



# HOUSE BILL 103: 2022 Appropriations Act, Part 42: Finance

2021-2022 General Assembly

<b>Committee:</b>		<b>Date:</b>	July 13, 2022
<b>Introduced by:</b>		<b>Prepared by:</b>	Trina Griffin Staff Attorney
<b>Analysis of:</b>	Part 42 of S.L. 2022-74		

**OVERVIEW:** *Part XLII of S.L. 2022-74 makes the following tax-related changes:*

- **Section 42.1** – Expands the individual income tax exclusion of military retirement pay to include retirement pay for service in all uniformed services. The exclusion enacted in Section 42.1A of S.L. 2021-180 applied to members of only the Armed Forces; this provision extends the exclusion to retirees of the commissioned corps of the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Public Health Service. This provision became effective for taxable years beginning on or after January 1, 2022.
- **Section 42.2** – Exempts from sales and use tax purchases by interstate air and ground couriers of certain equipment, including conveyor systems, and related parts and accessories, purchased for use at package sorting facilities. Minimum investment and employment thresholds must be met to be eligible for and to maintain the exemption. This provision became effective July 1, 2022, and applies to purchases made on or after that date.
- **Section 42.3** – Transfers a portion of the sales and use tax proceeds, ranging from 2%-6% over three years, to the Highway Fund and Highway Trust Fund for transportation needs. This provision became effective July 1, 2022.
- **Section 42.4** – Shifts from annual to quarterly the motor fuel tax refund available for the off-highway use of motor fuel. This provision becomes effective January 1, 2023, and applies to purchases of motor fuel on or after that date.

## EXPAND INCOME TAX EXCLUSION OF MILITARY RETIREMENT PAY TO ALL UNIFORMED SERVICES

**BILL ANALYSIS:** Section 42.1 of the act expands the individual income tax exclusion for military pay to include NOAA and U.S. Public Health Service commissioned corps retirees. These individuals are part of the uniformed services of the United States, which is a broader group of individuals than the Armed Forces, which was the scope of the prior law. To qualify for the exclusion, a person must still serve at least 20 years in the respective uniformed service or be medically retired, as defined under federal law.

**EFFECTIVE DATE:** This section became effective for taxable years beginning on or after January 1, 2022.

Jeffrey Hudson  
Director



Legislative Analysis  
Division  
919-733-2578

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**CURRENT LAW & BACKGROUND:** Prior to 2021, members of the military paid federal income tax on their retirement pay<sup>1</sup> except for those members of the military who vested prior to August 12, 1989; their retirement income is fully exempt from tax pursuant to the *Bailey* court decision.

[Section 42.1A of S.L. 2021-180](#) expanded the exemption for military retirees to include:

- Military retirement pay received by a retired member of the Armed Forces of the United States who served at least 20 years in the military or was medically retired from the military. Severance pay received for separation from the military is not exempt.
- Payments from the Survivor Benefit Plan to a beneficiary of a retired member of the Armed Forces of the United States who served at least 20 years in the military or was medically retired from the military.

This exemption became effective for taxable years beginning on or after January 1, 2021.

## EXPAND SALES TAX EXEMPTION FOR INTERSTATE AIR AND GROUND COURIERS

**BILL ANALYSIS:** Section 42.2 of the act provides a sales tax exemption for the purchase of certain equipment by an interstate air and ground courier. An "interstate air and ground courier" is a person whose primary business is the furnishing of air and ground delivery of individually addressed letters and packages for compensation in interstate commerce, except by the United States Postal Service. An example is the United Parcel Service.

The eligible equipment is materials handling equipment, automated conveyor systems, racking systems, and related parts and accessories for the storage or handling and movement of tangible personal property at its package sorting facility. There is a similar exemption under current law for an interstate air courier only.

There is a clawback provision if the purchaser does not maintain a certain level of investment or employment, which is also required for large fulfillment facilities. The level of investment is at least \$100 million within 5 years after the date on which the first property investment is made, and the required employment level is at least 400 employees within 5 years after the facility is placed in service, which must be maintained throughout its operation.

**EFFECTIVE DATE:** This section became effective July 1, 2022, and applies to purchases made on or after that date.

## USE SALES TAX REVENUES FOR TRANSPORTATION NEEDS

**BILL ANALYSIS:** Section 42.3 of the act requires the Secretary of Revenue to transfer, on a quarterly basis, a percentage of the net proceeds of sales tax revenues, ranging from 2% to 6% over 3 years, to the Highway and/or the Highway Trust Fund for transportation-related needs. The Highway Fund generally supports projects on the existing highway system, operations, and maintenance, including resurfacing highways, replacing bridges, and paving unpaved secondary roads. The Highway Trust Fund is generally used for capital improvement projects.

In fiscal year 2022-23, 2% must be transferred to the Highway Fund. In fiscal year 2023-24, 1% must be transferred to the Highway Fund and 3% must be transferred to the Highway Trust Fund, for a total of

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<sup>1</sup> For taxable years beginning on or after 1989, and before 2014, North Carolina tax law provided a \$4,000 income tax deduction for military retirees who did not vest prior to August 12, 1989. The Tax Simplification and Reform Act enacted in 2013 eliminated this deduction, effective for tax years beginning on or after January 1, 2014.

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4%. In fiscal year 2024-25 and thereafter, 1.5% must be transferred to the Highway Fund and 4.5% must be transferred to the Highway Trust Fund, for a total of 6%.

**EFFECTIVE DATE:** This section became effective July 1, 2022.

## **QUARTERLY MOTOR FUEL TAX REFUND FOR OFF-HIGHWAY USE**

**CURRENT LAW:** There are various refund provisions related to motor fuels. An entity whose use of motor fuel is exempt from tax may obtain a monthly refund of motor fuel excise tax. Quarterly refunds are available to certain nonprofits and to a person who purchases motor fuel for the off-highway operation of special mobile equipment. Annual refunds are available to those who purchase motor fuel for off-highway use, which includes farming equipment, or for certain vehicles with power attachments. With respect to the annual refunds and the refund for special mobile equipment, the amount of the refund allowed is the tax rate in effect for the time period less the amount of sales and use tax due on the fuel.

**BILL ANALYSIS:** Section 42.4 shifts from annual to quarterly the refunds available for excise tax paid on motor fuel used for off-highway use. The remainder of the section consists of conforming technical changes, including the relocation of the provision setting out how to calculate the amount of sales tax to be deducted from a motor fuel tax refund.

**EFFECTIVE DATE:** This section becomes effective January 1, 2023, and applies to purchases of motor fuel on or after that date.