

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1241

Short Title: Bundled Transactions Sales Tax.

(Public)

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Sponsors: Representative Shubert.

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Referred to: Finance.

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May 20, 1996

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE SALES AND USE TAX LAW THAT APPLIES TO  
BUNDLED TRANSACTIONS.

The General Assembly of North Carolina enacts:

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

**"§ 105-164.12B. Bundled transactions.**

(a) Bundled Transaction Defined. – A bundled transaction is a transaction in  
which all of the following conditions are met:

(1) A seller transfers an item of tangible personal property to a consumer on  
the condition that the consumer enter into an agreement to purchase  
services on an ongoing basis for a minimum period of at least six  
months.

(2) The agreement requires the consumer to pay a cancellation fee to the  
service provider if the consumer cancels the contract for services within  
the minimum period.

(3) For the item transferred, the seller:

a. Does not charge the consumer;

b. Charges the consumer a price below the cost price the seller paid  
for the item; or

1           c.       Rebates to the consumer part or all of the retail price at which the  
2                    item would sell if no agreement for services were entered into.

3       (b)       Bundled Transaction Is a Sale; Sales Price. – If the seller transfers an item of  
4 tangible personal property as part of a bundled transaction, a sale has occurred and the  
5 sales price is presumed to be the retail price at which the item would sell if no agreement  
6 for services were entered into. Part of this price may be paid by the consumer at the time  
7 of the transaction; the remainder of the price is considered paid as part of the price to be  
8 paid for the services contracted for.

9       (c)       Sales Tax if Services Also Taxed. – If the services for which the consumer was  
10 required to contract are subject to a sales tax, a gross receipts tax, or both at a combined  
11 rate equal to or greater than the combined State and local general rate of sales and use  
12 tax, then no additional sales tax is due for the item transferred beyond the sales tax paid  
13 on any payment the consumer made for the item at the time of the transfer. However, if  
14 the consumer cancels the contract for services before the expiration of the minimum  
15 period, sales tax applies to the cancellation fee paid by the consumer.

16       (d)       Sales Tax if Services Not Taxed. – If the services for which the consumer was  
17 required to contract are not subject to a State sales or gross receipts tax at a rate equal to  
18 or greater than the combined State and local general rate of sales and use tax, then sales  
19 tax is due at the time of the transfer on the remainder of the sales price not paid at that  
20 time, but only to the extent the remaining sales price does not exceed that portion of the  
21 price to be paid for the services contracted for that is not subject to a State sales or gross  
22 receipts tax.

23       (e)       Determination of Cost Price. – For the purpose of this section, the cost price a  
24 seller paid for an item is presumed to be no greater than the price the seller paid for the  
25 same model within 12 months before the bundled transaction, as shown on the seller's  
26 invoices."

27           Sec. 2. This act becomes effective on the first day of the third month following  
28 its ratification and applies to sales made on or after that date.