



HOUSE BILL 228: Revenue Laws Technical, Clarifying, and Administrative Changes.

2023-2024 General Assembly

Committee:		Date:	July 2, 2024
Introduced by:		Prepared by:	Trina Griffin Staff Attorney
Analysis of:	S.L. 2024-28		

OVERVIEW: *S.L. 2024-28 makes various technical, clarifying, and administrative changes to the revenue laws as recommended by the Department of Revenue, makes technical changes to the Medicaid hospital assessment statutes, replaces an expiring unit of measure used by Fannie Mae referenced in NC statutes setting certain restrictions on high-cost home loans, increases from \$20 to \$30 the special registration plate fee for the NC Tennis Foundation special plate, and increases the bond debt limit for the Housing Finance Agency.*

This act was signed into law by the Governor on July 1, 2024, but has various effective dates. Please see the full summary for more detail.

CURRENT LAW, BILL ANALYSIS, & EFFECTIVE DATES:

Section	Explanation	Effective Date
PART I. CORPORATE AND INDIVIDUAL INCOME TAX CHANGES		
1.1	Repeals unnecessary sections allowing a taxed pass-through entity to obtain a tax credit for taxes paid to another state or country because taxed pass-through entities no longer include this income in the computation of NC taxable income.	For taxable years beginning on or after January 1, 2023.
1.2	Adds the definitions of "income attributable to the State" and "income not attributable to the State" to the Individual Income Tax statutes, which are identical to those same definitions in the Corporation Income Tax statutes. Beginning with the 2023 tax year, and as a part of the SALT cap workaround changes, a taxed partnership and a taxed S Corporation are only required to include each partner's or shareholder's distributive share of the taxed partnership's/S Corp's income or loss attributable to North Carolina in its computation of North Carolina taxable income. Therefore, these definitions are necessary to make that determination.	For taxable years beginning on or after January 1, 2023.
1.3	Updates terminology in the statute related to the filing of joint returns by referring to married individuals and codifies existing Department of Revenue administrative practice.	July 1, 2024
1.4	Modifies language regarding how a taxpayer obtains an extension to file a return because the Department of Revenue now grants an	July 1, 2024

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	automatic extension if the taxpayer is granted an extension of time to file the corresponding federal return. Therefore, a taxpayer is no longer required to ask the Secretary for an extension because the State extension is automatic.	
PART II. SALES TAX CHANGES		
2.1	<p>Repeals the transaction-based threshold for purposes of requiring remote retailers to collect and remit North Carolina sales and use tax.</p> <p>Remote sellers are required to collect and remit tax if they meet the economic nexus threshold. Currently, that threshold is either (i) gross sales in excess of \$100,000 from remote sales sourced to this State for the previous or current calendar year, or (ii) 200 or more separate transactions.</p> <p>To reduce burdens on small business and conform to the Streamlined Sales Tax Agreement's best practice, this change eliminates the 200 transactions as a threshold and leaves only the gross sales threshold. Less than half the states currently have the transaction-based threshold.</p>	July 1, 2024
2.2	Updates the reference to the Streamlined Sales Tax Agreement from December 22, 2022, to November 7, 2023.	July 1, 2024
2.3	Provides a statute of limitations for purposes of permitting the Department of Revenue to propose an assessment for a sales and use tax customer refund of three years after the date of the refund.	July 1, 2024, and applies to assessments not barred by the statute of limitations prior to that date.
2.4	Clarifies that the \$250 penalty for misuse of exemption certificates also applies to affidavits of capital improvement and exemption certificates issued for a service or certain digital property.	July 1, 2024
2.5	Specifies a time period for a person to obtain an affidavit of capital improvement. The law currently requires a contractor to obtain an affidavit, but it does not state the applicable time period. The time period is within 90 days of the sale or within 120 days of a substantiation request by the Department. This time period matches the period required to obtain an exemption certificate, which provides similar preferential tax treatment.	July 1, 2024
PART III. EXCISE TAX CHANGES		
3.1 ¹	Clarifies the due dates for returns and payment of alcohol excise tax. Currently, there is no explicit return requirement for local ABC boards and distilleries, only for payment of the tax. Moreover, the statute for a wine shipper permittee does not set a due date for the tax, and the statute	July 1, 2024

¹ This section is identical to Section 35 of S.L. 2024-41, which became effective on July 8, 2024. As a practical matter, since the two sections are identical, the provisions of law became effective on the earlier of the dates, which is July 1, 2024.

