

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH10510-MC-37 (12/17)

Short Title: Permit Semimonthly Sales Tax Payments.

(Public)

Sponsors: Representative Tarleton.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PERMIT EMPLOYERS WITH LESS THAN FIFTY EMPLOYEES TO REVERT TO THE SEMIMONTHLY SALES TAX COLLECTION METHOD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.16 reads as rewritten:

"§ 105-164.16. Returns and payment of taxes.

(a) General. – Sales and use taxes are payable quarterly, monthly, semimonthly, or when a return is ~~due due~~, as specified in this section. A return is due quarterly or monthly as specified in this section. A return must be filed with the Secretary on a form prescribed by the Secretary and in the manner required by the Secretary. A return must be signed by the taxpayer or the taxpayer's agent.

A sales tax return must state the taxpayer's gross sales for the reporting period, the amount and type of sales made in the period that are exempt from tax under G.S. 105-164.13 or are elsewhere excluded from tax, the amount of tax due, and any other information required by the Secretary. A use tax return must state the purchase price of tangible personal property that was purchased or received during the reporting period and is subject to tax under G.S. 105-164.6, the amount of tax due, and any other information required by the Secretary. Returns that do not contain the required information will not be accepted. When an unacceptable return is submitted, the Secretary will require a corrected return to be filed.

(b) Quarterly. – A taxpayer who is consistently liable for less than one hundred dollars (\$100.00) a month in State and local sales and use taxes must file a return and pay the taxes 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.

(b1) Monthly. – A taxpayer who is consistently liable for more than one hundred dollars (\$100.00) a month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 20th day of the month following the calendar month covered by the return.

(b2) Semimonthly. – A taxpayer who is consistently liable for at least ten thousand dollars (\$10,000) a month in State and local sales and use taxes and employs less than fifty employees may, in lieu of prepaying pursuant to subsection (b3) of this section, pay the tax twice a month and file a return on a monthly basis. One semimonthly payment covers the period from the first day of the month through the 15th day of the month. The other semimonthly payment covers the period from the 16th day of the month through the last day of the month. The semimonthly payment for the period that ends on the 15th day of the month is



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1 due by the 25th day of that month. The semimonthly payment for the period that ends on the
2 last day of the month is due by the 10th day of the following month.

3 A return covers both semimonthly payment periods. The return is due by the 20th day of
4 the month following the month of the payment periods covered by the return. A taxpayer is not
5 subject to interest on or penalties for an underpayment for a semimonthly payment period if the
6 taxpayer timely pays at least ninety-five percent (95%) of the lesser of the following and
7 includes the underpayment with the monthly return for those semimonthly payment periods:

8 (1) The amount due for each semimonthly payment period.

9 (2) The average semimonthly payment for the prior calendar year.

10 (b3) Prepayment. – A taxpayer who does not elect to make semimonthly payments under
11 subsection (b2) of this section and is consistently liable for at least ten thousand dollars
12 (\$10,000) a month in State and local sales and use taxes must make a monthly prepayment of
13 the next month's tax liability. The prepayment is due on the date a monthly return is due. The
14 prepayment must equal at least sixty-five percent (65%) of any of the following:

15 (1) The amount of tax due for the current month.

16 (2) The amount of tax due for the same month in the preceding year.

17 (3) The average monthly amount of tax due in the preceding calendar year.

18 ~~(b3)~~(b4) Category. – The Secretary must monitor the amount of State and local sales and
19 use taxes paid by a taxpayer or estimate the amount of taxes to be paid by a new taxpayer and
20 must direct each taxpayer to pay tax and file returns as required by this section. In determining
21 the amount of taxes due from a taxpayer, the Secretary must consider the total amount due from
22 all places of business owned or operated by the same person as the amount due from that
23 person. A taxpayer must file a return and pay tax in accordance with the Secretary's
24 direction.~~direction until notified in writing to file and pay under a different schedule.~~

25 (c) Repealed by Session Laws 2001-427, s. 6(a), effective January 1, 2002, and
26 applicable to taxes levied on or after that date.

27 (d) **(Effective for taxable years ending before January 1, 2010)** Use Tax on
28 Out-of-State Purchases. – Use tax payable by an individual who purchases tangible personal
29 property outside the State for a nonbusiness purpose is due on an annual basis. For an
30 individual who is not required to file an individual income tax return under Part 2 of Article 4
31 of this Chapter, the annual reporting period ends on the last day of the calendar year and a use
32 tax return is due by the following April 15. For an individual who is required to file an
33 individual income tax return, the annual reporting period ends on the last day of the individual's
34 income tax year, and the use tax must be paid on the income tax return as provided in
35 G.S. 105-269.14.

