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Short Title: Revenue Changes/Exempt UNC Trust Property. (Public)

Sponsors:

Referred to:

June 4, 2002

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THE SALES AND USE TAX EXEMPTION REGARDING
2 CERTAIN AGRICULTURAL SUBSTANCES, TO MAKE VARIOUS
3 ADMINISTRATIVE CHANGES IN THE TAX LAWS, AND TO EXEMPT FROM
4 PROPERTY TAX EDUCATIONAL PROPERTY HELD BY A NONPROFIT IN
5 TRUST FOR A PUBLIC OR PRIVATE UNIVERSITY LOCATED IN NORTH
6 CAROLINA.
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 105-164.13(2a) reads as rewritten:

10 "(2a) Any of the following substances when purchased for use on animals or
11 plants, as appropriate, held or produced for commercial
12 ~~purposes:~~purposes. This exemption does not apply to any equipment or
13 devices used to administer, release, apply, or otherwise dispense these
14 substances:

- 15 a. Remedies, vaccines, medications, litter materials, and feeds for
16 animals.
17 b. Rodenticides, insecticides, herbicides, fungicides, and
18 pesticides.
19 c. Defoliant for use on cotton or other crops.
20 d. Plant growth inhibitors, regulators, or stimulators, including
21 systemic and contact or other sucker control agents for tobacco
22 and other crops."

23 **SECTION 2.** G.S. 105-164.16(b) reads as rewritten:

24 "(b) Quarterly. – A taxpayer who is consistently liable for less than one hundred
25 dollars (\$100.00) a month in State and local sales and use taxes must file a return and
26 pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and
27 is due by the 15th last day of the month following the end of the quarter."

1 **SECTION 3.** G.S. 105-164.16(b2) reads as rewritten:

2 "(b2) Semimonthly. – A taxpayer who is consistently liable for at least ten thousand
3 dollars (\$10,000) a month in State and local sales and use taxes must pay the tax twice a
4 month and must file a return on a monthly basis. One semimonthly payment covers the
5 period from the first day of the month through the 15th day of the month. The other
6 semimonthly payment covers the period from the 16th day of the month through the last
7 day of the month. The semimonthly payment for the period that ends on the 15th day of
8 the month is due by the 25th day of that month. The semimonthly payment for the period
9 that ends on the last day of the month is due by the 10th day of the following month.

10 A return covers both semimonthly payment periods. The return is due by the 20th
11 day of the month following the month of the payment periods covered by the return. A
12 taxpayer is not subject to interest on or penalties for an underpayment for a
13 semimonthly payment period if the taxpayer timely pays at least ninety-five percent
14 (95%) of the ~~amount due for each semimonthly payment period~~ lesser of the following
15 and includes the underpayment with the monthly return for those semimonthly payment
16 ~~periods~~ periods:

17 (1) The amount due for each semimonthly payment period.

18 (2) The average semimonthly payment for the prior calendar year."

19 **SECTION 4.** Part 5 of Article 5 of Chapter 105 is amended by adding a new
20 section to read:

21 "**§ 105-164.28A. Other exemption certificates.**

22 (a) Authorization. – The Secretary may require a person who purchases tangible
23 personal property that is exempt from tax or is subject to a preferential rate of tax
24 depending on the status of the purchaser or the intended use of the property to obtain an
25 exemption certificate from the Department to receive the exemption or preferential rate.
26 An exemption certificate authorizes a retailer to sell tangible personal property to the
27 holder of the certificate and either collect tax at a preferential rate or not collect tax on
28 the sale, as appropriate. A person who purchases tangible personal property under an
29 exemption certificate is liable for any tax due on the sale if the Department determines
30 that the person is not eligible for the certificate or the property was not used as intended.

31 (b) Scope. – This section does not apply to a direct pay permit or a certificate of
32 resale. G.S. 105-164.27A addresses a direct pay permit, and G.S. 105-164.28 addresses
33 a certificate of resale."

