

# North Carolina Sales Tax Refunds

Nonprofit and  
Government refunds,  
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Economic Development refunds,  
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# Nonprofit and Government Refunds

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# Key Facts About Nonprofits

- A nonprofit is a private corporation that works for the public benefit, but is separate and independent from government.
- The most common type of nonprofit falls under section 501(c)3 of the Internal Revenue Code.
- Their purposes are religious, charitable, scientific and literary. Any excess funds must be used to fulfill public purpose.
- 501(c)3s are exempt from federal taxation, and donations are tax deductible. They are also exempt from income and sales taxes in most states.



# Key Facts About North Carolina Nonprofits

- There are over 10,000 501(c)3 nonprofits filing Form 990s (required for budgets over \$25,000).
- 501(c)3 organizations range in size from multi-million dollar operations (Duke or Wake Forest University) to soup kitchens, shelters and PTAs.
- Revenues come from a variety of sources:
  - Governments
  - Private individuals
  - Corporations and foundations
  - Fees



# History – Nonprofit Tax Treatment

- 1933 – NC Sales Tax Implemented
- 1941 – General Assembly added the first exemption relating to sales to religious or charitable institutions.
  - Strictly confined to sales of equipment, furniture and furnishings sold to trustees of churches and Sunday Schools for use in Church and Sunday School buildings.



# History – Nonprofit Tax Treatment

- 1943 – General Assembly added a new provision exempting sales of tangible personal property to nonprofit religious and charitable institutions, nonprofit hospitals and State education institutions (property must be used in carrying on the work of the institution).
- 1947 – General Assembly expanded nonprofit exemptions to include educational institutions not operated for profit.
- 1949 – Exemptions expanded to include sales of building materials sold to contractors to be used in construction and repair work for religious, charitable and nonprofit organizations not subject to sales tax.



# History – Nonprofit Tax Treatment

- 1961 – Several exemptions repealed
  - Nonprofit exemptions repealed
  - Replaced with a sales tax refund
- 1995 – Nonprofit sales tax refunds expanded to include “homes for the aged, sick or infirm whose property is excluded from property tax under G.S. 105-278.6A”



# Types of Nonprofits Eligible for Sales Tax Refunds

- Religious
- Charitable
- Nonprofit Hospitals
- Nonprofit Educational Institutions
- Qualifying CCRCs



# Recent Developments

- Lynnwood Foundation v. NC Dept of Revenue (2008)
  - Charitable status of institutions were subject to interpretation
  - The Lynnwood Foundation successfully challenged the Department's ruling
  - Revealed a need for clarification on what organizations qualify as charitable

