

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1433

Short Title: Use Tax Payment/Other Changes.

(Public)

Sponsors: Representatives Miller and Allen.

Referred to: Finance.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR INDIVIDUALS TO PAY THEIR ANNUAL USE TAX WITH THEIR INCOME TAX FORMS, TO PROMOTE ELECTRONIC FILING, AND TO IMPROVE TAX COLLECTION.

The General Assembly of North Carolina enacts:

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

"(d) Use Tax on Out-of-State Purchases. – Notwithstanding subsection ~~(b)~~, (b) of this section, an individual who purchases tangible personal property outside the State for a nonbusiness purpose shall file a use tax return on an annual basis. ~~The~~ For individuals who are not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar year-year, and the return is due by the following April 15. For individuals who are required to file an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year, and the ~~The~~ return is due by the due date, including any approved extensions, for filing the individual's income tax return.

Individuals who are required to file an individual income tax return under Part 2 of Article 4 of this Chapter for the taxable year must pay the use tax with the individual income tax return as provided in G.S. 105-269.14. If the individual does not know the amount of use tax due on purchases of items with a cost of less than one thousand dollars (\$1,000) per item, the individual may pay an estimated use tax on those items in an

1 amount equal to six one-hundredths percent (0.06%) of the individual's North Carolina
2 taxable income as provided in G.S. 105-269.14. This payment is in addition to payment
3 of the amount of use tax due on items with a cost of one thousand dollars (\$1,000) or
4 more."

5 Section 2. Article 9 of Chapter 105 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 105-269.14. Payment of use tax with individual income tax.**

8 (a) Requirement. – An individual who owes use tax that is payable on an annual
9 basis pursuant to G.S. 105-164.16(d) and who is required to file an individual income tax
10 return under Part 2 of Article 4 of this Chapter, must pay the use tax with the individual
11 income tax return for the taxable year. The Secretary must provide appropriate space and
12 information on the individual income tax form and instructions. The information must
13 include the following:

14 (1) Instructions that certain sales taxes paid on a purchase are a credit
15 against the use tax.

16 (2) A table setting out averages for various income ranges of the estimated
17 amount of use tax as defined in subsection (b) of this section, rounded to
18 the nearest one dollar (\$1.00) of tax.

19 (3) Notification that if the taxpayer fails to indicate on the income tax form
20 an amount of use tax payable, the Department of Revenue will add the
21 estimated amount provided in subsection (b) of this section, and that the
22 taxpayer is liable for this estimated amount unless the taxpayer can
23 establish that the taxpayer owes a different amount of use tax under this
24 Chapter.

25 (b) Estimated Amount. – If the taxpayer does not know the amount of use tax due
26 on all purchases for a calendar year, the taxpayer may pay the amount actually due on
27 any purchases of items that cost one thousand dollars (\$1,000) or more per item plus an
28 estimated amount due on purchases of items that cost less than one thousand dollars
29 (\$1,000) per item. The estimated amount of use tax due on these items is six one-
30 hundredths percent (0.06%) of the individual's North Carolina taxable income, or the
31 equivalent amount provided in a table calculated by the Secretary of Revenue.

32 (c) Failure to Designate. – If an individual does not designate on the income tax
33 return an amount of use tax due or that no use tax is due, the Department of Revenue
34 must designate the estimated amount provided in subsection (b) of this section as the
35 amount due. The taxpayer is liable for this estimated amount unless the taxpayer can
36 establish that the taxpayer owes a different amount of use tax under this Chapter.

37 (d) Distribution. – The Secretary shall distribute one-third of the net use tax
38 proceeds collected under this section to counties and cities in proportion to their total
39 distributions under Articles 39, 40, and 42 of this Chapter and Chapter 1096 of the 1967
40 Session Laws for the most recent period for which data are available. The provisions of
41 G.S. 105-472, 105-486, and 105-501 do not apply to tax proceeds distributed under this
42 section."

