

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS65410-RBxz-33* (02/27)

Short Title: SSTA Sales Tax Defn/Sales Tax Payments. (Public)

Sponsors: Senators Kerr, Clodfelter, Dalton, Hartsell, and Hoyle.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE STREAMLINED SALES TAX DEFINITIONS
CONCERNING TELECOMMUNICATIONS AND TO SIMPLIFY THE TAX
PAYMENT REQUIREMENTS FOR SEMIMONTHLY TAXPAYERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 is amended by amending or adding the
following definitions to read:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

(01) Ancillary service. – A service associated with or incidental to the
provision of a telecommunications service. The term includes detailed
communications billing, directory assistance, vertical service, and
voice mail service. A vertical service is a service, such as call
forwarding, caller ID, three-way calling, and conference bridging, that
allows a customer to identify a caller or manage multiple calls and call
connections.

...

(27) Prepaid telephone calling service. – Prepaid wireline calling service or
prepaid wireless calling service.

(27a) Prepaid wireline calling service. – A right that meets all of the
following requirements:

- a. Authorizes the exclusive purchase of wireline
telecommunications service.
- b. Must be paid for in advance.
- c. Enables the origination of calls by means of an access number,
authorization code, or another similar means, regardless of

- 1 whether the access number or authorization code is manually or
2 electronically dialed.
- 3 d. Is sold in units or dollars whose number or dollar value declines
4 with use and is known on a continuous basis.
- 5 (27b) Prepaid wireless calling service. – A right that meets all of the
6 following requirements:
- 7 a. Authorizes the purchase of mobile telecommunications service,
8 either exclusively or in conjunction with other services.
- 9 b. Must be paid for in advance.
- 10 c. Is sold in units or dollars whose number or dollar value declines
11 with use and is known on a continuous basis.
- 12 ...
- 13 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax
14 Agreement adopted November 12, 2002, as amended on November 19,
15 2003, November 16, 2004, and April 16, 2005. in November 2005.
- 16 ...
- 17 (48) Telecommunications service. – The electronic transmission,
18 conveyance, or routing of voice, data, audio, video, or any other
19 information or signals to a point, or between or among points, by or
20 through any electronic, radio, satellite, optical, microwave, or other
21 medium, regardless of the protocol used for the transmission,
22 conveyance, or routing. The term includes mobile telecommunications
23 service and vertical services. Vertical services are switch-based
24 services offered in connection with a telecommunications service, such
25 as call forwarding services, caller ID services, and three way calling
26 services. points. The term includes any transmission, conveyance, or
27 routing in which a computer processing application is used to act on
28 the form, code, or protocol of the content for purposes of the
29 transmission, conveyance, or routing, regardless of whether it is
30 referred to as voice-over Internet protocol or the Federal
31 Communications Commission classifies it as enhanced or value added.
32 The term does not include the following:
- 33 a. Data processing and information services that allow data to be
34 generated, acquired, stored, processed, or retrieved and
35 delivered by an electronic transmission to a customer whose
36 primary purpose for using the service is to obtain the processed
37 data or information.
- 38 b. The sale, installation, maintenance, or repair of tangible
39 personal property.
- 40 c. Directory advertising and other advertising.
- 41 d. Billing and collection services provided to a third party.
- 42 e. Internet access service.
- 43 f. Radio and television audio and video programming service,
44 regardless of the medium of delivery, and the transmission,

1 conveyance, or routing of the service by the programming
2 service provider. The term includes cable service and audio and
3 video programming service provided by a mobile
4 telecommunications service provider.

5 g. Ancillary service.

6 h. A digital product delivered electronically, including software,
7 music, a ring tone, video, and reading material."

8 **SECTION 2.** G.S. 105-164.4(a)(4c) and (4d) read as rewritten:

9 **"§ 105-164.4. Tax imposed on retailers.**

10 (a) **(Effective for sales made before July 1, 2007)** A privilege tax is imposed on
11 a retailer at the following percentage rates of the retailer's net taxable sales or gross
12 receipts, as appropriate. The general rate of tax is four and one-half percent (4 1/2%).

13 (4c) The combined general rate applies to the gross receipts derived from
14 providing telecommunications service and ancillary service. A person
15 who provides telecommunications service or ancillary service is
16 considered a retailer under this Article. ~~Telecommunications service is~~
17 These services are taxed in accordance with G.S. 105-164.4C.