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	<p>is unclear whether a resident wholesaler or importer must submit a report if tax is not due. Under this section, the timing for when tax must be paid is now uniform for all taxpayers and is based on when the alcoholic beverage is first sold or otherwise disposed of in this State.</p> <p>This section also allows the Department to request the agreement between breweries and wineries with their wholesalers to ensure that the breweries and wineries are meeting their statutory requirements of transferring the tax remittance obligation to the wholesaler.</p>	
3.2	<p>Clarifies that regardless of whether a licensed motor carrier operates a qualified motor vehicle during the reporting period, a return must be filed. This is consistent with current Departmental interpretation and with the requirement under the International Fuel Tax Agreement.</p>	July 1, 2024
PART IV. TAX ADMINISTRATION CHANGES		
4.1	<p>Delays by 3 years changes to the penalty for failure to pay a tax, originally made in Section 42.11 of S.L. 2021-180 and extended in Section 5.6(c) of S.L. 2022-13. In that section, the penalty for failure to pay a tax was scheduled to go from a flat 10% of the tax to a graduated system, beginning at 2% for each month and not to exceed 10% in the aggregate, on July 1, 2022. Beginning January 1, 2023, the penalty was reduced to 5% of the tax. Beginning July 1, 2024, the penalty is scheduled to return to the graduated system.</p> <p>However, due to difficulties with incorporating this change programmatically with the Department's current legacy system, the start date needs to be delayed until the Department's new tax modernization system is fully implemented.</p> <p>With this delay, the penalty will remain 5% of the tax due until the graduated rate is implemented, beginning July 1, 2027.</p>	July 1, 2024
PART V. MEDICAID HOSPITAL ASSESSMENTS TECHNICAL CORRECTIONS		
5.1	<p>Clarifies the references to the Consumer Price Index (CPI) and the Medicare Economic Index (MEI) that are used to annually adjust certain components of the Medicaid hospital assessments and makes conforming changes. To correctly use the CPI and MEI to make the annual adjustments, the statutes needed to reference the "change" in those indexes rather than the indexes themselves.</p>	This Part becomes effective October 1, 2024, and applies to assessments on or after that date.
5.2	<p>Rebalances the distribution of the assessment collections between public and private hospitals due to a hospital closure since the passage of the original act.</p> <p>Under G.S. 108A-146.17(c), the Department of Health and Human Services (DHHS) must report to the General Assembly when a hospital has closed or changed its status as either a public or private hospital, and DHHS must propose the changes to the hospital assessments that are needed as a result. In response to the closure of Martin General</p>	

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	Hospital, DHHS submitted a report proposing the statutory changes that are included in this section.	
5.3	Treats federally-designated "rural emergency hospitals" the same as critical access hospitals under the assessments due to the fact that critical access hospitals may be eligible to convert to this new federal designation of "rural emergency hospital," which was not accounted for in the assessment statutes.	
5.3A	Corrects a statutory citation.	
PART VI. UPDATE DEFINITION OF THRESHOLD EXCLUSION FOR HIGH-COST HOME LOAN PURPOSES		
6	<p>Replaces an expiring unit of measure provided by Fannie Mae that is referenced in the North Carolina statutes that set out certain restrictions and limitations on high-cost home loans.</p> <p>Currently, State law in G.S. 24-1.1E references an interest rate published by Fannie Mae called the required net yield (RNY). As of June 3, 2024, Fannie Mae stopped posting the RNY, and the historical daily RNY website was retired. This section replaces the RNY with the average prime offer rate (APOR). The APOR is published by the US Consumer Financial Protection Bureau (CFPB) under 12 C.F.R. 1026.36 and applies to comparable transactions. Georgia recently replaced a statutory reference to the RNY with the APOR.</p>	June 1, 2024
PART VII. INCREASE FEE FOR NC TENNIS FOUNDATION SPECIAL PLATE		
7	Increases from \$20 to \$30 the special plate fee for the NC Tennis Foundation special license plate. This fee is in addition to the standard registration fees. Of the \$30 fee, the first \$10 is credited to the Special Registration Plate Account, which is used for highway beautification and vegetation management. The remaining \$20 is credited to the North Carolina Tennis Foundation, Inc. to provide funding for the development and growth of tennis as a sport in North Carolina.	July 1, 2024
PART VIII. INCREASE HOUSING FINANCE AGENCY BOND DEBT LIMIT		
8	<p>Increases from \$3 billion to \$12 billion the bond debt limit of the Housing Finance Agency.</p> <p>The North Carolina Housing Finance Agency sells bonds, administers tax credit programs, and uses state and federal funds to produce affordable housing in partnership with local governments, nonprofit housing producers and for-profit developers. The financing is used to build rental apartments and homes, to finance affordable home mortgages, to rehabilitate rental and owner-occupied housing, to provide rent subsidies and to assist home buyers.</p> <p>Under current law, the total amount of bonds, bond anticipation notes, and construction loan notes outstanding at any one time may not exceed</p>	July 1, 2024

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	<p>\$3 billion dollars. This section increases the maximum amount to \$12 billion dollars.</p> <p>Obligations of the Housing Finance Agency do not constitute a debt, liability, or obligation of the State or a pledge of the faith and credit of the State, but are payable solely from the revenues or assets of the Agency.</p>	
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