

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 100*
Finance Committee Substitute Adopted 3/25/03
House Committee Substitute Favorable 6/25/03

Short Title: State Govt Sales Tax Exempt/Sch Coop Refund. (Public)

Sponsors:

Referred to:

February 19, 2003

A BILL TO BE ENTITLED

AN ACT TO PROMOTE EFFICIENCY IN STATE GOVERNMENT BY
ALLOWING A SALES AND USE TAX EXEMPTION FOR STATE AGENCIES
INSTEAD OF A SALES AND USE TAX REFUND TO STATE AGENCIES AND
TO ALLOW A SALES AND USE TAX REFUND TO SCHOOL BOARD
COOPERATIVES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to
read:

"§ 105-164.13. **Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following
tangible personal property is specifically exempted from the tax imposed by this Article:

...

(51) Items subject to sales and use tax under G.S. 105-164.4, other than
electricity and telecommunications service, if all of the following
conditions are met:

a. The items are purchased by a State agency for its own use and
in accordance with G.S. 105-164.29A.

b. The items are purchased pursuant to a valid purchase order
issued by the State agency that contains the exemption number
of the agency and a description of the property purchased, or
the items purchased are paid for with a State-issued check,
electronic deposit, credit card, procurement card, or credit
account of the State agency.

c. For all purchases other than by an agency-issued purchase
order, the agency must provide to or have on file with the
retailer the agency's exemption number."

SECTION 2. G.S. 105-164.14(c) reads as rewritten:

1 "(c) Certain Governmental Entities. – A governmental entity listed in this
2 subsection is allowed an annual refund of sales and use taxes paid by it under this
3 ~~Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4e), Article~~ on direct
4 purchases of tangible personal ~~property, property and services, other than electricity and~~
5 telecommunications service. Sales and use tax liability indirectly incurred by a
6 governmental entity on building materials, supplies, fixtures, and equipment that
7 become a part of or annexed to any building or structure that is owned or leased by the
8 governmental entity and is being erected, altered, or repaired for use by the
9 governmental entity is considered a sales or use tax liability incurred on direct
10 purchases by the governmental entity for the purpose of this subsection. A request for a
11 refund must be in writing and must include any information and documentation required
12 by the Secretary. A request for a refund is due within six months after the end of the
13 governmental entity's fiscal year.

14 This subsection applies only to the following governmental entities:

- 15 (1) A county.
- 16 (2) A city as defined in G.S. 160A-1.
- 17 (2a) A consolidated city-county as defined in G.S. 160B-2.
- 18 (2b) A local school administrative unit.
- 19 (2c) A joint agency created by interlocal agreement among local school
20 administrative units pursuant to G.S. 160A-462 to jointly purchase
21 food service-related materials, supplies, and equipment on their behalf.
- 22 (3) A metropolitan sewerage district or a metropolitan water district in this
23 State.
- 24 (4) A water and sewer authority created under Chapter 162A of the
25 General Statutes.
- 26 (5) A lake authority created by a board of county commissioners pursuant
27 to an act of the General Assembly.
- 28 (6) A sanitary district.
- 29 (7) A regional solid waste management authority created pursuant to G.S.
30 153A-421.
- 31 (8) An area mental health, developmental disabilities, and substance abuse
32 authority, other than a single-county area authority, established
33 pursuant to Article 4 of Chapter 122C of the General Statutes.
- 34 (9) A district health department, or a public health authority created
35 pursuant to Part 1A of Article 2 of Chapter 130A of the General
36 Statutes.
- 37 (10) A regional council of governments created pursuant to G.S. 160A-470.
- 38 (11) A regional planning and economic development commission or a
39 regional economic development commission created pursuant to
40 Chapter 158 of the General Statutes.
- 41 (12) A regional planning commission created pursuant to G.S. 153A-391.
- 42 (13) A regional sports authority created pursuant to G.S. 160A-479.
- 43 (14) A public transportation authority created pursuant to Article 25 of
44 Chapter 160A of the General Statutes.

