

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2530
Committee Substitute Favorable 6/24/08
Senate Finance Committee Substitute Adopted 7/10/08

Short Title: Solid Waste Tax Changes/Unsalable OTP Refund. (Public)

Sponsors:

Referred to:

May 26, 2008

A BILL TO BE ENTITLED

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. – An owner or operator who files a return under this Article may deduct on the return the amount of waste tonnage reported on a previous return if tax was paid on the waste tonnage, the tax was charged to a third party who has not paid the amount charged, and the owner or operator has deducted the amount charged from gross income as a bad debt. An owner or operator who is not subject to income tax may take this deduction when the owner or operator determines that the charges are not collectible. An owner or operator who deducts waste tonnage under this

1 subsection and then recovers the amount of tax charged on the waste tonnage must
2 report the waste tonnage on the return for the quarter in which the amount is recovered."

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

4 "**§ 105-187.63. Use of tax proceeds.**

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

- 10 (1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund
11 established by G.S. 130A-310.11.
- 12 (2) ~~Eighteen and seventy-five one hundredths percent (18.75%) to cities in~~
13 ~~the State on a per capita basis and eighteen and seventy five one~~
14 ~~hundredths percent (18.75%)~~ Thirty-seven and one-half percent
15 (37.5%) to cities and counties in the State on a per capita basis,
16 using the most recent annual estimate of population certified by the
17 State Budget Officer. One-half of this amount must be distributed to
18 cities, and one-half of this amount must be distributed to counties. For
19 purposes of this subdivision, persons who reside within a city shall not
20 be counted in the population of the county or counties in which the city
21 is located. distribution, the population of a county does not include the
22 population of a city located in the county.

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

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

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

41 **SECTION 3.** Notwithstanding G.S. 105-187.63(2), as amended by this act,
42 the Department of Environment and Natural Resources must provide a list to the
43 Secretary of Revenue of the cities and counties that are excluded from the distribution

1 under that subdivision by September 15, 2008. The list applies to distributions made in
2 fiscal year 2008-2009.

3 **SECTION 4.** G.S. 105-113.39(b) reads as rewritten:

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

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