

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

U

D

BILL DRAFT 2013-RBx-42 [v.3] (02/04)

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

2/11/2014 9:07:37 AM

Short Title: Service contracts.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ADDRESS THE IMPOSITION OF THE SALES TAX ON SERVICE
3 CONTRACTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-105-164.3(38b) reads as rewritten:

6 "**§ 105-164.3. Definitions.**

7 The following definitions apply in this Article:

8 ...

9 (38b) Service contract. – A contract or agreement that provides the issuer will
10 maintain or repair tangible personal property or a motor vehicle. A service
11 contract includes a warranty agreement, a maintenance agreement, a repair
12 contract, or a similar agreement or contract by which the seller-issuer of the
13 service contract agrees to maintain or repair tangible personal property.

14"

15 **SECTION 2.** G.S. 105-164.4(a)(11) reads as rewritten:

16 (a) A privilege tax is imposed on a retailer at the following percentage rates of the
17 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and
18 three-quarters percent (4.75%).

19 ...

20 (11) The general rate of tax applies to the sales price of a service contract. A
21 service contract is taxed in accordance with G.S. 105-164.4G."

22 **SECTION 3.** Article 5 of Chapter 105 of the General Statutes is amended by
23 adding the following new section to read:

24 "**§ 105-164.4G. Service contracts.**

25 (a) Tax. – The sales price of a service contract sold at retail is a service subject to the
26 general rate of tax set in G.S. 105-164.4. A person that is a retailer of tangible personal
27 property or a motor vehicle that executes or enters into a service contract sold at retail on behalf
28 of the issuer of a service contract must collect the tax due at the time of the retail sale of the
29 service contract. A retail sale of a service contract by the issuer of the service contract engaged
30 in business in the State is subject to tax and the tax is due by the issuer of the service contract
31 unless the retail sale of a service contract is executed by a person that is retailer of tangible
32 personal property or a motor vehicles. The person who collects the tax is liable for the tax. The
33 tax is due and payable in accordance with G.S. 105-164.14.



The tax on a service contract is due at the time of the retail sale of a service contract for an item of tangible personal property subject to tax under G.S. 105-164.4(a)(2) or a motor vehicle that is leased or rented. If the sales price of the service contract is prorated or financed over the term of the lease, the prorated or financed amount of the sales price of the service contract included in each lease payment is exempt from sales tax if separately stated in the lease agreement and on the billing statement or other documentation provided to the lessee.

(b) Cancellation of Service Contract. – When a service contract is cancelled and the sales price for the service contract is refunded to the contract holder, the retailer must refund the tax paid on the service contract. When a service contract is cancelled and the sales price from the sale of the service contract is refunded to the contract holder on a prorated basis, the retailer issuing the refund must refund the tax paid on the service contract based on the same proration. The retailer may reduce the taxable sales or gross receipts for the period in which the refund to contract holder occurs in an amount equal to the amount of tax refunded.

(c) Exemptions. – The tax imposed by this section does not apply to the following:

(1) An item exempt from tax under this Article, other than a motor vehicle exempt from tax under G.S. 105-164.13(32).

(2) A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.

(3) An item purchased by a professional motorsports racing team for which the team may receive a sales tax refund under G.S. 105-164.14A(5).

(d) Applicability. – The tax imposed by this section applies to the sales price of a renewal of a service contract. The tax imposed by this section does not apply to a service contract for tangible personal property that is taxable under Article 5F of this Chapter or to other tangible personal property that is exempt from sales tax under this Article, other than a motor vehicle. The tax imposed by this section does not apply to a service contract for tangible personal property that becomes a part of real property unless the service contract is sold at the time or along with the sale of an item of tangible personal property. The tax imposed by this section does not apply to a security or similar monitoring contract for real property. For purposes of this section, the term "real property" has the same meaning as defined in G.S. 105-273."

SECTION 4. G.S. 105-164.13(61) is repealed.

SECTION 5. G.S. 105-164.13(62) reads as rewritten:

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

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

...

(62) An item used to maintain or repair tangible personal property pursuant to a service contract taxable under G.S. 105-164.4G if the purchaser of the contract is not charged for the item. For purposes of this exemption, "item" does not include tools, equipment, supplies, or similar tangible personal property used to complete the maintenance or repair and are not deemed to be a component or repair part of the tangible personal property or motor vehicle for which a service contract is obtained."

SECTION 6. This act becomes effective January 1, 2015, and applies to sales made on or after that date.