

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Fiscal Note

**BILL NUMBER:** Senate Bill 2106 (Second Edition)

**SHORT TITLE:** Clarify Sales Tax Refund

**SPONSOR(S):** Senator Clodfelter

<b>FISCAL IMPACT</b>					
	<b>Yes ( )</b>	<b>No ( )</b>	<b>No Estimate Available (X)</b>		
	<b>(\$In Millions)</b>				
	<b><u>FY 2008-09</u></b>	<b><u>FY 2009-10</u></b>	<b><u>FY 2010-11</u></b>	<b><u>FY 2011-12</u></b>	<b><u>FY 2012-13</u></b>
<b>REVENUES</b>	<b>*Minimal Fiscal Impact*</b>				
<b>EXPENDITURES</b>	<b>See Assumptions and Methodology</b>				
<b>POSITIONS (cumulative):</b>					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	North Carolina Department of Revenue				
<b>EFFECTIVE DATE:</b>	July 1, 2008				

**BILL SUMMARY:** Under current law, GS 105-164.14(b), nonprofit educational institutions, nonprofit hospitals, certain qualified retirement facilities, and nonprofit charitable and religious organizations are allowed a semi-annual refund of sales and use taxes. The refund applies to direct purchases of tangible personal property and services used in carrying on the work of the nonprofit entity. The indirect purchases of materials used in carrying on the work of the nonprofit such as, building materials, supplies, fixtures, and equipment that become a part of a building or structure are also considered purchases eligible for the sales and use tax refund.

GS 105-164.14 (b) authorizes nonprofits to receive semiannual refunds of sales and use taxes pending the receipt of a request. Refund requests must be in writing and requests for purchases made in the first six months of a calendar year are due by the following October 15<sup>th</sup>; requests for purchases made in the second six months of a calendar year are due the following April 15<sup>th</sup>.

Senate Bill 2106 amends GS 105-164.14(b) by revising the definition of organizations eligible for state and local sales and use tax refunds to include organizations classified as 501(c)(3)s by the

Internal Revenue Service (IRS), but not designated as one of the following organizations under the National Taxonomy of Exempt Entities (NTEE):

- Community improvement, capacity building organizations,
- Public, society benefit, multipurpose organizations,
- Mutual/membership benefit organizations,
- Organizations whose mission or purpose is unknown.

The NTEE is a classification system categorizing charitable organizations, institutions with 501(c)(3) status, by organizational mission into 26 subgroups based on IRS activity codes. The IRS, in addition to 501(c)(3) status, assigns activity codes based on information provided at the time of application. These codes serve as the framework for the (NTEE) and provide more detail on the operational activities that constitute as “charitable.”

North Carolina’s statutes provide little detail on what constitutes as charitable, but allows nonprofit educational institutions, non-profit hospitals, certain qualified retirement facilities, and nonprofit charitable and religious organizations sales and use tax refunds. In the absence of a specific definition, the burden of interpretation falls on the Department of Revenue.

**ASSUMPTIONS AND METHODOLOGY:** Fiscal Research expects that the clarification will have a minimal fiscal impact. The existing language set forth in G.S.105-164.14(b) can be applied to all except four of the 26 NTEE categories. Explicitly excluding organizations within these four NTEE categories might provide sales and use tax refunds to organizations currently ineligible for a refund, and prohibit eligible organizations from receiving the refunds. However, Research expects that the number of organizations and quantity of refunds affected by the change will be minimal.

Organizations ineligible for the sales and use tax refund under SB 2106 represent 599 organizations or five percent of North Carolina’s active nonprofits. According to the National Center for Charitable Statistics, as of November 2006 there were 27,695 North Carolina-based organizations with IRS 501(c)(3) status. Of these 501(c)(3)s, 11,901 organizations were active meaning they filed a 990 Form with the IRS between November 2004 and November 2006. SB 2106 excludes 599 of these 11,901 organizations from receiving sales and use tax refunds.

**SOURCES OF DATA:**

National Center for Charitable Statistics

Internal Revenue Service, Statistics of Income Division. Table 2: Form 990 Returns of 501(c)(3)-(9) Organizations: Total Functional Expenditures, by Code Section, Tax Year 2004. August 2007.

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION: (919) 733-4910**

**PREPARED BY:** Sandra Johnson, Fiscal Analyst

**APPROVED BY:** Lynn Muchmore, Director  
Fiscal Research Division

**DATE:** June 18, 2008



**Signed Copy Located in the NCGA Principal Clerk's Offices**