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Local Taxes and Tax Collection

Collection of property taxes for two types of property—motor vehicles and manufactured homes—has traditionally posed the greatest challenge for local tax collectors. While the General Assembly has enacted numerous laws to facilitate the collection of taxes assessed on motor vehicles and manufactured homes, none of the legislative remedies to date have eradicated the collection difficulties posed by the mobility of such property. The 2005 General Assembly took substantial steps toward solving the problems associated with collecting taxes for registered motor vehicles, the largest of these problematic categories. New legislation establishes funding and launches a process for the full integration of vehicle taxation and registration. Beginning July 1, 2009, taxes will be billed simultaneously with registration fees and must be paid before a vehicle's registration is renewed. The 2005 amendments to the laws governing taxation of motor vehicles are the most significant since 1991, when the legislature first linked vehicle taxation to vehicle registration.

Tax collectors' efforts to strengthen enforced collection measures for the other major category of mobile property, manufactured homes, were unsuccessful in the 2005 General Assembly. House Bill 1549 would have required lienholders to pay taxes due before repossessing a manufactured home and would have created an automatic tax lien against such homes of the same nature as the lien that attaches to real property, but the bill languished in committee.

Legislative enactments in 2005 affecting the assessment of property taxes were limited. House Bill 648, which exempted from property taxes improvements to real property held for sale by a builder, generated considerable negative attention from county assessors concerned that such legislation would substantially reduce annual growth in counties' tax bases. Like House Bill 1549, the exempt builder's inventory bill never emerged from committee. Statutes governing present-use assessment were once again amended, in part to conform to existing assessment practice. Narrow amendments to the exemption for property owned by religious bodies and for property used for nonprofit educational, scientific, literary, or charitable purposes also were enacted.

The 2005 General Assembly enacted a bevy of local acts authorizing local governments to levy or increase room occupancy taxes. Mecklenburg County became the first and only taxing unit authorized to impose an occupancy tax of greater than 6 percent. A local act permits the county to increase its occupancy tax by 2 percent (bringing the total to 8 percent) upon confirmation that the NASCAR Hall of Fame Museum will be located in the City of Charlotte.

Registered Motor Vehicles

Integrated System for Simultaneous Taxation and Registration

S.L. 2005-294 (H 1779) amends Article 22A of G.S. Chapter 105 to create a combined system for registration and taxation of motor vehicles to become effective July 1, 2009, or upon the earlier creation of a combined registration renewal and tax collection computer system within the Division of Motor Vehicles (DMV). The act increases the first month's interest on delinquent registered motor vehicle taxes from 2 to 5 percent, beginning January 1, 2006. Sixty percent of the increased first month's interest is allocated to fund the development of an integrated computer system for taxation and registration. While S.L. 2005-294 states that 60 percent of all interest is to fund the new system, the intent of bill sponsors and supporters was for counties to remit 60 percent of the first month's interest only. The North Carolina Department of State Treasurer issued Memorandum #1046 on December 12, 2005, instructing counties to remit only 60 percent of the first month's interest for deposit in the integrated computer system fund. The Department of State Treasurer explained that the drafting error would likely be corrected during the 2006 session.

Under the combined system, the Property Tax Division of the Department of Revenue must annually adopt a schedule of motor vehicle values for use by all county assessors. The schedule must account for local market conditions and allow adjustments for mileage and condition. Taxes on registered motor vehicles become due on the date a new registration is applied for or at the end of the grace period following the expiration of a vehicle's current registration. Under the current system, property taxes for the twelve-month period that begins the first month following vehicle registration or renewal become due four months after the registration or renewal. If those taxes remain unpaid four months after they become due (eight months after the registration or renewal), the tax collector may submit the registration information to DMV, which places a block on the registration, preventing it from being renewed without payment of taxes. S.L. 2005-294 eliminates the need for this post-registration enforced collection remedy by making payment of taxes a prerequisite to issuance or renewal of the registration for the taxable period.

