

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS65190-MC-102 (3/13)

Short Title: Sales Tax Adjustment Factor Correction.

(Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CORRECT AN ERROR IN THE CALCULATION OF THE AMOUNT
OF SALES TAX REVENUE TO BE ALLOCATED AMONG THE COUNTIES.

Whereas, counties did not collect local sales taxes when goods were delivered outside of the county prior to 1987; and

Whereas, the General Assembly addressed nonpayment of local sales taxes by purchasers on goods delivered outside of the county in 1987 by defining the point of sale of a transaction as the location of the retailer's place of business; and

Whereas, the General Assembly, in 1987, as a further effort to address nonpayment of local sales taxes by purchasers on goods delivered outside of the county, made retailers responsible for collecting taxes on all goods sold in their county without regard to whether the destination of the goods was inside or outside of the county; and

Whereas, the General Assembly, in alleviating the issue of nonpayment of local sales taxes by purchasers on goods delivered outside of the county, enacted an adjustment factor as a method of holding counties harmless and offsetting the fiscal impact from the changes in the local sales tax laws; and

Whereas, the General Assembly enacted legislation in 2000 and 2001 that revised the definition of point of sale from the location of the retailer's place of business to the location where the goods were delivered; and

Whereas, these legislative changes reversed the law enacted in 1987 and reversed the need for the adjustment factor; and

Whereas, the adjustment factor does not function with the revised definition of point of sale as it was intended to function; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-486 reads as rewritten:

"§ 105-486. Distribution of additional taxes.

1 (a) County Allocation. – The Secretary shall, on a monthly basis, allocate the net
 2 proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this
 3 Article to the taxing counties on a per capita basis according to the most recent annual
 4 population estimates certified to the Secretary by the State Budget Officer.

5 (b) ~~Adjustment.~~—~~The Secretary shall then adjust the amount allocated to each~~
 6 ~~county under subsection (a) by multiplying the amount by the appropriate adjustment~~
 7 ~~factor set out in the table below. If, after applying the adjustment factors, the resulting~~
 8 ~~total of the amounts allocated is greater or lesser than the net proceeds to be distributed,~~
 9 ~~the amount allocated to each county shall be proportionally adjusted to eliminate the~~
 10 ~~excess or shortage.~~

11 County	Adjustment Factor
12 Dare	1.49
13 Brunswick	1.17
14 Orange	1.15
15 Carteret and Durham	1.14
16 Avery	1.12
17 Moore	1.11
18 Transylvania	1.10
19 Chowan, McDowell, and Richmond	1.09
20 Pitt and New Hanover	1.07
21 Beaufort, Perquimans, Buncombe, and Watauga	1.06
22 Cabarrus, Jackson, and Surry	1.05
23 Alleghany, Bladen, Robeson, Washington, Craven, Henderson, 24 Onslow, and Vance	1.04
25 Gaston, Granville, and Martin	1.03
26 Alamance, Burke, Caldwell, Chatham, Duplin, Edgecombe, 27 Haywood, Swain, and Wilkes	1.02
28 Hertford, Union, Stokes, Yancey, Halifax, Rockingham, and 29 Cleveland	1.01
30 Alexander, Anson, Johnston, Northampton, Pasquotank, Person, 31 Polk, and Yadkin	1.00
32 Catawba, Harnett, Iredell, Pamlico, Pender, Randolph, Stanly, and 33 Tyrrell	0.99
34 Cherokee, Cumberland, Davidson, Graham, Hyde, Macon, 35 Rutherford, Scotland, and Wilson	0.98
36 Ashe, Bertie, Franklin, Hoke, Lincoln, Montgomery, and Warren	0.97
37 Wayne, Clay, Madison, Sampson, Wake, Lee, and Forsyth	0.96
38 Caswell, Gates, Mitchell, and Greene	0.95
39 Currituck and Guilford	0.94
40 Davie and Nash	0.93
41 Rowan and Camden	0.92
42 Jones	0.90
43 Mecklenburg	0.89
44 Lenoir	0.88

1 Columbus

0.81

2 (c) Distribution Between Counties and Cities. – The amount allocated to each
3 taxing county shall then be divided among the county and its municipalities in
4 accordance with the method by which the one percent (1%) sales and use taxes levied in
5 that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session
6 Laws are distributed.

7 (d) No municipality may receive any funds under this section if it was
8 incorporated with an effective date of on or after January 1, 2000, and is disqualified
9 from receiving funds under G.S. 136-41.2. No municipality may receive any funds
10 under this section, incorporated with an effective date on or after January 1, 2000,
11 unless a majority of the mileage of its streets are open to the public. The previous
12 sentence becomes effective with respect to distribution of funds on or after July 1,
13 1999."