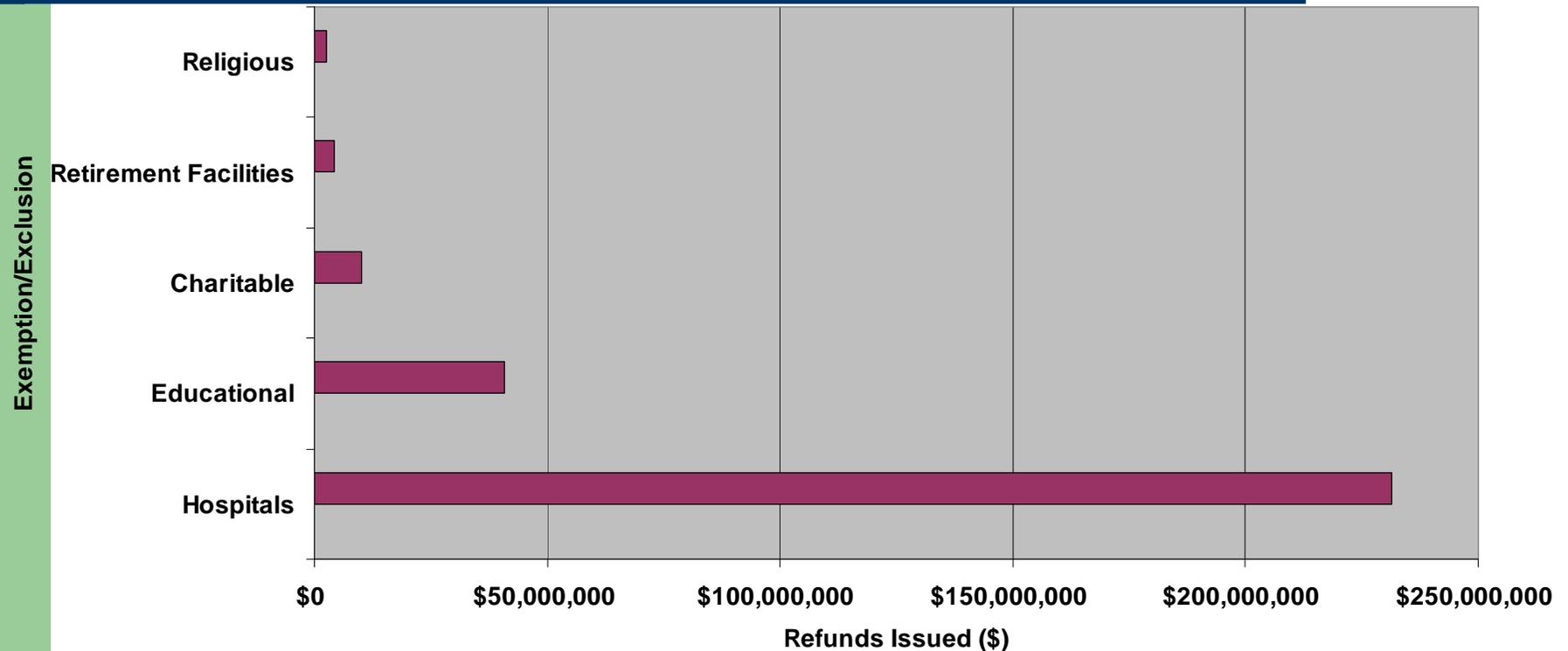


# Recent Developments

- S.L. 2008-107 links nonprofit refund status to classification in the National Taxonomy of Exempt Entities (NTEE)
- Does not significantly change which organizations are eligible, but it removes uncertainty.
- Changes in the law may be necessary as NTEE is modified.



# Nonprofit Sales Tax Refunds – FY 2008-09



Source: Statistical Abstract of North Carolina Taxes, NC DOR



# Government Refunds

- Sub-state Governments.
  - Counties
  - Municipalities
  - Special Districts
  - Public Schools

