

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 1991

Short Title: Merchant's Discount.

(Public)

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Sponsors: Representatives Moore, Blackwood, Brubaker, Allred (Primary Sponsors); Avila, Brown, Clary, Cleveland, Daughtridge, Daughtry, Dockham, Dollar, Frye, Grady, Hilton, Holmes, Howard, Hurley, Johnson, Justice, Justus, Killian, Kiser, Lewis, McComas, McElraft, McGee, Neumann, Pate, Ray, Setzer, Stam, Starnes, Steen, Stiller, Walker, West, and Wiley.

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Referred to: Commerce, Small Business and Entrepreneurship, if favorable, Finance.

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May 10, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A SALES TAX DISCOUNT FOR MERCHANTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-164.21 is reenacted and rewritten to read:

**"§ 105-164.21. Merchant's discount.**

(a) Amount. – Except as provided in subsection (b) of this section, a retailer who pays the retail sales or use tax imposed by this Article may deduct from the amount of the tax paid a discount of one percent (1%).

(b) Restrictions. – The Secretary may deny a retailer the benefit of this section for failure to pay the full tax when due as well as in cases of fraud, evasion, or failure to keep accurate and clear records as required by this Article. In order to receive the discount provided in this section, a retailer must deduct the discount when it remits the tax to the Department. A retailer who sells electricity or telecommunications services may not deduct the discount provided in this section on sales of electricity or telecommunications services."

**SECTION 2.** G.S. 105-164.21(a) reads as rewritten:

"(a) Amount. – Except as provided in subsection (b) of this section, a retailer who pays the retail sales or use tax imposed by this Article may deduct from the amount of the tax paid a discount of ~~one percent (1%)~~ two percent (2%)."

**SECTION 3.** G.S. 105-164.21(a) reads as rewritten:

"(a) Amount. – Except as provided in subsection (b) of this section, a retailer who pays the retail sales or use tax imposed by this Article may deduct from the amount of the tax paid a discount of ~~two percent (2%)~~ three percent (3%)."

**SECTION 4.** G.S. 105-474 reads as rewritten:

1 "§ 105-474. ~~Definitions; construction of Article; remedies and~~  
2 ~~penalties.~~Administration and construction of Article.

3 This Article shall be administered consistently with Article 5 of this Chapter to the  
4 extent practicable. The merchant's discount provided in G.S. 105-164.21 does not apply  
5 to this Article. The remaining provisions of Articles 5 and 9 of this Chapter apply to this  
6 Article to the extent they are consistent with this Article.

7 ~~The definitions set forth in G.S. 105-164.3 shall apply to this Article insofar as such~~  
8 ~~definitions are not inconsistent with the provisions of this Article, and all other~~  
9 ~~provisions of Article 5 and of Article 9 of Subchapter 1, Chapter 105 of the General~~  
10 ~~Statutes, as the same relate to the North Carolina Sales and Use Tax Act shall be~~  
11 ~~applicable to this Article unless such provisions are inconsistent with the provisions of~~  
12 ~~this Article. The administrative interpretations made by the Secretary of Revenue with~~  
13 ~~respect to the North Carolina Sales and Use Tax Act, to the extent not inconsistent with~~  
14 ~~the provisions of this Article, may be uniformly applied in the construction and~~  
15 ~~interpretation of this Article. It is the intention of this Article that the provisions of this~~  
16 ~~Article and the provisions of the North Carolina Sales and Use Tax Act, insofar as~~  
17 ~~practicable, shall be harmonized.~~

18 ~~The provisions with respect to remedies and penalties applicable to the North~~  
19 ~~Carolina Sales and Use Tax Act, as contained in Article 5 and Article 9, Subchapter 1,~~  
20 ~~Chapter 105 of the General Statutes, shall be applicable in like manner to the tax~~  
21 ~~authorized to be levied and collected under this Article, to the extent that the same are~~  
22 ~~not inconsistent with the provisions of this Article."~~

23 **SECTION 5.** The first sentence of Section 10 of Chapter 1096 of the 1967  
24 Session Laws is amended by adding after the word 'Act' the phrase ', other than  
25 G.S. 105-164.21,'.

