April 21, 2017

To: Cindy Avrette, North Carolina General Assembly

From: Tim Minton, North Carolina Home Builders Association

RE: Suggestions for consideration for Senate Bill 628

Below are some items that I would like to discuss for consideration regarding Senate Bill 628, “Various Changes to the Revenue Laws”. The first section pertains to items for consideration from my original memo of March 1, 2107.

**Consideration 1: Allow our members to pay the sales tax on tangible personal property at the time they buy it from a retailer.**

This has been a major challenge for subcontractors that buy in bulk in determining whether the items are taxable or not at the time of purchase. Making this change would end the confusion and eliminate some of the paperwork.

Second, the State of North Carolina will collect more sale tax revenue because the subcontractor will be paying sales tax on the sales price of the tangible personal property and not the use tax on the wholesale price of the item.

Language to consider

Starting on page 13, line 36

A person may pay applicable sales tax at the time of the purchase of tangible personal property used for repair, maintenance and installation. If the person pays the applicable sales tax at the time of purchase of the tangible personal property used for repair, maintenance and installation, then sales tax may only be charged on the remaining sales price of the project.

The invoice to the customer must state that the sales tax on the tangible personal property was paid at the time of receipt by the person and therefore that portion of the invoice is exempt from sales tax on the final sales prices. The person shall then collect sales tax on the remaining sales price of the project.
The person must maintain documentation of the tangible personal property items purchased. A person who fails to provide the information requested by the Secretary in a timely manner or who fails to meet the requirements of this subsection becomes liable for any taxes for which an exemption under this subsection was claimed. The taxes become due and payable and interest accrues from the date of the original purchase.

**Consideration 2: Eliminate the Joint and Several Liability.**

The current law states that everyone involved in the transaction (homeowner, general contractor and subcontractor) are liable for the sales tax if it is not remitted to the state. Only the entity responsible for the tax should be liable.

**Consideration 3: Expand definition of remodeling to handle projects that go outside the room to complete.**

The North Carolina Department of Revenue defines residential remodeling on a room by room basis. For example, the kitchen remodel would include all activities in the kitchen but any other remodeling activities in the home would be looked at on a room by room basis. Many times the scope of the work goes outside the room where the project takes place. For example, as the remodeler is replacing the flooring in the kitchen, the remodeler has to continue to replace the flooring in the room next to the kitchen. Since it is part of the remodeling project, it should be exempt.

Starting on page 15, line 34 after the word “property”.

This term does include any transactions that extend outside the internal structure of a single room to complete the improvements that are also part of the single room.

**Consideration 4: Increase mixed transaction percentage to 25%.**

This increase would take care of much of the confusion over multiple items that are replaced outside the remodeling “room” requirement that is now in place.

**Below are items to be considered since the March 1, 2017 memo.**

**Consideration 5: Move effective date for franchise tax changes for taxes paid in 2017.**

Since the change to the franchise tax calculation was not the intent of the North Carolina General Assembly in 2015, moving the effective date when mean that no company is penalized for the change.

Starting on page 3, line 1

Section 1.3.(b) This section becomes effective for taxable years beginning on or after January 1, 2018, and is applicable to the calculation of franchise tax reported on...
Refunds may be requested for any overpayment of franchise tax.

**Consideration 6: Increased mixed transaction percentage to 25% and make no other changes to that section.**

With the suggested changes in SB 628, remodeling project may start off exempt from sales tax on labor and then become taxable as the project changes during the remodeling. This would be extremely difficult to track.

**Consideration 7: Make no changes to the issuance of a building permit as a determination of a capital improvement.**

A building permit is a safe and secure way to determine if a project is exempt as a capital improvement. It also gives the person who is performing the services another level of protection to prove that the project is exempt.

**Consideration 7: Make no changes to painting or wallpaper.**

**Consideration 8: Add decks to the list of capital improvements.**

Decks are already listed as an exempt item on the North Carolina Department of Revenue’s notice on RMI.

Starting on page 15, line 13

  g. Replacement or installation of roads, driveways, parking lots, **patios, decks**, and sidewalks.