S.L. 2005-294 also combines the tax notice and the registration renewal notice, which will be prepared by the Property Tax Division once the integrated system is in place. The act permits the Department of Revenue (DOR) to establish a fee equal to the cost of sending the combined notice and provides that DOR will receive a fee for each notice from the taxes and fees remitted to the taxing units in which the vehicle is registered.

Taxes and registration fees may be collected by DMV or a DMV agent, which are defined as "collecting authorit[ies]" under the act. The collecting authority may retain a fee equal to at least one-third of the compensation DMV agents currently receive for registration renewals pursuant to G.S. 20-63(h). Each collecting authority must provide a weekly financial report to taxing units and DMV.

The act directs the Property Tax Division and DMV to study and develop a plan for determining the method for valuing motor vehicles and for implementing an integrated computer system. The divisions must report their findings to the Revenue Laws Study Committee, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division by April 30, 2006.

Proration and Billing for Vehicles Converted to Staggered Registrations

The 2004 General Assembly enacted legislation converting registrations for commercial and dealer-owned vehicles from an annual to a staggered system, beginning January 1, 2006. DMV plans to implement these changes by renewing annual registrations in 2006 for periods ranging from seven to eighteen months. These registrations will expire in varying months, from July 2006 to June 2007. Upon expiration, commercial and dealer registrations may be renewed for a twelve-month period. Since the renewals will take place in varying months, a staggered registration system will result.

Registered motor vehicles are listed by taxing units based upon registration information provided by DMV, and former G.S. 105-330.6 defined a vehicle's tax year as beginning the month following the date the vehicle's registration expires and extending for twelve months. Taxing units therefore needed

legislative authorization to tax registered motor vehicles for a period other than twelve months, so that the tax year would correspond to the period of registration.

Sections 8 and 9 of S.L. 2005-313 (H 116) amend G.S. 105-330.5 and G.S. 105-330.6 by defining a vehicle's tax year as its period of registration and by permitting taxing units to levy ad valorem taxes on motor vehicles for periods longer or shorter than twelve months.

Exclusion of Highway Use Tax from Valuation

S.L. 2005-303 (H 988) amends G.S. 105-330.2(b) to require that highway use taxes paid by the purchaser of a motor vehicle be excluded from any valuation of the vehicle based upon its sales price.

Municipal Vehicle Taxes

Increased municipal vehicle taxes are authorized for the following municipalities:

Cabarrus County municipalities. S.L. 2005-116 (S 407) authorizes municipalities in Cabarrus County to increase municipal vehicle taxes from \$5 to \$20.

City of Winston-Salem. S.L. 2005-278 (H 464) amends G.S. 20-97(b) to permit the City of Winston-Salem to immediately increase its municipal vehicle tax from \$5 to \$15 and to increase the tax to \$20 effective January 1, 2007. Proceeds of a tax above \$10 must be used in equal parts for traffic management, public transit, and nonmotorized transportation functions.

Town of Black Mountain. S.L. 2005-306 (H 691) amends G.S. 20-97(c) to permit the Town of Black Mountain to levy an additional municipal vehicle tax of \$5 to fund its local public transportation system.

Town of Carrboro. S.L. 2005-306 amends G.S. 20-97(b) to authorize the Town of Carrboro to increase its general municipal vehicle tax from \$5 to \$25.

Collection of Property Taxes

Payment of Taxes by Offset

G.S. 105-357 formerly prohibited the payment of taxes by offset of any obligation owed to the taxpayer by the taxing unit. S.L. 2005-134 (S 537) amends G.S. 105-357 to permit payment of taxes by offset of an obligation arising from a lease or another contract entered into between the taxpayer and the taxing unit before July 1 of the fiscal unit for which the unpaid taxes are levied.

The amended provision may benefit a taxing unit that has entered into a contract with a taxpayer who subsequently declared bankruptcy before paying property taxes. To the extent that a right of offset exists under state law, that right is preserved by the bankruptcy code. Thus, a taxing unit may seek permission from the bankruptcy court to enforce payment of taxes by withholding payments due under a qualifying contract.

