

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

U

D

BILL DRAFT 2013-SVx-17D [v.2] (11/26)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

1/27/2014 1:19:10 PM

Short Title: Sales Tax/Retailer-Contractors.

(Public)

Sponsors: Unknown (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE APPLICABILITY OF THE SALES TAX LAWS TO
3 RETAILER-CONTRACTORS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 5 of Chapter 105 of the General Statutes is amended by
6 adding the following new section:

7 "**§ 105-164.4F. Retailer-contractors.**

8 A retailer-contractor is a person who engages in a business that involves both selling
9 building materials, supplies, equipment, and fixtures at retail and entering into real property
10 improvement contracts with its customers. A real property improvement contract is a contract
11 to furnish tangible personal property that becomes part of the real property as the result of
12 construction, alteration, improvement, or repair. A retailer-contractor that enters into a real
13 property improvement contract with a customer is the consumer of the tangible personal
14 property used in performing the contract and is liable for the tax."

15 **SECTION 2.** G.S. 105-164.11(e) reads as rewritten:

16 "(e) ~~Reliance on Written Advice. Departmental Interpretation.~~ – A seller who requests
17 ~~specific written advice from the Secretary and who collects and remits sales or use tax in~~
18 ~~accordance with the the documentation listed in this subsection~~ written advice the Secretary
19 ~~gives the seller~~ is not liable to a purchaser for any overcollected sales or use tax that was
20 ~~collected in accordance with the written advice that documentation.~~ Subsection (a) of this
21 section governs when a seller may obtain a refund for overcollected tax. The documentation
22 upon which a seller may rely is as follows:

23 (1) Specific written advice given by the Secretary upon request of the seller.

24 (2) An interpretation of the law by the Secretary in the form of a rule or
25 published bulletin or directive."

26 **SECTION 3.** Section 1 of this act shall not be construed to affect the interpretation
27 of any statute that is the subject of a State tax audit pending as of the effective date of this act
28 or litigation that is a direct result of such audit.

29 **SECTION 4.** This act becomes effective January 1, 2015, and applies to sales on or
30 after that date and contracts entered into on or after that date.

