

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 395

Short Title: Reinstatement Merchant's Discount. (Public)

Sponsors: Senator Burgin (Primary Sponsor).

Referred to: Rules and Operations of the Senate

March 30, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO REINSTATE A MERCHANT'S DISCOUNT.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 105-164.21 is reenacted as it existed immediately before its repeal
5 and reads as rewritten:

6 "**§ 105-164.21. Merchant's discount.**

7 (a) Amount. – Except as provided in subsection (b) of this section, a retailer who pays
8 the retail sales and use tax imposed by this Article may deduct from the amount of the tax paid a
9 discount of ~~one three percent (1%), (3%),~~ not to exceed five ~~hundred thousand~~ dollars
10 ~~(\$500.00).~~(\$5,000).

11 (b) Restrictions. – The Secretary may deny a retailer the benefit of this section for failure
12 to pay the full tax when due as well as in cases of fraud, evasion, or failure to keep accurate and
13 clear records as required by this Article. In order to receive the discount provided in this section,
14 a retailer must deduct the discount when it remits the tax to the Department. A retailer who sells
15 the following services may not deduct the discount provided in this section on sales of those
16 services:

- 17 (1) Electricity.
18 (2) Piped natural gas.
19 (3) Telecommunications.
20 (4) Video programming."

21 **SECTION 2.(a)** G.S. 105-474 reads as rewritten:

22 "**§ 105-474. Definitions; construction of Article; remedies and penalties.**

23 The definitions set forth in Article 5 of Subchapter I of this Chapter shall apply to this Article
24 insofar as such definitions are not inconsistent with the provisions of this Article, and all other
25 provisions of Articles 5 and 9 of Subchapter I of this Chapter as the same relate to the North
26 Carolina Sales and Use Tax Act shall be applicable to this Article unless such provisions are
27 inconsistent with the provisions of this Article. The administrative interpretations made by the
28 Secretary of Revenue with respect to the North Carolina Sales and Use Tax Act, to the extent not
29 inconsistent with the provisions of this Article, may be uniformly applied in the construction and
30 interpretation of this Article. It is the intention of this Article that the provisions of this Article
31 and the provisions of the North Carolina Sales and Use Tax Act, insofar as practicable, shall be
32 harmonized.

33 The provisions with respect to remedies and penalties applicable to the North Carolina Sales
34 and Use Tax Act, as contained in Articles 5 and 9 of Subchapter I of this Chapter, shall be
35 applicable in like manner to the tax authorized to be levied and collected under this Article, to



1 the extent that the same are not inconsistent with the provisions of this Article. The merchant's
2 discount provided in G.S. 105-164.21 does not apply to this Article."

3 **SECTION 2.(b)** G.S. 105-187.5(d) reads as rewritten:

4 "(d) Administration. – The Division shall notify the Secretary of Revenue of a retailer who
5 makes the election under this section. A retailer who makes this election shall report and remit
6 to the Secretary the tax on the gross receipts of the limited possession commitment of the motor
7 vehicle. The Secretary shall administer the tax imposed by this section on gross receipts in the
8 same manner as the tax levied under G.S. 105-164.4(a)(2). The administrative provisions and
9 powers of the Secretary that apply to the tax levied under G.S. 105-164.4(a)(2) apply to the tax
10 imposed by this section. ~~In addition, the~~ The merchant's discount provided in G.S. 105-164.21
11 does not apply to this section.

12 The Division may request the Secretary to audit a retailer who elects to pay tax on gross
13 receipts under this section. When the Secretary conducts an audit at the request of the Division,
14 the Division shall reimburse the Secretary for the cost of the audit, as determined by the
15 Secretary. In conducting an audit of a retailer under this section, the Secretary may audit any
16 sales of motor vehicles made by the retailer."

17 **SECTION 2.(c)** G.S. 105-187.17 reads as rewritten:

18 "**§ 105-187.17. Administration.**

19 (a) Retail Sale or Use. – The privilege tax this Article imposes on a tire retailer who sells
20 new tires at retail is an additional State sales tax and the excise tax this Article imposes on the
21 storage, use, or consumption of a new tire in this State is an additional State use tax. Except as
22 otherwise provided in this Article, these taxes shall be collected and administered in the same
23 manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under Article 5
24 of this Chapter, the additional State sales tax paid when a new tire is sold is a credit against the
25 additional State use tax imposed on the storage, use, or consumption of the same tire.

26 (b) Wholesale Sale or Use. – The privilege tax this Article imposes on a tire retailer and
27 on a tire wholesale merchant who sell new tires for placement in this State on a vehicle offered
28 for sale, lease, or rental is a tax on the wholesale sale of the tires. This tax and the excise tax this
29 Article imposes on a new tire purchased for placement in this State on a vehicle offered for sale,
30 lease, or rental shall, to the extent practical, be collected and administered as if they were
31 additional State sales and use taxes. The privilege tax paid when a new tire is sold for placement
32 on a vehicle offered for sale, lease, or rental is a credit against the use tax imposed on the purchase
33 of the same tire for placement in this State on a vehicle offered for sale, lease, or rental.

34 (c) Discount. – The merchant's discount provided in G.S. 105-164.21 does not apply to
35 this Article."

36 **SECTION 2.(d)** G.S. 105-187.22 reads as rewritten:

37 "**§ 105-187.22. Administration.**

38 The privilege tax this Article imposes on a white goods retailer is an additional State sales
39 tax and the excise tax this Article imposes on the storage, use, or consumption of a new white
40 good in this State is an additional State use tax. Except as otherwise provided in this Article,
41 these taxes shall be collected and administered in the same manner as the State sales and use
42 taxes imposed by Article 5 of this Chapter. As under Article 5 of this Chapter, the additional
43 State sales tax paid when a new white good is sold at retail is a credit against the additional State
44 use tax imposed on the storage, use, or consumption of the same white good. The merchant's
45 discount provided in G.S. 105-164.21 does not apply to this Article."

46 **SECTION 2.(e)** G.S. 105-187.32 reads as rewritten:

47 "**§ 105-187.32. Administration.**

48 The privilege tax this Article imposes on a dry-cleaning solvent retailer is an additional State
49 sales tax, and the excise tax this Article imposes on the storage, use, or consumption of
50 dry-cleaning solvent by a dry-cleaning facility in this State is an additional State use tax. Except
51 as otherwise provided in this Article these taxes shall be collected and administered in the same

1 manner as the State sales and use taxes imposed by Article 5 of this Chapter. The merchant's
2 discount provided in G.S. 105-164.21 does not apply to this Article. As under Article 5 of this
3 Chapter, the additional State sales tax paid when dry-cleaning solvent is sold at retail is a credit
4 against the additional State use tax imposed on the storage, use, or consumption of the same
5 dry-cleaning solvent."

6 **SECTION 3.** This act becomes effective July 1, 2023, and applies to returns filed on
7 or after that date.