

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 367*

Short Title: Merchants' Sales Tax Discount.

(Public)

Sponsors: Representatives Lilley; Abernethy, Albertson, Arnold, Balmer, Barbee, Barnhill, Beard, Blue, Bowie, Bowman, Brawley, Brown, Brubaker, Buchanan, Chapin, Church, Colton, Craven, J. Crawford, N. Crawford, Creech, Culp, Cunningham, Dawkins, Decker, Diamont, Dickson, Diggs, Duncan, Easterling, Esposito, L. Etheridge, Fletcher, Foster, Fussell, Gardner, Gibson, Gist, Grady, Greenwood, Grimmer, Hall, Hardaway, Hege, Holmes, Holt, Howard, Huffman, S. Hunt, H. Hunter, R. Hunter, Hurley, Isenhower, James, Jones, Justus, Kimsey, Lail, Ligon, Lineberry, Loflin, McLaughlin, Mercer, Mills, Nesbitt, Nye, Payne, Perdue, Pope, Privette, Redwine, Rhodes, Robinson, Rogers, Sizemore, Stam, Stewart, Tallent, R. Thompson, Walker, Warner, Warren, Weatherly, Wicker, P. Wilson, G. Wilson, Wood, and Woodard.

Referred to: Finance.

February 27, 1989

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PERCENTAGE DISCOUNT TO MERCHANTS FOR COLLECTING STATE SALES AND USE TAXES.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 105 of the General Statutes is amended by adding after G.S. 105-164.20 a new section to read:

"§ 105-164.21. Discount for collecting and paying taxes when due.

(a) Amount of Discount. Except as provided in subsection (b), a retailer who pays the retail sales or use tax imposed by this Article may deduct from the amount of the tax for which it is liable and which it actually pays a discount of three percent (3%) of the first one thousand dollars (\$1,000) of tax paid per month and one percent (1%) of the remaining tax paid per month, up to a maximum discount of one hundred dollars (\$100.00) per month for each place of business at a separate location, and up to a maximum discount of twenty-five thousand dollars (\$25,000) for each State fiscal year

1 for each retailer group. The one hundred-dollar (\$100.00) per month maximum
2 discount for each location may be deducted only from the tax paid with regard to that
3 location. For the purposes of this section, a retailer group includes all retail
4 establishments that have one of the following relationships with one another: (i) one
5 corporation owns, directly or indirectly, at least eighty percent (80%) of the voting stock
6 of the others; (ii) at least eighty percent (80%) of the voting stock of the corporations is
7 owned, directly or indirectly, by the same interests; or (iii) in the case of establishments
8 that are not incorporated, the establishments are under the same general management,
9 supervision, or ownership.

10 (b) Restrictions. The Secretary may deny a taxpayer the benefits of this section
11 for failure to pay the full tax when due as well as in cases of fraud, evasion, or failure to
12 keep accurate and clear records as required by this Article. In order to receive the
13 discount provided in this section, the taxpayer must deduct the discount at the time of
14 making its remittance of tax to the Department of Revenue. A utility may not deduct
15 the discount provided in subsection (a) on sales of electricity, piped natural gas, or
16 intrastate telephone service."

17 Sec. 2. G.S. 105-474 reads as rewritten:

18 **"§ 105-474. Definitions; construction of Article; remedies and penalties.**

19 The definitions set forth in G.S. 105-164.3 shall apply to this Article insofar as such
20 definitions are not inconsistent with the provisions of this Article, and all other
21 provisions of Article 5 and of Article 9 of Subchapter 1, Chapter 105 of the General
22 Statutes, as the same relate to the North Carolina Sales and Use Tax Act shall be
23 applicable to this Article unless such provisions are inconsistent with the provisions of
24 this Article. Provided, however, the discount provided in G.S. 105-164.21 shall not
25 apply to this Article. The administrative interpretations made by the Secretary of
26 Revenue with respect to the North Carolina Sales and Use Tax Act, to the extent not
27 inconsistent with the provisions of this Article, may be uniformly applied in the
28 construction and interpretation of this Article. It is the intention of this Article that the
29 provisions of this Article and the provisions of the North Carolina Sales and Use Tax
30 Act, insofar as practicable, shall be harmonized.

31 The provisions with respect to remedies and penalties applicable to the North
32 Carolina Sales and Use Tax Act, as contained in Article 5 and Article 9, Subchapter 1,
33 Chapter 105 of the General Statutes, shall be applicable in like manner to the tax
34 authorized to be levied and collected under this Article, to the extent that the same are
35 not inconsistent with the provisions of this Article."

36 Sec. 3. Section 10 of Chapter 1096 of the 1967 Session Laws is amended by
37 adding after the first sentence a new sentence to read: "Provided, however, the discount
38 provided in G.S. 105-164.21 shall not apply to this division."

39 Sec. 4. This act shall become effective October 1, 1989, and applies to
40 remittances of sales and use taxes on sales made on or after that date.