18 (4d) The sale or recharge of prepaid telephone calling service is taxable at
19 the general rate of tax. The tax applies regardless of whether tangible
20 personal property, such as a card or a telephone, is transferred. The tax
21 applies to a service that is sold in conjunction with prepaid wireless
22 calling service. Prepaid telephone calling service is taxable at the point
23 of sale instead of at the point of use and is sourced in accordance with
24 G.S. 105-164.4B. Prepaid telephone calling service taxed under this
25 subdivision is not subject to tax as a telecommunications service."

26 **SECTION 3.** G.S. 105-164.4B(a)(3) reads as rewritten:

27 **"§ 105-164.4B. Sourcing principles.**

28 (a) General Principles. – The following principles apply in determining where to
29 source the sale of a product. These principles apply regardless of the nature of the
30 product.

31 (1) Over-the-counter. – When a purchaser receives a product at a business
32 location of the seller, the sale is sourced to that business location.

33 (2) Delivery to specified address. – When a purchaser receives a product
34 at a location specified by the purchaser and the location is not a
35 business location of the seller, the sale is sourced to the location where
36 the purchaser receives the product.

37 (3) Delivery address unknown. – When a seller of a product does not
38 know the address where a product is received, the sale is sourced to the
39 first address or location listed in this subdivision that is known to the
40 seller:

41 a. The business or home address of the purchaser.

42 b. The billing address of the purchaser or, if the product is a
43 prepaid ~~telephone~~ wireless calling service ~~that authorizes the~~

1 purchase of mobile telecommunications service, the location
2 associated with the mobile telephone number.

- 3 c. The address from which tangible personal property was shipped
4 or from which a service was provided."

5 **SECTION 4.** G.S. 105-164.4C reads as rewritten:

6 "**§ 105-164.4C. ~~Tax on telecommunications.~~Telecommunications service and**
7 **ancillary service.**

8 (a) General. – The gross receipts derived from providing telecommunications
9 service or ancillary service in this State are taxed at the rate set in
10 G.S. 105-164.4(a)(4c). Telecommunications service is provided in this State if the
11 service is sourced to this State under the sourcing principles set out in subsections (a1)
12 and (a2) of this section. Ancillary service is provided in this State if the
13 telecommunications service to which it is ancillary is provided in this State. The
14 definitions and provisions of the federal Mobile Telecommunications Sourcing Act
15 apply to the sourcing and taxation of mobile telecommunications services.

16 (a1) General Sourcing Principles. – The following general sourcing principles
17 apply to telecommunications services. If a service falls within one of the exceptions set
18 out in subsection (a2) of this section, the service is sourced in accordance with the
19 exception instead of the general principle.

20 (1) Flat rate. – A telecommunications service that is not sold on a
21 call-by-call basis is sourced to this State if the place of primary use is
22 in this State.

23 (2) General call-by-call. – A telecommunications service that is sold on a
24 call-by-call basis and is not a postpaid calling service is sourced to this
25 State in the following circumstances:

26 a. The call both originates and terminates in this State.

27 b. The call either originates or terminates in this State and the
28 telecommunications equipment from which the call originates
29 or terminates and to which the call is charged is located in this
30 State. This applies regardless of where the call is billed or paid.

31 (3) Postpaid. – A postpaid calling service is sourced to the origination
32 point of the telecommunications signal as first identified by either the
33 seller's telecommunications system or, if the system used to transport
34 the signal is not the seller's system, by information the seller receives
35 from its service provider.

36 (a2) Sourcing Exceptions. – The following telecommunications services and
37 products are sourced in accordance with the principles set out in this subsection:

38 (1) Mobile. – Mobile telecommunications service is sourced to the place
39 of primary use, unless the service is ~~authorized by a prepaid telephone~~
40 wireless calling service or is air-to-ground radiotelephone service.
41 Air-to-ground radiotelephone service is a postpaid calling service that
42 is offered by an aircraft common carrier to passengers on its aircraft
43 and enables a telephone call to be made from the aircraft. The sourcing
44 principle in this subdivision applies to a service provided as an adjunct

1 to mobile telecommunications service if the charge for the service is
2 included within the term "charges for mobile telecommunications
3 services" under the federal Mobile Telecommunications Sourcing Act.

