

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 1630

Short Title: Incentives for Border/Low-Tier Counties. (Public)

Sponsors: Representatives Goodwin; B. Allen, Bordsen, England, Gibson, Insko, Jones, Lucas, Parmon, Wainwright, and Yongue.

Referred to: Finance.

May 24, 2004

A BILL TO BE ENTITLED

AN ACT TO ADDRESS THE COMPETITIVENESS OF CERTAIN NORTH CAROLINA BORDER COUNTIES AND LOW-TIER COUNTIES BY PROVIDING AN INCENTIVE FOR INVESTMENT IN REAL PROPERTY IN ORDER TO MATCH AN INCENTIVE PROVIDED IN SOUTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.14 is amended by adding a new subsection to read:

"(j) Low Enterprise Tier Businesses. – Eligible taxpayers are allowed an annual refund of sales and use taxes paid under this Article as provided in this subsection. Notwithstanding any other provision of law, the refund allowed in this subsection does not apply to general local sales and use taxes levied under Article 5 of this Chapter, Chapter 1069 of the 1967 Session Laws, or any other act.

(1) Refunds. – An eligible taxpayer is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the taxpayer located in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3. Liability incurred indirectly by the taxpayer for sales and use taxes on these items is considered tax paid by the taxpayer. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. – A taxpayer is eligible for the refund provided in this subsection if it is engaged primarily in one of the businesses listed in G.S. 105-129.4(a) in an enterprise tier one area or an enterprise tier two area.

1 (3) Use of refund. – Within three years after receiving a refund under this
2 subsection, a taxpayer must use the amount refunded for site
3 development, infrastructure, or other real property improvements in an
4 enterprise tier one area or an enterprise tier two area. If the taxpayer
5 does not make the required investment within this period, it loses its
6 eligibility and forfeits the amount of the refund received under this
7 subsection that was not invested as required. Upon forfeiture, the
8 taxpayer is liable for tax under this Article equal to the amount of the
9 forfeited refund plus interest at the rate established in
10 G.S. 105-241.1(i), computed from the date the taxes would have been
11 due if the tax refund had not been received. The tax and interest are
12 due 30 days after the date of the forfeiture. A taxpayer that fails to pay
13 the tax and interest is subject to the penalties provided in
14 G.S. 105-236.

15 A taxpayer that receives a refund under this subsection must, each
16 year until the investment requirement of this subdivision has been
17 satisfied, file with the Department of Commerce an annual financial
18 statement, audited in accordance with generally accepted accounting
19 principles, demonstrating that the refund received under this
20 subsection has not been used for a purpose inconsistent with the
21 requirements of this subdivision. If the Secretary of Commerce
22 determines that the taxpayer has used any of the credit for a purpose
23 that is inconsistent with the requirements of this subdivision, the
24 Secretary of Commerce shall certify the amount so used to the
25 Secretary of Revenue."

26 **SECTION 2.** This act becomes effective January 1, 2005, and applies to
27 taxes paid on or after that date.