36 (d) **(Effective for taxable years beginning on or after January 1, 2010)** Use Tax on
37 Out-of-State Purchases. – Notwithstanding subsection (b), an individual who purchases
38 tangible personal property outside the State for a nonbusiness purpose shall file a use tax return
39 on an annual basis. The annual reporting period ends on the last day of the calendar year. The
40 return is due by the due date, including any approved extensions, for filing the individual's
41 income tax return."

42 **SECTION 2.** G.S. 105-113(b) reads as rewritten:

43 "(b) Report and Payment. – The tax imposed by this section is payable ~~quarterly~~
44 quarterly, semimonthly, or monthly as specified in this subsection. A return is due quarterly.

45 A water company or public sewerage company must pay tax quarterly when filing a return.
46 An electric power company must pay tax in accordance with the schedule and requirements that
47 apply to payments of sales and use tax under G.S. 105-164.16 and must file a return quarterly.
48 An electric power company is not subject to interest on or penalties for an underpayment for a
49 semimonthly payment period if the electric power company timely pays at least ninety-five
50 percent (95%) of the amount due for each semimonthly payment period and includes the
51 underpayment with the quarterly return for those semimonthly payment periods.

1 A quarterly return covers a calendar quarter and is due by the last day of the month that
2 follows the quarter covered by the return. A taxpayer must submit a return on a form provided
3 by the Secretary. The return must include the taxpayer's gross receipts from all property it
4 owned or operated during the reporting period in connection with its business taxed under this
5 section. A taxpayer must report its gross receipts on an accrual basis. A return must contain the
6 following information:

- 7 (1) The taxpayer's gross receipts for the reporting period from business inside
8 and outside this State, stated separately.
- 9 (2) The taxpayer's gross receipts from commodities or services described in
10 subsection (a) that are sold to a vendee subject to the tax levied by this
11 section or to a joint agency established under Chapter 159B of the General
12 Statutes or a city having an ownership share in a project established under
13 that Chapter.
- 14 (3) The amount of and price paid by the taxpayer for commodities or services
15 described in subsection (a) that are purchased from others engaged in
16 business in this State and the name of each vendor.
- 17 (4) For an electric power company the entity's gross receipts from the sale
18 within each city of the commodities and services described in subsection
19 (a)."

20 **SECTION 3.** G.S. 105-187.43 reads as rewritten:

21 "**§ 105-187.43. Payment of the tax.**

22 (a) Payment. – The tax imposed by this Article is payable semimonthly in accordance
23 with the schedule set in G.S. 105-164.16 for semimonthly payments of sales and use taxes. For
24 other taxpayers, the tax imposed by this Article is payable monthly. A monthly payment is due
25 by the 20th day of the month following the calendar month in which liability for the tax
26 accrues. The tax imposed by this Article on piped natural gas delivered to a sales or
27 transportation customer accrues when the gas is delivered. The tax payable on piped natural gas
28 received by a person who has direct access to an interstate pipeline for consumption by that
29 person accrues when the gas is received.

30 (b) Small Underpayments. – A person is not subject to interest on or penalties for an
31 underpayment of a semimonthly amount due if the person timely pays at least ninety-five
32 (95%) of the amount due and includes the underpayment with the next return the person files.

33 (b1) Prepayment. – A taxpayer who does not elect to make semimonthly payments under
34 subsection (b2) of G.S. 105-164.14 and is consistently liable for at least ten thousand dollars
35 (\$10,000) of tax a month must make a monthly prepayment of the next month's tax liability.
36 This requirement applies when the taxpayer meets the threshold and the Secretary notifies the
37 taxpayer to make prepayments. A prepayment is due on the date a monthly payment is due. The
38 prepayment must equal at least sixty-five percent (65%) of any of the following:

- 39 (1) The amount of tax due for the current month.
- 40 (2) The amount of tax due for the same month in the preceding year.
- 41 (3) The average monthly amount of tax due in the preceding calendar year.

42 (c) Return. – A return is due quarterly. A quarterly return covers a calendar quarter and
43 is due by the last day of the month that follows the quarter covered by the return."

44 **SECTION 4.** This act becomes effective July 1, 2009.