

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 1915\*  
Senate Finance Committee Substitute Adopted 6/8/06

Short Title: SSTA Sales Tax Defn/Sales Tax Payments.

(Public)

Sponsors:

Referred to:

May 15, 2006

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE STREAMLINED SALES TAX DEFINITIONS CONCERNING TELECOMMUNICATIONS, TO SIMPLIFY THE TAX PAYMENT REQUIREMENTS FOR SEMIMONTHLY TAXPAYERS, AND TO TREAT TANGIBLE PERSONAL PROPERTY USED IN MODULAR HOMES THE SAME AS TANGIBLE PERSONAL PROPERTY USED IN OTHER HOMES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-164.3 is amended by amending or adding the following definitions to read:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

(01) Ancillary service. – A service associated with or incidental to the provision of a telecommunications service. The term includes detailed communications billing, directory assistance, vertical service, and voice mail service. A vertical service is a service, such as call forwarding, caller ID, three-way calling, and conference bridging, that allows a customer to identify a caller or manage multiple calls and call connections.

...

(27) Prepaid telephone calling service. – Prepaid wireline calling service or prepaid wireless calling service.

(27a) Prepaid wireline calling service. – A right that meets all of the following requirements:

- a. Authorizes the exclusive purchase of wireline telecommunications service.
- b. Must be paid for in advance.
- c. Enables the origination of calls by means of an access number, authorization code, or another similar means, regardless of

- 1                   whether the access number or authorization code is manually or  
2                   electronically dialed.
- 3                   d.       Is sold in units or dollars whose number or dollar value declines  
4                   with use and is known on a continuous basis.
- 5       (27b) Prepaid wireless calling service. – A right that meets all of the  
6       following requirements:
- 7                   a.       Authorizes the purchase of mobile telecommunications service,  
8                   either exclusively or in conjunction with other services.
- 9                   b.       Must be paid for in advance.
- 10                  c.       Is sold in units or dollars whose number or dollar value declines  
11                  with use and is known on a continuous basis.
- 12       ...
- 13       (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax  
14       Agreement adopted November 12, 2002, as amended on November 19,  
15       2003, November 16, 2004, and April 16, 2005. in November 2005.
- 16       ...
- 17       (48) Telecommunications service. – The electronic transmission,  
18       conveyance, or routing of voice, data, audio, video, or any other  
19       information or signals to a point, or between or among points, by or  
20       through any electronic, radio, satellite, optical, microwave, or other  
21       medium, regardless of the protocol used for the transmission,  
22       conveyance, or routing. The term includes mobile telecommunications  
23       service and vertical services. Vertical services are switch-based  
24       services offered in connection with a telecommunications service, such  
25       as call forwarding services, caller ID services, and three way calling  
26       services. points. The term includes any transmission, conveyance, or  
27       routing in which a computer processing application is used to act on  
28       the form, code, or protocol of the content for purposes of the  
29       transmission, conveyance, or routing, regardless of whether it is  
30       referred to as voice-over Internet protocol or the Federal  
31       Communications Commission classifies it as enhanced or value added.  
32       The term does not include the following:
- 33                  a.       Data processing and information services that allow data to be  
34                  generated, acquired, stored, processed, or retrieved and  
35                  delivered by an electronic transmission to a customer whose  
36                  primary purpose for using the service is to obtain the processed  
37                  data or information.
- 38                  b.       The sale, installation, maintenance, or repair of tangible  
39                  personal property.
- 40                  c.       Directory advertising and other advertising.
- 41                  d.       Billing and collection services provided to a third party.
- 42                  e.       Internet access service.
- 43                  f.       Radio and television audio and video programming service,  
44                  regardless of the medium of delivery, and the transmission,

1                    conveyance, or routing of the service by the programming  
2                    service provider. The term includes cable service and audio and  
3                    video programming service provided by a mobile  
4                    telecommunications service provider.

5                    g. Ancillary service.

6                    h. A digital product delivered electronically, including software,  
7                    music, a ring tone, video, and reading material."