4 (2) Prepaid. – Prepaid telephone calling service is sourced in accordance
5 with G.S. 105-164.4B.

6 (3) Private. – Private telecommunications service is sourced in accordance
7 with subsection (e) of this section.

8 (b) ~~Included in Gross Receipts. Gross receipts derived from
9 telecommunications service include the following:~~

10 (1) ~~Receipts from flat rate service, service provided on a call by call basis,
11 mobile telecommunications service, and private telecommunications
12 service.~~

13 (2) ~~Charges for directory assistance, directory listing that is not
14 yellow page classified listing, call forwarding, call waiting, three way
15 calling, caller ID, voice mail, and other similar services.~~

16 (3) ~~Customer access line charges billed to subscribers for access to the
17 intrastate or interstate interexchange network.~~

18 (4) ~~Charges billed to a pay telephone provider who uses the
19 telecommunications service to provide pay telephone service.~~

20 (c) ~~Excluded From Gross Receipts. Gross receipts derived from
21 telecommunications service do not include any of the following:~~

22 (1) ~~Charges for telecommunications services that are a component part of
23 or are integrated into a telecommunications service that is resold.
24 Examples of services that are resold include carrier charges for access
25 to an intrastate or interstate interexchange network, interconnection
26 charges paid by a provider of mobile telecommunications service, and
27 charges for the sale of unbundled network elements. An unbundled
28 network element is a network element, as defined in 47 U.S.C. §
29 153(29), to which access is provided on an unbundled basis pursuant
30 to 47 U.S.C. § 251(e)(3).~~

31 (2) ~~Telecommunications services that are resold as part of a prepaid
32 telephone calling service.~~

33 (3) ~~911 charges imposed under G.S. 62A-4 or G.S. 62A-23 and remitted to
34 the Emergency Telephone System Fund under G.S. 62A-7 or the
35 Wireless Fund under G.S. 62A-24.~~

36 (4) ~~Allowable surcharges imposed to recoup assessments for the Universal
37 Service Fund.~~

38 (5) ~~Receipts of a pay telephone provider from the sale of pay telephone
39 service.~~

40 (6) ~~Charges for commercial, cable, mobile, broadcast, or satellite video or
41 audio service unless the service provides two-way communication,
42 other than the customer's interactive communication in connection
43 with the customer's selection or use of the video or audio service.~~

44 (7) ~~Paging service, unless the service provides two-way communication.~~

- 1 ~~(8) Charges for telephone service made by a hotel, motel, or another entity~~
2 ~~whose gross receipts are taxable under G.S. 105-164.4(a)(3) when the~~
3 ~~charges are incidental to the occupancy of the entity's~~
4 ~~accommodations.~~
- 5 ~~(9) Receipts from the sale, installation, maintenance, or repair of tangible~~
6 ~~personal property.~~
- 7 ~~(10) Directory advertising and yellow page classified listings.~~
- 8 ~~(11) Repealed by Session Laws 2005-276, s. 33.7, effective October 1,~~
9 ~~2005.~~
- 10 ~~(12) Information services.—An information service is a service that can~~
11 ~~generate, acquire, store, transform, process, retrieve, use, or make~~
12 ~~available information through a communications service. Examples of~~
13 ~~an information service include an electronic publishing service and a~~
14 ~~web hosting service.~~
- 15 ~~(13) Internet access service, electronic mail service, electronic bulletin~~
16 ~~board service, or similar on-line services.~~
- 17 ~~(14) Billing and collection services.~~
- 18 ~~(15) Charges for bad checks or late payments.~~
- 19 ~~(16) Charges to a State agency or to a local unit of government for the~~
20 ~~North Carolina Information Highway and other data networks owned~~
21 ~~or leased by the State or unit of local government.~~
- 22 (d) Bundled Services. – When a taxable telecommunications service is bundled
23 with a service that is not taxable, the tax applies to the gross receipts from the taxable
24 service in the bundle as follows:
- 25 (1) If the service provider offers all the services in the bundle on an
26 unbundled basis, tax is due on the unbundled price of the taxable
27 service, less the discount resulting from the bundling. The discount for
28 a service as the result of bundling is the proportionate price decrease of
29 the service, determined on the basis of the total unbundled price of all
30 the services in the bundle compared to the bundled price of the
31 services.
- 32 (2) If the service provider does not offer one or more of the services in the
33 bundle on an unbundled basis, tax is due on the taxable service based
34 on a reasonable allocation of revenue to that service. If the service
35 provider maintains an account for revenue from a taxable service, the
36 service provider's allocation of revenue to that service for the purpose
37 of determining the tax due on the service must reflect its accounting
38 allocation of revenue to that service.
- 39 (e) Private Line. – The gross receipts derived from private telecommunications
40 service are sourced as follows:
- 41 (1) If all the customer's channel termination points are located in this
42 State, the service is sourced to this State.
- 43 (2) If all the customer's channel termination points are not located in this
44 State and the service is billed on the basis of channel termination

