

§ 105-467. Scope of sales tax.

(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

- (1) A retailer's net taxable sales and gross receipts that are subject to the general rate of sales tax imposed by the State under G.S. 105-164.4 except the tax does not apply to the sales price of an item taxable under G.S. 105-164.4(a)(1a).
- (2) through (4) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.
- (5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.
- (5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.
- (5b) Repealed by Session Laws 2013-3.4(c), effective July 1, 2014, and applicable to purchases made on or after that date.
- (6), (7) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.
- (8) The presumed sales price of an item of tangible personal property under G.S. 105-164.12B.

(b) Exemptions and Refunds. – The State exemptions and exclusions contained in Article 5 of Subchapter I of this Chapter, except for the exemption for food in G.S. 105-164.13B, apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 and G.S. 105-164.14A apply to the local sales and use tax authorized to be levied and imposed under this Article. A refund of an excessive or erroneous State sales tax collection allowed under G.S. 105-164.11 and a refund of State sales tax paid on a rescinded sale or cancelled service contract under G.S. 105-164.11A apply to the local sales and use tax authorized to be levied and imposed under this Article. The aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for the State's fiscal year may not exceed thirteen million three hundred thousand dollars (\$13,300,000).

Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of items. Sales and use tax liability indirectly incurred by the entity as part of a real property contract for real property that is owned or leased by the entity and is a capital improvement for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund is due in the same time and manner as provided in G.S. 105-164.14(c). Refunds applied for more than three years after the due date are barred.

(c) Sourcing. – The sourcing principles in Article 5 of Subchapter I of this Chapter apply in determining whether the local sales tax applies to a transaction. (1971, c. 77, s. 2; 1983 (Reg. Sess., 1984), c. 1097, s. 9; 1987, c. 557, s. 7; c. 832, s. 4; 1989, c. 692, s. 3.7; 1991, c. 689, s. 316; 1996, 2nd Ex. Sess., c. 13, s. 1.3; 1998-98, s. 30.1; 1998-171, s. 9; 2001-347, s. 2.15; 2001-414, s. 29; 2001-424, s. 34.16(b); 2001-430, s. 13; 2001-487, s. 67(e); 2002-16, s. 12; 2002-159, s. 61; 2005-276, s. 33.23; 2006-66, s. 7.20(a); 2006-162, s. 32; 2007-244, s. 6; 2007-368, s. 2; 2008-107, s. 28.12(c); 2010-166, s. 3.8; 2011-330, s. 45; 2013-316, ss. 3.1(c),

3.4(c), (d); 2013-414, s. 49(b); 2014-3, ss. 6.1(i), 8.2(b); 2015-259, s. 4.2(f); 2016-5, s. 3.8(b); 2016-94, s. 38.5(n); 2017-204, s. 2.9(c); 2019-169, s. 3.3(t.)