8                    **SECTION 2.** G.S. 105-164.4(a)(4c) and (4d) read as rewritten:

9                    **"§ 105-164.4. Tax imposed on retailers.**

10                  (a) **(Effective for sales made before July 1, 2007)** A privilege tax is imposed on  
11 a retailer at the following percentage rates of the retailer's net taxable sales or gross  
12 receipts, as appropriate. The general rate of tax is four and one-half percent (4 1/2%).

13                  (4c) The combined general rate applies to the gross receipts derived from  
14 providing telecommunications service and ancillary service. A person  
15 who provides telecommunications service or ancillary service is  
16 considered a retailer under this Article. ~~Telecommunications service is~~  
17 These services are taxed in accordance with G.S. 105-164.4C.

18                  (4d) The sale or recharge of prepaid telephone calling service is taxable at  
19 the general rate of tax. The tax applies regardless of whether tangible  
20 personal property, such as a card or a telephone, is transferred. The tax  
21 applies to a service that is sold in conjunction with prepaid wireless  
22 calling service. Prepaid telephone calling service is taxable at the point  
23 of sale instead of at the point of use and is sourced in accordance with  
24 G.S. 105-164.4B. Prepaid telephone calling service taxed under this  
25 subdivision is not subject to tax as a telecommunications service."

26                  **SECTION 3.** G.S. 105-164.4B(a)(3) reads as rewritten:

27                  **"§ 105-164.4B. Sourcing principles.**

28                  (a) General Principles. – The following principles apply in determining where to  
29 source the sale of a product. These principles apply regardless of the nature of the  
30 product.

31                  (1) Over-the-counter. – When a purchaser receives a product at a business  
32 location of the seller, the sale is sourced to that business location.

33                  (2) Delivery to specified address. – When a purchaser receives a product  
34 at a location specified by the purchaser and the location is not a  
35 business location of the seller, the sale is sourced to the location where  
36 the purchaser receives the product.

37                  (3) Delivery address unknown. – When a seller of a product does not  
38 know the address where a product is received, the sale is sourced to the  
39 first address or location listed in this subdivision that is known to the  
40 seller:

41                  a. The business or home address of the purchaser.

42                  b. The billing address of the purchaser or, if the product is a  
43 prepaid ~~telephone~~ wireless calling service ~~that authorizes the~~

1 purchase of mobile telecommunications service, the location  
2 associated with the mobile telephone number.

- 3 c. The address from which tangible personal property was shipped  
4 or from which a service was provided."

5 **SECTION 4.** G.S. 105-164.4C reads as rewritten:

6 "**§ 105-164.4C. ~~Tax on telecommunications.~~Telecommunications service and**  
7 **ancillary service.**

8 (a) General. – The gross receipts derived from providing telecommunications  
9 service or ancillary service in this State are taxed at the rate set in  
10 G.S. 105-164.4(a)(4c). Telecommunications service is provided in this State if the  
11 service is sourced to this State under the sourcing principles set out in subsections (a1)  
12 and (a2) of this section. Ancillary service is provided in this State if the  
13 telecommunications service to which it is ancillary is provided in this State. The  
14 definitions and provisions of the federal Mobile Telecommunications Sourcing Act  
15 apply to the sourcing and taxation of mobile telecommunications services.

16 (a1) General Sourcing Principles. – The following general sourcing principles  
17 apply to telecommunications services. If a service falls within one of the exceptions set  
18 out in subsection (a2) of this section, the service is sourced in accordance with the  
19 exception instead of the general principle.

20 (1) Flat rate. – A telecommunications service that is not sold on a  
21 call-by-call basis is sourced to this State if the place of primary use is  
22 in this State.

23 (2) General call-by-call. – A telecommunications service that is sold on a  
24 call-by-call basis and is not a postpaid calling service is sourced to this  
25 State in the following circumstances:

26 a. The call both originates and terminates in this State.

27 b. The call either originates or terminates in this State and the  
28 telecommunications equipment from which the call originates  
29 or terminates and to which the call is charged is located in this  
30 State. This applies regardless of where the call is billed or paid.