Payment before Deed Recordation or Issuance of Building Permit

S.L. 2005-433 (H 787) provides counties with various local mechanisms to enforce payment of property taxes. Section 1 of the act amends Chapter 65 of the 1993 Session Laws, as amended by Section 9 of S.L. 1997-410, to require that Ashe County municipal tax collectors, in addition to the county tax collector, certify that all delinquent taxes have been paid on property described in a deed before the Ashe County Register of Deeds may record the instrument.

The act amends G.S. 153A-357 to permit Green, Lenoir, Iredell, Wayne, and Yadkin counties to adopt ordinances providing that a permit may not be issued to a person who owes delinquent property taxes.

S.L. 2005-109 (H 131) amends G.S. 161-31 by adding Johnston, Onslow, Robeson, and Surry counties to the list of counties that may adopt resolutions requiring that the register of deeds not accept

a deed transferring real property unless the county tax collector certifies that no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes with which the collector is charged are a lien on the property described in the deed.

Assessment of Property Taxes

Exemptions

Literary purpose includes literature of stage and screen. Section 59 of S.L. 2005-435 (H 105) amends G.S. 105-278.3, which exempts certain property owned by religious bodies from taxation, by redefining “literary purpose” to include “literature of the stage and screen as well as the performance or exhibition of works based on literature.” Given that the former definition of literary purpose specifically included purposes pertaining to drama, it is unclear whether the amendment expands permissible purposes warranting exemption. Interestingly, the former definition of literary purpose remains in effect for purposes of G.S. 105-278.7, which exempts from taxation certain property used for nonprofit literary purposes.

Exemption of property used for a cultural purpose. Section 59 of S.L. 2005-435 also amends G.S. 105-278.7, which exempts from taxation certain property used for educational, scientific, literary, or charitable purposes. As amended, G.S. 105-278.7 also exempts from taxation buildings and adjacent land owned by a qualifying entity and occupied by a permissible agency that uses the property wholly and exclusively for nonprofit *cultural* purposes. Formerly, only property owned by a religious body could qualify for exemption—pursuant to another statute, G.S. 105-278.3—if used by another agency for a cultural purpose. Property owned by qualifying entities other than religious bodies was exempted only if used for nonprofit educational, scientific, literary, or charitable purposes. New G.S. 105-278.7(f)(5) adopts the G.S. 105-278.3 definition of a “cultural purpose” as one “conducive to the enlightenment and refinement of taste acquired through intellectual and aesthetic training, education and discipline.”

Use-Value Amendments

S.L. 2005-313 (H 116) and S.L. 2005-293 (H 705) amend various provisions of the present-use valuation statutes, addressing the premium rental rates associated with horticultural land and clarifying eligibility requirements for transferred property as well as whether tobacco buyout payments constitute income produced from the property.

Horticultural or agricultural? S.L. 2005-313 amends GS 105-277.2(3) to provide that land used to grow horticultural and agricultural crops on a rotating basis or upon which a horticultural crop is planted and harvested within one growing season may be considered agricultural land when there is no significant difference in the cash rental rate for the land. The act also amends G.S. 105-277.7(c) to require that the present-use value manual state separate cash rental rates for agricultural versus horticultural crops. The Department of Revenue is directed to study cash rents for horticultural lands, as it has for agricultural property.

The piggyback is back. Owners of property in the use-value program have been permitted through various iterations of the present-use statutes to extend the present-use classification of a parent parcel to other parcels that would not immediately qualify for present-use taxation due to the four-year ownership requirements. This practice has been referred to as “piggybacking” additional parcels and continues to be recognized by tax assessors. The statutory basis for this practice had, however, been cast into doubt by recent amendments to the present-use statutes. S.L. 2001-499 amended G.S. 105-277.3(b2) to permit property in the present-use program to be transferred without triggering a rollback of deferred taxes when the new owner continued to use the land for the classified purpose. In enacting these amendments, the General Assembly removed the express provision allowing for immediate present-use classification of property acquired by the owner of property already in the program.

