

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 2011

Short Title: Railroad Cars Sales Tax Changes.

(Public)

Sponsors: Senator Hoyle.

Referred to: Finance.

May 26, 2006

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW UTILITIES THE SAME TREATMENT AS INTERSTATE
3 CARRIERS WITH RESPECT TO THE SALES AND USE TAXES IMPOSED ON
4 RAILWAY CARS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 105-164.4B(b) reads as rewritten:

7 "(b) Periodic Rental Payments. – When a lease or rental agreement requires
8 recurring periodic payments, the payments are sourced as follows:

- 9 (1) For leased or rented property, the first payment is sourced in
10 accordance with the principles set out in subsection (a) of this section
11 and each subsequent payment is sourced to the primary location of the
12 leased or rented property for the period covered by the payment. This
13 subdivision applies to all property except a motor vehicle, an aircraft,
14 ~~and transportation equipment~~ and a utility company
15 railway car.
- 16 (2) For leased or rented property that is a motor vehicle or an aircraft but
17 is not transportation equipment, all payments are sourced to the
18 primary location of the leased or rented property for the period covered
19 by the payment.
- 20 (3) For leased or rented property that is transportation equipment, all
21 payments are sourced in accordance with the principles set out in
22 subsection (a) of this section.
- 23 (4) For a railway car that is leased or rented by a utility company and
24 would be transportation equipment if it were used in interstate
25 commerce, all payments are sourced in accordance with the principles
26 set out in subsection (a) of this section."

27 **SECTION 2.** G.S. 105-164.14 is amended by adding a new subsection to

28 read:

1 (a2) Utility Companies. – A utility company is allowed a refund, in accordance
2 with this section, of part of the sales and use taxes paid by it on the purchase in this
3 State of railway cars and locomotives and accessories for a railway car or locomotive
4 the utility company operates. The Secretary shall prescribe the periods of time, whether
5 monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be
6 claimed and shall prescribe the time within which, following these periods, an
7 application for refund may be made.

8 An applicant for refund shall furnish the following information and any proof of the
9 information required by the Secretary:

- 10 (1) A list identifying the railway cars, locomotives, and accessories
11 purchased by the applicant inside or outside this State during the
12 refund period.
- 13 (2) The purchase price of the items listed in subdivision (1) of this
14 subsection.
- 15 (3) The sales and use taxes paid in this State on the listed items.
- 16 (4) The number of miles the applicant's railway cars and locomotives were
17 operated both inside and outside this State during the refund period.
- 18 (5) Any other information required by the Secretary.

19 For each applicant, the Secretary shall compute the amount to be refunded as
20 follows. First, the Secretary shall determine the ratio of the number of miles the
21 applicant operated its railway cars and locomotives in this State during the refund
22 period to the number of miles it operated them both inside and outside this State during
23 the refund period. Second, the Secretary shall determine the applicant's proportional
24 liability for the refund period by multiplying this mileage ratio by the purchase price of
25 the items identified in subdivision (1) of this subsection and then multiplying the
26 resulting product by the tax rate that would have applied to the items if they had all been
27 purchased in this State. Third, the Secretary shall refund to each applicant the excess of
28 the amount of sales and use taxes the applicant paid in this State during the refund
29 period on these items over the applicant's proportional liability for the refund period."

30 **SECTION 3.** This act becomes effective July 1, 2006. Section 1 of this act
31 applies to lease or rental payments made on or after that date. Section 2 of this act
32 applies to purchases made on or after that date.