31 (3) Postpaid. – A postpaid calling service is sourced to the origination  
32 point of the telecommunications signal as first identified by either the  
33 seller's telecommunications system or, if the system used to transport  
34 the signal is not the seller's system, by information the seller receives  
35 from its service provider.

36 (a2) Sourcing Exceptions. – The following telecommunications services and  
37 products are sourced in accordance with the principles set out in this subsection:

38 (1) Mobile. – Mobile telecommunications service is sourced to the place  
39 of primary use, unless the service is ~~authorized by a prepaid telephone~~  
40 wireless calling service or is air-to-ground radiotelephone service.  
41 Air-to-ground radiotelephone service is a postpaid calling service that  
42 is offered by an aircraft common carrier to passengers on its aircraft  
43 and enables a telephone call to be made from the aircraft. The sourcing  
44 principle in this subdivision applies to a service provided as an adjunct

- 1 to mobile telecommunications service if the charge for the service is  
2 included within the term "charges for mobile telecommunications  
3 services" under the federal Mobile Telecommunications Sourcing Act.
- 4 (2) Prepaid. – Prepaid telephone calling service is sourced in accordance  
5 with G.S. 105-164.4B.
- 6 (3) Private. – Private telecommunications service is sourced in accordance  
7 with subsection (e) of this section.
- 8 (b) ~~Included in Gross Receipts. Gross receipts derived from~~  
9 ~~telecommunications service include the following:~~
- 10 (1) ~~Receipts from flat rate service, service provided on a call by call basis,~~  
11 ~~mobile telecommunications service, and private telecommunications~~  
12 ~~service.~~
- 13 (2) ~~Charges for directory assistance, directory listing that is not~~  
14 ~~yellow page classified listing, call forwarding, call waiting, three way~~  
15 ~~calling, caller ID, voice mail, and other similar services.~~
- 16 (3) ~~Customer access line charges billed to subscribers for access to the~~  
17 ~~intrastate or interstate interexchange network.~~
- 18 (4) ~~Charges billed to a pay telephone provider who uses the~~  
19 ~~telecommunications service to provide pay telephone service.~~
- 20 (c) ~~Excluded From Gross Receipts. Gross receipts derived from~~  
21 ~~telecommunications service do not include any of the following:~~
- 22 (1) ~~Charges for telecommunications services that are a component part of~~  
23 ~~or are integrated into a telecommunications service that is resold.~~  
24 ~~Examples of services that are resold include carrier charges for access~~  
25 ~~to an intrastate or interstate interexchange network, interconnection~~  
26 ~~charges paid by a provider of mobile telecommunications service, and~~  
27 ~~charges for the sale of unbundled network elements. An unbundled~~  
28 ~~network element is a network element, as defined in 47 U.S.C. §~~  
29 ~~153(29), to which access is provided on an unbundled basis pursuant~~  
30 ~~to 47 U.S.C. § 251(e)(3).~~
- 31 (2) ~~Telecommunications services that are resold as part of a prepaid~~  
32 ~~telephone calling service.~~
- 33 (3) ~~911 charges imposed under G.S. 62A-4 or G.S. 62A-23 and remitted to~~  
34 ~~the Emergency Telephone System Fund under G.S. 62A-7 or the~~  
35 ~~Wireless Fund under G.S. 62A-24.~~
- 36 (4) ~~Allowable surcharges imposed to recoup assessments for the Universal~~  
37 ~~Service Fund.~~
- 38 (5) ~~Receipts of a pay telephone provider from the sale of pay telephone~~  
39 ~~service.~~
- 40 (6) ~~Charges for commercial, cable, mobile, broadcast, or satellite video or~~  
41 ~~audio service unless the service provides two-way communication,~~  
42 ~~other than the customer's interactive communication in connection~~  
43 ~~with the customer's selection or use of the video or audio service.~~
- 44 (7) ~~Paging service, unless the service provides two-way communication.~~