S.L. 2005-313 clarifies the authority to piggyback parcels. New G.S. 105-277.3(b2)(2) expressly authorizes present-use classification of land purchased by a new owner if, under his or her ownership, the land is eligible at the time of transfer for classification on the same basis as other present-use property he or she owns. If the purchased property was classified at present-use value before the transfer, the new owner may, under G.S. 105-277.3(b2)(1), file a new application and certify his or her acceptance of liability for deferred taxes. Otherwise the deferred taxes become due upon transfer, notwithstanding the property's possible immediate eligibility for present-use classification under G.S. 105-277.3(b2)(2).

Other amendments to G.S. 105-277.3(b2) clarify that a purchaser of land may avoid the four-year ownership prerequisite to present-use classification only if (1) the purchaser owns other present-use property upon which the new land may piggyback or (2) the purchased land was in the present-use program at the time of transfer. The four-year ownership requirement continues to apply to land that was eligible for, but not in, the present-use program at the time of transfer if the purchaser has no present-use land upon which the property may piggyback.

Farm unit. S.L. 2005-313 narrows the G.S. 105-277.2(7) definition of "unit" by requiring that multiple tracts attributed to a single agricultural, horticultural, or forestland unit must be tracts of the same type as the qualifying parent tract. Sharing the same labor force as the parent tract is no longer sufficient.

Sixty days to appeal or produce information in response to audit. S.L. 2005-313 amends 105-277.4(b1) to specify that taxpayers have sixty days to appeal an assessor's decision regarding the qualification or appraisal of property for present-use taxation. Amended G.S. 105-296(j) gives taxpayers sixty days in which to submit information in support of the reinstatement of present-use classification after the loss of classification for failure to provide information. Amendments to G.S. 105-296(l) provide the same sixty-day response period for all property that loses its exemption or exclusion for failure to provide information requested in an audit.

Income credit for tobacco buyout payments. S.L. 2005-293 amends G.S. 105-277.3(a)(1) to provide that amounts paid to a taxpayer pursuant to the federal Fair and Equitable Tobacco Reform Act of 2004 constitute income for purposes of the \$1,000 average gross income requirement.

Service Districts

Rate-Limited Fire Protection Districts

S.L. 2005-281 (S 32) enacts G.S. 153A-309.3, which permits a county board of commissioners to remove an area from a fire protection district and to simultaneously place that area in a new service district with a limited tax rate. The statute applies to land and structures of an industrial facility that (1) is subject to a contract not to annex by a municipality under which the owner of the property makes payments in lieu of taxes equal to 50 percent of the taxes the industry would pay if it were annexed; and (2) is served by an industrial fire brigade. Taxes levied for fire protection purposes in the new district may not exceed a rate of \$0.035 per \$100.00. If the area fails to satisfy the two-part test enumerated above, the board may abolish the new district and annex the area to the district from which it was removed. The act evolved from a local bill applicable only to Rockingham County. Such a local act would have been unconstitutional as the General Assembly is authorized to enact only general laws authorizing the governing body of a county, city, or town to create a special tax area.

County Authority to Alter Service District Boundaries

S.L. 2005-136 (S 396) permits boards of commissioners, by resolution and after a public hearing, to relocate boundary lines between adjoining county service districts that were established for substantially similar purposes.

Levy of Property Taxes by Counties with Only a Portion of One City

S.L. 2005-433 (H 787) amends G.S. 153A-471 to vest municipal powers with any county that has only one incorporated municipality if most of the land area of the municipality is located in another county, with less than 100 acres in the county to be given municipal powers. New G.S. 153A-472.1 provides that such a county may establish a service district for its non-incorporated area and levy property taxes for municipal functions only in the service district.