- 1 points, the charge for each channel termination point located in this
2 State is sourced to this State.
- 3 (3) If all the customer's channel termination points are not located in this
4 State and the service is billed on the basis of channel mileage, the
5 following applies:
- 6 a. A charge for a channel segment between two channel
7 termination points located in this State is sourced to this State.
- 8 b. Fifty percent (50%) of a charge for a channel segment between
9 a channel termination point located in this State and a channel
10 termination point located in another state is sourced to this
11 State.
- 12 (4) If all the customer's channel termination points are not located in this
13 State and the service is not billed on the basis of channel termination
14 points or channel mileage, a percentage of the charge for the service is
15 sourced to this State. The percentage is determined by dividing the
16 number of channel termination points in this State by the total number
17 of channel termination points.
- 18 (f) Call Center Cap. The gross receipts tax on telecommunications service that
19 originates outside this State, terminates in this State, and is provided to a call center that
20 has a direct pay permit issued by the Department under G.S. 105-164.27A may not
21 exceed fifty thousand dollars (\$50,000) a calendar year. This cap applies separately to
22 each legal entity.
- 23 (g) Credit. – A taxpayer who pays a tax legally imposed by another state on a
24 telecommunications service taxable under this section is allowed a credit against the tax
25 imposed in this section.
- 26 (h) Definitions. – The following definitions apply in this section:
- 27 (01) Ancillary service. – Defined in G.S. 105-164.3.
- 28 (1) Call-by-call basis. – A method of charging for a telecommunications
29 service whereby the price of the service is measured by individual
30 calls.
- 31 (2) Call center. – Defined in G.S. 105-164.27A.
- 32 (3) Mobile telecommunications service. – Defined in G.S. 105-164.3.
- 33 (4) Place of primary use. – Defined in G.S. 105-164.3.
- 34 (5) Postpaid calling service. – A telecommunications service that is
35 charged on a call-by-call basis and is obtained by making payment at
36 the time of the call either through the use of a credit or payment
37 mechanism, such as a bank card, travel card, credit card, or debit card,
38 or by charging the call to a telephone number that is not associated
39 with the origination or termination of the telecommunications service.
40 A postpaid calling service includes a service that meets all the
41 requirements of a prepaid wireline telephone calling service, except
42 the exclusive use requirement.
- 43 (6) Prepaid telephone calling service. – Defined in G.S. 105-164.3.

1 (7) Private telecommunications service. – Telecommunications service
2 that entitles a subscriber of the service to exclusive or priority use of a
3 communications channel or group of channels.

4 (8) Telecommunications service. – Defined in G.S. 105-164.3."

5 **SECTION 5.** G.S. 105-164.13 is amended by adding the following
6 subdivision to read:

7 "(54) The following telecommunications services and charges:

8 a. Telecommunications service that is a component part of or is
9 integrated into a telecommunications service that is resold. This
10 exemption does not apply to service purchased by a pay
11 telephone provider who uses the service to provide pay
12 telephone service. Examples of services that are resold include
13 carrier charges for access to an intrastate or interstate
14 interexchange network, interconnection charges paid by a
15 provider of mobile telecommunications service, and charges for
16 the sale of unbundled network elements. An unbundled network
17 element is a network element, as defined in 47 U.S.C. §
18 153(29), to which access is provided on an unbundled basis
19 pursuant to 47 U.S.C. § 251(c)(3).

20 b. Pay telephone service.

21 c. 911 charges imposed under G.S. 62A-4 or G.S. 62A-23 and
22 remitted to the Emergency Telephone System Fund under
23 G.S. 62A-7 or the Wireless Fund under G.S. 62A-24.