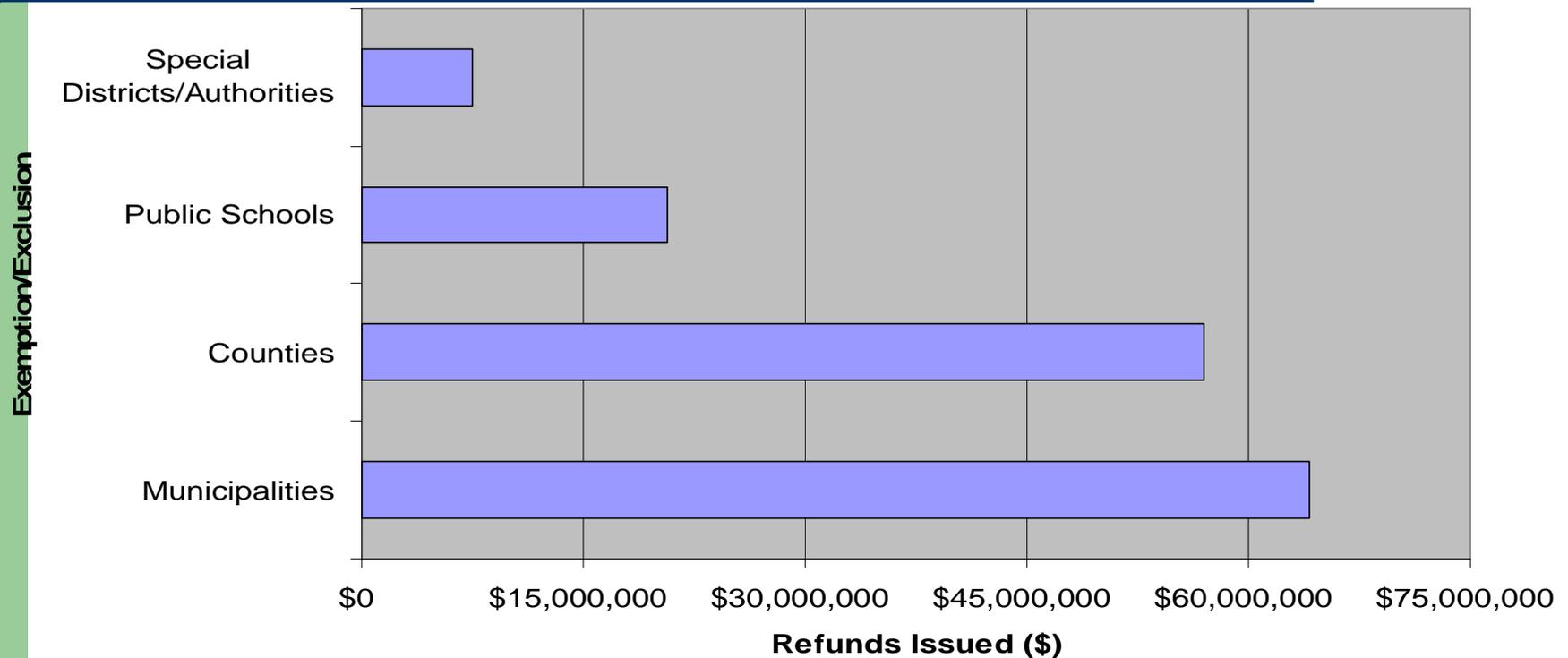


# History – Government Tax Treatment

- 1933 – Sales of merchandise sold to governmental units were exempted from sales tax.
- 1961 – Sales tax exemptions replaced with refunds.
- 2005 – General Assembly repealed refunds for public schools.
  - In lieu of refunds, a quarterly transfer is made to the Public School Fund.
  - Initially, the state and local portion of the sales tax refund was repealed. The local portion was restored in 2006.



# Government Sales Tax Refunds – FY 2008-09



Source: Statistical Abstract of North Carolina Taxes, NC DOR



# Economic Development Refunds

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# Economic Development

- Interstate Carriers/Utility Companies
- Passenger Air Carriers
- Major Recycling Facilities
- Low Tier Machinery
- Nonprofit Insurance Companies
- Certain Industrial Facilities
- Motorsports
- Analytical Services
- Railroad Intermodal Facilities



# Economic Development Refunds

- Three main variables on which these refunds differ
  - Period covered
    - Calendar quarter
    - Semiannual
    - Calendar year
    - Taxpayer's fiscal year
    - State's fiscal year
  - Amount of refund
    - Full
    - Partial
    - Above a threshold
  - Reporting requirements



# Reporting Requirements

- In 2005, the General Assembly enacted requirements directing the Department of Revenue to report, by taxpayer, on most economic development related sales tax refunds
- Refund provisions enacted since 2005 have generally not included this requirement



# Interstate Carriers

- Long standing provision, railway cars and locomotives added in 2006 effective for purchases made on or after July 1, 2006
- Provides for a periodic (by rule, these are quarterly) apportioned refund for sales and use taxes paid on locomotives and railway cars and fuel, lubricants, repair parts, and accessories for motor vehicles, railroad cars, locomotives, or airplanes
- No specific anticipated beneficiary – more of a “tax fairness” issue
- DOR estimates the refund cost \$5.1 million in FY 07-08
- No specific reporting requirement



# Utility Companies

- Enacted in 2006 effective for purchases made on or after July 1, 2006
- Provides for a periodic (by rule, these are semiannually) apportioned refund for sales and use taxes paid on locomotives and railway cars and accessories for railway cars and locomotives and railway cars
- No specific anticipated beneficiary – more of a “tax fairness” issue
- Original estimates from Fiscal Research put the cost of this refund at \$370,000 annually
- No reporting requirement



# Passenger Air Carriers

- Enacted in 2005, effective for purchases made on or after July 1, 2005
- Expires for purchases made on or after January 1, 2011
- Anticipated beneficiary was US Airways
- Provides an annual refund of the net amount of sales and use taxes paid on fuel in excess of \$2.5 million annually
- Due within 6 months after the end of the calendar year.
- DOR reports this refund cost \$3.8 million for claims received in calendar year 2007, no claims in the initial report for calendar year 2008



