

the Secretary may authorize an employer to use an alternative method that results in withholding of a greater amount than otherwise required under this section.

The Secretary's authorization of an alternative method is discretionary and may be cancelled at any time without advance notice if the Secretary finds that the method is being abused or is not resulting in the withholding of an amount reasonably approximating the predicted income tax liability of the affected employees. The Secretary shall give an employer written notice of any cancellation and the findings upon which the cancellation is based. The cancellation becomes effective upon the employer's receipt of this notice or on the third day after the notice was mailed to the employer, whichever occurs first. If the employer requests a hearing on the cancellation within 30 days after the cancellation, the Secretary shall grant a hearing. After a hearing, the Secretary's findings are conclusive."

SECTION 32.16A.(b) This section is effective for taxable years beginning on or after January 1, 2016.

EXPAND SALES TAX BASE

SECTION 32.18.(a) G.S. 105-164.3, as amended by S.L. 2015-6, reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

- ...
- (32) Purchase. – Acquired for ~~consideration~~, consideration or consideration in exchange for a service, regardless of any of the following:
- Whether the acquisition was effected by a transfer of title or possession, or both, or a license to use or consume.
 - Whether the transfer was absolute or conditional regardless of the means by which it was effected.
 - Whether the consideration is a price or rental in money or by way of exchange or barter.
- ...
- (33a) Real property contractor. – A person that contracts to perform construction, reconstruction, installation, repair, or any other service with respect to real property and to furnish tangible personal property to be installed or applied to real property in connection with the contract and the labor to install or apply the tangible personal property that becomes part of real property. The term includes a general contractor, a subcontractor, or a builder for purposes of G.S. 105-164.4H. The term does not include a person engaged in retail trade.
- ...
- (33d) Repair, maintenance, and installation services. – The term includes the activities listed in this subdivision:
- To keep or attempt to keep tangible personal property or a motor vehicle in working order to avoid breakdown and prevent repairs.
 - To calibrate, restore, or attempt to calibrate or restore tangible personal property or a motor vehicle to proper working order or good condition. This activity may include replacing or putting together what is torn or broken.
 - To troubleshoot, identify, or attempt to identify the source of a problem for the purpose of determining what is needed to restore tangible personal property or a motor vehicle to proper working order or good condition.
 - To install or apply tangible personal property except tangible personal property installed or applied by a real property contractor pursuant to a real property contract.
- ...
- (35) Retailer. – Any of the following persons:
- A person engaged in business of making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property, or services for storage, use, or consumption in this State. When the Secretary finds it necessary for

the efficient administration of this Article to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as "retailers" for the purpose of this Article.

- b. A person engaged in business of delivering, erecting, installing, or applying tangible personal property for use in this State, regardless of whether the property is permanently affixed to real property or other tangible personal ~~property~~ property unless the person is one or more of the following:
 - 1. A person that solely operates as a real property contractor.
 - 2. A person whose only business activity is providing repair, maintenance, and installation services where the person's activities do not otherwise meet the definition of a retail trade.
 - c. A person engaged in business of making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.
 - d. A person, other than a facilitator, required to collect the tax levied under G.S. 105-164.4(a).
- (35a) Retailer-contractor. – A person that acts as a retailer when it sells tangible personal property at retail and as a real property contractor when it performs real property contracts.
- (35b) Retail trade. – A trade in which the majority of revenue is from retailing tangible personal property, digital property, or services to consumers. The term includes activities of a person properly classified in NAICS sector 44-45, buying goods for resale, and rendering services incidental to the sale of merchandise. The term typically includes maintaining an inventory and may include the provision of repair, maintenance, and installation services. Not all activities provided in this subdivision are required for a trade to be considered retail trade.
- ...
- (38b) Service contract. – A contract where the obligor under the contract agrees to maintain or repair tangible personal ~~property~~ property, regardless of whether the property is becomes a part of or affixed to real property, or a motor vehicle. Examples of a service contract include a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract.

....
"SECTION 32.18.(b) G.S. 105-164.4(a) reads as rewritten:

"§ 105-164.4. Tax imposed on retailers.

(a) A privilege tax is imposed on a retailer engaged in business in the State at the percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as follows:

- (15) The general rate applies to the sales price of or the gross receipts derived from repair, maintenance, and installation services."

SECTION 32.18.(c) G.S. 105-164.4I(c) reads as rewritten:

"(c) Exceptions. — ~~The tax does not apply to the sales price of or the gross receipts derived from a service contract for tangible personal property sold at retail that is or will become a part of real property unless the service contract is sold by the obligor or by a third party or facilitator on behalf of the obligor at the same time as the item of tangible personal property covered in the service contract.~~ The tax imposed by this section does not apply to a

security or similar monitoring contract for real property or to a renewal of a service contract where the tangible personal property becomes a part of or affixed to real property prior to the effective date of the renewal property."

SECTION 32.18.(d) G.S. 105-164.13(49) is repealed.

SECTION 32.18.(e) G.S. 105-164.13, as amended by S.L. 2015-6, reads as rewritten:

"§ 105-164.13. Retail sales and use tax.

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

- ...
- (61) A service contract for tangible personal property may be exempt as provided in G.S. 105-164.4I.
- (61a) Repair, maintenance, and installation services provided for an item for which a service contract on the item is exempt from tax under G.S. 105-164.4I.
- (61b) Repair, maintenance, and installation services purchased for resale.
- (62) An ~~item~~ item or repair, maintenance, and installation services used to maintain or repair tangible personal property or a motor vehicle pursuant to a service contract taxable under this Article if the purchaser of the contract is not charged for the item. For purposes of this exemption, the term "item" does not include a tool, equipment, supply, or similar tangible personal property used to complete the maintenance or repair and that is not deemed to be a component or repair part of the tangible personal property or motor vehicle for which a service contract is sold to a purchaser.

...."

SECTION 32.18.(f) G.S. 105-237.1(a)(6) reads as rewritten:

"§ 105-237.1. Compromise of liability.

(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

- ...
- (6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the assessment is for sales or use tax the retailer failed to collect or the person failed to pay on an item taxable under G.S. 105-164.4(a)(10) ~~and (a)(11),~~ through (a)(15), and the retailer or person made a good-faith effort to comply with the sales and use tax laws. This subdivision expires for assessments issued after July 1, 2020."

SECTION 32.18.(g) The Secretary of Revenue is directed to repeal the following administrative rules: 17 NCAC 07B .1002, 17 NCAC 07B .1003, and 17 NCAC 07B .1901. A repair part historically purchased and taxed in accordance with these administrative rules should be purchased for the purpose of resale.

SECTION 32.18.(h) This section becomes effective March 1, 2016, and applies to sales occurring on or after that date and to gross receipts derived from repair, maintenance, and installation services provided on or after that date.

ADDITIONAL LOCAL SALES TAX REVENUE FOR ECONOMIC DEVELOPMENT, PUBLIC EDUCATION, AND COMMUNITY COLLEGES

SECTION 32.19.(a) The heading to Article 44 of Chapter 105 of the General Statutes reads as rewritten:

"Article 44.

Local Government Hold Harmless and Allocation Provisions."

SECTION 32.19.(b) Article 44 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-524. Distribution of additional sales tax revenue for economic development, public education, and community colleges.

(a) Purpose. – The purpose of this section is to address sales tax leakage that results from the different revenue-raising capacity of local option sales taxes in each taxing jurisdiction. The amount to be distributed is determined under subsection (b) of this section. The amount each county may receive is determined by the county's allocation percentage under