24 d. Charges for telecommunications service made by a hotel, motel,
25 or another entity whose gross receipts are taxable under
26 G.S. 105-164.4(a)(3) when the charges are incidental to the
27 occupancy of the entity's accommodations.

28 e. Telecommunications service purchased by a State agency or a
29 unit of local government for the North Carolina Information
30 Highway or another data network owned or leased by the State
31 or unit of local government."

32 **SECTION 6.** G.S. 105-164.14(b) and (c) read as rewritten:

33 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity included in the
34 following list is allowed a semiannual refund of sales and use taxes paid by it under this
35 Article on direct purchases of tangible personal property and services, other than
36 ~~electricity and telecommunications~~ electricity, telecommunications service, and
37 ancillary service, for use in carrying on the work of the nonprofit entity:

38 (1) Hospitals not operated for profit, including hospitals and medical
39 accommodations operated by an authority created under the Hospital
40 Authorities Law, Article 2 of Chapter 131E of the General Statutes.

41 (2) Educational institutions not operated for profit.

42 (3) Churches, orphanages, and other charitable or religious institutions and
43 organizations not operated for profit.

1 (4) Qualified retirement facilities whose property is excluded from
2 property tax under G.S. 105-278.6A.

3 Sales and use tax liability indirectly incurred by a nonprofit entity on building
4 materials, supplies, fixtures, and equipment that become a part of or annexed to any
5 building or structure that is owned or leased by the nonprofit entity and is being erected,
6 altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities
7 is considered a sales or use tax liability incurred on direct purchases by the nonprofit
8 entity.

9 A hospital that is not allowed a refund under this subsection of sales and use taxes
10 paid on its direct purchases of tangible personal property is allowed a semiannual refund
11 of sales and use taxes paid by it on medicines and drugs purchased for use in carrying
12 out its work.

13 The refunds allowed under this subsection for certain nonprofit entities and for
14 medicines and drugs purchased by hospitals do not apply to organizations, corporations,
15 and institutions that are owned and controlled by the United States, the State, or a unit
16 of local government, except hospital facilities created under Article 2 of Chapter 131E
17 of the General Statutes and nonprofit hospitals owned and controlled by a unit of local
18 government that elect to receive semiannual refunds under this subsection instead of
19 annual refunds under subsection (c).

20 A request for a refund must be in writing and must include any information and
21 documentation required by the Secretary. A request for a refund for the first six months
22 of a calendar year is due the following October 15; a request for a refund for the second
23 six months of a calendar year is due the following April 15.

24 (c) Certain Governmental Entities. – A governmental entity listed in this
25 subsection is allowed an annual refund of sales and use taxes paid by it under this
26 Article on direct purchases of tangible personal property and services, other than
27 ~~electricity and telecommunications~~ electricity, telecommunications service, and
28 ancillary service. Sales and use tax liability indirectly incurred by a governmental entity
29 on building materials, supplies, fixtures, and equipment that become a part of or
30 annexed to any building or structure that is owned or leased by the governmental entity
31 and is being erected, altered, or repaired for use by the governmental entity is
32 considered a sales or use tax liability incurred on direct purchases by the governmental
33 entity for the purpose of this subsection. A request for a refund must be in writing and
34 must include any information and documentation required by the Secretary. A request
35 for a refund is due within six months after the end of the governmental entity's fiscal
36 year. The Secretary shall make an annual report to the Department of Public Instruction
37 and the Fiscal Research Division of the General Assembly by March 1 of the amount of
38 refunds, identified by taxpayer, claimed under subdivisions (2b) and (2c) of this
39 subsection over the preceding year.

40 This subsection applies only to the following governmental entities:

- 41 (1) A county.
- 42 (2) A city as defined in G.S. 160A-1.
- 43 (2a) A consolidated city-county as defined in G.S. 160B-2.