- 1           ~~(8) Charges for telephone service made by a hotel, motel, or another entity~~  
2           ~~whose gross receipts are taxable under G.S. 105-164.4(a)(3) when the~~  
3           ~~charges are incidental to the occupancy of the entity's~~  
4           ~~accommodations.~~
- 5           ~~(9) Receipts from the sale, installation, maintenance, or repair of tangible~~  
6           ~~personal property.~~
- 7           ~~(10) Directory advertising and yellow page classified listings.~~
- 8           ~~(11) Repealed by Session Laws 2005-276, s. 33.7, effective October 1,~~  
9           ~~2005.~~
- 10          ~~(12) Information services.—An information service is a service that can~~  
11          ~~generate, acquire, store, transform, process, retrieve, use, or make~~  
12          ~~available information through a communications service. Examples of~~  
13          ~~an information service include an electronic publishing service and a~~  
14          ~~web hosting service.~~
- 15          ~~(13) Internet access service, electronic mail service, electronic bulletin~~  
16          ~~board service, or similar on-line services.~~
- 17          ~~(14) Billing and collection services.~~
- 18          ~~(15) Charges for bad checks or late payments.~~
- 19          ~~(16) Charges to a State agency or to a local unit of government for the~~  
20          ~~North Carolina Information Highway and other data networks owned~~  
21          ~~or leased by the State or unit of local government.~~
- 22          (d) Bundled Services. – When a taxable telecommunications service is bundled  
23          with a service that is not taxable, the tax applies to the gross receipts from the taxable  
24          service in the bundle as follows:
- 25               (1) If the service provider offers all the services in the bundle on an  
26               unbundled basis, tax is due on the unbundled price of the taxable  
27               service, less the discount resulting from the bundling. The discount for  
28               a service as the result of bundling is the proportionate price decrease of  
29               the service, determined on the basis of the total unbundled price of all  
30               the services in the bundle compared to the bundled price of the  
31               services.
- 32               (2) If the service provider does not offer one or more of the services in the  
33               bundle on an unbundled basis, tax is due on the taxable service based  
34               on a reasonable allocation of revenue to that service. If the service  
35               provider maintains an account for revenue from a taxable service, the  
36               service provider's allocation of revenue to that service for the purpose  
37               of determining the tax due on the service must reflect its accounting  
38               allocation of revenue to that service.
- 39          (e) Private Line. – The gross receipts derived from private telecommunications  
40          service are sourced as follows:
- 41               (1) If all the customer's channel termination points are located in this  
42               State, the service is sourced to this State.
- 43               (2) If all the customer's channel termination points are not located in this  
44               State and the service is billed on the basis of channel termination

- 1 points, the charge for each channel termination point located in this  
2 State is sourced to this State.
- 3 (3) If all the customer's channel termination points are not located in this  
4 State and the service is billed on the basis of channel mileage, the  
5 following applies:
- 6 a. A charge for a channel segment between two channel  
7 termination points located in this State is sourced to this State.
- 8 b. Fifty percent (50%) of a charge for a channel segment between  
9 a channel termination point located in this State and a channel  
10 termination point located in another state is sourced to this  
11 State.
- 12 (4) If all the customer's channel termination points are not located in this  
13 State and the service is not billed on the basis of channel termination  
14 points or channel mileage, a percentage of the charge for the service is  
15 sourced to this State. The percentage is determined by dividing the  
16 number of channel termination points in this State by the total number  
17 of channel termination points.
- 18 (f) Call Center Cap. The gross receipts tax on telecommunications service that  
19 originates outside this State, terminates in this State, and is provided to a call center that  
20 has a direct pay permit issued by the Department under G.S. 105-164.27A may not  
21 exceed fifty thousand dollars (\$50,000) a calendar year. This cap applies separately to  
22 each legal entity.
- 23 (g) Credit. – A taxpayer who pays a tax legally imposed by another state on a  
24 telecommunications service taxable under this section is allowed a credit against the tax  
25 imposed in this section.
- 26 (h) Definitions. – The following definitions apply in this section:
- 27 (01) Ancillary service. – Defined in G.S. 105-164.3.
- 28 (1) Call-by-call basis. – A method of charging for a telecommunications  
29 service whereby the price of the service is measured by individual  
30 calls.
- 31 (2) Call center. – Defined in G.S. 105-164.27A.
- 32 (3) Mobile telecommunications service. – Defined in G.S. 105-164.3.
- 33 (4) Place of primary use. – Defined in G.S. 105-164.3.
- 34 (5) Postpaid calling service. – A telecommunications service that is  
35 charged on a call-by-call basis and is obtained by making payment at  
36 the time of the call either through the use of a credit or payment  
37 mechanism, such as a bank card, travel card, credit card, or debit card,  
38 or by charging the call to a telephone number that is not associated  
39 with the origination or termination of the telecommunications service.  
40 A postpaid calling service includes a service that meets all the  
41 requirements of a prepaid wireline telephone calling service, except  
42 the exclusive use requirement.
- 43 (6) Prepaid telephone calling service. – Defined in G.S. 105-164.3.

