

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

HOUSE BILL 2530
RATIFIED BILL

AN ACT TO MAKE ADMINISTRATIVE CHANGES TO THE SOLID WASTE
DISPOSAL TAX AND TO ALLOW A REFUND FOR ALL UNSALABLE
OTHER TOBACCO PRODUCTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-187.62 reads as rewritten:

"§ 105-187.62. Administration.

(a) Collection. – The owner or operator of each landfill and transfer station permitted pursuant to Article 9 of Chapter 130A of the General Statutes ~~shall~~ must maintain scales designed to determine waste tonnage that are approved by the Department of Agriculture and Consumer Services. Each owner or operator ~~shall~~ must record waste tonnage ~~at the time the waste is received~~ disposed of in a landfill or transferred to a station for disposal outside the State and must maintain other records as required by the Secretary of Revenue. An owner or operator may add the amount of the solid waste disposal tax due to the charges made to a third party for disposal of municipal solid waste or construction and demolition debris. The tax imposed by this Article is payable and a return is due to be filed in the same manner as required under G.S. 105-164.16 for sales and use tax.

(b) Payment. – The tax imposed by this Article is payable when a return is due. A return and payment are due on a quarterly basis. A quarterly return covers a calendar quarter and is due by the last day of the month following the end of the quarter.

(c) Bad Debt Deduction. – In the event that an owner or operator pays the tax on tonnage received from a customer and the account of that customer is found to be worthless and charged off for income tax purposes, the owner or operator may recover the tax paid on the tonnage it received but for which it was never compensated. The tax shall be recovered by reducing the overall tonnage on which the owner or operator pays tax in a calendar quarter by the tonnage for which it was never compensated from the worthless account. A local government that has paid tax on an account that is subsequently found to be worthless shall recover the tax paid in the same manner, if it meets all the conditions for recovery that would apply if the local government were subject to income tax. If the owner or operator subsequently collects on an account that has been declared worthless, any tax recovered must be repaid in the next calendar quarter."

SECTION 2. G.S. 105-187.63 reads as rewritten:

"§ 105-187.63. Use of tax proceeds.

From the taxes received pursuant to this Article, the Secretary may retain the costs of collection, not to exceed two hundred twenty-five thousand dollars (\$225,000) a year, as reimbursement to the Department. The Secretary ~~shall~~ must credit or distribute taxes received pursuant to this Article, less the cost of collection, on a quarterly basis as follows:

- (1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.
- (2) ~~Eighteen and seventy five one hundredths percent (18.75%) to cities in the State on a per capita basis and eighteen and seventy five one hundredths percent (18.75%)~~ Thirty-seven and one-half percent

(37.5%) to cities and counties in the State on a per capita basis, using the most recent annual estimate of population certified by the State Budget Officer. One-half of this amount must be distributed to cities, and one-half of this amount must be distributed to counties. For purposes of this subdivision, persons who reside within a city shall not be counted in the population of the county or counties in which the city is located. distribution, the population of a county does not include the population of a city located in the county.

A city or county is excluded from the distribution under this subdivision if it does not provide solid waste management programs and services and is not responsible by contract for payment for these programs and services, unless it is served by a regional solid waste management authority established under Article 22 of Chapter 153A of the General Statutes. The Department of Environment and Natural Resources must provide the Secretary with a list of the cities and counties that are excluded under this subdivision. The list must be provided by May 15 of each year and applies to distributions made in the fiscal year that begins on July 1 of that year.

Funds distributed under this subdivision shall must be used by a unit of local government city or county solely for solid waste management programs and services. A city or county that receives funds under this subdivision and is served by a regional solid waste management authority must forward the amount it receives to that authority.

- (3) Twelve and one-half percent (12.5%) to the Solid Waste Management Trust Fund established by G.S. 130A-309.12."

SECTION 3. Notwithstanding G.S. 105-187.63(2), as amended by this act, the Department of Environment and Natural Resources must provide a list to the Secretary of Revenue of the cities and counties that are excluded from the distribution under that subdivision by September 15, 2008. The list applies to distributions made in fiscal year 2008-2009.

SECTION 4. G.S. 105-113.39 reads as rewritten:

"§ 105-113.39. Discount; refund.

(a) Discount. – A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report under G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers ~~losses due to damage to tobacco products,~~ expenses incurred in preparing the records and reports required by this Part, Part and the expense of furnishing a bond.

(b) Refund. – A wholesale dealer or retail dealer who is primarily liable under ~~G.S. 150-113.35(b)~~ G.S. 105-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or otherwise unsalable ~~cigars-tobacco products~~ upon which the tax has been paid may return the ~~cigarstobacco products~~ to the manufacturer and apply to the Secretary for refund of the tax. The application shall be in the form prescribed by the Secretary and shall be accompanied by an affidavit from the manufacturer ~~stating the number of cigars~~ listing the tobacco products returned to the manufacturer by the applicant. The Secretary shall refund the tax paid, less the discount allowed, on the ~~unsalable cigars-listed products.~~"

SECTION 5. Section 4 of this act becomes effective October 1, 2008, and applies to products returned on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2008.

Beverly E. Perdue
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2008