

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1276

Short Title: Modify Machinery Sales Tax.

(Public)

Sponsors: Representative Bowen.

Referred to: Finance.

May 10, 1991

A BILL TO BE ENTITLED
AN ACT TO REMOVE THE EIGHTY-DOLLAR SALES TAX CAP ON
INDUSTRIAL MACHINERY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales, or gross receipts from the lease or rental of tangible personal property, as appropriate:

(1) At the rate of three percent (3%) of the sales price of each item or article of tangible personal property that is sold at retail and is not subject to tax under another subdivision in this section.

(1a) At the rate of two percent (2%) of the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser, not to exceed three hundred dollars (\$300.00). Each section of a manufactured home that is transported separately to the site where it is to be erected is a separate article.

(1b) At the rate of two percent (2%) of the sales price of each aircraft, boat, railway car, or locomotive sold at retail, including all accessories attached to the item when it is delivered to the purchaser, not to exceed one thousand five hundred dollars (\$1,500).

(1c) At the rate of one percent (1%) of the sales price on the following items:

a. Horses or mules by whomsoever sold.

- 1 b. Semen to be used in the artificial insemination of animals.
- 2 c. Sales of fuel, other than electricity or piped natural gas, to
- 3 farmers to be used by them for any farm purposes other than
- 4 preparing food, heating dwellings and other household
- 5 purposes. The quantity of fuel purchased or used at any one
- 6 time shall not in any manner be a determinative factor as to
- 7 whether any sale or use of fuel is or is not subject to the one
- 8 percent (1%) rate of tax imposed herein.
- 9 d. Sales of fuel, other than electricity or piped natural gas, to
- 10 manufacturing industries and manufacturing plants for use in
- 11 connection with the operation of such industries and plants
- 12 other than sales of fuels to be used for residential heating
- 13 purposes. The quantity of fuel purchased or used at any one
- 14 time shall not in any manner be a determinative factor as to
- 15 whether any sale or use of fuel is or is not subject to the one
- 16 percent (1%) rate of tax imposed herein.
- 17 e. Sales of fuel, other than electricity or piped natural gas, to
- 18 commercial laundries or to pressing and dry-cleaning
- 19 establishments for use in machinery used in the direct
- 20 performance of the laundering or the pressing and cleaning
- 21 service.
- 22 f. Sales to freezer locker plants of wrapping paper, cartons and
- 23 supplies consumed directly in the operation of such plant.
- 24 g. Sales of mill machinery or mill machinery parts and accessories
- 25 to manufacturing industries and plants, and sales to contractors
- 26 and subcontractors purchasing mill machinery or mill
- 27 machinery parts and accessories for use by them in the
- 28 performance of contracts with manufacturing industries and
- 29 plants, and sales to subcontractors purchasing mill machinery or
- 30 mill machinery parts and accessories for use by them in the
- 31 performance of contracts with general contractors who have
- 32 contracts with manufacturing industries and plants. As used in
- 33 this paragraph, the term 'manufacturing industries and plants'
- 34 does not include delicatessens, cafes, cafeterias, restaurants, and
- 35 other similar retailers that are principally engaged in the retail
- 36 sale of foods prepared by them for consumption on or off their
- 37 premises.
- 38 h. Sales of central office equipment and switchboard and private
- 39 branch exchange equipment to telephone companies regularly
- 40 engaged in providing telephone service to subscribers on a
- 41 commercial basis, and sales to these companies of prewritten
- 42 computer programs used in providing telephone service to their
- 43 subscribers.

