

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1322*

Short Title: Lab Testing Facility Sales Tax.

(Public)

Sponsors: Representatives Cole; Allen, Miller, and Allred.

Referred to: Finance.

April 23, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE SALES TAX REDUCTIONS FOR CERTAIN CLINICAL LABORATORY TESTING COMPANIES.

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:

"§ 105-164.12C. Major clinical laboratory testing companies.

(a) Definitions. – The following definitions apply in this Article:

(1) Clinical laboratory testing company. – A person whose primary business is providing professional clinical laboratory tests, analyses, diagnoses, and services and clinical laboratory occupational testing services.

(2) Major clinical laboratory testing company. – A clinical laboratory testing company that meets all of the following conditions:

a. The company's facilities in this State are designed to perform more than 1,000 different types of clinical laboratory tests or procedures.

b. The Secretary of Commerce has certified that the company will, by the end of the five-year period beginning June 1, 1999, have

1 invested at least one hundred million dollars (\$100,000,000) in
2 capital investment placed in service at its facilities in this State.

3 c. The Secretary of Commerce has certified that the company will,
4 by the end of the three-year period beginning June 1, 1999, have
5 created at least 200 new, full-time, permanent professional
6 laboratory jobs at its facilities in this State.

7 (b) Tax Preferences. – A major clinical laboratory testing company qualifies for
8 tax reductions under G.S. 105-164.4A and G.S. 105-164.13.

9 (c) Forfeiture. – If a major clinical laboratory testing company fails to make the
10 required minimum investment or create the required number of new jobs within the
11 period certified by the Secretary of Commerce under this section, the company no longer
12 qualifies for the applicable tax reductions provided in this Article and forfeits all tax
13 reductions previously received under this Article. Forfeiture does not occur, however, if
14 the failure was due to events beyond the company's control. Upon forfeiture of tax
15 reductions previously received, the company is liable under this Article for a tax equal to
16 the amount of all past taxes previously avoided as a result of the tax reductions received
17 plus interest at the rate established in G.S. 105-241.1(i), computed from the date the taxes
18 would have been due if the tax reductions had not been received. The tax and interest are
19 due 30 days after the date of the forfeiture. A major clinical laboratory testing company
20 that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

21 Section 2.(a) G.S. 105-164.4(a)(1d)a. through k. are recodified as G.S. 105-
22 164.4A.

23 Section 2.(b) G.S. 105-164.4(a)(1d), as amended by this section, reads as
24 rewritten:

25 "(1d) The rate of one percent (1%) applies to the sales price of the
26 ~~following articles.~~ articles listed in G.S. 105-164.4A. The maximum
27 tax is eighty dollars (\$80.00) per article."

28 Section 2.(c) G.S. 105-164.4A, as recodified by this section, reads as rewritten:

29 "**§ 105-164.4A. Articles taxed at one percent (1%), eighty dollars (\$80.00).**

30 The following articles are taxable under G.S. 105-164.4(a)(1d):

31 ⌘(1) Farm machinery. – Sales to a farmer of machines and machinery,
32 and parts and accessories for these machines and machinery, for use
33 by the farmer in the planting, cultivating, harvesting, or curing of
34 farm crops or in the production of dairy products, eggs, or animals.
35 A "farmer" includes a dairy operator, a poultry farmer, an egg
36 producer, a livestock farmer, a farmer of crops, and a farmer of an
37 aquatic species, as defined in G.S. 106-758. Items that are exempt
38 from tax under G.S. 105-164.13(4c) are not subject to tax under this
39 section. G.S. 105-164.4.

40 The term "machines and machinery" as used in this subdivision is
41 defined as follows:

42 The term shall include all vehicular implements, designed and sold
43 for any use defined in this subdivision, which are operated, drawn or

1 propelled by motor or animal power, but shall not include vehicular
2 implements which are operated wholly by hand, and shall not include
3 any motor vehicles required to be registered under Chapter 20 of the
4 General Statutes.

5 The term shall include all nonvehicular implements and mechanical
6 devices designed and sold for any use defined in this subdivision, which
7 have moving parts, or which require the use of any motor or animal
8 power, fuel, or electricity in their operation but shall not include
9 nonvehicular implements which have no moving parts and are operated
10 wholly by hand.

