

May 17, 2010

**S 1185. MODERNIZE SALES TAX ON ACCOMMODATIONS.** Filed 5/17/10. *TO MODERNIZE THE APPLICATION OF THE SALES TAX ON ACCOMMODATIONS BY RECOGNIZING THAT THE SALES PRICE IS THE PRICE PAID BY THE CONSUMER REGARDLESS OF WHETHER IT IS PAID TO THE ACCOMMODATIONS PROVIDER OR A THIRD PARTY.*

Current law imposes a privilege tax on a retailer that is calculated based on the general rate of tax levied on the retailer's net taxable sales or gross receipts.

Amends GS 105-164.4 to define an *accommodation* as a hotel room, a motel room, a residence, a cottage, or a similar space for occupancy by an individual. Defines each of the following as a *retailer* under Article 5, GS Chapter 105 (Sales and Use Tax Act): (1) a person who provides an accommodation to a transient, (2) a person who agrees via a written contract to be the rental agent (includes real estate broker as defined in GS 93A-2) for the provider of an accommodation, and (3) a person who by written contract is *not* the rental agent of the accommodation provider, but who is authorized by the accommodation provider to facilitate the rental of the accommodation and to charge for the rental to a transient. Clarifies that the general rate of tax applies to the *sales price* of the rental of an accommodation to a transient and to other gross receipts from the rental of an accommodation to a transient. Includes facilitation fees or similar charges that are necessary to complete the accommodation's rental in the sales price. Requires a person who facilitates the rental of an accommodation to a transient to report the sales price to the accommodation provider. Makes the provider responsible for remitting the tax on the sales price reported by the facilitator. Makes the facilitator not liable for the tax due on the sales price except makes the facilitator responsible for the tax due on a sales price that the facilitator fails to report or under reports the amount to the accommodation provider.

Amends GS 105-164.4B to provide that the rental of a transient accommodation is source to the location of the accommodations.

Amends GS 153A-155(c) (pertaining to counties) and GS160A-215 (c) (pertaining to cities) to direct that every person required to remit the state sales tax on accommodations imposed by GS 105-164.4(a)(3) to the Department of Revenue is required to remit a room occupancy tax to the taxing county. Provides additional guidelines regarding the collection of the room occupancy tax. Clarifies that a rental agent or rental facilitator has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the state sales tax accommodations. Clarifies that the provider of an accommodation must separately state the room occupancy tax. Amends GS 153A-155(g) and GS 160A-215 (g) to specify the applicability of subsection (c) to all counties and to provide that in the case of any conflicts subsection (c), supersedes any local act and cities levying an occupancy tax. Effective for gross receipt derived from accommodations provided on or after January 1, 2011.

**Intro. by Hartsell**

GS 105, 153A, 160A