conform to the use of the TTIN.	When the act becomes law.
SUBPART B: CORPORATE INCOME TAX CHANGES		
2B.1	Corrects an omission from 2015 when the General Assembly made the policy decision to tax banks in the same manner as other corporations. As part of that legislation, the General Assembly repealed the privilege license tax on banks[1] but it failed to make a corresponding change to the exemption for banks from the privilege license tax on installment paper dealers. This section makes that change.	Effective retroactively to the 2016 taxable year.

[1] The corporate income tax change resulted in an increased tax burden on banks. The repeal of the privilege tax on banks helped to offset this tax burden.

2B.2	Prevents a double denial of interest expenses.	When the act becomes law.
2B.3	Prevents a double denial of nondeductible interest expenses. Both State and federal tax law limit the deduction amount allowed for net business interest expenses. Therefore, it is possible that a partial limitation has been imposed on the intercompany interest under section 163(j) of the Code, and if that is the case, that deduction needs to be recognized by G.S. 105-130.7B. Otherwise, the taxpayer may have to add back more interest than it actually incurred in total.	Effective retroactively to taxable years beginning on or after January 1, 2018.[2]
2B.4	Clarifies that, for taxable years beginning on or after January 1, 2015, the limitations of Code sections 381 and 382 apply to all losses from mergers and acquisitions regardless of the date of the merger or acquisition. The clarification takes the position most favorable to the taxpayer. It also provides parity among taxpayers and eases the administration of the carry-forward for both the taxpayer and the Department.	When the act becomes law.
2B.5	This section requires a taxpayer to provide financial or tax documentation necessary for the Department to make the appropriate adjustments and determinations under G.S. 105-130.5A. G.S. 105-130.5A requires the Secretary to adjust net income or require a combined report when the Secretary has reason to believe a corporation fails to accurately report its State net income using intercompany transactions. This change provides that if the Secretary requests information or documentation needed under G.S. 105-130.5A, and the information is not timely provided, the Secretary may propose any allowable adjustment, including the filing of a combined return. All tax information is protected by the tax secrecy provisions of G.S. 105-259.[3]	When the act becomes law.
SUBPART C: SALES AND USE TAX CHANGES		
2C.1	Expands the sales and use tax exemptions for certain purchases made by qualifying farmers and conditional farmers to include fowl. Currently, livestock, baby chicks, and poults are exempt from sales and use tax when purchased by a qualifying farmer or conditional farmer and used primarily in farming operations. This section would expand the types of animals that are exempt from sales and use taxes to include, among other things, adult chickens and turkeys.	Effective retroactively to July 1, 2020, and applies to purchases made on or after that date.
2C.2	Removes obsolete language. The statutes referenced G.S. 105-259(b)(5b) have been repealed and the subdivision is no longer needed.	When the act becomes law.
SUBPART D: EXCISE TAX HEARING CHANGES		
This Part represents a comprehensive restructuring of the license revocation and hearing procedures across all excise tax schedules to streamline and make consistent these procedures. The affected schedules are tobacco products, motor carriers, motor fuels, and alternative fuels.		Effective January 1, 2022 and applies to summary

[2] The taxable year the federal law changes under section 163(j) became effective.
[3] Violation of the tax secrecy provisions is a Class 1 misdemeanor and dismissal of the employee from public employment.

