

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH50632-MCx-158 (4/25)

Short Title: Datacenter Sales Tax Bill.

(Public)

Sponsors: Representative Gibson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE CERTAIN LARGE-SCALE DATACENTER PURCHASES OF
MACHINERY AND EQUIPMENT SUBJECT TO THE PRIVILEGE TAX AND
EXEMPT FROM SALES AND USE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 is amended by adding a new subdivision to
read:

"(8f) Eligible datacenter. – A facility that satisfies each of the following
conditions:

a. The facility is created and maintained to meet, is certified by a
third party as meeting, and does meet the standards for Tier 4
classification under the classification system promulgated by
the Uptime Institute, Inc., for datacenter site infrastructure
functionality as that classification existed as of January 1, 2007.

b. The Secretary of Commerce has made a written determination
of the following:

1. For development tier one areas, that at least one hundred
fifty million dollars (\$150,000,000) in private funds has
been or will be invested in improvements to real property
or installed datacenter machinery and equipment, or a
combination of both, within five years after
commencement of construction of the facility.

2. For development tier two or three areas, that at least
three hundred million dollars (\$300,000,000) in private
funds has been or will be invested in improvements to
real property or installed datacenter machinery and

1 equipment, or a combination of both, within five years
2 after commencement of construction of the facility."

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

5 "(56) Sales of machinery and equipment to be located and used at an eligible
6 datacenter. If the level of investment required by G.S. 105-164.3(8f)b.
7 is not timely made, then the exemption provided under this subdivision
8 is forfeited. If the level of investment required by G.S. 105-164.3(8f)b.
9 is timely made but any machinery and equipment is not located and
10 used at an eligible datacenter, then the exemption provided for such
11 machinery and equipment under this subdivision is forfeited. A
12 taxpayer that forfeits an exemption under this subdivision is liable for
13 all past taxes avoided as a result of the forfeited exemption, computed
14 from the date the taxes would have been due if the exemption had not
15 been allowed, plus interest at the rate established under
16 G.S. 105-241.1(i). If the forfeiture is triggered due to the lack of a
17 timely investment required by G.S. 105-164.3(8f)b., then interest is
18 computed from the date the taxes would have been due if the
19 exemption had not been allowed. For all other forfeitures, interest is
20 computed from the time as of which the machinery or equipment was
21 put to a disqualifying use. The past taxes and interest are due 30 days
22 after the date the exemption is forfeited. A taxpayer that fails to pay
23 the past taxes and interest by the due date is subject to the provisions
24 of G.S. 105-236."

25 **SECTION 3.** Article 5F of Chapter 105 of the General Statutes is amended
26 by adding a section to read:

27 "**§ 105-187.51C. Tax imposed on datacenter machinery and equipment.**

28 (a) Tax. – A privilege tax is imposed on an eligible datacenter that purchases
29 machinery or equipment to be located and used at the datacenter.

30 (b) Rate. – The tax is one percent (1%) of the sales price of the equipment and
31 machinery to be located and used at the datacenter. The maximum tax is eighty dollars
32 (\$80.00) per article."

33 **SECTION 4.** Section 2 of this act becomes effective July 1, 2007, and
34 applies to sales made on or after that date. Section 3 of this act becomes effective July
35 1, 2007. The remainder of this act is effective when it becomes law.