- 1 (14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter
2 160A of the General Statutes.
- 3 (15) A regional public transportation authority created pursuant to Article
4 26 of Chapter 160A of the General Statutes, or a regional
5 transportation authority created pursuant to Article 27 of Chapter 160A
6 of the General Statutes.
- 7 (16) A local airport authority that was created pursuant to a local act of the
8 General Assembly.
- 9 (17) A joint agency created by interlocal agreement pursuant to G.S.
10 160A-462 to operate a public broadcasting television station.
- 11 (18) Repealed by Session Laws 2001-474, s. 7.
- 12 (19) Repealed by Session Laws 2001-474, s. 7.
- 13 (20) A constituent institution of The University of North Carolina, but only
14 with respect to sales and use tax paid by it for tangible personal
15 property acquired by it through the expenditure of contract and grant
16 funds.
- 17 (21) The University of North Carolina Hospitals at Chapel Hill.
- 18 (22) A regional natural gas district created pursuant to Article 28 of Chapter
19 160A of the General Statutes."

20 **SECTION 3.** G.S. 105-164.14(e) reads as rewritten:

21 "(e) State Agencies. – The State is allowed quarterly refunds of local sales and use
22 taxes paid by a State agency on direct purchases of tangible personal property and local
23 sales and use taxes paid indirectly by the State agency on building materials, supplies,
24 fixtures, and equipment that become a part of or annexed to a building or structure that
25 is owned or leased by the State agency and is being erected, altered, or repaired for use
26 by the State agency. ~~This subsection does not apply to purchases for which a State
27 agency is allowed a refund under subsection (c) of this section.~~

28 A person who pays local sales and use taxes on building materials or other tangible
29 personal property for a State building project shall give the State agency for whose
30 project the property was purchased a signed statement containing all of the following
31 information:

- 32 (1) The date the property was purchased.
- 33 (2) The type of property purchased.
- 34 (3) The project for which the property was used.
- 35 (4) If the property was purchased in this State, the county in which it was
36 purchased.
- 37 (5) If the property was not purchased in this State, the county in which the
38 property was used.
- 39 (6) The amount of sales and use taxes paid.

40 If the property was purchased in this State, the person shall attach a copy of the sales
41 receipt to the statement. A State agency to whom a statement is submitted shall verify
42 the accuracy of the statement.

43 Within 15 days after the end of each calendar quarter, every State agency shall file
44 with the Secretary a written application for a refund of taxes to which this subsection

1 applies paid by the agency during the quarter. The application shall contain all
2 information required by the Secretary. The Secretary shall credit the local sales and use
3 tax refunds directly to the General Fund."

4 **SECTION 4.** Part 5 of Article 5 of Chapter 105 of the General Statutes is
5 amended by adding a new section to read:

6 "**§ 105-164.29A. State government exemption process.**

7 (a) Application. – To be eligible for the exemption provided in G.S.
8 105-164.13(51), a State agency must obtain from the Department a sales tax exemption
9 number. The application for exemption must be in the form required by the Secretary,
10 be signed by the State agency's head, and contain any information required by the
11 Secretary. The Secretary must assign a sales tax exemption number to a State agency
12 that submits a proper application.

13 (b) Liability. – A State agency that does not use the items purchased with its
14 exemption number must pay the tax that should have been paid on the items purchased,
15 plus interest calculated from the date the tax would otherwise have been paid."

16 **SECTION 5.** The Office of State Budget and Management must reduce each
17 State agency's certified budget for fiscal years 2003-2004 and 2004-2005 by an
18 appropriate amount to reflect the tax savings generated by the sales and use tax
19 exemption for State agencies allowed under this act.

20 **SECTION 6.** Section 2 of this act is effective for taxes paid on or after July
21 1, 2003. Section 4 of this act becomes effective January 1, 2004. The remainder of this
22 act becomes effective July 1, 2004, and applies to sales made on or after that date.