

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1367

Short Title: Sales Tax Changes.

(Public)

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Sponsors: Representatives Hill, Brawley, Cansler, Capps, Gray, Neely, Ramsey, C. Wilson; Allred, Church, Davis, Shubert, Warner, and Yongue.

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Referred to: Finance.

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May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO RAISE THE SALES TAX QUARTERLY THRESHOLD AND TO  
REPEAL THE ANNUAL WHOLESALE SALES TAX LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.16(b) reads as rewritten:

"(b) General Reporting Periods. – Returns of taxpayers who are required by this subsection to report on a monthly or quarterly basis are due within 15 days after the end of each monthly or quarterly period. Returns of taxpayers who are required to report on a semimonthly basis are due within 10 days after the end of each semimonthly period.

A taxpayer who is consistently liable for less than ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) a month in State and local sales and use taxes may, with the approval of the Secretary, file a return on a quarterly basis. A taxpayer who is consistently liable for at least twenty thousand dollars (\$20,000) a month in State and local sales and use taxes shall, when directed to do so by the Secretary, file a return on a semimonthly basis. All other taxpayers shall file a return on a monthly basis. Quarterly reporting periods end on the last day of March, June, September, and December; monthly reporting periods end on the last day of the month; and semimonthly reporting periods end on the 15th of each month and the last day of each month.

1 The Secretary shall monitor the amount of tax remitted by a taxpayer and shall direct  
2 a taxpayer who consistently remits at least twenty thousand dollars (\$20,000) each month  
3 to file a return on a semimonthly basis. In determining the amount of tax due from a  
4 taxpayer for a reporting period the Secretary shall consider the total amount due from all  
5 places of business owned or operated by the same person as the amount due from that  
6 person.

7 A taxpayer who is directed to remit sales and use taxes on a semimonthly basis but  
8 who is unable to gather the information required to submit a complete return for either  
9 the first reporting period or both the first and second semimonthly reporting periods may,  
10 upon written authorization by the Secretary, file an estimated return for that first  
11 reporting period or both periods on the basis prescribed by the Secretary. Once a taxpayer  
12 is authorized to file an estimated return for the first period or both periods, the taxpayer  
13 may continue to file an estimated return for the first or both periods until the Secretary,  
14 by written notification, revokes the taxpayer's authorization to do so. When filing a return  
15 for the second semimonthly reporting period, a taxpayer who files an estimated return for  
16 the first period but not both periods shall remit the amount of tax due for both the first  
17 and second reporting periods, less the amount ~~he~~ the taxpayer remitted with ~~his~~ the  
18 estimated return.

19 A taxpayer who files an estimated return for both periods is considered to have been  
20 granted an extension for both the first and second reporting periods. Notwithstanding  
21 G.S. 105-164.19, if a taxpayer who files an estimated return for both periods files a  
22 reconciling return for those periods within ten days of the due date of the return for the  
23 second period and any underpayment of estimated taxes remitted with the reconciling  
24 return is less than ten percent (10%) of the amount of taxes due for both the first and  
25 second reporting periods, no interest shall be charged. Otherwise, a taxpayer who files an  
26 estimated return for both periods shall be charged interest at the statutory rate from the  
27 due date of the return for the first reporting period to the date the reconciling return is  
28 filed."

29 Section 2. Part 2 of Division II of Article 5 of Chapter 105 of the General  
30 Statutes is repealed.

31 Section 3. G.S. 105-164.4(c) reads as rewritten:

32 "(c) Certificate of Registration. – Any person who engages in any business for  
33 which a privilege tax is imposed by this Article shall apply for and obtain from the  
34 Secretary upon payment of fifteen dollars (\$15.00) a license to engage in and conduct the  
35 business upon the condition that the person shall pay the tax accruing to the State under  
36 this Article; the person shall thereby be duly licensed and registered to engage in the  
37 business.