# Major Recycling Facilities

- Enacted in 1998, effective for purchases made on or after July 1, 1998
- Anticipated beneficiary was Nucor
- Provides an annual refund for taxes paid directly or indirectly on building materials, building supplies, fixtures, and equipment
- Due within 6 months after the end of the facility's fiscal year
- No claims were reported for calendar year 2007 calendar year or in the initial report for calendar year 2008



# Lower-Tier Machinery

- Enacted in 1999, effective for purchases made on or after January 1, 2000
- No specific anticipated beneficiary
- Provides an annual refund of the sales and use taxes paid on machinery and equipment by a taxpayer in a lower-tiered county in a Bill Lee- or Article 3J-eligible industry
- Due within 6 months after the end of the State's fiscal year.
- DOR reports this refund cost \$50,000 for calendar year 2007, no claims in the initial report for calendar year 2008



# Nonprofit Insurance Companies

- Enacted in 1999, effective for purchases made on or after May 1, 1999
- REPEALED effective January 1, 2008
- Anticipated beneficiary was TIAA-CREF
- Provides an annual refund for taxes paid directly or indirectly on building materials, building supplies, fixtures, and equipment
- Due within 6 months after the end of the taxpayer's fiscal year.
- DOR reports this refund cost less than \$10,000 for calendar year 2007, no claims in the initial report for 2008



# Certain Industrial Facilities

- Originally enacted in 2003 2<sup>nd</sup> Extra Session, effective for purchases made on or after January 1, 2004
- Significantly expanded over the years
- Provides an annual refund for taxes paid directly or indirectly on building materials, building supplies, fixtures, and equipment
- Due within 6 months after the end of the taxpayer's fiscal year



# Certain Industrial Facilities

- Eligible Industries
  - Air courier services
  - Aircraft manufacturing
  - Bioprocessing
  - Computer manufacturing
  - Financial services
  - Motor vehicle manufacturing
  - Pharmaceuticals and medicine
  - Semiconductor manufacturing
  - Solar electricity generating materials manufacturing
- Anticipated beneficiaries
  - Fed Ex
  - Merck
  - Dell
  - Fidelity Investments
- DOR reports
  - \$677,000 claimed in 2007 calendar year
  - \$1.1 million claimed in the initial report for the 2008 calendar year



# Motorsports – Aviation Fuel

- Enacted in 2005, effective for purchases made on or after July 1, 2005
- Expires for purchases made on or after January 1, 2011
- It was anticipated that this would affect several NASCAR teams based in North Carolina
- Allows an annual refund for sales taxes paid on aviation fuel used to travel to and from a motorsports event.
- Due within 6 months of the end of the State's fiscal year.
- DOR reports \$174,000 claimed in calendar year 2007, \$101,001 claimed in initial report for calendar year 2008



# Motorsports – Vehicle Parts

- Enacted in 2006, effective for purchases made on or after July 1, 2007
- It was anticipated that this would affect several NASCAR teams based in North Carolina
- Allows an annual refund of 50% of sales taxes paid on property other than tires or accessories that comprises any part of a profession motor racing vehicle
- Due within 6 months of the end of the State's fiscal year.
- DOR does not have a specific estimate on this provision, but it is expected to be minimal
- No reporting requirement



# Analytical Services

- Enacted in 2007, for purchases made on or after July 1, 2007
- Anticipated beneficiary was Labcorp
- Allows an annual refund equal to 50% of the greater of
  - Eligible taxes paid on tangible personal property that are consumed in analytical service activities – eligible taxes are those that exceed the amount paid in FY 06-07
  - Sales and use taxes paid on medical reagents
- Due within 6 months of the end of the State's fiscal year
- DOR does not have a specific estimate on this provision
- Original estimates from Fiscal Research put the cost at \$5.5 million to \$6 million annually
- No reporting requirement



# Railroad Intermodal Facilities

- Enacted in 2007, effective January 1, 2007
- Anticipated beneficiary was Norfolk Southern
- Provides an annual refund for taxes paid directly or indirectly on building materials, building supplies, fixtures, and equipment
- Due within 6 months of the end of the State's fiscal year
- Fiscal information unavailable from DOR – impact of less than \$200,000 expected from all incentives (income/franchise taxes, sales tax exemptions, sales tax refunds) for railroad intermodal facilities
- No reporting requirement



# Questions

