

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-489
HOUSE BILL 748**

AN ACT TO PROVIDE TRANSITIONAL PROVISIONS FOR THE REPEAL OF THE HIGHWAY USE TAX CAP ON NONCOMMERCIAL MOTOR VEHICLES, TO TEMPORARILY MODIFY THE TAXATION OF HMOs AND MEDICAL SERVICE CORPORATIONS, AND TO CLARIFY THE SALES TAX EXEMPTION FOR PREPARED FOOD.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Section 34.24(f) of S.L. 2001-424 reads as rewritten:

"SECTION 34.24(f) Subsection (c) of this section is effective on and after July 1, 2001. The remainder of this section becomes effective October 1, 2001, and applies to certificates of title issued on or after that date.

Subsection (a) of this section does not apply to a certificate of title issued as the result of a purchase of a vehicle if the purchase was made before October 1, 2001, or was made pursuant to a contract entered into or awarded before October 1, 2001."

SECTION 1.(b) This section is effective when it becomes law.

SECTION 2.(a) Subsections (d) and (e) of Section 34.22 of S.L. 2001-424 are repealed.

SECTION 2.(b) G.S. 105-228.5(d)(5), as amended by subsection (a) of Section 34.22 of S.L. 2001-424, reads as rewritten:

"(5) Article 65 Corporations. – The tax rate to be applied to gross premiums and/or gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations is ~~eight hundred thirty three thousandths percent (0.833%).~~ one and one-tenth percent (1.1%). The net proceeds shall be credited to the General Fund."

SECTION 2.(c) G.S. 105-228.5(d)(6), as enacted by subsection (a) of Section 34.22 of S.L. 2001-424, reads as rewritten:

"(6) Health Maintenance Organizations. – The tax rate to be applied to gross premiums on insurance contracts issued by health maintenance organizations is ~~eight hundred thirty three thousandths percent (0.833%).~~ one and one-tenth percent (1.1%). The net proceeds shall be credited to the General Fund."

SECTION 2.(d) Subsection (f) of Section 34.22 of S.L. 2001-424 reads as rewritten:

~~"SECTION 34.22.(f) Subsections (d) and (e) of this section become effective for taxable years beginning on or after January 1, 2003. The remainder of this~~ This section is effective for taxable years beginning on or after January 1, ~~2002,~~ 2003."

SECTION 2.(e) Notwithstanding the provisions of G.S. 105-228.5(f), the following provisions apply to Article 65 Corporations and Health Maintenance Organizations, as defined in G.S. 105-228.3, for the 2003 taxable year in lieu of the provisions of G.S. 105-228.5(f):

Article 65 Corporations and Health Maintenance Organizations that are subject to the tax imposed by G.S. 105-228.5 and have an estimated premium tax liability for the 2003 taxable year, not including the additional local fire and lightning tax, of ten thousand dollars (\$10,000) or more for business done in North Carolina shall

remit two estimated tax payments with each payment equal to fifty percent (50%) of the taxpayer's estimated premium tax liability for the 2003 taxable year. The first estimated payment is due on or before April 15, 2003, and the second estimated payment is due on or before June 15, 2003. The taxpayer must remit the balance by the following March 15 in the same manner provided in G.S. 105-228.5(e) for annual returns.

An underpayment of an estimated payment required by this subsection bears interest at the rate established under G.S. 105-241.1(i). Any overpayment bears interest as provided in G.S. 105-266(b) and, together with the interest, must be credited to the taxpayer and applied against the taxes imposed upon the company under G.S. 105-228.5.

The penalties provided in Article 9 of Chapter 105 of the General Statutes apply to the estimated tax payments required by this subsection.

SECTION 2.(f) G.S. 105-228.5(d)(5), as amended by subsection (a) of Section 34.22 of S.L. 2001-424 and by this section, reads as rewritten:

"(5) Article 65 Corporations. – The tax rate to be applied to gross premiums and/or gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations is ~~one and one tenth percent (1.1%).~~ percent (1%). The net proceeds shall be credited to the General Fund."

SECTION 2.(g) G.S. 105-228.5(d)(6), as enacted by subsection (a) of Section 34.22 of S.L. 2001-424 and as amended by this section, reads as rewritten:

"(6) Health Maintenance Organizations. – The tax rate to be applied to gross premiums on insurance contracts issued by health maintenance organizations is ~~one and one tenth percent (1.1%).~~ percent (1%). The net proceeds shall be credited to the General Fund."

SECTION 2.(h) Subsections (a) and (d) of this section are effective when they become law. Subsections (f) and (g) of this section become effective for taxable years beginning on or after January 1, 2004. The remainder of this section is effective for taxable years beginning on or after January 1, 2003.

SECTION 3.(a) G.S. 105-164.3(5a), as enacted by S.L. 2001-347, reads as rewritten:

"(5a) Food. – Substances that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. The substances may be in liquid, concentrated, solid, frozen, dried, or dehydrated form. The term does not include ~~alcoholic beverages, as defined in G.S. 105-113.68,~~ or tobacco products, as defined in G.S. 105-113.4."

SECTION 3.(b) G.S. 105-164.13B, as amended by S.L. 2001-347, reads as rewritten:

"§ 105-164.13B. Food exempt from tax.

~~Except as provided in this section, the taxes imposed by this Article do not apply to food. The tax does apply to all of the following:~~

- ~~(1) Candy not sold for home consumption.~~
- ~~(2) Dietary supplements.~~
- ~~(3) Prepared food not sold for home consumption.~~
- ~~(4) Food sold through a vending machine.~~
- ~~(5) Soft drinks not sold for home consumption.~~

Food is exempt from the taxes imposed by this Article, except as follows:

- (1) The following items are subject to tax:
 - a. Alcoholic beverages, as defined in G.S. 105-113.68.
 - b. Dietary supplements.
 - c. Food sold through a vending machine.
- (2) The following items are subject to tax, unless the items are purchased for home consumption and would be exempt if purchased under the Federal Food Stamp Program, 7 U.S.C. § 51:
 - a. Candy.

b. Prepared food.
c. Soft drinks."

SECTION 3.(b) This section becomes effective January 1, 2002, and applies to sales made on or after that date.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:18 p.m. this 19th day of December, 2001