

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 1097
HOUSE BILL 1513

AN ACT TO CHANGE THE STATE TAX STRUCTURE FOR COMMODITIES
AND SERVICES PROVIDED BY CERTAIN UTILITIES TO ENABLE
INDIVIDUALS TO DEDUCT THE TAXES ON THESE COMMODITIES AND
SERVICES FROM THEIR FEDERAL INCOME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-1 is amended by adding at the end thereof the following:

"It is the policy of this State that as many State taxes as possible be structured so that they are deductible for federal income tax purposes under the Internal Revenue Code."

Sec. 2. G.S. 105-116 is amended as follows:

- (1) by deleting the phrase ", or owning and/or operating a street transportation system for the transportation of freight for hire," in subsection (a);
- (2) by rewriting subdivision (a)(3) to read:

"(3) The total gross receipts from the commodities or services described in this section sold to a vendee subject to the tax levied by this section or to a joint agency established under Chapter 159B of the General Statutes or a municipality having an ownership share in a project established under that Chapter.";

- (3) by changing the colon following the word "section" in subsection (b) to a period and deleting the remainder of that subsection;
- (4) by rewriting that part of subsection (c) preceding the words "special charges" to read:

"An annual franchise or privilege tax at the rates specified in this subsection is levied on the businesses listed in subsection (a). This tax is for the privilege of engaging in business in this State and is due and payable quarterly to the Secretary of Revenue when the report required by subsection (a) is filed. The tax on a public sewerage company is at the rate of six percent (6%) of the total gross receipts of the company derived within the State. The tax on an electric power company or a gas company is at the rate of three and twenty-two hundredths percent (3.22%) of the total gross receipts derived within the State. The tax on water companies is at the rate of four percent (4%) of the total gross receipts derived within the State. All deductions allowed by this section shall first be subtracted from total gross receipts to determine the total taxable gross receipts.

The tax imposed by this section does not apply to"; and

- (5) by rewriting the first paragraph of subsection (g) to read:

"The Secretary of Revenue shall determine the total gross receipts derived from the sale within each municipality of the commodities or services described in this section, except water and sewerage services, and shall distribute to each municipality an amount equal to a tax of three and nine hundredths percent (3.09%) of the gross receipts from sales within the municipality. In determining the amount to be distributed to a municipality pursuant to this subsection, gross receipts from sales within a municipality do not include receipts from sales of piped gas to a manufacturer for use as an ingredient or component part of a manufactured product."

Sec. 3. G.S. 105-120 is amended as follows:

- (1) by deleting the phrase "six percent (6%)" in the first sentence of subsection (b) and substituting the phrase "three and twenty-two hundredths percent (3.22%)"; and
- (2) by deleting the phrase "three percent (3%)" in the first sentence of subsection (d) and substituting the phrase "three and nine hundredths percent (3.09%)".

Sec. 4. The second sentence of G.S. 105-164.3(20) is amended by deleting the phrase "electricity, gas or".

Sec. 5. G.S. 105-164.3 is amended by adding a new subdivision to read:

"(25) 'Utility' means an electric power company, a gas company, or a telephone company that is subject to a privilege tax based on gross receipts under G.S. 105-116 or G.S. 105-120, or a municipality that sells electric power."

Sec. 6. G.S. 105-164.4 is amended by inserting a new subdivision between subdivisions (4) and (5) to read:

"(4a) At the rate of three percent (3%) of the gross receipts derived by a utility from sales of electricity, piped natural gas, or intrastate telephone service. A person who operates a utility is considered a retailer under this Article."

Sec. 7. The first sentences of G.S. 105-164.14(b) and (c) are each amended by inserting between the words "Article" and "by" the phrase ", except under G.S. 105-164.4(4a),".

Sec. 8. G.S. 105-164.21 is amended as follows:

- (1) by designating the current language of the section as subsection (a);
- (2) by deleting the word "Every" in the first sentence of that section and substituting the phrase "Except as provided in subsection (b), a"; and
- (3) by adding a new subsection to read:

"(b) A utility may not deduct the discount provided in subsection (a) on sales of electricity, piped natural gas, or intrastate telephone service."

Sec. 9. The first paragraph of G.S. 105-467 is amended by adding the following sentence at the end of the paragraph to read:

"The sales tax authorized by this Article does not apply to sales by a utility of electricity, piped natural gas, or intrastate telephone service."

Sec. 10. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws is amended by adding the following sentence at the end to read:

"The taxes authorized by this division do not apply to sales by a utility of electricity, piped natural gas, or intrastate telephone service."

Sec. 11. G.S. 159B-27 is amended as follows:

(1) by deleting the phrase "six percent (6%)" in subsection (b) and substituting the phrase "three and twenty-two hundredths percent (3.22%)";

(2) by rewriting subsection (c) to read:

"(c) In lieu of an annual franchise or privilege tax, each joint agency shall pay to the State an amount equal to three and twenty-two hundredths percent (3.22%) of the gross receipts from sales of electric power or energy, less receipts from sales of electric power or energy to a vendee subject to tax under G.S. 105-116."; and

(3) by deleting the phrase "three percent (3%)" each time it appears in subsection (d) and substituting the phrase "three and nine hundredths percent (3.09%)".

Sec. 12. Division IV of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.21A. Deduction for municipalities that sell electric power. – A municipality that pays the retail sales tax imposed by this Article on electricity may deduct from the amount of tax payable by the municipality an amount equal to three percent (3%) of the difference between its gross receipts from sales of electricity for the preceding quarter and the amount paid by the municipality for purchased power and related services during that quarter."

Sec. 13. G.S. 105-164.4(1)c., d., and e. are each amended by deleting the phrase "Sales of fuels" or "Sales of fuel" and substituting the phrase "Sales of fuel, other than electricity or piped natural gas,".

Sec. 14. G.S. 105-164.16 is amended by inserting a new sentence before the last sentence of that section to read:

"Taxes levied under G.S. 105-164.4(4a) are due and payable quarterly on or before the 30th day following the end of the calendar quarter in which the tax accrues."

Sec. 15. G.S. 105-164.20 is amended as follows:

(1) by inserting between the words "retailer" and "taxable" in the first sentence of that section the phrase ", except a utility,";

(2) by adding the following sentences at the end of that section to read:

"A utility shall report its sales on an accrual basis. A sale by a utility of electricity, piped natural gas, or intrastate telephone service is considered to accrue when the utility bills its customer for the sale."

Sec. 16. G.S. 105-116(a) and G.S. 105-120(a) are each amended by adding a new sentence at the end of the subsection to read:

"Gross receipts shall be reported on an accrual basis."

Sec. 17. This act shall become effective January 1, 1985, and shall apply to gross receipts earned from services and commodities provided on or after that date and to sales of electricity, piped natural gas, or telephone service on or after that date.

In the General Assembly read three times and ratified, this the 6th day of July, 1984.