38 ~~A license issued under this subsection shall be a continuing license until it becomes~~  
39 ~~void or is revoked for failure to comply with the provisions of this Article. A license~~  
40 ~~issued under this subsection to a person, other than a person who makes only wholesale~~  
41 ~~sales or only exempt sales, becomes void if, for a period of eighteen months, the license~~  
42 ~~holder files no return or files returns showing no sales.~~

1 ~~A retailer who sells tangible personal property at a flea market shall conspicuously~~  
2 ~~display the retailer's sales tax license when making sales at the flea market.~~

3 Before a person may engage in business as a retailer or a wholesale merchant, the  
4 person must obtain a certificate of registration from the Department. To obtain a  
5 certificate of registration, a person must register with the Department and pay fifteen  
6 dollars (\$15.00).

7 A certificate of registration is valid unless it is revoked for failure to comply with the  
8 provisions of this Article or becomes void. A certificate issued to a retailer becomes void  
9 if, for a period of 18 months, the retailer files no returns or files returns showing no  
10 sales."

11 Section 4. G.S. 105-164.6(f) reads as rewritten:

12 ~~"(f) Every retailer engaged in business in this State selling or delivering tangible~~  
13 ~~personal property for storage, use, or consumption in this State shall apply for and obtain~~  
14 ~~from the Secretary upon payment of fifteen dollars (\$15.00) a license to engage in and~~  
15 ~~conduct the business upon the condition that the person shall pay the tax accruing to the~~  
16 ~~State under this Article; the person shall thereby be duly licensed and registered to~~  
17 ~~engage in the business. A license issued under this subsection shall be a continuing~~  
18 ~~license until it becomes void or is revoked for failure to comply with the provisions of~~  
19 ~~this Article. A license issued under this subsection to a person, other than a person who~~  
20 ~~makes only wholesale sales or only exempt sales, becomes void if, for a period of 18~~  
21 ~~months, the license holder files no return or files returns showing no sales.~~

22 Before a person may engage in business in this State selling or delivering tangible  
23 personal property for storage, use, or consumption in this State, the person must obtain a  
24 certificate of registration from the Department. To obtain a certificate of registration, a  
25 person must register with the Department and pay fifteen dollars (\$15.00).

26 A certificate of registration is valid unless it is revoked for failure to comply with the  
27 provisions of this Article or becomes void. A certificate issued to a retailer becomes void  
28 if, for a period of 18 months, the retailer files no returns or files returns showing no  
29 sales."

30 Section 5. G.S. 105-164.4(a)(4b) reads as rewritten:

31 ~~"(4b) A person who sells tangible personal property at a flea-specialty market,~~  
32 ~~other than the person's own household personal property, is considered a~~  
33 ~~retailer under this Article. A tax at the general rate of tax is levied on~~  
34 ~~the sales price of each article sold by the retailer at the flea-specialty~~  
35 ~~market. A person who leases or rents space to others at a flea market may not~~  
36 ~~lease or rent this space unless the retailer requesting to rent or lease the space~~  
37 ~~shows the license or a copy of the license required by this Article or other~~  
38 ~~evidence of compliance. A person who leases or rents space at a flea market~~  
39 ~~shall keep records of retailers who have leased or rented space at the flea~~  
40 ~~market. As used in this subdivision, the term "flea market" means a place~~  
41 ~~where space is rented to a person for the purpose of selling tangible personal~~  
42 ~~property. The term "specialty market" has the same meaning as defined~~  
43 ~~in G.S. 66-250."~~

1 Section 6. G.S. 66-252 reads as rewritten:

2 **"§ 66-252. Display and possession of ~~retail sales tax license~~.certificate of registration.**

3 (a) When Required. – A person who sells tangible personal property at a specialty  
4 market, other than the person's own household personal property, is considered a retailer  
5 under G.S. 105-164.4 and must obtain a certificate of registration from the Department of  
6 Revenue before the person may engage in business. An itinerant merchant must keep the  
7 merchant's ~~retail sales tax license~~certificate of registration conspicuously and prominently  
8 displayed, so as to be visible for inspection by patrons of the itinerant merchant at the  
9 places or locations at which the goods are to be sold or offered for sale. A peddler must  
10 carry the peddler's ~~retail sales tax license~~certificate of registration when the peddler offers  
11 goods for sale and must produce the ~~license~~certificate upon the request of any customer,  
12 State or local revenue agent, or law enforcement agent. A specialty market vendor must  
13 keep the ~~retail sales tax license~~certificate of registration conspicuously and prominently  
14 displayed, so as to be visible for inspection by patrons of the specialty market vendor at  
15 the places or locations at which the goods are to be sold or offered for sale. A specialty  
16 market operator must have its ~~retail sales tax license~~certificate of registration, if any,  
17 available for inspection during all times that the specialty market is open and must  
18 produce it upon the request of any customer, State or local revenue agent, or law  
19 enforcement agent.