- 1 i. Sales to commercial laundries or to pressing and dry cleaning
2 establishments of machinery used in the direct performance of
3 the laundering or the pressing and cleaning service and of parts
4 and accessories thereto.
- 5 j. Sales to freezer locker plants of machinery used in the direct
6 operation of said freezer locker plant and of parts and
7 accessories thereto.
- 8 k. Sales of broadcasting equipment and parts and accessories
9 thereto and towers to commercial radio and television
10 companies which are under the regulation and supervision of
11 the Federal Communications Commission.
- 12 (1d) At the rate of one percent (1%) of the sales price, subject to a
13 maximum tax of eighty dollars (\$80.00) per article, on the following
14 items:
- 15 a. Sales of machines and machinery, whether animal or motor
16 drawn or operated, and parts and accessories for such machines
17 and machinery to farmers for use by them in the planting,
18 cultivating, harvesting or curing of farm crops, and sales of
19 machines and machinery and parts and accessories for such
20 machines and machinery to dairy operators, poultry farmers,
21 egg producers, and livestock farmers for use by them in the
22 production of dairy products, poultry, eggs or livestock, except
23 such machines, machinery, equipment, parts, and accessories
24 that come within the provisions of G.S. 105-164.13(4c).
25 The term 'machines and machinery' as used in this
26 subdivision is defined as follows:
27 The term shall include all vehicular implements, designed
28 and sold for any use defined in this subdivision, which are
29 operated, drawn or propelled by motor or animal power, but
30 shall not include vehicular implements which are operated
31 wholly by hand, and shall not include any motor vehicles
32 required to be registered under Chapter 20 of the General
33 Statutes.
34 The term shall include all nonvehicular implements and
35 mechanical devices designed and sold for any use defined in
36 this subdivision, which have moving parts, or which require the
37 use of any motor or animal power, fuel, or electricity in their
38 operation but shall not include nonvehicular implements which
39 have no moving parts and are operated wholly by hand.
40 The term shall also include metal flues sold for use in curing
41 tobacco, whether such flues are attached to handfired furnaces
42 or used in connection with mechanical burners.
- 43 ~~b. Sales of mill machinery or mill machinery parts and accessories~~
44 ~~to manufacturing industries and plants, and sales to contractors~~

- 1 ~~and subcontractors purchasing mill machinery or mill~~
2 ~~machinery parts and accessories for use by them in the~~
3 ~~performance of contracts with manufacturing industries and~~
4 ~~plants, and sales to subcontractors purchasing mill machinery or~~
5 ~~mill machinery parts and accessories for use by them in the~~
6 ~~performance of contracts with general contractors who have~~
7 ~~contracts with manufacturing industries and plants. As used in~~
8 ~~this paragraph, the term "manufacturing industries and plants"~~
9 ~~does not include delicatessens, cafes, cafeterias, restaurants, and~~
10 ~~other similar retailers that are principally engaged in the retail~~
11 ~~sale of foods prepared by them for consumption on or off their~~
12 ~~premises.~~
- 13 ~~e. Sales of central office equipment and switchboard and private~~
14 ~~branch exchange equipment to telephone companies regularly~~
15 ~~engaged in providing telephone service to subscribers on a~~
16 ~~commercial basis, and sales to these companies of prewritten~~
17 ~~computer programs used in providing telephone service to their~~
18 ~~subscribers.~~
- 19 ~~d. Sales to commercial laundries or to pressing and dry cleaning~~
20 ~~establishments of machinery used in the direct performance of~~
21 ~~the laundering or the pressing and cleaning service and of parts~~
22 ~~and accessories thereto.~~
- 23 ~~e. Sales to freezer locker plants of machinery used in the direct~~
24 ~~operation of said freezer locker plant and of parts and~~
25 ~~accessories thereto.~~
- 26 ~~f. Sales of broadcasting equipment and parts and accessories~~
27 ~~thereto and towers to commercial radio and television~~
28 ~~companies which are under the regulation and supervision of~~
29 ~~the Federal Communications Commission.~~
- 30 ~~g. Sales to farmers of bulk tobacco barns and racks and all parts~~
31 ~~and accessories thereto and similar apparatus used for the~~
32 ~~curing and drying of any farm produce.~~
- 33 ~~h. Sales to farmers of grain, feed or soybean storage facilities and~~
34 ~~accessories thereto, whether or not dryers are attached, and all~~
35 ~~similar apparatus and accessories thereto for the storage of~~
36 ~~grain, feed or soybeans.~~
- 37 ~~i. Sales of containers to farmers or producers for use in the~~
38 ~~planting, producing, harvesting, curing, marketing, packaging,~~
39 ~~sale, or transporting or delivery of their products when such~~
40 ~~containers do not go with and become part of the sale of their~~
41 ~~products at wholesale or retail.~~
- 42 (2) At the applicable percentage rate of the gross receipts derived from the
43 lease or rental of tangible personal property by a person who is
44 engaged in the business of leasing or renting tangible personal

1 property, or is a retailer and leases or rents property of the type sold by
2 the retailer. The applicable percentage rate is the rate and the
3 maximum tax, if any, that applies to a sale of the property that is
4 leased or rented. A person who leases or rents property shall also
5 collect the tax imposed by this section on the separate retail sale of the
6 property.