14 **SECTION 2.** G.S. 105-469 reads as rewritten:

15 **"§ 105-469. Secretary to collect and administer local sales and use tax.**

16 (a) The Secretary shall collect and administer a tax levied by a county pursuant
17 to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are
18 administered as if they were levied by the State under Article 5 of this Chapter. The
19 Secretary must, on a monthly basis, distribute local taxes levied on food to the taxing
20 counties as follows:

21 (1) The Secretary must allocate one-half of the net proceeds on a per
22 capita basis according to the most recent annual population estimates
23 certified to the Secretary by the State Budget Officer. ~~The Secretary~~
24 ~~must then adjust the amount allocated to each county as provided in~~
25 ~~G.S. 105-486(b).~~ The Secretary must include one-half of the amount
26 allocated under this subdivision in the distribution made under Article
27 40 of this Chapter and must include the remaining one-half in the
28 distribution made under Article 42 of this Chapter.

29 (2) The Secretary must allocate the remaining net proceeds
30 proportionately to each taxing county based upon the amount of sales
31 tax on food collected in the taxing county in the 1997-1998 fiscal year
32 under Article 39 of this Chapter or under Chapter 1096 of the 1967
33 Session Laws relative to the total amount of sales tax on food collected
34 in all taxing counties in the 1997-1998 fiscal year under Article 39 of
35 this Chapter and under Chapter 1096 of the 1967 Session Laws. The
36 Secretary must include the amount allocated under this subdivision in
37 the distribution made under Article 39 of this Chapter.

38 (b) The Secretary shall require retailers who collect use tax on sales to North
39 Carolina residents to ascertain the county of residence of each buyer and provide that
40 information to the Secretary along with any other information necessary for the
41 Secretary to allocate the use tax proceeds to the correct taxing county."

42 **SECTION 3.** G.S. 105-501 reads as rewritten:

43 **"§ 105-501. Distribution of additional taxes.**

1 The Secretary shall, on a monthly basis, allocate the net proceeds of the additional
2 one-half percent (1/2%) sales and use taxes levied under this Article to the taxing
3 counties on a per capita basis according to the most recent annual population estimates
4 certified to the Secretary by the State Budget Officer. ~~The Secretary shall then adjust the~~
5 ~~amount allocated to each county as provided in G.S. 105-486(b).~~ The amount allocated
6 to each taxing county shall then be divided among the county and the municipalities
7 located in the county in accordance with the method by which the one percent (1%)
8 sales and use taxes levied in that county pursuant to Article 39 of this Chapter or
9 Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive
10 any funds under this section if it was incorporated with an effective date of on or after
11 January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No
12 municipality may receive any funds under this section, incorporated with an effective
13 date on or after January 1, 2000, unless a majority of the mileage of its streets are open
14 to the public. The previous sentence becomes effective with respect to distribution of
15 funds on or after July 1, 1999.

16 In determining the net proceeds of the tax to be distributed, the Secretary shall
17 deduct from the collections to be allocated an amount equal to one-twelfth of the costs
18 during the preceding fiscal year of:

- 19 (1) The Department of Revenue in performing the duties imposed by
20 G.S. 105-275.2 and by Article 15 of this Chapter.
- 21 (1a) Seventy percent (70%) of the expenses of the Department of Revenue
22 in performing the duties imposed by Article 2D of this Chapter.
- 23 (2) The Property Tax Commission.
- 24 (3) The School of Government at the University of North Carolina at
25 Chapel Hill in operating a training program in property tax appraisal
26 and assessment.
- 27 (4) The personnel and operations provided by the Department of State
28 Treasurer for the Local Government Commission."

29 **SECTION 4.** G.S. 105-520 reads as rewritten:

30 **"§ 105-520. Distribution of taxes.**

31 (a) Point of Origin. – The Secretary must, on a monthly basis, allocate to each
32 taxing county one-half of the net proceeds of the tax collected in that county under this
33 Article. If the Secretary collects taxes under this Article in a month and the taxes cannot
34 be identified as being attributable to a particular taxing county, the Secretary must
35 allocate one-half of the net proceeds of these taxes among the taxing counties in
36 proportion to the amount of taxes collected in each county under this Article in that
37 month.

38 (b) Per Capita. – The Secretary must, on a monthly basis, allocate the remaining
39 net proceeds of the tax collected under this Article among the taxing counties on a per
40 capita basis according to the most recent annual population estimates certified to the
41 Secretary by the State Budget Officer. ~~The Secretary must then adjust the amount~~
42 ~~allocated to each county as provided in G.S. 105-486(b).~~

43 (c) Distribution Between Counties and Cities. – The Secretary must divide and
44 distribute the funds allocated under this section each month between each taxing county

1 and the municipalities located in the county in accordance with the method by which the
2 one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this
3 Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may
4 receive any funds under this subsection for a month if it is not entitled to a distribution
5 under G.S. 105-501 for the same month."

6 **SECTION 5.** This act becomes effective July 1, 2007, and applies to sales
7 made on or after that date.