Below is a summary of the current law. This Part maintains the two distinct methods for revocation – summary and non-summary – but provides more specificity with respect to the process and makes them more consistent across all excise tax schedules. *Please see the tables at the end of this summary that show how the procedures proposed by this Part differ from the current law.* **License Revocation for Tobacco, Motor Fuels, and Alternative Fuels Licensees.** – The license revocation and hearing procedures under the tobacco product, motor fuel, and alternative fuel schedules share similar features. Specifically, the Secretary of Revenue may revoke a license in two ways: ***Summary Revocation.*** – The Secretary may summarily revoke a license, which means that the license is revoked prior to a hearing, if the Secretary discovers that a licensee is incurring tax liability after failing to pay a tax when due. The Secretary must hold a hearing within 10 days of the revocation after sending notice to the revoked licensee. Summary revocation is not often used by the Department and is reserved for extraordinary circumstances. ***Non-Summary Revocation.*** – The more common method for revoking a license is after holding a hearing, regardless of whether the licensee has requested one. The Secretary must provide the licensee with at least 10 days' written notice of the hearing. If the licensee fails to attend the hearing, the license revocation is effective 15 days after the noticed hearing. The statutes are silent as to when the Secretary must issue a final decision and the content of that decision if the licensee attends the hearing. The Department asserts that holding a hearing even if a licensee has not requested one is an inefficient use of its resources because it requires them to fully prepare and conduct a hearing whether or not the licensee has expressed their intention to maintain the license or attend the hearing. **License Revocation for Motor Carriers.** – Not only is the revocation and hearings procedure for motor carriers different than the other excise tax schedules, it is not set out in statute. G.S. 105-449.57 permits the Secretary to enter into cooperative agreements with other jurisdictions regarding the administration of the motor carrier tax. To the extent our statutes are silent, the Department follows the IFTA Rules for revocation. These rules differ from the other revocation procedures in the three primary ways: (1) a taxpayer can only request a hearing after revocation; (2) a licensee must request a hearing within 30 days; and (3) 20 days' hearing notice is required. Unlike the procedures for other excise tax schedules, the Department does not perform summary revocations or provide a hearing before revocation. Instead, the Department notifies the motor carrier taxpayer of the intent to revoke the license and then revokes it if the taxpayer does not come into compliance. There is an opportunity for a hearing after the revocation.		revocations and non-summary revocations initiated by the Department on or after that date.
SUBPART E: OTHER EXCISE TAX CHANGES		
2E.1 – 2E.4	Recodifies various statutes to a more appropriate place and makes technical and conforming changes.	When the act becomes law.
2E.5	Clarifies that non-licensed distributors must file a use tax report when acquiring non-tax-paid cigarettes.	When the act becomes law.

2E.6	Removes unnecessary language. "Vapor products" are included in the definition of "tobacco products" and therefore makes the language being removed redundant and unnecessary.	When the act becomes law.
2E.7	Provides that non-licensed wholesale dealers and non-licensed retail dealers must file a use tax report on non-tax-paid tobacco products, other than cigarettes, and pay the tax due within 96 hours after acquisition. This mirrors the requirements for use tax payments and reports for cigarettes and provides consistency with regard to use tax payments and reports for all tobacco products. Currently, the use tax reporting and payment requirements for cigarettes and other tobacco products are different.	When the act becomes law.
2E.8	Codifies the current practice of the Department and industry and makes a clarifying change. Generally, the wholesaler or importer who first handles the alcoholic beverage in the State is required to pay the excise tax on the product. However, the Department, by policy, authorizes an exception to this rule. The Department authorizes an ABC permitted wholesaler to remit the excise tax when a brewery or winery transfers their product to the wholesaler for distribution and the wholesaler agrees to pay the excise tax on the product. This section would codify this practice. This section also moves language pertaining to wine shipper permittees to a more appropriate place.	When the act becomes law.
2E.9	Requires distilleries to be bonded. Generally, any ABC permittee that can incur excise tax liability must be bonded. Distilleries are authorized to incur excise tax liability but are not currently required to be bonded. This section would require distilleries to be bonded and treat them similarly to other ABC permittees that are authorized to incur excise tax liability.	When the act becomes law.
2E.10	Changes the penalties for engaging in business as a distributor, wholesale dealer, or retail dealer without first obtaining the appropriate license. Currently, the maximum penalty is $6.25 for failing to obtain a distributor license or wholesale dealer license, and $5.00 for failing to obtain a retail dealer license. The Department has had some issues with compliance due to the current penalty not providing an effective deterrent. This section would increase the potential penalty to $1,000 for failing to obtain the respective license, which is on par with the penalties for failing to obtain various motor fuel licenses. To assess the penalty, the Department must provide written notification to the taxpayer of their noncompliance, and the taxpayer must fail to comply after receiving the notification.	Effective January 1, 2022 and applies to penalties assessed on or after that date.
2E.11	Codifies the current authority to assess a failure to pay penalty on motor carriers that fail to pay tax when due under the International Fuel Tax Agreement (IFTA), provides exceptions to the penalty, and authorizes the Department to waive failure to file and failure to pay penalties on motor carriers. IFTA is an agreement between member taxing jurisdictions to assist each other in the collection and administration of taxes paid by	When the act becomes law.