1 Section 3. To pay for the costs of programming, form revision, and resources
2 for taxpayer assistance to implement Sections 1 and 2 of this act, the Secretary of
3 Revenue may draw up to one hundred fifty thousand dollars (\$150,000) for the 1999-
4 2000 fiscal year from net collections that would otherwise be credited to the General
5 Fund under G.S. 105-269.14, enacted by Section 2 of this act.

6 Section 4. During the 1999-2000 fiscal year, the Secretary of Revenue shall
7 implement a program to allow those taxpayers required under G.S. 105-164.16 to report
8 and pay sales and use taxes on a semimonthly basis to file the semimonthly return
9 electronically. To pay for this program, the Secretary may draw up to five hundred
10 thousand dollars (\$500,000) for the 1999-2000 fiscal year from net collections that would
11 otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2
12 of this act.

13 Section 5.(a) The Secretary of Revenue shall contract during the 1999-2001
14 fiscal biennium for the collection of delinquent tax debts owed by nonresidents and
15 foreign entities. To implement this section, the Secretary may draw funds for the 1999-
16 2000 fiscal year from net collections that would otherwise be credited to the General
17 Fund under G.S. 105-269.14, enacted by Section 2 of this act. The Secretary of Revenue
18 shall report annually to the Revenue Laws Study Committee on its collections pursuant to
19 this contract during the biennium.

20 Section 5.(b) The following definitions apply in this section:

- 21 (1) Delinquent tax debt. – The amount of tax due as stated in a final notice
22 of assessment issued to the taxpayer by the Secretary of Revenue when
23 the taxpayer no longer has a right to contest the debt.
- 24 (2) Foreign entity. – A foreign corporation as defined in G.S. 55-1-40, a
25 foreign limited liability company as defined in G.S. 57C-1-03, a foreign
26 limited partnership as defined in G.S. 59-102, or a general partnership
27 formed under the laws of a jurisdiction other than this State.

28 Section 6. The Department of Revenue shall conduct a study to identify and
29 evaluate proposals for more efficient collection of taxes, including using electronic
30 commerce and other technology to increase efficiency. The study shall include an
31 analysis of the most efficient tax collection methods used in other states. The State
32 Controller shall cooperate with the Department of Revenue in this study. The
33 Department shall report the results of its study, including findings, recommendations, and
34 estimated revenue gains of each recommendation, to the Revenue Laws Study Committee
35 by May 1, 2000. To implement this section, the Secretary of Revenue may draw up to
36 fifty thousand dollars (\$50,000) for the 1999-2000 fiscal year from net collections that
37 would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by
38 Section 2 of this act.

39 Section 7. Article 3 of Chapter 143 of the General Statutes is amended by
40 adding a new section to read:

41 **"§ 143-59.1. Contracts with certain foreign vendors.**

42 The Secretary of Administration and other entities to which this Article applies shall
43 not contract for goods or services with a vendor if the vendor or an affiliate of the vendor

1 meets one or more of the conditions of G.S. 105-164.8(b) but refuses to collect the
2 use tax levied under Article 5 of Chapter 105 of the General Statutes on its sales
3 delivered to North Carolina. The Secretary of Revenue shall provide the Secretary of
4 Administration periodically with a list of vendors to which this section applies. For the
5 purpose of this section, the term 'affiliate' has the meaning provided in G.S. 105-
6 163.010."

7 Section 8. G.S. 105-259(b) is amended by adding a new subdivision to read:

8 "(22) To provide the Secretary of Administration pursuant to G.S. 143-
9 59.1 a list of vendors and their affiliates who meet one or more of
10 the conditions of G.S. 105-164.8(b) but refuse to collect the use tax
11 levied under Article 5 of this Chapter on their sales delivered to
12 North Carolina.

13 (23) To provide public access to a database containing the names and
14 account numbers of taxpayers who are not required to pay sales and
15 use taxes under Article 5 of this Chapter to a retailer because of an
16 exemption or because they are authorized to pay the tax directly to
17 the Department of Revenue."

18 Section 9. Sections 1 and 2 of this act are effective for taxable years beginning
19 on or after January 1, 1999. The remainder of this act becomes effective July 1, 1999.