Collection and Confidentiality of Identifying Information

S.L. 2005-414 (S 1048) enacts the Identity Theft Protection Act of 2005, effective December 1, 2005. New G.S. 132-1.10 prohibits governmental units and their agents and employees from collecting a Social Security number from an individual unless the governmental unit is authorized by law to collect the number or collection of the number is "otherwise imperative for the performance of [the] agency's duties and responsibilities." A governmental unit or agency that collects Social Security numbers pursuant to either exception must segregate the number on a separate page from other records or take other appropriate measures so that it may easily be redacted pursuant to a public records request. The governmental unit must also provide an individual with a statement of the purpose for which the number is collected and used. The number may be used only for the stated purpose.

State and local governments may, under federal law, require an individual to provide his or her Social Security number as part of the administration of a state or local tax. 42 U.S.C. § 405 (c)(2)(C)(i). Thus, taxing units may continue to collect Social Security numbers but must ensure that such numbers are stored in a manner to adequately protect them from disclosure.

Taxing units also must ensure that requests for Social Security numbers comport with the requirements of the State Privacy Act, which was enacted in 2001. The State Privacy Act, codified at G.S. 143-64.6, requires a local government requesting disclosure of a Social Security number to inform the individual whether the disclosure is mandatory or voluntary, by what authority the number is solicited, and what uses will be made of the number.

It bears noting that many taxing units use commercial databases to obtain taxpayer information, including Social Security numbers. Social Security numbers gathered from third parties must, like numbers gathered from individuals, be safeguarded from public disclosure. New G.S. 132-1.10 bars governmental units from intentionally communicating or making available to the general public a person's Social Security number or other "identifying information," defined as a driver's license number, checking or savings account number, credit or debit card number, PIN code for a financial transaction card, digital signature, biometric data, fingerprints, or password, or a number or information that could be used to access a person's financial resources (other than an e-mail name or address, Internet account number, or Internet identification name). In addition, governmental units may not print an individual's Social Security number on materials mailed to the individual, unless state or federal law requires that the number appear on the document. If state or federal law requires that the Social Security number appear on a mailed document, no portion of the number may be printed on a postcard or be visible on the outside of an envelope.

Taxing units must consider the application of the mailing restrictions in at least two circumstances. First, taxing units mail copies of notices of attachment to taxpayers, which pursuant to G.S. 105-368, must contain taxpayers' Social Security numbers, if known by the taxing unit. Taxing units must ensure that copies of such notices are mailed in an envelope and that no portion of the number is visible on the outside of the envelope. Second, taxing units must be mindful of the new law when mailing listing forms to taxpayers. Because there is no requirement that listing forms contain a taxpayer's Social Security number, no portion of that number should appear on a listing form mailed to the taxpayer.

New G.S. 132-1.10 also imposes restrictions on information that may be included on official documents filed with a register of deeds or court. These documents may not include a person's Social Security number, employer tax identification, driver's license, state identification, passport, checking or savings account, credit card, or debit card number or a person's PIN code or password, unless

expressly required by court order or adopted by the State Registrar on records of vital events. Taxing units filing documents with the court in disputed attachment proceedings pursuant to G.S. 105-368 and with the court and register of deeds in *in rem* foreclosure proceedings pursuant to G.S. 105-375 must ensure that filed documents do not include prohibited identifying information.

The Identity Theft Protection Act is discussed in further detail in Chapter 20, "Public Records."

Local Legislation

Occupancy Taxes

The 2005 General Assembly authorized several cities and counties to levy new or additional occupancy taxes.

Carteret County. S.L. 2005-120 (H 1056) amends S.L. 2001-381 by extending until July 1, 2008, the effective date of an additional occupancy tax of up to 1 percent to fund construction of a new convention center. The act extends the time for approval of a development plan for the convention center to June 30, 2008, and extends the deadline for a signed construction contract to July 1, 2009.

City of Belmont. S.L. 2005-220 (H 580) authorizes the City of Belmont to levy an occupancy tax of up to 3 percent pursuant to the uniform administrative provisions of G.S. 160A-215. The proceeds of the tax must be remitted to the city's Tourism Development Authority for use in promoting travel and tourism in Belmont and for tourism-related expenditures.