1 (7) Private telecommunications service. – Telecommunications service  
2 that entitles a subscriber of the service to exclusive or priority use of a  
3 communications channel or group of channels.

4 (8) Telecommunications service. – Defined in G.S. 105-164.3."

5 **SECTION 5.** G.S. 105-164.13 is amended by adding the following  
6 subdivision to read:

7 "(54) The following telecommunications services and charges:

8 a. Telecommunications service that is a component part of or is  
9 integrated into a telecommunications service that is resold. This  
10 exemption does not apply to service purchased by a pay  
11 telephone provider who uses the service to provide pay  
12 telephone service. Examples of services that are resold include  
13 carrier charges for access to an intrastate or interstate  
14 interexchange network, interconnection charges paid by a  
15 provider of mobile telecommunications service, and charges for  
16 the sale of unbundled network elements. An unbundled network  
17 element is a network element, as defined in 47 U.S.C. §  
18 153(29), to which access is provided on an unbundled basis  
19 pursuant to 47 U.S.C. § 251(c)(3).

20 b. Pay telephone service.

21 c. 911 charges imposed under G.S. 62A-4 or G.S. 62A-23 and  
22 remitted to the Emergency Telephone System Fund under  
23 G.S. 62A-7 or the Wireless Fund under G.S. 62A-24.

24 d. Charges for telecommunications service made by a hotel, motel,  
25 or another entity whose gross receipts are taxable under  
26 G.S. 105-164.4(a)(3) when the charges are incidental to the  
27 occupancy of the entity's accommodations.

28 e. Telecommunications service purchased by a State agency or a  
29 unit of local government for the North Carolina Information  
30 Highway or another data network owned or leased by the State  
31 or unit of local government."

32 **SECTION 6.** G.S. 105-164.14(b) and (c) read as rewritten:

33 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity included in the  
34 following list is allowed a semiannual refund of sales and use taxes paid by it under this  
35 Article on direct purchases of tangible personal property and services, other than  
36 ~~electricity and telecommunications~~ electricity, telecommunications service, and  
37 ancillary service, for use in carrying on the work of the nonprofit entity:

38 (1) Hospitals not operated for profit, including hospitals and medical  
39 accommodations operated by an authority created under the Hospital  
40 Authorities Law, Article 2 of Chapter 131E of the General Statutes.

41 (2) Educational institutions not operated for profit.

42 (3) Churches, orphanages, and other charitable or religious institutions and  
43 organizations not operated for profit.



1 (4) Qualified retirement facilities whose property is excluded from  
2 property tax under G.S. 105-278.6A.

3 Sales and use tax liability indirectly incurred by a nonprofit entity on building  
4 materials, supplies, fixtures, and equipment that become a part of or annexed to any  
5 building or structure that is owned or leased by the nonprofit entity and is being erected,  
6 altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities  
7 is considered a sales or use tax liability incurred on direct purchases by the nonprofit  
8 entity.

9 A hospital that is not allowed a refund under this subsection of sales and use taxes  
10 paid on its direct purchases of tangible personal property is allowed a semiannual refund  
11 of sales and use taxes paid by it on medicines and drugs purchased for use in carrying  
12 out its work.

