

NORTH CAROLINA GENERAL ASSEMBLY  
1971 SESSION

CHAPTER 23  
SENATE BILL 129

AN ACT TO DISTRIBUTE THE PROCEEDS OF THE LOCAL OPTION SALES TAX TO  
THE FORMER TAXING COUNTIES.

The General Assembly of North Carolina do enact:

**Section 1.** The Commissioner of Revenue shall forthwith distribute the net proceeds of the local option sales and use tax collected during the fourth quarter of calendar year 1970 under the provisions of Chapter 1228 of the Session Laws of 1969 (Local Option Sales and Use Tax Act), in the same manner as was heretofore prescribed in G.S. 105-164.56, and to the same counties and municipalities as would have been entitled to receive the distribution under said act had the constitutionality of that act been sustained by the Supreme Court of North Carolina. For the purposes of this act, "local option sales and use tax", "local option sales tax" and "local option use tax" shall mean only those taxes which were formerly collected pursuant to the provisions of Chapter 1228, Session Laws of 1969.

**Sec. 2(a).** If there shall be taxpayers who desire to make application for refunds of taxes paid pursuant to the provisions of Chapter 1228, Session Laws of 1969, the following remedies shall be available, and the remedies provided in this act for making claims for refunds shall be exclusive, the provisions of any other act to the contrary notwithstanding:

- (1) Within 90 days after the effective date of this act, every retailer who shall have paid any local option sales and use taxes to the Commissioner of Revenue shall be entitled to file a claim for refund with the Commissioner of Revenue for so much of said local option sales and use tax remitted by him to the Commissioner of Revenue as does not exceed the amount of (a) such taxes as were paid by the retailer but not collected from a purchaser; and (b) such taxes as were collected and remitted by a retailer which were subsequently refunded by the retailer to a purchaser or credited to his account, prior to the retailer's filing claim for refund. Any purchaser who claims a refund from a retailer must support such claim by delivering to the retailer invoices, cash register tapes or other similar evidence of sale which shows the name of the retailer, the date and amount of purchase, and the amount of the tax paid. The retailer shall maintain such evidence of sale, together with a record of refunds showing the names of purchasers to whom refunds were made.
- (2)
  - a. Within ninety days after the effective date of this act, every person and entity which would have been entitled to claim a refund of local option sales and use taxes, pursuant to the provisions of G.S. 105-464.14(a) and (c), shall file a claim for refund with the Commissioner of Revenue.
  - b. Within ninety days following the effective date of this act, every institution and organization that is entitled to file claims for refund under the provisions of G.S. 105-164.14(b) shall file with the Commissioner of Revenue a claim for refund of local option sales and use taxes. If a claim for refund of taxes paid during the calendar

year 1970 has been paid prior to the effective date of this act, the claim provided for herein shall include only the amount of local option sales and use taxes paid after such calendar year. If a claim for refund of said taxes paid during the calendar year 1970 has not been filed under G.S. 105-464.14(b) prior to the effective date of this act, the claim provided for herein shall include all of said local option sales and use taxes so paid.

- (3) Within ninety days following the effective date of this act, every other person shall be entitled to file a claim for refund of the local option use tax which he has paid directly to the Commissioner of Revenue.

(b) Every claim for refund shall be in writing and shall be supported by satisfactory proof of payment of the tax to the Commissioner of Revenue and, in the case of refunds made pursuant to Section 2(a)(1) above, shall be supported by the evidences of sale and records of refunds made by retailers to purchasers. The Commissioner may cause the books and records of the claimant to be examined in order to verify the accuracy of the claim, and only so much of a claim as is so verified shall be paid. Every claim not filed with the Commissioner of Revenue within ninety days after the effective date of this act shall be barred.

(c) If the Commissioner of Revenue shall deny any refund, suit for the recovery of the refund shall be instituted against the Commissioner within ninety days after notice of denial is mailed to the claimant, at the address shown on his claim for refund, or at his last known address, and if the Commissioner shall not have approved a claim for refund within six months after the claim was filed, the claim shall be deemed to have been denied on a date six months after said claim was filed. Such suit must be brought in the appropriate trial division of the General Court of Justice, in Wake County or in the county in which the claimant resides if the sum demanded is more than \$200.00, and before the appropriate trial division of the General Court of Justice in Wake County, if the sum demanded is \$200.00 or less.

Unless suit is filed within the time above specified, no action to recover such refund may be instituted or maintained in any court under the provisions of this or any other act.

**Sec. 3.** The Commissioner of Revenue shall make refunds in the manner heretofore prescribed in this act from so much of the local option sales and use tax as shall be received by him after the fourth quarter of calendar year 1970. If the amount refunded to claimants from within any former taxing county exceed the amounts so received after the fourth quarter of calendar year 1970 from within such former taxing county, an amount equal to that excess shall be deducted from the amounts of intangibles tax to be distributed to that county pursuant to the provisions of G.S. 105-213, and shall be retained by the State. If, after making provision for all refunds permitted under this act, there shall remain any net proceeds of the tax, the Commissioner of Revenue shall make further distributions on each June 30th and December 31st of each year in the manner provided in Section 1 of this act, until such net proceeds are exhausted.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1971.