City of Durham. Part IV of S.L. 2005-233 amends S.L. 2001-480, as amended by Section 1 of S.L. 2002-36, to extend by 12 months the time by which the City of Durham must approve a plan for financing and begin construction of a Performing Arts Theater to avoid repeal of its additional 1 percent occupancy tax. The act also permits up to \$2,752,000 in proceeds from the 1 percent occupancy tax to be used by the city to finance design and engineering costs for construction of the theater.

City of Eden. Part II of S.L. 2005-233 authorizes the City of Eden to levy an occupancy tax of up to 2 percent. The city must remit proceeds of the tax to the Rockingham County Tourism Development Authority for deposit in a separate Eden account.

City of Reidsville. Part III of S.L. 2005-233 authorizes the City of Reidsville to levy an occupancy tax of up to 2 percent, which must be remitted to the Rockingham County Tourism Development Authority for deposit in a separate Reidsville account.

City of Roanoke Rapids. Part II of S.L. 2005-46 (H 540) authorizes the City of Roanoke Rapids to levy an occupancy tax of 1 percent pursuant to the uniform administrative provisions of G.S. 160A-215. Proceeds must be remitted to the Halifax County Tourism Development Authority for placement in a separate Roanoke Rapids account.

Duplin County. S.L. 2005-53 (H 843) amends Chapter 377 of the 1987 Session Laws to permit Duplin County to levy an additional occupancy tax of up to 3 percent in addition to the 3 percent tax already authorized. The act makes the uniform administrative provisions of G.S. 153A-155 applicable to all occupancy taxes levied by the county. The act requires the county to create a Tourism Development Authority when the annual net proceeds of the tax exceed \$200,000.

Elizabeth City. S.L. 2005-16 (H 351) amends Chapter 175 of the 1987 Session Laws to authorize Elizabeth City to levy an additional occupancy tax of up to 3 percent. Elizabeth City previously was authorized to impose an occupancy tax that, when combined with the initial occupancy tax levied by Pasquotank County, did not exceed 3 percent. Pursuant to S.L. 2005-16, Elizabeth City may levy an additional occupancy tax of up to 3 percent so long as the total rate of occupancy tax imposed by the city and county does not exceed 6 percent.

The act requires that the Elizabeth City Area Convention Center and Visitors Bureau be converted to a Tourism Development Authority upon the city or county's adoption of a resolution levying an occupancy tax. The act incorporates the administrative provisions of G.S. 160A-215 and specifies the manner for allocating proceeds collected pursuant to each occupancy tax levy.

Franklin County. Part I of S.L. 2005-233 authorizes Franklin County to levy an occupancy tax of up to 6 percent. Proceeds of the tax must be remitted to the Franklin County Tourism Development Authority for promotion of travel and tourism and tourism-related expenditures.

Halifax County. Part I of S.L. 2005-46 amends Chapter 377 of the 1987 Session Laws to authorize Halifax County to levy an additional occupancy tax of up to 2 percent in addition to the 3 percent already authorized. The act amends the membership requirements for the Halifax County Tourism Development Authority and makes the uniform administrative provisions of G.S. 153A-155 applicable to all occupancy taxes levied by the county.

Madison County. S.L. 2005-118 (H 544) amends Section 1 of Chapter 102 of the 1997 Session Laws to authorize Madison County to levy an additional occupancy tax of up to 2 percent in addition to the previously authorized 3 percent tax and removes the requirement for a referendum prior to levy of the tax.

Mecklenburg County. S.L. 2005-68 (S 525) authorizes Mecklenburg County to levy an additional occupancy tax of up to 2 percent upon receiving written confirmation from NASCAR that the NASCAR Hall of Fame Museum will be located in the City of Charlotte. In authorizing the additional tax, the General Assembly noted that the county already was permitted to levy an occupancy tax of 6 percent and that it had not previously authorized any local government to levy an occupancy tax in excess of that amount. Nonetheless, the legislature concluded that the additional tax was warranted as Charlotte had a “‘once-in-a-lifetime’ opportunity to potentially locate a unique national tourism facility” within its borders. The General Assembly concluded that such a facility would have a “significant positive impact on the economy of the Charlotte region and the State.” The additional tax must be repealed by July 1, 2038, or upon earlier satisfaction of debt incurred to finance the museum.

