

GENERAL ASSEMBLY OF NORTH CAROLINA
SECOND EXTRA SESSION 1996

S

1

SENATE BILL 16

Short Title: Bundled Transactions Sales Tax.

(Public)

Sponsors: Senator Hoyle.

Referred to: Finance.

July 9, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE SALES AND USE TAX LAW THAT APPLIES TO
3 BUNDLED TRANSACTIONS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article 5 of Chapter 105 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 105-164.12B. Bundled transactions.**

8 (a) Bundled Transaction Defined. – A bundled transaction is a transaction in
9 which all of the following conditions are met:

10 (1) A seller transfers an item of tangible personal property to a consumer
11 on the condition that the consumer enter into an agreement to purchase
12 services on an ongoing basis for a minimum period of at least six
13 months.

14 (2) The agreement requires the consumer to pay a cancellation fee to the
15 service provider if the consumer cancels the contract for services
16 within the minimum period.

17 (3) For the item transferred, the seller:

18 a. Does not charge the consumer; or

19 b. Charges the consumer a price that, after any discount or rebate
20 the seller gives the consumer, is below the cost price the seller
21 paid for the item.

22 (b) Bundled Transaction Is a Sale; Sales Price. – If a seller transfers an item of
23 tangible personal property as part of a bundled transaction, a sale has occurred, and the
24 sales price of the item is presumed to be the retail price at which the item would sell if

1 no agreement for services were entered into. Part of this price may be paid by the
2 consumer at the time of the transfer; the remainder of the price is considered paid as part
3 of the price to be paid for the services contracted for. Sales tax is due on any part of the
4 price paid by the consumer at the time of the transfer.

5 (c) No Additional Sales Tax if Services Taxed. – If the services for which the
6 consumer was required to contract are subject to services taxes at a combined rate equal
7 to or greater than the combined State and local general rate of sales and use tax, then no
8 additional sales tax is due on the transfer. However, if the consumer cancels the
9 contract for services before the expiration of the minimum period, sales tax applies to
10 the cancellation fee paid by the consumer.

11 (d) Additional Sales Tax if Services Not Taxed. – If the services for which the
12 consumer was required to contract are not subject to services taxes at a combined rate
13 equal to or greater than the combined State and local general rate of sales and use tax,
14 then sales tax is due at the time of the transfer on the remainder of the sales price not
15 paid at that time.

16 (e) Services Taxes Defined. – For the purpose of this section, the term 'services
17 taxes' means any combination of State franchise tax on gross receipts tax, State sales
18 tax, or local sales tax levied on the sale of or gross receipts from the services.

19 (f) Determination of Cost Price. – For the purpose of this section, the cost price a
20 seller paid for an item is presumed to be no greater than the price the seller paid for the
21 same model within 12 months before the bundled transaction, as shown on the seller's
22 invoices."

23 Sec. 2. This act becomes effective on the first day of the third month
24 following its ratification and applies to sales made on or after that date.