	interstate motor carriers on their use of motor fuel. North Carolina has been a member of IFTA since 1992. This section codifies the current practice of the Department when assessing failure to pay penalties for motor carriers authorized under IFTA as well as exceptions to the penalty provided for under North Carolina law. The penalty is $50.00 or 10% of the tax due, whichever is greater. This section also provides authority for the Department to waive any failure to file or failure to pay penalty assessed against a motor carrier.	
2E.12	Creates a definition of "fuel grade ethanol" and adjusts the definition of "gasohol" to continue to capture gasohol in the same manner as it is currently. Currently, there is no definition of "fuel grade ethanol" but it is considered a taxable motor fuel. Without a proper definition of fuel grade ethanol, the Department has had difficulty assessing liability on taxpayers. The Department requested this change to aid in compliance by providing certainty as to what fuel grade ethanol is. The definition of "gasohol" refers to fuel grade ethanol, but currently captures more than what the new definition of fuel grade ethanol would cover. Therefore, the Department requested an update to the definition of gasohol to continue to capture gasohol as it is captured currently.	Effective January 1, 2022.
2E.13	Aligns the shipping document requirements when transporting motor fuel by railroad tank cars, transport trucks, and tank wagons. This will reduce confusion and aid in compliance when motor fuel is diverted to a state other than the state listed on the shipping document.	Effective January 1, 2022.
2E.14	Changes the penalty for failing to properly mark certain dyed, nontaxable, motor fuel storage facilities. Dyed motor fuel is not for use on the highway and therefore is not taxable. A person who is a retailer of dyed motor fuel or anyone who stores both dyed and undyed motor fuel must properly mark the storage tanks of dyed motor fuel or be assessed a penalty. Currently the penalty is equal to the motor fuel rate multiplied by the inventory held in the storage tank or, if the inventory cannot be determined, the penalty is calculated on the capacity of the storage tank. This section would remove the requirement that the Department determine inventory or capacity and make the penalty a flat $250.00 per offense. Each inspection resulting in non-compliance would be a separate offense. The Department requested this change to ease administrative burden as it is often difficult to ascertain the tank size and amount of fuel in the tank. The Department estimates this change will decrease the average penalty assessed under this section.	Effective January 1, 2022 and applies to penalties assessed on or after that date.
SUBPART F: LOCAL GOVERNMENT CHANGES		

2F.1	Makes an update to reflect the proper statutory reference. Local planning and development regulation statutes in Chapters 153A and 160A were recodified to Chapter 160D. This section updates the statutory reference as historic landmarks are now designated as such under a local ordinance adopted pursuant to G.S. 160D-945 (which was previously G.S. 160A-400.5).	Effective retroactively to June 19, 2020.

PART III. REDUCE IMPACT OF FEDERAL SALT CAP

Section	Explanation	Effective Date
The 2017 Tax Cuts and Jobs Act (TCJA) imposed a $10,000 cap on the amount of SALT individual taxpayers can deduct on their federal returns. Typically, pass-through entities such as partnerships and S corporations allocate business income to the owners' individual income tax returns, which is subject to the SALT cap. In proposed regulations, Notice 2020-75, the Internal Revenue Service and the Department of the Treasury signaled their approval of a workaround that allows the pass-through entity to pay the state income taxes at the entity level, which is not subject to the SALT cap. This workaround allows the owners to avoid the SALT cap on the taxes paid by the entity. The workaround only works for shareholders and members of S corporations, partnerships, and LLCs treated as partnerships for federal income tax purposes.		
3.1	Allows an S corporation to elect to be taxed at the State level. The election is made on its timely filed annual return, is irrevocable, and covers that taxable year. The election must be made each year. Tax credits and any carryforwards or installments of those tax credits must be taken by the taxpayer that filed the return for the year the initial tax credit was taken. The full amount of tax payable as shown on the return must be paid within the time allowed for filing the return. If the taxed S corporation does not pay the amount shown as due, the Secretary must issue a notice of collection for the amount of tax debt to the taxed S Corporation. If the tax debt is not paid within 60 days of the date the notice of collection is mailed to the taxed S corporation, Secretary must send the shareholders a notice of proposed assessment.	Effective for taxable years beginning on or after January 1, 2021.
3.2	Allows a partnership to elect to be taxed at the State level. The provisions governing this election are the same as the provisions for a taxed S corporation as explained in Section 2.1. The election cannot be made by a publicly traded partnership or by a partnership that has at any time during its taxable year a partner who is not an individual, an estate, a trust, or an organization described in section 1361(c)(6) of the Code.	Effective for taxable years beginning on or after January 1, 2021.
3.3	Allows an individual income taxpayer who is a shareholder of a taxed S corporation or a partner of a taxed partnership to make the following adjustments to the taxpayer's adjusted gross income: • A deduction of the amount of the taxpayer's pro rata share or distributive share of income from the taxed pass-through entity to the extent it was included in the taxed pass-through entity's NC tax income and the taxpayers AGI.	Effective for taxable years beginning on or after January 1, 2021.

