

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-121
HOUSE BILL 1367

AN ACT TO RAISE THE SALES TAX QUARTERLY THRESHOLD AND TO
REPEAL THE ANNUAL WHOLESALE SALES TAX LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.16(b) reads as rewritten:

"(b) General Reporting Periods. – Returns of taxpayers who are required by this subsection to report on a monthly or quarterly basis are due within 15 days after the end of each monthly or quarterly period. Returns of taxpayers who are required to report on a semimonthly basis are due within 10 days after the end of each semimonthly period.

A taxpayer who is consistently liable for less than ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) a month in State and local sales and use taxes may, with the approval of the Secretary, file a return on a quarterly basis. A taxpayer who is consistently liable for at least twenty thousand dollars (\$20,000) a month in State and local sales and use taxes shall, when directed to do so by the Secretary, file a return on a semimonthly basis. All other taxpayers shall file a return on a monthly basis. Quarterly reporting periods end on the last day of March, June, September, and December; monthly reporting periods end on the last day of the month; and semimonthly reporting periods end on the 15th of each month and the last day of each month.

The Secretary shall monitor the amount of tax remitted by a taxpayer and shall direct a taxpayer who consistently remits at least twenty thousand dollars (\$20,000) each month to file a return on a semimonthly basis. In determining the amount of tax due from a taxpayer for a reporting period the Secretary shall consider the total amount due from all places of business owned or operated by the same person as the amount due from that person.

A taxpayer who is directed to remit sales and use taxes on a semimonthly basis but who is unable to gather the information required to submit a complete return for either the first reporting period or both the first and second semimonthly reporting periods may, upon written authorization by the Secretary, file an estimated return for that first reporting period or both periods on the basis prescribed by the Secretary. Once a taxpayer is authorized to file an estimated return for the first period or both periods, the taxpayer may continue to file an estimated return for the first or both periods until the Secretary, by written notification, revokes the taxpayer's authorization to do so. When filing a return for the second semimonthly reporting period, a taxpayer who files an estimated return for the first period but not both periods shall remit the amount of tax

due for both the first and second reporting periods, less the amount ~~he~~the taxpayer remitted with ~~his~~the estimated return.

A taxpayer who files an estimated return for both periods is considered to have been granted an extension for both the first and second reporting periods. Notwithstanding G.S. 105-164.19, if a taxpayer who files an estimated return for both periods files a reconciling return for those periods within ten days of the due date of the return for the second period and any underpayment of estimated taxes remitted with the reconciling return is less than ten percent (10%) of the amount of taxes due for both the first and second reporting periods, no interest shall be charged. Otherwise, a taxpayer who files an estimated return for both periods shall be charged interest at the statutory rate from the due date of the return for the first reporting period to the date the reconciling return is filed."

Section 2. Part 2 of Division II of Article 5 of Chapter 105 of the General Statutes is repealed.

Section 3. G.S. 105-164.4(c) reads as rewritten:

"(c) Certificate of Registration. ~~Any person who engages in any business for which a privilege tax is imposed by this Article shall apply for and obtain from the Secretary upon payment of fifteen dollars (\$15.00) a license to engage in and conduct the business upon the condition that the person shall pay the tax accruing to the State under this Article; the person shall thereby be duly licensed and registered to engage in the business.~~

~~A license issued under this subsection shall be a continuing license until it becomes void or is revoked for failure to comply with the provisions of this Article. A license issued under this subsection to a person, other than a person who makes only wholesale sales or only exempt sales, becomes void if, for a period of eighteen months, the license holder files no return or files returns showing no sales.~~

~~A retailer who sells tangible personal property at a flea market shall conspicuously display the retailer's sales tax license when making sales at the flea market.~~

Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the Department and pay fifteen dollars (\$15.00).

A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."

Section 4. G.S. 105-164.6(f) reads as rewritten:

"(f) ~~Every retailer engaged in business in this State selling or delivering tangible personal property for storage, use, or consumption in this State shall apply for and obtain from the Secretary upon payment of fifteen dollars (\$15.00) a license to engage in and conduct the business upon the condition that the person shall pay the tax accruing to the State under this Article; the person shall thereby be duly licensed and registered to engage in the business. A license issued under this subsection shall be a continuing license until it becomes void or is revoked for failure to comply with the provisions of~~

~~this Article. A license issued under this subsection to a person, other than a person who makes only wholesale sales or only exempt sales, becomes void if, for a period of 18 months, the license holder files no return or files returns showing no sales.~~

Before a person may engage in business in this State selling or delivering tangible personal property for storage, use, or consumption in this State, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the Department and pay fifteen dollars (\$15.00).

A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."

