



HOUSE BILL 966: 2019 Appropriations Act - Part XLI - Finance.

2019-2020 General Assembly

Committee: Senate Finance. If favorable, re-refer to **Date:** May 28, 2019
Pensions and Retirement and Aging

Introduced by: Reps. Johnson, Lambeth, Saine, McGrady **Prepared by:** Finance Staff

Analysis of: PCS to Fourth Edition

OVERVIEW: *Part XLI of Senate CS for House Bill 966 makes the same tax law changes passed by the Senate on May 20, 2019, in Senate Bill 622, with the following two exceptions:*

- *It increases the standard deduction by 5%, instead of 3.75%, from \$20,000 to \$21,000 for MFJ.*
- *It reduces the franchise tax rate from \$1.50 to \$0.96 over two years, instead of \$1.50 to \$1.00.*

For a detailed summary of these changes, please see the summary for [Senate Bill 622, 4th Edition](#).

BILL ANALYSIS AND EFFECTIVE DATES:

Section 41.1 increases the standard deduction for all filing statuses by 5%, effective for taxable years beginning on or after January 1, 2021.

Section 41.2 allows an income exclusion for IRA distributions to charities by taxpayers age 70 ½ or older, effective for taxable years beginning on or after January 1, 2019.

Section 41.3 makes the following franchise tax changes:

- Reduces the rate from \$1.50 to \$0.96 over two years – to \$1.29 for taxable year 2020 and to \$0.96 for taxable years beginning on or after January 1, 2021.
- Eliminates one of the three methods used to determine a corporation's franchise tax base.
- Expands the definition of holding company, effectively capping the franchise tax on that holding company to \$150,000. The purpose of the holding company cap is to prevent the taxation of assets that are included in the net worth of the subsidiary, and indirectly in the net worth of the parent company by virtue of its investment in the holding company. The new definition of holding company is tightly drawn:
 - More than 80% of the holding company's assets must be copyrights, patents, and trademarks, or more than 80% of its gross income must come from royalties and license fees.
 - The holding company must be 100% directly owned by a parent corporation that includes in its net worth franchise tax base an investment in the holding company.
 - The parent company must be a manufacturer who generates revenues in excess of \$5 billion from the goods it manufactures.

Section 41.4 requires a multistate corporation to calculate its sales factor, for apportionment purposes, based on the percentage of income attributed to the consumption of products and services in the North Carolina marketplace. Effective for the 2019 taxable year, North Carolina will use single sales factor apportionment. A single sales factor arguably makes a state a more attractive place for a multistate

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company that provides products to expand its property and payroll because if those factors are ignored in calculating a state's corporate tax, then the company can hire employees or build a plant without incurring additional state tax on its corporate profits. Single sales factor does not provide the same incentive to a multistate company that provides services, because its sales factor is not based on the percentage of income derived from consumption of the company's services in a state's marketplace. Instead, its sales factor is based on the percentage of business activities conducted in a state, which is generally measured by the amount of labor costs and capital investment incurred in a state to provide the services. Consequently, states that adopt a single sales factor apportionment incentive usually adopt a market-based calculation of the sales factor for all multistate corporations, including those that provide services. At least 30 states have adopted market-based sourcing.

Section 41.5 obligates a marketplace facilitator that meets the same threshold applicable to remote retailers to calculate, collect, and remit sales tax on a third party seller's behalf. A marketplace facilitator is a person that contracts with third parties to sell goods and services on its platform. The threshold is sales sourced to North Carolina for the previous or current calendar year that meet either of the following: (i) gross sales of \$100,000; or (ii) 200 or more separate transaction. For purposes of meeting the threshold, all sales made by the marketplace facilitator, including the facilitated sales, are considered.

Section 41.6 allows a tax deduction for amounts received by a taxpayer as an economic incentive under the Job Maintenance and Capital Development Fund, the Jobs Development Investment Grant Program, and the One North Carolina Fund, effective for taxable years beginning on or after January 1, 2019.

Sections 41.7 through 41.9 extend the following sunsets four years, from 2020 to 2024:

- Historic rehabilitation tax credit.
- Sales tax exemption for sales of aviation gasoline and jet fuel to an interstate air business for use in a commercial aircraft.
- Sales tax exemptions and refunds for professional motorsports racing teams.

Section 41.10 provides tax and regulatory relief to out-of-state businesses that come into the State immediately after a disaster to help with critical infrastructure repair. At least 29 states have enacted similar disaster recovery legislation. Those states include Ohio, Florida, Texas, Virginia, Georgia, South Carolina, and Tennessee. The section does two things:

- Excludes a nonresident business and nonresident employees from income and franchise tax, business registration, and NC's unemployment and workers' compensation requirements.
- Allows the Secretary of Revenue to issue a temporary license to an importer, exporter, distributor, or transporter of motor fuel in response to a disaster declaration.