

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1241
Committee Substitute Favorable 6/13/96

Short Title: Bundled Transactions Sales Tax.

(Public)

Sponsors:

Referred to:

May 20, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE SALES AND USE TAX LAW THAT APPLIES TO
3 BUNDLED TRANSACTIONS.

4 The General Assembly of North Carolina enacts:

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

7 "**§ 105-164.12B. Bundled transactions.**

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

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

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

17 (3) For the item transferred, the seller:

18 a. Does not charge the consumer; or

1 b. Charges the consumer a price that, after any discount or rebate
2 the seller gives the consumer, is below the cost price the seller
3 paid for the item.

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

11 (c) No Additional Sales Tax if Services Taxed. – If the services for which the
12 consumer was required to contract are subject to services taxes at a combined rate equal
13 to or greater than the combined State and local general rate of sales and use tax, then no
14 additional sales tax is due on the transfer. However, if the consumer cancels the contract
15 for services before the expiration of the minimum period, sales tax applies to the
16 cancellation fee paid by the consumer.

17 (d) Additional Sales Tax if Services Not Taxed. – If the services for which the
18 consumer was required to contract are not subject to services taxes at a combined rate
19 equal to or greater than the combined State and local general rate of sales and use tax,
20 then sales tax is due at the time of the transfer on the remainder of the sales price not paid
21 at that time.

22 (e) Services Taxes Defined. – For the purpose of this section, the term 'services
23 taxes' means any combination of State franchise tax on gross receipts tax, State sales tax,
24 or local sales tax levied on the sale of or gross receipts from the services.

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

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