13 The refunds allowed under this subsection for certain nonprofit entities and for  
14 medicines and drugs purchased by hospitals do not apply to organizations, corporations,  
15 and institutions that are owned and controlled by the United States, the State, or a unit  
16 of local government, except hospital facilities created under Article 2 of Chapter 131E  
17 of the General Statutes and nonprofit hospitals owned and controlled by a unit of local  
18 government that elect to receive semiannual refunds under this subsection instead of  
19 annual refunds under subsection (c).

20 A request for a refund must be in writing and must include any information and  
21 documentation required by the Secretary. A request for a refund for the first six months  
22 of a calendar year is due the following October 15; a request for a refund for the second  
23 six months of a calendar year is due the following April 15.

24 (c) Certain Governmental Entities. – A governmental entity listed in this  
25 subsection is allowed an annual refund of sales and use taxes paid by it under this  
26 Article on direct purchases of tangible personal property and services, other than  
27 ~~electricity and telecommunications~~ electricity, telecommunications service, and  
28 ancillary service. Sales and use tax liability indirectly incurred by a governmental entity  
29 on building materials, supplies, fixtures, and equipment that become a part of or  
30 annexed to any building or structure that is owned or leased by the governmental entity  
31 and is being erected, altered, or repaired for use by the governmental entity is  
32 considered a sales or use tax liability incurred on direct purchases by the governmental  
33 entity for the purpose of this subsection. A request for a refund must be in writing and  
34 must include any information and documentation required by the Secretary. A request  
35 for a refund is due within six months after the end of the governmental entity's fiscal  
36 year. The Secretary shall make an annual report to the Department of Public Instruction  
37 and the Fiscal Research Division of the General Assembly by March 1 of the amount of  
38 refunds, identified by taxpayer, claimed under subdivisions (2b) and (2c) of this  
39 subsection over the preceding year.

40 This subsection applies only to the following governmental entities:

- 41 (1) A county.  
42 (2) A city as defined in G.S. 160A-1.  
43 (2a) A consolidated city-county as defined in G.S. 160B-2.

- 1 (2b) (2c) Repealed by Session Laws 2005-276, s. 7.51(a), effective July 1,  
2 2005, and applicable to sales made on or after that date.
- 3 (3) A metropolitan sewerage district or a metropolitan water district in this  
4 State.
- 5 (4) A water and sewer authority created under Chapter 162A of the  
6 General Statutes.
- 7 (5) A lake authority created by a board of county commissioners pursuant  
8 to an act of the General Assembly.
- 9 (6) A sanitary district.
- 10 (7) A regional solid waste management authority created pursuant to  
11 G.S. 153A-421.
- 12 (8) An area mental health, developmental disabilities, and substance abuse  
13 authority, other than a single-county area authority, established  
14 pursuant to Article 4 of Chapter 122C of the General Statutes.
- 15 (9) A district health department, or a public health authority created  
16 pursuant to Part 1A of Article 2 of Chapter 130A of the General  
17 Statutes.
- 18 (10) A regional council of governments created pursuant to G.S. 160A-470.
- 19 (11) A regional planning and economic development commission or a  
20 regional economic development commission created pursuant to  
21 Chapter 158 of the General Statutes.
- 22 (12) A regional planning commission created pursuant to G.S. 153A-391.
- 23 (13) A regional sports authority created pursuant to G.S. 160A-479.
- 24 (14) A public transportation authority created pursuant to Article 25 of  
25 Chapter 160A of the General Statutes.
- 26 (14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter  
27 160A of the General Statutes.
- 28 (15) A regional public transportation authority created pursuant to Article  
29 26 of Chapter 160A of the General Statutes, or a regional  
30 transportation authority created pursuant to Article 27 of Chapter 160A  
31 of the General Statutes.
- 32 (16) A local airport authority that was created pursuant to a local act of the  
33 General Assembly.
- 34 (17) A joint agency created by interlocal agreement pursuant to  
35 G.S. 160A-462 to operate a public broadcasting television station.
- 36 (18) Repealed by Session Laws 2001-474, s. 7, effective November 29,  
37 2001.
- 38 (19) Repealed by Session Laws 2001-474, s. 7, effective November 29,  
39 2001.
- 40 (20) A constituent institution of The University of North Carolina, but only  
41 with respect to sales and use tax paid by it for tangible personal  
42 property or services that are eligible for refund under this subsection  
43 acquired by it through the expenditure of contract and grant funds.
- 44 (21) The University of North Carolina Health Care System.