- 1 (2b) (2c) Repealed by Session Laws 2005-276, s. 7.51(a), effective July 1,
2 2005, and applicable to sales made on or after that date.
- 3 (3) A metropolitan sewerage district or a metropolitan water district in this
4 State.
- 5 (4) A water and sewer authority created under Chapter 162A of the
6 General Statutes.
- 7 (5) A lake authority created by a board of county commissioners pursuant
8 to an act of the General Assembly.
- 9 (6) A sanitary district.
- 10 (7) A regional solid waste management authority created pursuant to
11 G.S. 153A-421.
- 12 (8) An area mental health, developmental disabilities, and substance abuse
13 authority, other than a single-county area authority, established
14 pursuant to Article 4 of Chapter 122C of the General Statutes.
- 15 (9) A district health department, or a public health authority created
16 pursuant to Part 1A of Article 2 of Chapter 130A of the General
17 Statutes.
- 18 (10) A regional council of governments created pursuant to G.S. 160A-470.
- 19 (11) A regional planning and economic development commission or a
20 regional economic development commission created pursuant to
21 Chapter 158 of the General Statutes.
- 22 (12) A regional planning commission created pursuant to G.S. 153A-391.
- 23 (13) A regional sports authority created pursuant to G.S. 160A-479.
- 24 (14) A public transportation authority created pursuant to Article 25 of
25 Chapter 160A of the General Statutes.
- 26 (14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter
27 160A of the General Statutes.
- 28 (15) A regional public transportation authority created pursuant to Article
29 26 of Chapter 160A of the General Statutes, or a regional
30 transportation authority created pursuant to Article 27 of Chapter 160A
31 of the General Statutes.
- 32 (16) A local airport authority that was created pursuant to a local act of the
33 General Assembly.
- 34 (17) A joint agency created by interlocal agreement pursuant to
35 G.S. 160A-462 to operate a public broadcasting television station.
- 36 (18) Repealed by Session Laws 2001-474, s. 7, effective November 29,
37 2001.
- 38 (19) Repealed by Session Laws 2001-474, s. 7, effective November 29,
39 2001.
- 40 (20) A constituent institution of The University of North Carolina, but only
41 with respect to sales and use tax paid by it for tangible personal
42 property or services that are eligible for refund under this subsection
43 acquired by it through the expenditure of contract and grant funds.
- 44 (21) The University of North Carolina Health Care System.

1 (22) A regional natural gas district created pursuant to Article 28 of Chapter
2 160A of the General Statutes."

3 **SECTION 7.** G.S. 105-164.27A(b) reads as rewritten:

4 "(b) Telecommunications Service. – A direct pay permit for telecommunications
5 service authorizes its holder to purchase telecommunications service and ancillary
6 service without paying tax to the seller and authorizes the seller to not collect any tax on
7 a sale to the permit holder. A person who purchases ~~telecommunications service~~ these
8 services under a direct pay permit must file a return and pay the tax due monthly to the
9 Secretary. A direct pay permit issued under this subsection does not apply to any tax
10 other than the tax on telecommunications service and ancillary service.

11 A call center that purchases telecommunications service that originates outside this
12 State and terminates in this State may apply to the Secretary for a direct pay permit for
13 telecommunications service and ancillary service. A call center is a business that is
14 primarily engaged in providing support services to customers by telephone to support
15 products or services of the business. A business is primarily engaged in providing
16 support services by telephone if at least sixty percent (60%) of its calls are incoming."

17 **SECTION 8.** G.S. 105-164.44F(a) reads as rewritten:

18 "(a) Amount. – The Secretary must distribute to the cities part of the taxes
19 imposed by G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service.
20 The Secretary must make the distribution within 75 days after the end of each calendar
21 quarter. The amount the Secretary must distribute is eighteen and three one-hundredths
22 percent (18.03%) of the net proceeds of the taxes collected during the quarter, minus
23 two million six hundred twenty thousand nine hundred forty-eight dollars (\$2,620,948).
24 This deduction is one-fourth of the annual amount by which the distribution to cities of
25 the gross receipts franchise tax on telephone companies, imposed by former
26 G.S. 105-120, was required to be reduced beginning in fiscal year 1995-96 as a result of
27 the "freeze deduction." The Secretary must distribute the specified percentage of the
28 proceeds, less the "freeze deduction" among the cities in accordance with this section."

29 **SECTION 9.** G.S. 105-164.16 reads as rewritten:

30 **"§ 105-164.16. Returns and payment of taxes.**

31 (a) General. – Sales and use taxes are payable ~~quarterly, monthly, or~~
32 ~~semimonthly as specified in this section when a return is due.~~ A return is due quarterly
33 or monthly as specified in this section. A return must be filed with the Secretary on a
34 form prescribed by the Secretary and in the manner required by the Secretary. A return
35 must be signed by the taxpayer or the taxpayer's agent.