Pasquotank County. S.L. 2005-16 (H 351) amends Chapter 175 of the 1987 Session Laws to authorize Pasquotank County to levy an occupancy tax of up to 3 percent, in addition to a previously authorized 3 percent occupancy tax. The act incorporates the uniform administrative provisions of G.S. 153A-155 and specifies the manner for allocating proceeds collected pursuant to each occupancy tax levy.

Rockingham County. Part V of S.L. 2005-233 amends Chapter 322 of the 1991 Session Laws, as amended by Chapter 52 of the 1995 Session Laws, to modify the membership requirements for the Rockingham County Tourism Development Authority and incorporate the uniform administrative provisions of G.S. 153A-155. Tax proceeds must be used to promote travel and tourism and for tourism-related expenditures.

Town of Troutman. S.L. 2005-220 (H 580) authorizes the Town of Troutman to levy an occupancy tax of 3 percent pursuant to the uniform administrative provisions of G.S. 160A-215. Proceeds of the tax must be remitted to the Troutman Tourism Development Authority for use in promoting travel and tourism in Troutman and for tourism-related expenditures.

Town of West Jefferson. S.L. 2005-49 (H 125) authorizes the Town of West Jefferson to levy an occupancy tax of up to 3 percent pursuant to the administrative provisions of G.S. 160A-215. Tax proceeds must be remitted to the West Jefferson Tourism Development Authority for use in promoting travel and tourism in West Jefferson and for tourism-related expenditures.

Watauga County. S.L. 2005-197 (S 92) creates Watauga County District U, comprised of all unincorporated areas of Watauga County, as a taxing district. District U may levy an occupancy tax of up to 6 percent, the proceeds of which must be remitted to the Watauga County District U Tourism Development Authority.

Prepared Food and Beverage Taxes

S.L. 2005-276 (S 622) amends the sales tax definitions in G.S. 105-164.3(10) to remove alcoholic beverages from the definition of “food.” The act makes corresponding amendments to G.S. 105-164.13B, which previously excluded alcoholic beverages from the state sales tax exemption generally applicable to food. The amendments conform to the Streamlined Sales Tax Agreement and do not change the rate of sales tax applicable to alcoholic beverages (which remains at a combined state and local rate of 7 percent). Because alcoholic beverages are taxed by certain cities and counties authorized by local act to levy a prepared food and beverage tax, the act amends the definition of

“prepared food” in those local acts to permit the continued local taxation of alcoholic beverages that meet one of the conditions set forth in the definition of prepared food, as defined in G.S 105–164.3.

Other Local Acts

Replace elected collector with appointed collector in Henderson County. S.L. 2005-305 (H 328) provides for the appointment of a tax collector in Henderson County pursuant to G.S. 105-349, beginning in October 2007.

Prepared food and beverage tax in City of Monroe. S.L. 2005-261 (H 689) authorizes the City of Monroe to levy a prepared food and beverage tax of up to 1 percent upon approval of the voters during a 2006 election. The act designates proceeds of the tax to the city’s civic center project.

Special assessments without petition in Kill Devil Hills. S.L. 2005-142 (H 1063) amends the Charter of the Town of Kill Devil Hills, Chapter 735 of the 1995 Session Laws, to exempt the town from the provisions of G.S. 160A-217(a), which require a petition from the majority of owners of property to be assessed when the town levies assessments for the construction of new streets, sidewalks, curbs, or gutters or for the widening of streets or sidewalks. The act permits the town to make such assessments without a petition upon a four-fifths majority vote of its board of commissioners.

Shea Riggsbee Denning