1 (22) A regional natural gas district created pursuant to Article 28 of Chapter  
2 160A of the General Statutes."

3 **SECTION 7.** G.S. 105-164.27A(b) reads as rewritten:

4 "(b) Telecommunications Service. – A direct pay permit for telecommunications  
5 service authorizes its holder to purchase telecommunications service and ancillary  
6 service without paying tax to the seller and authorizes the seller to not collect any tax on  
7 a sale to the permit holder. A person who purchases ~~telecommunications service~~ these  
8 services under a direct pay permit must file a return and pay the tax due monthly to the  
9 Secretary. A direct pay permit issued under this subsection does not apply to any tax  
10 other than the tax on telecommunications service and ancillary service.

11 A call center that purchases telecommunications service that originates outside this  
12 State and terminates in this State may apply to the Secretary for a direct pay permit for  
13 telecommunications service and ancillary service. A call center is a business that is  
14 primarily engaged in providing support services to customers by telephone to support  
15 products or services of the business. A business is primarily engaged in providing  
16 support services by telephone if at least sixty percent (60%) of its calls are incoming."

17 **SECTION 8.** G.S. 105-164.44F(a) reads as rewritten:

18 "(a) Amount. – The Secretary must distribute to the cities part of the taxes  
19 imposed by G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service.  
20 The Secretary must make the distribution within 75 days after the end of each calendar  
21 quarter. The amount the Secretary must distribute is eighteen and three one-hundredths  
22 percent (18.03%) of the net proceeds of the taxes collected during the quarter, minus  
23 two million six hundred twenty thousand nine hundred forty-eight dollars (\$2,620,948).  
24 This deduction is one-fourth of the annual amount by which the distribution to cities of  
25 the gross receipts franchise tax on telephone companies, imposed by former  
26 G.S. 105-120, was required to be reduced beginning in fiscal year 1995-96 as a result of  
27 the "freeze deduction." The Secretary must distribute the specified percentage of the  
28 proceeds, less the "freeze deduction" among the cities in accordance with this section."

29 **SECTION 9.** G.S. 105-164.16 reads as rewritten:

30 **"§ 105-164.16. Returns and payment of taxes.**

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

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

1 (b) Quarterly. – A taxpayer who is consistently liable for less than one hundred  
2 dollars (\$100.00) a month in State and local sales and use taxes must file a return and  
3 pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and  
4 is due by the last day of the month following the end of the quarter.

5 (b1) Monthly. – A taxpayer who is consistently liable for more than one hundred  
6 dollars (\$100.00) ~~but less than ten thousand dollars (\$10,000)~~ a month in State and local  
7 sales and use taxes must file a return and pay the taxes due on a monthly basis. A  
8 monthly return is due by the 20th day of the month following the calendar month  
9 covered by the return.

10 (b2) ~~Semimonthly. Prepayment.~~ – A taxpayer who is consistently liable for at least  
11 ten thousand dollars (\$10,000) a month in State and local sales and use taxes must ~~pay~~  
12 ~~the tax twice a month and must file a return on a monthly basis. One semimonthly~~  
13 ~~payment covers the period from the first day of the month through the 15th day of the~~  
14 ~~month. The other semimonthly payment covers the period from the 16th day of the~~  
15 ~~month through the last day of the month. The semimonthly payment for the period that~~  
16 ~~ends on the 15th day of the month is due by the 25th day of that month. The~~  
17 ~~semimonthly payment for the period that ends on the last day of the month is due by the~~  
18 ~~10th day of the following month.~~

19 ~~A return covers both semimonthly payment periods. The return is due by the 20th~~  
20 ~~day of the month following the month of the payment periods covered by the return. A~~  
21 ~~taxpayer is not subject to interest on or penalties for an underpayment for a~~  
22 ~~semimonthly payment period if the taxpayer timely pays at least ninety five percent~~  
23 ~~(95%) of the lesser of the following and includes the underpayment with the monthly~~  
24 ~~return for those semimonthly payment periods:~~