36 A sales tax return must state the taxpayer's gross sales for the reporting period, the
37 amount and type of sales made in the period that are exempt from tax under
38 G.S. 105-164.13 or are elsewhere excluded from tax, the amount of tax due, and any
39 other information required by the Secretary. A use tax return must state the purchase
40 price of tangible personal property that was purchased or received during the reporting
41 period and is subject to tax under G.S. 105-164.6, the amount of tax due, and any other
42 information required by the Secretary. Returns that do not contain the required
43 information will not be accepted. When an unacceptable return is submitted, the
44 Secretary will require a corrected return to be filed.

1 (b) Quarterly. – A taxpayer who is consistently liable for less than one hundred
2 dollars (\$100.00) a month in State and local sales and use taxes must file a return and
3 pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and
4 is due by the last day of the month following the end of the quarter.

5 (b1) Monthly. – A taxpayer who is consistently liable for more than one hundred
6 dollars (\$100.00) ~~but less than ten thousand dollars (\$10,000)~~ a month in State and local
7 sales and use taxes must file a return and pay the taxes due on a monthly basis. A
8 monthly return is due by the 20th day of the month following the calendar month
9 covered by the return.

10 (b2) ~~Semimonthly. Prepayment.~~ – A taxpayer who is consistently liable for at least
11 ten thousand dollars (\$10,000) a month in State and local sales and use taxes must ~~pay~~
12 ~~the tax twice a month and must file a return on a monthly basis. One semimonthly~~
13 ~~payment covers the period from the first day of the month through the 15th day of the~~
14 ~~month. The other semimonthly payment covers the period from the 16th day of the~~
15 ~~month through the last day of the month. The semimonthly payment for the period that~~
16 ~~ends on the 15th day of the month is due by the 25th day of that month. The~~
17 ~~semimonthly payment for the period that ends on the last day of the month is due by the~~
18 ~~10th day of the following month.~~

19 ~~A return covers both semimonthly payment periods. The return is due by the 20th~~
20 ~~day of the month following the month of the payment periods covered by the return. A~~
21 ~~taxpayer is not subject to interest on or penalties for an underpayment for a~~
22 ~~semimonthly payment period if the taxpayer timely pays at least ninety five percent~~
23 ~~(95%) of the lesser of the following and includes the underpayment with the monthly~~
24 ~~return for those semimonthly payment periods:~~

25 (1) ~~The amount due for each semimonthly payment period.~~

26 (2) ~~The average semimonthly payment for the prior calendar year.~~

27 make a monthly prepayment of the next month's tax liability. The prepayment is due on
28 the date a monthly return is due. The prepayment must equal at least sixty-five percent
29 (65%) of any of the following:

30 (1) The amount of tax due for the current month.

31 (2) The amount of tax due for the same month in the preceding year.

32 (3) The average monthly amount of tax due in the preceding calendar
33 year.

34 (b3) Category. – The Secretary must monitor the amount of State and local sales
35 and use taxes paid by a taxpayer or estimate the amount of taxes to be paid by a new
36 taxpayer and must direct each taxpayer to pay tax and file returns ~~in accordance with the~~
37 ~~appropriate schedule, as required by this section.~~ In determining the amount of taxes
38 due from a taxpayer, the Secretary must consider the total amount due from all places of
39 business owned or operated by the same person as the amount due from that person. A
40 taxpayer must file a return and pay tax in accordance with the Secretary's ~~direction until~~
41 ~~notified in writing to file and pay under a different schedule.~~direction.

42 (c) Repealed by Session Laws 2001-427, s. 6(a), effective January 1, 2002, and
43 applicable to taxes levied on or after that date.

1 (d) **(Effective for taxable years ending before January 1, 2010)** Use Tax on
2 Out-of-State Purchases. – Use tax payable by an individual who purchases tangible
3 personal property outside the State for a nonbusiness purpose is due on an annual basis.
4 For an individual who is not required to file an individual income tax return under Part 2
5 of Article 4 of this Chapter, the annual reporting period ends on the last day of the
6 calendar year and a use tax return is due by the following April 15. For an individual
7 who is required to file an individual income tax return, the annual reporting period ends
8 on the last day of the individual's income tax year, and the use tax must be paid on the
9 income tax return as provided in G.S. 105-269.14.

