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- c. A sale of a product accompanied by a transfer of another product with no additional consideration.
 - d. A product and the delivery or installation of the product.
 - e. A product and any service necessary to complete the sale.
- (1a)(1d) Business. – Includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, profit, benefit or advantage, either direct or indirect. The term "business" shall not be construed in this Article to include occasional and isolated sales or transactions by a person who does not hold himself out as engaged in business.
- (1b)(1f) Cable service. – The one-way transmission to subscribers of video programming or other programming service and any subscriber interaction required to select or use the service.
- ...
- (12) Gross sales. – The sum total of the sales price of all retail sales of tangible personal property as defined herein, whether for cash or credit without allowance for cash discount and without any deduction on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or any other expenses whatsoever and without any deductions of any kind or character except as provided in this Article. and services.
- ...
- (37) Sales price. – The total amount or consideration for which tangible personal property or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.
- a. The term includes all of the following:
 - 1. The retailer's cost of the property sold.
 - 2. The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense of the retailer.
 - 3. Charges by the retailer for any services necessary to complete the sale.
 - 4. Delivery charges.
 - 5. Installation charges.
 - 6. ~~The value of exempt personal property given to the consumer when taxable and exempt personal property are bundled together and sold by the retailer as a single product or piece of merchandise.~~
 - 7. Credit for trade-in.

1 8. Discounts that are reimbursable by a third party and can
2 be determined at the time of sale through any of the
3 following:

4 a. Presentation by the consumer of a coupon or other
5 documentation.

6 b. Identification of the consumer as a member of a
7 group eligible for a discount.

8 c. The invoice the retailer gives the consumer.

9 b. The term does not include any of the following:

10 1. ~~Discounts, including cash, term, or coupons, that are not~~
11 ~~reimbursed~~ Discounts that are not reimbursable by a
12 third party, are allowed by the retailer, and are taken by a
13 consumer on a sale.

14 2. Interest, financing, and carrying charges from credit
15 extended on the sale, if the amount is separately stated
16 on the invoice, bill of sale, or a similar document given
17 to the consumer.

18 3. Any taxes imposed directly on the consumer that are
19 separately stated on the invoice, bill of sale, or similar
20 document given to the consumer.

21 ...

22 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax
23 Agreement as amended ~~in November 2005~~ as of December 14, 2006.

24 **SECTION 2.** G.S. 105-164.4D, as enacted by Section 5 of S.L. 2006-151,

25 reads as rewritten:

26 **"§ 105-164.4D. Bundled services transactions.**

27 ~~When a taxable service is bundled with a service that is not taxable, the tax applies~~
28 ~~to the gross receipts from the taxable service in the bundle as follows:~~

29 (1) ~~If the service provider offers all the services in the bundle on an~~
30 ~~unbundled basis, tax is due on the unbundled price of the taxable~~
31 ~~service, less the discount resulting from the bundling. The discount for~~
32 ~~a service as the result of bundling is the proportionate price decrease of~~
33 ~~the service, determined on the basis of the total unbundled price of all~~
34 ~~the services in the bundle compared to the bundled price of the~~
35 ~~services.~~

36 (2) ~~If the service provider does not offer one or more of the services in the~~
37 ~~bundle on an unbundled basis, tax is due on the taxable service based~~
38 ~~on a reasonable allocation of revenue to that service. If the service~~
39 ~~provider maintains an account for revenue from a taxable service, the~~
40 ~~service provider's allocation of revenue to that service for the purpose~~
41 ~~of determining the tax due on the service must reflect its accounting~~
42 ~~allocation of revenue to that service.~~

43 (a) Tax Application. – Tax applies to the sales price of a bundled transaction unless
44 one of the following applies:

- 1 (1) 50% Test. – All of the products in the bundle are tangible personal
 2 property, the bundle includes one or more of the exempt products
 3 listed in this subdivision, and the price of the taxable products in the
 4 bundle does not exceed fifty percent (50%) of the price of the bundle:
 5 a. Food exempt under G.S. 105-164.13B.
 6 b. A drug exempt under G.S. 105-164.13(13).
 7 c. Medical devices, equipment, or supplies exempt under
 8 G.S. 105-164.13(12).
 9 (2) Allocation. – The bundle includes a service and the retailer determines
 10 an allocated price for each product in the bundle based on a reasonable
 11 allocation of revenue that is supported by the retailer's business records
 12 kept in the ordinary course of business. In this circumstance, tax
 13 applies to the allocated price of each taxable product in the bundle.
 14 (3) 10% Test. – The price of the taxable products in the bundle does not
 15 exceed ten percent (10%) of the price of the bundle and no other
 16 subdivision in this subsection applies.

17 **(b) Determining Threshold. – A retailer of a bundled transaction subject to this**
 18 **section may use either the retailer's cost price or the retailer's sales price to determine if**
 19 **the transaction meets the 50% test or the 10% test set out in subdivisions (a)(1) and**
 20 **(a)(3) of this section. A retailer may not use a combination of cost price and sales price**
 21 **to make this determination. If a bundled transaction subject to subdivision (a)(3) of this**
 22 **section includes a service contract, the retailer must use the full term of the contract in**
 23 **determining whether the transaction meets the threshold set in the subdivision."**

24 **SECTION 3. G.S. 105-164.12B reads as rewritten:**

25 **"§ 105-164.12B. Tangible personal property ~~bundled~~ sold below cost with**
 26 **conditional service contract.**

27 **(a) ~~Bundled Transaction~~ Conditional Service Contract Defined. – A ~~bundled~~**
 28 **~~transaction is a transaction~~ conditional service contract is a contract in which all of the**
 29 **following conditions are met:**

- 30 (1) A seller transfers an item of tangible personal property to a consumer
 31 on the condition that the consumer enter into an agreement to purchase
 32 services on an ongoing basis for a minimum period of at least six
 33 months.
 34 (2) The agreement requires the consumer to pay a cancellation fee to the
 35 ~~service provider~~ seller if the consumer cancels the contract for services
 36 within the minimum period.
 37 (3) For the item transferred, the ~~seller:~~
 38 a. ~~Does not charge the consumer; or~~
 39 b. ~~Charges~~ seller charges the consumer a price that, after any
 40 ~~discount or rebate~~ price reduction the seller gives the consumer,
 41 is below the purchase price the seller paid for the item. The
 42 seller's purchase price is presumed to be no greater than the
 43 price the seller paid, as shown on the seller's purchase invoice.