11 The term shall also include metal flues sold for use in curing
12 tobacco, whether such flues are attached to handfired furnaces or used
13 in connection with mechanical burners.

14 ~~b.~~(2) Manufacturing machinery. – Sales of mill machinery or mill
15 machinery parts and accessories to manufacturing industries and
16 plants, and sales to contractors and subcontractors purchasing mill
17 machinery or mill machinery parts and accessories for use by them
18 in the performance of contracts with manufacturing industries and
19 plants, and sales to subcontractors purchasing mill machinery or mill
20 machinery parts and accessories for use by them in the performance
21 of contracts with general contractors who have contracts with
22 manufacturing industries and plants. As used in this paragraph, the
23 term "manufacturing industries and plants" does not include
24 delicatessens, cafes, cafeterias, restaurants, and other similar retailers
25 that are principally engaged in the retail sale of foods prepared by
26 them for consumption on or off their premises.

27 ~~e.~~(3) Telephone company property. – Sales of central office equipment
28 and switchboard and private branch exchange equipment to
29 telephone companies regularly engaged in providing telephone
30 service to subscribers on a commercial basis, and sales to these
31 companies of prewritten computer programs used in providing
32 telephone service to their subscribers.

33 ~~f.~~(4) Laundry machinery. – Sales to commercial laundries or to pressing
34 and dry cleaning establishments of machinery used in the direct
35 performance of the laundering or the pressing and cleaning service
36 and of parts and accessories thereto.

37 ~~e.~~(5) Freezer plant machinery. – Sales to freezer locker plants of
38 machinery used in the direct operation of ~~said~~ the freezer locker plant
39 and of parts and accessories thereto.

40 ~~f.~~(6) Broadcasting machinery. – Sales of broadcasting equipment and
41 parts and accessories thereto and towers to commercial radio and
42 television companies which are under the regulation and supervision
43 of the Federal Communications Commission.

1 ~~g~~(7) Tobacco equipment. – Sales to farmers of bulk tobacco barns and
2 racks and all parts and accessories thereto and similar apparatus used
3 for the curing and drying of any farm produce.

4 ~~h~~(8) Farm storage facilities. – Sales to farmers of grain, feed or soybean
5 storage facilities and accessories thereto, whether or not dryers are
6 attached, and all similar apparatus and accessories thereto for the
7 storage of grain, feed or soybeans.

8 ~~i~~(9) Farm containers. – Sales of containers to farmers or producers for
9 use in the planting, producing, harvesting, curing, marketing,
10 packaging, sale, or transporting or delivery of their products when
11 such containers do not go with and become part of the sale of their
12 products at wholesale or retail.

13 ~~j~~(10) Recycling facility equipment. – Sales to a major recycling facility of the
14 following tangible personal property for use in connection with the
15 facility: cranes, structural steel crane support systems, foundations
16 related to the cranes and support systems, port and dock facilities, rail
17 equipment, and material handling equipment.

18 ~~k~~(11) **(Effective January 1, 2001)** Air courier equipment. – Sales of the
19 following items to an interstate air courier for use at its hub: materials
20 handling equipment, racking systems, and related parts and accessories,
21 for the storage or handling and movement of tangible personal property
22 at an airport or in a warehouse or distribution facility."

23 Section 3. G.S. 105-164.4A, as recodified by this act, is amended by adding a
24 new subdivision to read:

25 "~~(12)~~ Major clinical laboratory testing equipment. – Sales to a major
26 clinical laboratory testing company of the following items for use in
27 its clinical laboratory testing business: machinery, instruments,
28 equipment, parts and accessories to these items, and computers used
29 directly in the business."

30 Section 4. G.S. 105-164.13 is amended by adding a new subdivision to read:

31 "~~(46)~~ Sales to a major clinical laboratory testing company of the following
32 items that are not capitalized by the company and are used or
33 consumed by it directly in its clinical laboratory testing business:
34 medical products, medical accessories, reagents, chemicals, test kits,
35 consumable lab supplies, and other similar tangible personal
36 property not including machinery and equipment."

37 Section 5. Section 2 of this act is effective when it becomes law. The
38 remainder of this act becomes effective July 1, 1999, and applies to sales made on or after
39 that date.