10 (d) **(Effective for taxable years beginning on or after January 1, 2010)** Use
11 Tax on Out-of-State Purchases. – Notwithstanding subsection (b), an individual who
12 purchases tangible personal property outside the State for a nonbusiness purpose shall
13 file a use tax return on an annual basis. The annual reporting period ends on the last day
14 of the calendar year. The return is due by the due date, including any approved
15 extensions, for filing the individual's income tax return."

16 **SECTION 10.** G.S. 105-113(b) reads as rewritten:

17 "(b) Report and Payment. – The tax imposed by this section is payable ~~quarterly,~~
18 ~~semimonthly,~~ quarterly or monthly as specified in this subsection. A return is due
19 quarterly.

20 A water company or public sewerage company must pay tax quarterly when filing a
21 return. An electric power company must pay tax in accordance with the schedule ~~that~~
22 ~~applies to its~~ and requirements that apply to payments of sales and use tax under
23 G.S. 105-164.16 and must file a return quarterly. ~~An electric power company is not~~
24 ~~subject to interest on or penalties for an underpayment for a semimonthly or monthly~~
25 ~~payment period if the electric power company timely pays at least ninety five percent~~
26 ~~(95%) of the amount due for each semimonthly or monthly payment period and includes~~
27 ~~the underpayment with the quarterly return for those semimonthly or monthly payment~~
28 ~~periods.~~

29 A quarterly return covers a calendar quarter and is due by the last day of the month
30 that follows the quarter covered by the return. A taxpayer must submit a return on a
31 form provided by the Secretary. The return must include the taxpayer's gross receipts
32 from all property it owned or operated during the reporting period in connection with its
33 business taxed under this section. A taxpayer must report its gross receipts on an accrual
34 basis. A return must contain the following information:

- 35 (1) The taxpayer's gross receipts for the reporting period from business
36 inside and outside this State, stated separately.
- 37 (2) The taxpayer's gross receipts from commodities or services described
38 in subsection (a) that are sold to a vendee subject to the tax levied by
39 this section or to a joint agency established under Chapter 159B of the
40 General Statutes or a city having an ownership share in a project
41 established under that Chapter.
- 42 (3) The amount of and price paid by the taxpayer for commodities or
43 services described in subsection (a) that are purchased from others
44 engaged in business in this State and the name of each vendor.

- 1 (4) For an electric power company the entity's gross receipts from the sale
2 within each city of the commodities and services described in
3 subsection (a)."

4 **SECTION 11.** G.S. 105-187.43 reads as rewritten:

5 "**§ 105-187.43. Payment of the tax.**

6 (a) Payment. – The tax imposed by this Article is payable ~~semimonthly in~~
7 ~~accordance with the schedule set in G.S. 105-164.16 for semimonthly payments of sales~~
8 ~~and use taxes. monthly.~~ A monthly payment is due by the 20th day of the month
9 following the calendar month in which liability for the tax accrues. The tax imposed by
10 this Article on piped natural gas delivered to a sales or transportation customer accrues
11 when the gas is delivered. The tax payable on piped natural gas received by a person
12 who has direct access to an interstate pipeline for consumption by that person accrues
13 when the gas is received.

14 (b) ~~Small Underpayments.~~ ~~A person is not subject to interest on or penalties for~~
15 ~~an underpayment of a semimonthly amount due if the person timely pays at least~~
16 ~~ninety-five percent (95%) of the amount due and includes the underpayment with the~~
17 ~~next return the person files.~~ Prepayment. – A taxpayer who is consistently liable for at
18 least ten thousand dollars (\$10,000) of tax a month must make a monthly prepayment of
19 the next month's tax liability. This requirement applies when the taxpayer meets the
20 threshold and the Secretary notifies the taxpayer to make prepayments. A prepayment is
21 due on the date a monthly payment is due. The prepayment must equal at least sixty-five
22 percent (65%) of any of the following:

23 (1) The amount of tax due for the current month.

24 (2) The amount of tax due for the same month in the preceding year.

25 (3) The average monthly amount of tax due in the preceding calendar
26 year.

27 (c) Return. – A return is due quarterly. A quarterly return covers a calendar
28 quarter and is due by the last day of the month that follows the quarter covered by the
29 return."

30 **SECTION 12.** Sections 9 through 11 of this act become effective October 1,
31 2007. The remainder of this act becomes effective January 1, 2007.