	• An addition of the amount of the taxpayer's pro rata share or distributive share of loss from the taxed pass-through entity to the extent it was included in the taxed pass-through entity's NC taxable income and the taxpayer's AGI.	
3.4	Does not allow a shareholder or partner of a taxed pass-through entity, or fiduciaries and beneficiaries of estates and trusts who are shareholders or partners of a taxed pass-through entity, a credit for taxed paid by the taxed pass-through entity to another state or country. The taxed pass-through entity is allowed the credit.	Effective for taxable years beginning on or after January 1, 2021.
3.5	Provides that a taxed pass-through entity must pay estimated taxes.	Effective for taxable years beginning on or after January 1, 2021.

PART IV. MODIFY EXCISE TAX ON PREMIUM CIGARS

4.1	Subjects remote delivery sales of premium, or hand-rolled, cigars to the current rate of excise tax, which is 12.8% of the cost price per cigar, and places a cap of 30¢ per cigar on all sales of premium cigars, regardless of whether they are sold in-person or online. It would exempt delivery sales of premium cigars from the age verification and filing requirements that are required for delivery sales of other tobacco products. Under current law, cigars are subject to an excise tax at the rate of 12.8% of the cost price[4] of the product. The wholesale dealer or retail dealer who first acquires or handles the product in this State is liable for the tax. If the dealer is located in this State and makes delivery sales via the Internet to customers located in North Carolina, then the dealer must collect the tax. However, a delivery seller located outside this State that makes sales to North Carolina customers is not required to collect the tax because those sales are exempt under G.S. 105-113.4F. Remote delivery sales of cigarettes and vapor products are subject to the excise tax as well licensing and age verification requirements. All tobacco products, whether sold in-person or online, are subject to sales tax.[5]	Effective for sales on or after January 1, 2022

PART V. EXTEND THE TIME TO COMPLETE AN ELIGIBLE PROJECT UNDER THE MILL REHABILITATION TAX CREDIT PROGRAM

5.1	Extends the time to complete eligible mill rehabilitation tax credit projects by approximately two years.	When the act becomes law.

[4] Defined as the price a person liable for the tax paid for the products, before any discount, rebate, or allowance, or the tax imposed on the product. G.S. 105-113.4(2).

[5] A retailer is only required to collect sales tax if the retailer has economic nexus with this State, which means they have gross sales to NC residents in excess of $100,000 or at least 200 separate transactions.

	• To qualify for the general mill rehabilitation tax credit, projects must have received an eligibility certification before January 1, 2015. The eligibility certification expires January 1, 2023. This provision extends the life of the eligibility certification until January 1, 2025. • In 2019, the General Assembly created a specific mill rehabilitation tax credit for an eligible railroad station. This credit sunsets for expenditures occurred on or after January 1, 2022 and for rehabilitation projects not completed and placed in service prior to January 1, 2022. This provision extends the sunset as follows: o The project mut be a designated local landmark as certified by a city on or before September 1, 2020. The date was June 30, 2019. The extension of the date will enable an additional railroad station rehabilitation project to qualify for the mill rehabilitation tax credit. o The project must be issued a certificate of occupancy on or before December 31, 2023. o The expenditures must be incurred on or before January 1, 2024, and the project be completed and placed in service prior to July 1, 2024.	

PART VI. LIMIT GROSS PREMIUMS TAX ON SURETY BONDS

6.1	Limits the gross premium tax base for premiums paid to a surety bondsman to the amount paid by the surety bondsman to the insurer of the bail bonds. The amount paid to a surety bondsman consists of two parts, the amount paid to the insurer of the bail bonds and the amount retained by the surety bondsman for its services. The provision provides this limitation of the tax base only applies to the transactions related to the insuring of bail bonds, and not to any other line of insurance business.	Effective for taxable years beginning on or after January 1, 2022.

PART VII. PROVIDE TAX PARITY FOR SHORT-TERM VEHICLE RENTALS

7.1	Subjects short-term motor vehicle rentals by a peer-to-peer vehicle sharing facilitator to the general rate of sales and use tax, which ranges from 6.75% to 7.50%, depending on the location of the rental. The net proceeds of the tax from these rentals would be remitted annually to the Highway Fund. This Part would also credit to the Highway Fund the proceeds from the alternate highway use tax that is levied on short-term rentals and vehicle subscriptions. Currently, only the first $10 million of these proceeds is remitted goes to the Highway Fund, and the remainder is remitted to the General Fund. Peer-to-peer vehicle sharing is an alternative business model to traditional car rental companies. Under this model, a retailer facilitates the short-term use of motor vehicles between vehicle owners and users. Owners register	Effective October 1, 2021, and applies to sales occurring on or after that date.

	and list their vehicles on the facilitator's website for use by others for a fee. It is similar in concept to Airbnb, which facilitates accommodation rentals between homeowners and travelers. Peer-to-peer vehicle rentals are currently not subject to tax. Traditional car rentals are subject to the alternate highway use tax at a rate of 8%, plus applicable local taxes. This tax is triggered when a person applies for a certificate of title upon the purchase of a car. While car rental companies own the cars they rent, peer-to-peer facilitators do not own the cars listed on their website. Thus, the alternate highway use tax is not triggered.	