20 (b) Compliance. – The requirement that a ~~retail sales tax license~~certificate of  
21 registration be displayed is satisfied if the vendor displays either of the following:

22 (1) A copy of the ~~license~~certificate.

23 (2) Evidence that the ~~license~~certificate has been applied for and the  
24 applicable ~~license~~registration fee has been paid within 30 days before  
25 the date the ~~license~~certificate was required to be displayed."

26 Section 7. G.S. 66-255 reads as rewritten:

27 **"§ 66-255. Specialty market registration list.**

28 A specialty market operator must maintain a daily registration list of all specialty  
29 market vendors selling or offering goods for sale at the specialty market. The registration  
30 list must clearly and legibly show each specialty market vendor's name, permanent  
31 address, and ~~retail sales and use tax registration~~certificate of registration number. The  
32 specialty market operator must require each specialty market vendor to exhibit a valid  
33 ~~retail sales tax license~~certificate of registration for visual inspection by the specialty  
34 market operator at the time of registration, and must require each specialty market vendor  
35 to keep the ~~retail sales tax license~~certificate of registration conspicuously and prominently  
36 displayed, so as to be visible for inspection by patrons of the specialty market vendor at  
37 the places or locations at which the goods are offered for sale. Each daily registration list  
38 maintained pursuant to this section must be retained by the specialty market operator for  
39 no less than two years and must at any time be made available upon request to any law  
40 enforcement officer."

41 Section 8. G.S. 66-257 reads as rewritten:

42 **"§ 66-257. Misdemeanor violations.**

1 (a) Class 1 Misdemeanors. – A person who does any of the following commits a  
2 Class 1 misdemeanor:

3 (1) Fails to keep a record of new merchandise and fails to produce a record  
4 or an affidavit pursuant to G.S. 66-254.

5 (2) Falsifies a record of new merchandise required by G.S. 66-254.

6 (b) Class 2 Misdemeanors. – A person who does any of the following commits a  
7 Class 2 misdemeanor:

8 (1) If the person is an itinerant merchant or a specialty market vendor, fails  
9 to display the ~~retail sales tax license~~ certificate of registration as required  
10 by G.S. 66-252.

11 (2) If the person is a specialty market operator, fails to maintain the daily  
12 registration list as required by G.S. 66-255.

13 (c) Class 3 Misdemeanors. – A person who does any of the following commits a  
14 Class 3 misdemeanor:

15 (1) If the person is a peddler or an itinerant merchant, fails to obtain the  
16 permission of the property owner as required by G.S. 66-251.

17 (2) If the person is a peddler or a specialty market operator, fails to produce  
18 the ~~retail sales tax license~~ certificate of registration as required by G.S.  
19 66-252.

20 (3) Fails to provide name, address, or identification upon request as  
21 required by G.S. 66-253 or provides false information in response to the  
22 request.

23 (4) Knowingly gives false information when registering pursuant to G.S.  
24 66-255.

25 (d) Defense. – Whenever satisfactory evidence is presented in any court of the fact  
26 that permission to use property was not displayed as required by G.S. 66-251 or that a  
27 ~~retail sales tax license~~ certificate of registration was not displayed or produced as required  
28 by G.S. 66-252, the person charged may not be found guilty of that violation if the person  
29 produces in court a valid permission or a valid ~~retail sales tax license~~ certificate of  
30 registration, respectively, that had been issued prior to the time the person was charged."

31 Section 9. Section 1 of this act becomes effective January 1, 1999. Sections 2  
32 through 8 of this act become effective July 1, 1998. The remainder of this act is effective  
33 when it becomes law.