

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
Senate Finance Committee Substitute #2 Adopted 7/15/08

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. – In the event that an owner or operator pays the tax on tonnage received from a customer and the account of that customer is found to be worthless and charged off for income tax purposes, the owner or operator may recover the tax paid on the tonnage it received but for which it was never compensated. The tax shall be recovered by reducing the overall tonnage on which the owner or operator pays tax in a calendar quarter by the tonnage for which it was never compensated from the

1 worthless account. A local government that has paid tax on an account that is
2 subsequently found to be worthless shall recover the tax paid in the same manner, if it
3 meets all the conditions for recovery that would apply if the local government were
4 subject to income tax. If the owner or operator subsequently collects on an account that
5 has been declared worthless, any tax recovered must be repaid in the next calendar
6 quarter."

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

8 **"§ 105-187.63. Use of tax proceeds.**

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

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

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

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

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

1 **SECTION 3.** Notwithstanding G.S. 105-187.63(2), as amended by this act,
2 the Department of Environment and Natural Resources must provide a list to the
3 Secretary of Revenue of the cities and counties that are excluded from the distribution
4 under that subdivision by September 15, 2008. The list applies to distributions made in
5 fiscal year 2008-2009.

6 **SECTION 4.** G.S. 105-113.39 reads as rewritten:

7 "**§ 105-113.39. Discount; refund.**

8 (a) Discount. – A wholesale dealer or a retail dealer who is primarily liable under
9 G.S. 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report
10 under G.S. 105-113.37, and who sends a timely payment may deduct from the amount
11 due with the report a discount of two percent (2%). This discount covers ~~losses due to~~
12 ~~damage to tobacco products,~~ expenses incurred in preparing the records and reports
13 required by this ~~Part,~~ Part and the expense of furnishing a bond.

14 (b) Refund. – A wholesale dealer or retail dealer who is primarily liable under
15 ~~G.S. 105-113.35(b)~~ G.S. 105-113.35(b) for the excise taxes imposed by this Part and is
16 in possession of stale or otherwise unsalable ~~cigars~~ tobacco products upon which the tax
17 has been paid may return the ~~cigar~~ tobacco products to the manufacturer and apply to
18 the Secretary for refund of the tax. The application shall be in the form prescribed by
19 the Secretary and shall be accompanied by an affidavit from the manufacturer ~~stating~~
20 ~~the number of cigars~~ listing the tobacco products returned to the manufacturer by the
21 applicant. The Secretary shall refund the tax paid, less the discount allowed, on the
22 ~~unsalable cigars listed products.~~

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