1 for the same item within 12 months before the seller entered
2 into the conditional service contract.

3 (b) ~~Bundled Transaction Is a Sale; Sales Price; Tax.~~ – If a seller transfers an item
4 of tangible personal property as part of a ~~bundled transaction, conditional service~~
5 ~~contract, a sale has occurred, and the occurred.~~ The sales price of the item is presumed
6 to be the retail price at which the item would sell if no agreement for services were
7 entered into. Part of this price may be paid by the consumer at the time of the transfer;
8 the remainder of the price is considered paid as part of the price to be paid for the
9 services contracted for. in the absence of the conditional service contract. Sales tax is
10 due on any part of the price paid by the consumer at the time of the transfer.
11 transfer on
12 the following:

12 (1) Any part of the presumed sales price the consumer pays at that time, if
13 the service in the contract is taxable at the combined general rate.

14 (2) The presumed sales price, if the service in the contract is not taxable at
15 the combined general rate.

16 (c) ~~No Additional Sales Tax if Services Taxed.~~ – If the services for which the
17 consumer was required to contract are subject to services taxes at a combined rate equal
18 to or greater than the combined State and local general rate of sales and use tax, then no
19 additional sales tax is due on the transfer. However, if the consumer cancels the contract
20 for services before the expiration of the minimum period, sales tax applies to the
21 cancellation fee paid by the consumer.

22 (d) ~~Additional Sales Tax if Services Not Taxed.~~ – If the services for which the
23 consumer was required to contract are not subject to services taxes at a combined rate
24 equal to or greater than the combined State and local general rate of sales and use tax,
25 then sales tax is due at the time of the transfer on the remainder of the sales price not
26 paid at that time.

27 (e) ~~Services Taxes Defined.~~ – For the purpose of this section, the term "services
28 taxes" means any combination of State franchise tax on gross receipts, State sales tax, or
29 local sales tax levied on the sale of or gross receipts from the services.

30 (f) ~~Determination of Purchase Price.~~ – For the purpose of this section, the
31 purchase price a seller paid for an item is presumed to be no greater than the price the
32 seller paid for the same model within 12 months before the bundled transaction, as
33 shown on the seller's invoices."

34 **SECTION 4.** G.S. 105-164.13(9) reads as rewritten:

35 **"§ 105-164.13. Retail sales and use tax.**

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

39
40 Agricultural Group.

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42

1 (9) ~~Sales of boats, Boats, fuel oil, lubricating oils, machinery, equipment,~~
2 ~~nets, rigging, paints, parts, accessories, and supplies sold to persons~~
3 ~~any of the following:~~

4 a. The holder of a standard commercial fishing license issued under
5 G.S. 113-168.2 for principal use by them principally in commercial
6 fishing operations within the meaning of G.S. 113-168, except
7 when the property is for use by persons principally to take fish for
8 recreation or personal use or consumption, operations.

9 b. The holder of a shellfish license issued under G.S. 113-169.2 for
10 principal use in commercial shellfishing operations.

11 c. The operator of a for hire boat, as defined in G.S. 113-174, for
12 principal use in the commercial use of the boat. As used in this
13 subdivision, "fish" is defined as in G.S. 113-129(7)."

14 **SECTION 5.** G.S. 105-164.42L reads as rewritten:

15 **"§ 105-164.42L. Databases on taxing jurisdictions.**

16 The Secretary may develop databases that provide information on the boundaries of
17 taxing jurisdictions and the tax rates applicable to those taxing jurisdictions. A ~~seller~~
18 ~~that person who~~ relies on the information provided in these databases is not liable for
19 underpayments of tax attributable to erroneous information provided by the Secretary in
20 those databases."

21 **SECTION 6.** G.S. 105-467(a) reads as rewritten:

22 **"§ 105-467. Scope of sales tax.**

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

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

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

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

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

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

43 (5a) The sales price of a bundled transaction that includes food subject to
44 tax under subdivision (5) of this subsection, if the price of the food

1 exceeds ten percent (10%) of the price of the bundle. A retailer must
2 determine the price of food in a bundled transaction in accordance with
3 G.S. 105-164.4D.

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

6 (7) The gross receipts derived from providing satellite digital audio radio
7 service subject to the general rate of tax under G.S. 105-164.4(a)(6a).

8 **SECTION 7.** The first paragraph of Section 4 of Chapter 1096 of the 1967
9 Session Laws, as amended, is amended by inserting a new subdivision between
10 subdivisions (5) and (6) to read as follows:

11 "(5a) The sales price of a bundled transaction that includes food subject to
12 tax under subdivision (5) of this section, if the price of the food
13 exceeds ten percent (10%) of the price of the bundle. A retailer must
14 determine the price of food in a bundled transaction in accordance with
15 G.S. 105-164.4D."

16 **SECTION 8.** This act becomes effective October 1, 2007.