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

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

27 make a monthly prepayment of the next month's tax liability. The prepayment is due on  
28 the date a monthly return is due. The prepayment must equal at least sixty-five percent  
29 (65%) of any of the following:

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

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

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

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

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

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

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

16 **SECTION 10.** G.S. 105-113(b) reads as rewritten:

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

20 A water company or public sewerage company must pay tax quarterly when filing a  
21 return. An electric power company must pay tax in accordance with the schedule ~~that~~  
22 ~~applies to its~~ and requirements that apply to payments of sales and use tax under  
23 G.S. 105-164.16 and must file a return quarterly. ~~An electric power company is not~~  
24 ~~subject to interest on or penalties for an underpayment for a semimonthly or monthly~~  
25 ~~payment period if the electric power company timely pays at least ninety five percent~~  
26 ~~(95%) of the amount due for each semimonthly or monthly payment period and includes~~  
27 ~~the underpayment with the quarterly return for those semimonthly or monthly payment~~  
28 ~~periods.~~

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

- 35 (1) The taxpayer's gross receipts for the reporting period from business  
36 inside and outside this State, stated separately.
- 37 (2) The taxpayer's gross receipts from commodities or services described  
38 in subsection (a) that are sold to a vendee subject to the tax levied by  
39 this section or to a joint agency established under Chapter 159B of the  
40 General Statutes or a city having an ownership share in a project  
41 established under that Chapter.
- 42 (3) The amount of and price paid by the taxpayer for commodities or  
43 services described in subsection (a) that are purchased from others  
44 engaged in business in this State and the name of each vendor.

1 (4) For an electric power company the entity's gross receipts from the sale  
2 within each city of the commodities and services described in  
3 subsection (a)."

4 **SECTION 11.** G.S. 105-164.4(a)(8) reads as rewritten:

5 "(8) The rate of two and one-half percent (2.5%) applies to the sales price  
6 of each modular home ~~sold,~~ sold at retail, including all accessories  
7 attached to the modular home when it is delivered to the purchaser. ~~For~~  
8 ~~the purposes of this subdivision, the retail sale is deemed to be the~~The  
9 sale of a modular home to a modular ~~homebuilder.~~homebuilder is  
10 considered a retail sale. A person who sells a modular home at retail is  
11 allowed a credit against the tax imposed by this subdivision for sales  
12 or use tax paid to another state on tangible personal property  
13 incorporated in the modular home. The retail sale of a modular home  
14 occurs when a modular home manufacturer sells a modular home to a  
15 modular homebuilder or directly to the end user of the modular home."

16 **SECTION 12.** G.S. 105-164.42H(a)(3) is repealed.

17 **SECTION 13.** G.S. 105-187.43 reads as rewritten:

18 "**§ 105-187.43. Payment of the tax.**

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

27 (b) ~~Small Underpayments. — A person is not subject to interest on or penalties for~~  
28 ~~an underpayment of a semimonthly amount due if the person timely pays at least~~  
29 ~~ninety-five percent (95%) of the amount due and includes the underpayment with the~~  
30 ~~next return the person files.~~ Prepayment. — A taxpayer who is consistently liable for at  
31 least ten thousand dollars (\$10,000) of tax a month must make a monthly prepayment of  
32 the next month's tax liability. This requirement applies when the taxpayer meets the  
33 threshold and the Secretary notifies the taxpayer to make prepayments. A prepayment is  
34 due on the date a monthly payment is due. The prepayment must equal at least sixty-five  
35 percent (65%) of any of the following:

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

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

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

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

43 **SECTION 14.** Section 12 of this act becomes effective June 1, 2006. Section  
44 11 of this act becomes effective July 1, 2006, and applies to purchases made on or after

- 1 that date. Sections 9 through 10 and Section 13 of this act become effective October 1,
- 2 2007. The remainder of this act becomes effective January 1, 2007.