

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

H.B. 66  
Feb 10, 2015  
HOUSE PRINCIPAL CLERK

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HOUSE DRH40036-MC-42B (01/28)

Short Title: Sales Tax Exemption for Datacenter Equipment. (Public)

Sponsors: Representatives Saine, B. Brown, Hager, and Hanes (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE DATACENTER INFRASTRUCTURE ACT.  
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 105-164.3 reads as rewritten:  
5 "§ 105-164.3. Definitions.

6 The following definitions apply in this Article:

7 ...

8 (33) Qualifying datacenter. – A datacenter that satisfies each of the following  
9 conditions:

10 a. The datacenter meets the wage standard and health insurance  
11 requirements of G.S. 143B-437.08A.

12 b. The Secretary of Commerce has made a written determination that at  
13 least seventy five million dollars (\$75,000,000) in private funds has  
14 been or will be invested by one or more owners, users, or tenants of  
15 the datacenter within five years of the date the owner, user, or tenant  
16 of the datacenter makes its first real or tangible property investment  
17 in the datacenter on or after January 1, 2012. Investments in real or  
18 tangible property in the datacenter made prior to January 1, 2012,  
19 may not be included in the investment required by this subdivision.

20 (33a) Purchase price. – The term has the same meaning as the term "sales price"  
21 when applied to an item subject to use tax.

22 ~~(33a)~~(33b) Real property contractor. – A person that contracts to perform  
23 construction, reconstruction, installation, repair, or any other service with  
24 respect to real property and to furnish tangible personal property to be  
25 installed or applied to real property in connection with the contract and the  
26 labor to install or apply the tangible personal property that becomes part of  
27 real property. The term includes a general contractor, a subcontractor, or a  
28 builder for purposes of G.S. 105-164.4H.

29 ~~(33b)~~(33c) Related member. – Defined in G.S. 105-130.7A.

30 ~~(33e)~~(33d) Remote sale. – A sale of tangible personal property or digital property  
31 ordered by mail, by telephone, via the Internet, or by another similar method,  
32 to a purchaser who is in this State at the time the order is remitted, from a  
33 retailer who receives the order in another state and delivers the property or  
34 causes it to be delivered to a person in this State. It is presumed that a  
35 resident of this State who remits an order was in this State at the time the  
36 order was remitted.



1 ...."

2 **SECTION 2.** G.S. 105-164.13 is amended by adding a new subdivision to read:

3 "(55a) Sales of electricity for use at a qualifying datacenter and datacenter-support  
4 equipment to be located and used at the qualifying datacenter. As used in  
5 this subdivision, "datacenter-support equipment" is property that is  
6 capitalized for tax purposes under the Code and is used either:

- 7 a. For the provision of a service or function included in the business of  
8 an owner, user, or tenant of the datacenter.  
9 b. For the generation, transformation, transmission, distribution, or  
10 management of electricity, including exterior substations, generators,  
11 transformers, unit substations, uninterruptible power supply systems,  
12 batteries, power distribution units, remote power panels, and other  
13 capital equipment used for these purposes.  
14 c. For HVAC and mechanical systems, including chillers, cooling  
15 towers, air handlers, pumps, and other capital equipment used for  
16 these purposes.  
17 d. For hardware and software for distributed and mainframe computers  
18 and servers, data storage devices, network connectivity equipment,  
19 and peripheral components and equipment.  
20 e. To provide related computer engineering or computer science  
21 research.

22 If the level of investment required by G.S. 105-164.3(33) is not timely  
23 made, the exemption provided under this subdivision is forfeited. If the level  
24 of investment required by G.S. 105-164.3(33) is timely made but any  
25 specific datacenter-support equipment is not located and used at the  
26 qualifying datacenter, the exemption provided for such datacenter-support  
27 equipment under this subdivision is forfeited. If the level of investment  
28 required by G.S. 105-164.3(33) is timely made but any portion of electricity  
29 is not used at the qualifying datacenter, the exemption provided for such  
30 electricity under this subdivision is forfeited. A taxpayer that forfeits an  
31 exemption under this subdivision is liable for all past taxes avoided as a  
32 result of the forfeited exemption, computed from the date the taxes would  
33 have been due if the exemption had not been allowed, plus interest at the rate  
34 established under G.S. 105-241.21. If the forfeiture is triggered due to the  
35 lack of a timely investment required by G.S. 105-164.3(33), interest is  
36 computed from the date the taxes would have been due if the exemption had  
37 not been allowed. For all other forfeitures, interest is computed from the  
38 time as of which the datacenter-support equipment or electricity was put to a  
39 disqualifying use. The past taxes and interest are due 30 days after the date  
40 the exemption is forfeited. A taxpayer that fails to pay the past taxes and  
41 interest by the due date is subject to the provisions of G.S. 105-236."

42 **SECTION 3.** This act becomes effective July 1, 2015, and applies to sales made on  
43 or after that date.