Section 5. G.S. 105-164.4(a)(4b) reads as rewritten:

"(4b) A person who sells tangible personal property at a flea-specialty market, other than the person's own household personal property, is considered a retailer under this Article. A tax at the general rate of tax is levied on the sales price of each article sold by the retailer at the flea specialty market. ~~A person who leases or rents space to others at a flea market may not lease or rent this space unless the retailer requesting to rent or lease the space shows the license or a copy of the license required by this Article or other evidence of compliance. A person who leases or rents space at a flea market shall keep records of retailers who have leased or rented space at the flea market. As used in this subdivision, the term "flea market" means a place where space is rented to a person for the purpose of selling tangible personal property. The term 'specialty market' has the same meaning as defined in G.S. 66-250.~~

Section 6. G.S. 66-252 reads as rewritten:

"§ 66-252. Display and possession of ~~retail sales tax license, certificate of registration.~~

(a) When Required. – A person who sells tangible personal property at a specialty market, other than the person's own household personal property, is considered a retailer under G.S. 105-164.4 and must obtain a certificate of registration from the Department of Revenue before the person may engage in business. An itinerant merchant must keep the merchant's ~~retail sales tax license certificate of registration~~ conspicuously and prominently displayed, so as to be visible for inspection by patrons of the itinerant merchant at the places or locations at which the goods are to be sold or offered for sale. A peddler must carry the peddler's ~~retail sales tax license certificate of registration~~ when the peddler offers goods for sale and must produce the ~~license certificate~~ upon the request of any customer, State or local revenue agent, or law enforcement agent. A specialty market vendor must keep the ~~retail sales tax license certificate of registration~~ conspicuously and prominently displayed, so as to be visible for inspection by patrons of the specialty market vendor at the places or locations at which the goods are to be sold or offered for sale. A specialty market operator must have its ~~retail sales tax license, certificate of registration, if any, available for inspection~~

during all times that the specialty market is open and must produce it upon the request of any customer, State or local revenue agent, or law enforcement agent.

(b) Compliance. – The requirement that a ~~retail sales tax license certificate of registration~~ be displayed is satisfied if the vendor displays either of the following:

- (1) A copy of the ~~license certificate~~.
- (2) Evidence that the ~~license certificate~~ has been applied for and the applicable ~~license registration~~ fee has been paid within 30 days before the date the ~~license certificate~~ was required to be displayed."

Section 7. G.S. 66-255 reads as rewritten:

"§ 66-255. Specialty market registration list.

A specialty market operator must maintain a daily registration list of all specialty market vendors selling or offering goods for sale at the specialty market. The registration list must clearly and legibly show each specialty market vendor's name, permanent address, and ~~retail sales and use tax registration certificate of registration~~ number. The specialty market operator must require each specialty market vendor to exhibit a valid ~~retail sales tax license certificate of registration~~ for visual inspection by the specialty market operator at the time of registration, and must require each specialty market vendor to keep the ~~retail sales tax license certificate of registration~~ conspicuously and prominently displayed, so as to be visible for inspection by patrons of the specialty market vendor at the places or locations at which the goods are offered for sale. Each daily registration list maintained pursuant to this section must be retained by the specialty market operator for no less than two years and must at any time be made available upon request to any law enforcement officer."

Section 8. G.S. 66-257 reads as rewritten:

"§ 66-257. Misdemeanor violations.

(a) Class 1 Misdemeanors. – A person who does any of the following commits a Class 1 misdemeanor:

- (1) Fails to keep a record of new merchandise and fails to produce a record or an affidavit pursuant to G.S. 66-254.
- (2) Falsifies a record of new merchandise required by G.S. 66-254.

(b) Class 2 Misdemeanors. – A person who does any of the following commits a Class 2 misdemeanor:

- (1) If the person is an itinerant merchant or a specialty market vendor, fails to display the ~~retail sales tax license certificate of registration~~ as required by G.S. 66-252.
- (2) If the person is a specialty market operator, fails to maintain the daily registration list as required by G.S. 66-255.

(c) Class 3 Misdemeanors. – A person who does any of the following commits a Class 3 misdemeanor:

- (1) If the person is a peddler or an itinerant merchant, fails to obtain the permission of the property owner as required by G.S. 66-251.
- (2) If the person is a peddler or a specialty market operator, fails to produce the ~~retail sales tax license certificate of registration~~ as required by G.S. 66-252.

- (3) Fails to provide name, address, or identification upon request as required by G.S. 66-253 or provides false information in response to the request.
- (4) Knowingly gives false information when registering pursuant to G.S. 66-255.

(d) Defense. – Whenever satisfactory evidence is presented in any court of the fact that permission to use property was not displayed as required by G.S. 66-251 or that a ~~retail sales tax license~~ certificate of registration was not displayed or produced as required by G.S. 66-252, the person charged may not be found guilty of that violation if the person produces in court a valid permission or a valid ~~retail sales tax license~~ certificate of registration, respectively, that had been issued prior to the time the person was charged."

Section 9. Section 1 of this act becomes effective July 1, 1999. The remainder of this act is effective when it becomes law; Section 2 applies to taxes payable on or after July 1, 1998.

In the General Assembly read three times and ratified this the 19th day of August, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 1:05 p.m. this 27th day of August, 1998