34 **SECTION 5.** G.S. 105-278.4 reads as rewritten:

35 "**§ 105-278.4. Real and personal property used for educational purposes.**

36 (a) Buildings. – Buildings, the land they actually occupy, and additional land
37 reasonably necessary for the convenient use of any such building shall be exempted
38 from taxation if:

39 (1) Owned by ~~an educational institution (including a university, college,~~
40 ~~school, seminary, academy, industrial school, public library, museum,~~
41 ~~and similar institution); either of the following:~~

42 a. An educational institution.

43 b. A nonprofit entity in trust for the sole benefit of a constituent or

1 affiliated institution of The University of North Carolina or an
2 institution as defined in G.S. 116-22.

- 3 (2) The owner is not organized or operated for profit and no officer,
4 shareholder, member, or employee of the owner or any other person is
5 entitled to receive pecuniary profit from the owner's operations except
6 reasonable compensation for services;
- 7 (3) Of a kind commonly employed in the performance of those activities
8 naturally and properly incident to the operation of an educational
9 institution such as the owner; and
- 10 (4) Wholly and exclusively used for educational purposes by the owner or
11 occupied gratuitously by another nonprofit educational institution (~~as~~
12 ~~defined herein~~) and wholly and exclusively used by the occupant for
13 nonprofit educational purposes.

14 (b) Land. – Land (exclusive of improvements); and improvements other than
15 buildings, the land actually occupied by such improvements, and additional land
16 reasonably necessary for the convenient use of any such improvement shall be
17 exempted from taxation if:

- 18 (1) Owned by an educational institution that owns real property entitled to
19 exemption under the provisions of subsection (a), above;
- 20 (2) Of a kind commonly employed in the performance of those activities
21 naturally and properly incident to the operation of an educational
22 institution such as the owner; and
- 23 (3) Wholly and exclusively used for educational purposes by the owner or
24 occupied gratuitously by another nonprofit educational institution (as
25 defined herein) and wholly and exclusively used by the occupant for
26 nonprofit educational purposes.

27 (c) Partial Exemption. – Notwithstanding the exclusive-use requirements of
28 subsections (a) and (b), above, if part of a property that otherwise meets the
29 requirements of one of those subsections is used for a purpose that would require
30 exemption if the entire property were so used, the valuation of the part so used shall be
31 exempted from taxation.

32 (d) Public Use. – The fact that a building or facility is incidentally available to
33 and patronized by the general public, so long as there is no material amount of business
34 or patronage with the general public, ~~shall does~~ not defeat the exemption granted by this
35 section.

36 (e) Personal Property. – Personal property owned by a church, a religious body,
37 or an educational institution (~~including a university, college, school, seminary,~~
38 ~~academy, industrial school, public library, museum, and similar institution~~) shall be
39 exempted from taxation if:

- 40 (1) The owner is not organized or operated for profit, and no officer,
41 shareholder, member, or employee of the owner, or any other person is
42 entitled to receive pecuniary profit from the owner's operations except
43 reasonable compensation for services; and

- 1 (2) Used wholly and exclusively for educational purposes by the owner or
2 held gratuitously by a church, religious body, or nonprofit educational
3 institution ~~(as defined herein)~~ other than the owner, and wholly and
4 exclusively used for nonprofit educational purposes by the possessor.
- 5 (f) Definitions. – The following definitions apply in this section:
- 6 (1) Educational institution. – The term includes a university, a college, a
7 school, a seminary, an academy, an industrial school, a public library,
8 a museum, and similar institutions.
- 9 (2) Educational purpose. – A purpose ~~An educational purpose within the~~
10 ~~meaning of this section is one~~ that has as its objective the education or
11 instruction of human beings; it comprehends the transmission of
12 information and the training or development of the knowledge or skills
13 of individual persons. The operation of a golf course, a tennis court, a
14 sports arena, a similar sport property, or a similar recreational sport
15 property for the use of students or faculty is also an educational
16 purpose, regardless of the extent to which the property is also available
17 to and patronized by the general public."

18 **SECTION 6.** Section 2 of this act becomes effective October 1, 2002, and
19 applies to taxes levied on or after that date. Section 3 of this act becomes effective July
20 1, 2002, and applies to payments due on or after that date. Section 5 of this act is
21 effective for taxes imposed for taxable years beginning on or after July 1, 2002. The
22 remainder of this act is effective when it becomes law.