

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1693

Short Title: EITC/Sales Tax on Food.

(Public)

Sponsors: Representative Gibson.

Referred to: Finance.

June 13, 2002

A BILL TO BE ENTITLED
AN ACT TO APPLY THE SALES AND USE TAX TO CERTAIN SALES OF FOOD
AND TO CREATE AN EARNED INCOME TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13B is repealed.

SECTION 2. G.S. 105-467(a) reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the transactions listed in this subsection. The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in this subsection.

(1) The sales price of tangible personal property subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and (a)(4b).

(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).

(3) The gross receipts derived from the rental of any room or other accommodations subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3).

(4) The gross receipts derived from services rendered by laundries, dry cleaners, and other businesses subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(4).

~~(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.~~

(6) The sales price of prepaid telephone calling arrangements taxed as tangible personal property under G.S. 105-164.4(a)(4d)."

SECTION 3. G.S. 105-519 reads as rewritten:

1 **"§ 105-519. Administration of taxes.**

2 Except as provided in this Article, the adoption, levy, collection, administration, and
3 repeal of these additional taxes must be in accordance with Article 39 of this Chapter. A
4 tax levied under this Article does not apply to the sales price of food that is exempt from
5 tax pursuant to G.S. 105-164.13B."

6 **SECTION 4.** Part 8 of Article 5 of Chapter 105 of the General Statutes is
7 amended by adding a new section to read:

8 **"§ 105-164.44G. Transfer to local governments of one-half the taxes on food.**

9 (a) Amount. – Beginning September 30, 2002, the Secretary of Revenue shall
10 transfer at the end of each quarter from the State sales and use tax net collections
11 received by the Department of Revenue under this Article to the counties, the sum of
12 \$XXXXXXXX. Each fiscal year thereafter, the Secretary of Revenue shall transfer at
13 the end of each quarter from the State sales and use tax net collections received by the
14 Department of Revenue under this Article to the counties, one-fourth of the annual
15 amount transferred the preceding fiscal year plus or minus the percentage of that
16 amount by which the total collection of State sales and use taxes increased or decreased
17 during the preceding fiscal year.

18 (b) Distribution. – The Secretary shall allocate to each county a share of the
19 amount specified in subsection (a) of this section. The share allocated to each county
20 shall be determined by multiplying the total amount to be allocated by a fraction. The
21 numerator of the fraction is the net proceeds of the State sales and use tax collected in
22 that county during the previous fiscal year. The denominator of the fraction is the net
23 proceeds of the State sales and use tax collected in all counties in the State during the
24 previous fiscal year. The Secretary shall then distribute the amounts allocated to each
25 county between the county and the cities located in the county in accordance with the
26 method by which local sales and use taxes are distributed in that county."

27 **SECTION 5.** Part 2 of Article 4 of Chapter 105 of the General Statutes is
28 amended by adding a new section to read:

29 **"§ 105-151.29. Earned income tax credit.**

30 (a) Credit. – An individual who claims for the taxable year an earned income tax
31 credit under section 32 of the Code is allowed a credit against the tax imposed by this
32 Part equal to ten percent (10%) of the amount of credit the individual qualified for under
33 section 32 of the Code. A nonresident or part-year resident who claims the credit
34 allowed by this section must reduce the amount of the credit by multiplying it by the
35 fraction calculated under G.S. 105-134.5(b) or (c), as appropriate.

36 (b) Credit Refundable. – If the credit allowed by this section exceeds the amount
37 of tax imposed by this Part for the taxable year reduced by the sum of all credits
38 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
39 is governed by the provisions governing a refund of an overpayment by the taxpayer of
40 the tax imposed in this Part. Section 3507 of the Code, Advance Payment of Earned
41 Income Credit, does not apply to the credit allowed by this section. In computing the
42 amount of tax against which multiple credits are allowed, nonrefundable credits are
43 subtracted before refundable credits."

1 **SECTION 6.** Sections 1 through 4 of this act become effective July 1, 2002,
2 and apply to sales made on or after that date. The remainder of this act is effective for
3 taxable years beginning on or after January 1, 2002.