

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

H

D

HOUSE DRH30322-MCx-169 (03/30)

Short Title: Sales Tax Fairness Act.

(Public)

Sponsors: Representatives Folwell and Current (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

1 AN ACT TO CAP THE SALES TAX REFUNDS ALLOWED TO NONPROFIT ENTITIES
2 AND TO REINSTATE THE SALES AND USE TAX REFUND FOR LOCAL SCHOOL
3 ADMINISTRATIVE UNITS.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 105-164.14(b) reads as rewritten:

7 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual
8 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
9 personal property and services, other than electricity, telecommunications service, and ancillary
10 service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability
11 indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment
12 that become a part of or annexed to any building or structure that is owned or leased by the
13 nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for
14 carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct
15 purchases by the nonprofit entity. The amount of a refund allowed to a claimant under this
16 subsection for a 12-month period is one hundred percent (100%) of the first one million dollars
17 (\$1,000,000) requested and twenty-five percent (25%) of the amount requested that exceeds
18 one million dollars (\$1,000,000). A request for a refund must be in writing and must include
19 any information and documentation required by the Secretary. A request for a refund for the
20 first six months of a calendar year is due the following October 15; a request for a refund for
21 the second six months of a calendar year is due the following April 15.

22 The refunds allowed under this subsection do not apply to an entity that is owned and
23 controlled by the United States or to an entity that is owned or controlled by the State and is not
24 listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual
25 refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying
26 out its work. The following nonprofit entities are allowed a refund under this subsection:

- 27 (1) Hospitals not operated for profit, including hospitals and medical
28 accommodations operated by an authority or other public hospital described
29 in Article 2 of Chapter 131E of the General Statutes.
30 (2) An organization that is exempt from income tax under section 501(c)(3) of
31 the Code, other than an organization that is properly classified in any of the
32 following major group areas of the National Taxonomy of Exempt Entities:
33 a. Community Improvement and Capacity Building.
34 b. Public and Societal Benefit.
35 c. Mutual and Membership Benefit.



- 1 (2a) An organization that is exempt from income tax under the Code and is one
2 of the following:
3 a. A volunteer fire department.
4 b. A volunteer emergency medical services squad.
5 (3) Repealed by Session Laws 2008-107, s. 28.22(a), effective July 1, 2008, and
6 applicable to purchases made on or after that date.
7 (4) Qualified retirement facilities whose property is excluded from property tax
8 under G.S. 105-278.6A.
9 (5) A university affiliated nonprofit organization that procures, designs,
10 constructs, or provides facilities to, or for use by, a constituent institution of
11 The University of North Carolina. For purposes of this subdivision, a
12 nonprofit organization includes an entity exempt from taxation as a
13 disregarded entity of the nonprofit organization."

14 **SECTION 2.1.** G.S. 105-164.14(c)(2b) and (2c), repealed by Section 7.51(a) of
15 S.L. 2005-276, are reenacted.

16 **SECTION 2.2.** G.S. 105-164.44H is repealed.

17 **SECTION 2.3.** G.S. 105-467(b) reads as rewritten:

18 "(b) Exemptions and Refunds. – The State exemptions and exclusions contained in
19 G.S. 105-164.13, the State sales and use tax holidays contained in G.S. 105-164.13C and
20 G.S. 105-164.13D, and the State refund provisions contained in G.S. 105-164.14 through
21 G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed
22 under this Article. ~~Except as provided in this subsection, a~~ taxing county may not allow an
23 exemption, exclusion, or refund that is not allowed under the State sales and use tax. ~~A local~~
24 ~~school administrative unit and a joint agency created by interlocal agreement among local~~
25 ~~school administrative units pursuant to G.S. 160A-462 to jointly purchase food service related~~
26 ~~materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use~~
27 ~~taxes paid by it under this Article on direct purchases of tangible personal property and~~
28 ~~services, other than electricity, telecommunications service, and ancillary service. Sales and use~~
29 ~~tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and~~
30 ~~equipment that become a part of or annexed to any building or structure that is owned or leased~~
31 ~~by the entity and is being erected, altered, or repaired for use by the entity is considered a sales~~
32 ~~or use tax liability incurred on direct purchases by the entity for the purpose of this subsection.~~
33 ~~A request for a refund shall be in writing and shall include any information and documentation~~
34 ~~required by the Secretary. A request for a refund is due within six months after the end of the~~
35 ~~entity's fiscal year. Refunds applied for more than three years after the due date are barred."~~

36 **SECTION 3.** Section 1 of this act becomes effective July 1, 2011, and applies to
37 sales and use taxes paid on or after that date. The remainder of this act becomes effective July
38 1, 2011, and applies to purchases made on or after that date.