GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

S D SENATE DRS85247-MCx-112 (3/13)

	Short Title:	Datacen	ter Sales Tax Bill. (Public)	
	Sponsors:	Senator	or Hagan.	
	Referred to:	erred to:		
	A BILL TO BE ENTITLED			
	AN ACT TO MAKE CERTAIN LARGE SCALE DATACENTER PURCHASES OF MACHINERY AND EQUIPMENT SUBJECT TO THE PRIVILEGE TAX AND			
	EXEMPT FROM SALES AND USE TAX.			
,	The General Assembly of North Carolina enacts:			
)		SECTION 1. G.S. 105-164.3 is amended by adding a new subdivision to		
	read:	06 Ei: :		
,	'' <u>(3</u>	"(8f) Eligible datacenter. – A facility that satisfies each of the following conditions:		
`			The facility is created and maintained to meet, is certified by a	
,		<u>a.</u>	third party as meeting, and does meet the standards for Tier 4	
			classification under the classification system promulgated by	
			the Uptime Institute, Inc., for datacenter site infrastructure	
			functionality as that classification existed as of January 1, 2007.	
;		<u>b.</u>	The facility is located or to be located in a county that was	
)			designated, at the time of application for the written	
			determination required under sub-subdivision c. of this	
3			subdivision, either a development tier one, two, or three area	
,			pursuant to G.S. 143B-437.08, regardless of any subsequent	
'		C	<u>change in county development tier status.</u> The Secretary of Commerce has made a written determination	
)		<u>c.</u>	of the following:	
,			1. For development tier one areas, that at least one hundred	
			fifty million dollars (\$150,000,000) in private funds has	
,			been or will be invested in improvements to real property	

or installed datacenter machinery and equipment, or a

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combination of both, within five years after 1 2 commencement of construction of the facility. 3 <u>2.</u> For development tier two or three areas, that at least 4 three hundred million dollars (\$300,000,000) in private 5 funds has been or will be invested in improvements to 6 real property or installed datacenter machinery and 7 equipment, or a combination of both, within five years 8 after commencement of construction of the facility." 9 **SECTION 2.** G.S. 105-164.13 is amended by adding a new subdivision to 10 read: 11 "(56) Sales of machinery and equipment to be located and used at an eligible 12 datacenter. If the level of investment required by G.S. 105-164.3(8f)c. 13 is not timely made, then the exemption provided under this subdivision 14 is forfeited. If the level of investment required by G.S. 105-164.3(8f)c. 15 is timely made but any machinery and equipment is not located and used at an eligible datacenter, then the exemption provided for such 16 17 machinery and equipment under this subdivision is forfeited. A 18 taxpayer that forfeits an exemption under this subdivision is liable for 19 all past taxes avoided as a result of the forfeited exemption, computed 20 from the date the taxes would have been due if the exemption had not 21 been allowed, plus interest at the rate established under G.S. 105-241.1(i). If the forfeiture is triggered due to the lack of a 22 23 timely investment required by G.S. 105-164.3(8f)c., then interest is 24 computed from the date the taxes would have been due if the 25 exemption had not been allowed. For all other forfeitures, interest is 26 computed from the time as of which the machinery or equipment was 27 put to a disqualifying use. The past taxes and interest are due 30 days 28 after the date the exemption is forfeited. A taxpayer that fails to pay

SECTION 3. Article 5F of Chapter 105 of the General Statutes is amended by adding a section to read:

the past taxes and interest by the due date is subject to the provisions

"§ 105-187.51C. Tax imposed on datacenter machinery and equipment.

of G.S. 105-236."

- (a) Tax. A privilege tax is imposed on an eligible datacenter that purchases machinery or equipment to be located and used at the datacenter.
- (b) Rate. The tax is one percent (1%) of the sales price of the equipment and machinery to be located and used at the datacenter. The maximum tax is eighty dollars (\$80.00) per article."

SECTION 4. Section 2 of this act becomes effective July 1, 2007, and applies to sales made on or after that date. Section 3 of this act becomes effective July 1, 2007. The remainder of this act is effective when it becomes law.

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