26 **SECTION 6.** G.S. 105-187.5(d) reads as rewritten:

27 "(d) Administration. – The Division shall notify the Secretary of Revenue of a  
28 retailer who makes the election under this section. A retailer who makes this election  
29 shall report and remit to the Secretary the tax on the gross receipts of the lease or rental  
30 of the motor vehicle. The Secretary shall administer the tax imposed by this section on  
31 gross receipts in the same manner as the tax levied under G.S. 105-164.4(a)(2). The  
32 administrative provisions and powers of the Secretary that apply to the tax levied under  
33 G.S. 105-164.4(a)(2) apply to the tax imposed by this section. The merchant's discount  
34 provided in G.S. 105-164.21 does not apply to this section.~~In addition, the~~

35 The Division may request the Secretary to audit a retailer who elects to pay tax on  
36 gross receipts under this section. When the Secretary conducts an audit at the request of  
37 the Division, the Division shall reimburse the Secretary for the cost of the audit, as  
38 determined by the Secretary. In conducting an audit of a retailer under this section, the  
39 Secretary may audit any sales of motor vehicles made by the retailer."

40 **SECTION 7.** G.S. 105-187.17 reads as rewritten:

41 "**§ 105-187.17. Administration.**

42 (a) Retail Sale or Use. – The privilege tax this Article imposes on a tire retailer  
43 who sells new tires at retail is an additional State sales tax and the excise tax this Article  
44 imposes on the storage, use, or consumption of a new tire in this State is an additional

1 State use tax. Except as otherwise provided in this Article, these taxes shall be collected  
2 and administered in the same manner as the State sales and use taxes imposed by Article  
3 5 of this Chapter. As under Article 5 of this Chapter, the additional State sales tax paid  
4 when a new tire is sold is a credit against the additional State use tax imposed on the  
5 storage, use, or consumption of the same tire.

6 (b) Wholesale Sale or Use. – The privilege tax this Article imposes on a tire  
7 retailer and on a tire wholesale merchant who sell new tires for placement in this State  
8 on a vehicle offered for sale, lease, or rental is a tax on the wholesale sale of the tires.  
9 This tax and the excise tax this Article imposes on a new tire purchased for placement in  
10 this State on a vehicle offered for sale, lease, or rental shall, to the extent practical, be  
11 collected and administered as if they were additional State sales and use taxes. The  
12 privilege tax paid when a new tire is sold for placement on a vehicle offered for sale,  
13 lease, or rental is a credit against the use tax imposed on the purchase of the same tire  
14 for placement in this State on a vehicle offered for sale, lease, or rental.

15 (c) Discount. – The merchant's discount provided in G.S. 105-164.21 does not  
16 apply to this Article."

17 **SECTION 8.** G.S. 105-187.22 reads as rewritten:

18 **"§ 105-187.22. Administration.**

19 The privilege tax this Article imposes on a white goods retailer is an additional State  
20 sales tax and the excise tax this Article imposes on the storage, use, or consumption of a  
21 new white good in this State is an additional State use tax. Except as otherwise provided  
22 in this Article, these taxes shall be collected and administered in the same manner as the  
23 State sales and use taxes imposed by Article 5 of this Chapter. As under Article 5 of this  
24 Chapter, the additional State sales tax paid when a new white good is sold at retail is a  
25 credit against the additional State use tax imposed on the storage, use, or consumption  
26 of the same white good. The merchant's discount provided in G.S. 105-164.21 does not  
27 apply to this Article."

28 **SECTION 9.** G.S. 105-187.32 reads as rewritten:

29 **"§ 105-187.32. Administration.**

30 The privilege tax this Article imposes on a dry-cleaning solvent retailer is an  
31 additional State sales tax, and the excise tax this Article imposes on the storage, use, or  
32 consumption of dry-cleaning solvent by a dry-cleaning facility in this State is an  
33 additional State use tax. Except as otherwise provided in this Article these taxes shall be  
34 collected and administered in the same manner as the State sales and use taxes imposed  
35 by Article 5 of this Chapter. The merchant's discount provided in G.S. 105-164.21 does  
36 not apply to this Article. As under Article 5 of this Chapter, the additional State sales  
37 tax paid when dry-cleaning solvent is sold at retail is a credit against the additional State  
38 use tax imposed on the storage, use, or consumption of the same dry-cleaning solvent."

39 **SECTION 10.** Section 1 of this act becomes effective January 1, 2008.  
40 Sections 4 through 9 apply to returns filed on or after that date. Section 2 of this act  
41 becomes effective January 1, 2009. Section 3 of this act becomes effective January 1,  
42 2010.