PART VIII. GRADUATE LATE PAYMENT PENALTIES

8.1	Graduates the failure to pay a tax when due penalty. Currently, the penalty for failure to pay a tax when due is 10% of the tax owed. This section would graduate the penalty, starting at 2% of the tax owed. An additional 2% would be assessed for each additional month, or fraction thereof, the tax remains unpaid. The penalty could not exceed 10%.	Effective January 1, 2022 and apply to penalties assessed on or after that date.

PART IX. CREATE SEPARATE STATE NET OPERATING LOSS FOR INDIVIDUAL INCOME TAX PURPOSES

9.1(a)	For individual income tax purposes, the federal net operating loss (NOL) deduction is the taxpayer's loss deduction for North Carolina purposes because it is part of the taxpayer's AGI calculation. This section would require a taxpayer to add-back the amount allowed as a NOL under the Code, and to deduct the State NOL amount.	Effective for taxable years beginning on or after January 1, 2021.
9.1(b)	Creates a separate North Carolina NOL calculation. A separate State NOL calculation would more closely align to the calculation of North Carolina taxable income, adjustments for differences between federal and State law, and business activities taking place in multiple states. North Carolina has a corporate NOL calculation that is separate from the federal calculation, but it does not have a separate NOL calculation for individual income tax. The federal loss amount is the taxpayer's State loss amount. This calculation benefits some taxpayers but hurts others. Under this section, any remaining losses from years prior to January 1, 2021 may be carried forward, but the old loss amounts would not be calculated using the new rules. This transition rule is consistent with how the State treated prior year losses when it modified the corporate NOL calculation in 2015.	Effective for taxable years beginning on or after January 1, 2021.

TABLE SUMMARIZING THE CURRENT LAW AND THE CHANGES PROPOSED BY SUBPART 2D RE: EXCISE TAX HEARINGS

Tax Type	Summary Revocation (revocation of license occurs prior to a hearing)	
	Current Law	**Bill**

Tobacco
Motor Fuels
Alternative Fuels
	• Mandatory hearing post-revocation
	• Notice of revocation sent
	• Hearing held within 10 days of revocation
		• Mandatory hearing post-revocation, but also:
		  • Licensee has opportunity to request rescheduling of hearing
		  • 10 days' notice given for rescheduled hearing
		  • Final decision to be issued within 10 days of hearing.
		  • Final decision must state basis, but Dept. is permitted to change basis.

Motor Carriers	• No statute; IFTA rules • There is no summary revocation process	• New statute setting out hearing process • But there is still no summary revocation process

Tax Type	Non-Summary Revocation (revocation of license occurs after a hearing)	
	Current Law	**Bill**

Tobacco
Motor Fuels
Alternative Fuels
	• Mandatory hearing pre-revocation
	• Licensee receives 10 days' notice of hearing
	• If licensee fails to attend hearing, revocation is effective 15 days after hearing
		• Hearing upon request pre-revocation
		• Licensee to receive a notice of proposed revocation and has 45 days to request hearing
		  • If no hearing request, revocation becomes final upon expiration of 45-day period
		  • If hearing requested, licensee receives 20 days' notice of hearing
		• Secretary must issue final decision within 60 days of hearing, which may be extended by mutual agreement
		  o Revocation is effective 10 days after mailing of decision or day decision is issued if delivered in person
		• Final decision must state basis, but Dept. is permitted to change basis

Motor Carriers	• Hearing upon request post-revocation • Licensee has 30 days to request a hearing • Dept. must provide 20 days' notice of hearing	• Hearing upon request pre-revocation • Process is the same as above for tobacco, motor fuels, and alternative fuels licensees

Tax Type	Delivery of Notices	
	Current Law	**Bill**
Tobacco Motor Fuels Alternative Fuels	Certified mail	Regular US mail and licensees may consent to electronic notices
Motor Carriers	Regular US mail	Regular US mail and licensees may consent to electronic notices