

§ 105-164.11B. Recover sales tax paid.

(a) Retailers. – A retailer who pays sales and use tax on an item that is separately stated on an invoice or similar billing document given to the retailer at the time of sale and subsequently resells the item at retail, without the item being used by the retailer, may recover the sales or use tax originally paid to a seller as provided in this subsection. A retailer entitled to recover tax under this subsection may reduce taxable receipts by the taxable amount of the purchase price of the item resold for the period in which the retail sale occurs. A recovery of tax allowed under this subsection is not an overpayment of tax and, where the recovery is taken, a refund of the tax originally paid may not be requested from the seller pursuant to the authority under G.S. 105-164.11. Any amount for tax recovered under this subsection in excess of tax due for a reporting period under this Article is not subject to refund. Any tax recovered under this subsection may be carried forward to a subsequent reporting period and taken as an adjustment to taxable receipts. The records of the retailer must clearly reflect and support the adjustment to taxable receipts for the period in which the adjustment is made.

(b) Marketplace Facilitators. – A marketplace facilitator may recover the sales or use tax originally paid to a marketplace seller as provided in this subsection when the marketplace facilitator pays sales and use tax to a marketplace seller on a marketplace-facilitated sale for which the marketplace facilitator is considered the retailer pursuant to G.S. 105-164.4J(b), and the tax is separately stated on an invoice or similar billing document given to the marketplace facilitator at the time of sale. A marketplace facilitator entitled to recover tax under this subsection may reduce taxable receipts by the taxable amount of the marketplace-facilitated sale that is taxed by the marketplace seller for the period in which the retail sale occurs. A recovery of tax allowed under this subsection is not an overpayment of tax and, where the recovery is taken, a refund of the tax originally paid may not be requested from the seller pursuant to the authority under G.S. 105-164.11. Any amount for tax recovered under this subsection in excess of tax due for a reporting period under this Article is not subject to refund. Any tax recovered under this subsection may be carried forward to a subsequent reporting period and taken as an adjustment to taxable receipts. The records of the retailer must clearly reflect and support the adjustment to taxable receipts for the period in which the adjustment is made. (2018-5, s. 38.5(h); 2019-169, s. 3.3(i); 2023-12, s. 2.3.)