- 7 (3) Operators of hotels, motels, tourist homes, tourist camps, and similar
8 type businesses and persons who rent private residences and cottages
9 to transients are considered retailers under this Article. There is levied
10 upon every such retailer a tax of three percent (3%) of the gross
11 receipts derived from the rental of any rooms, lodgings, or
12 accommodations furnished to transients for a consideration. This tax
13 does not apply to any private residence or cottage that is rented for less
14 than 15 days in a calendar year or to any room, lodging, or
15 accommodation supplied to the same person for a period of 90 or more
16 continuous days.

17 As used in this subdivision, the term 'persons who rent to transients'
18 means (i) owners of private residences and cottages who rent to
19 transients and (ii) rental agents, including 'real estate brokers' as
20 defined in G.S. 93A-2, who rent private residences and cottages to
21 transients on behalf of the owners. If a rental agent is liable for the tax
22 imposed by this subdivision, the owner is not liable.

- 23 (4) Every person, firm or corporation engaged in the business of operating
24 a pressing club, cleaning plant, hat-blocking establishment, dry-
25 cleaning plant, laundry (including wet or damp wash laundries and
26 businesses known as launderettes and launderalls), or any similar
27 business, or engaged in the business of renting clean linen or towels or
28 wearing apparel, or any similar business, or engaged in the business of
29 soliciting cleaning, pressing, hat blocking, laundering or rental
30 business for any of the aforementioned businesses, shall be considered
31 'retailers' for the purposes of this Article. There is hereby levied upon
32 every such person, firm or corporation a tax of three percent (3%) of
33 the gross receipts derived from services rendered in engaging in any of
34 the occupations or businesses named in this subdivision, and every
35 person, firm or corporation subject to the provisions of this subdivision
36 shall register and secure a license in the manner hereinafter provided in
37 this section, and, insofar as practicable, all other provisions of this
38 Article shall be applicable with respect to the tax herein provided for.
39 The tax imposed by this subdivision does not apply to receipts derived
40 from coin or token-operated washing machines, extractors, and dryers.
41 The taxes levied in this subdivision are additional privilege or license
42 taxes for the privilege of engaging in the occupations or businesses
43 named herein. Any person, firm or corporation engaged in cleaning,
44 pressing, hat blocking, laundering for, or supplying clean linen or

1 towels or wearing apparel to, another person, firm or corporation
2 engaged in soliciting shall not be required to pay the three percent
3 (3%) tax on its gross receipts derived through such solicitor, if the
4 soliciting person, firm or corporation has registered with the
5 Department, secured the license hereinafter required and has paid the
6 tax at the rate of three percent (3%) of the total gross receipts derived
7 from business solicited.

8 (4a) At the rate of three percent (3%) of the gross receipts derived by a
9 utility from sales of electricity, piped natural gas, or local
10 telecommunications service as defined by G.S. 105-120(e). A person
11 who operates a utility is considered a retailer under this Article.

12 (4b) A person who sells tangible personal property at a flea market, other
13 than his own household personal property, is considered a retailer
14 under this Article. A tax is levied on that person at the rate of three
15 percent (3%) of the sales price of each article sold by him at the flea
16 market. A person who leases or rents space at a flea market may not
17 lease or rent this space unless the retailer requesting to rent or lease the
18 space furnishes evidence that he has obtained the license required by
19 this Article. A person who leases or rents space at a flea market shall
20 keep records of retailers to whom he has leased or rented space at the
21 market. As used in this subdivision, the term 'flea market' means a
22 place where space is rented to a person for the purpose of selling
23 tangible personal property.

24 (4c) At the rate of six and one-half percent (6 1/2%) of the gross receipts
25 derived from providing toll telecommunications services or private
26 telecommunications services as defined by G.S. 105-120(e) that both
27 originate from and terminate in the State and are not subject to the
28 privilege tax under G.S. 105-120. Any business entity that provides
29 the service outlined above is considered a retailer under this Article.
30 This subdivision does not apply to telephone membership corporations
31 as described in Chapter 117 of the General Statutes."

32 Sec. 2. This act becomes effective July 1, 1991, and applies to sales made on
33 or after that date.