

CLARIFICATION OF NC STATE SALES TAX REFUND REPEAL 2005

In response to enquiries regarding the status of refunds to LEAs of sales tax on building materials used in school construction the following clarification has been prepared.

See section 7.51 of SB 622 (the budget bill), which repeals the ability of LEAs to apply for a refund of sales tax, effective in 2006-07 (LEAs can still apply in 2005-06 for a refund of tax paid in 2004-05). The provision follows money item 15 on page F3 of the conference money report. The intent was for the LEAs to still be able to apply for refund of the local portion of sales tax (ie, 2.5%), but the provision language inadvertently repeals that, as well. The full text of the provision follows:

REDIRECT REFUNDABLE SALES TO STATE PUBLIC SCHOOL FUND

SECTION 7.51.(a) G.S. 105-164.14(c)(2b) and (2c) are repealed.

SECTION 7.51.(b) Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.44H. Transfer to State Public School Fund.

Each fiscal year, the Secretary of Revenue shall transfer at the end of each quarter from the State sales and use tax net collections received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the State Public School Fund, one-fourth of the amount transferred the preceding fiscal year plus or minus the percentage of that amount by which the total collection of State sales and use taxes increased or decreased during the preceding fiscal year."

SECTION 7.51.(c) Subsection (b) of this section becomes effective July 1, 2006.

Notwithstanding the provisions of G.S. 105-164.44H, for the 2006-2007 fiscal year, the amount transferred to the State Public School Fund each quarter shall equal one-fourth of the amount refunded under **G.S. 105-164.4(c)(2b) and (2c)** during the 2005-2006 fiscal year plus or minus the percentage of that amount by which the total collection of State sales and use tax increased or decreased during the preceding fiscal year. The remainder of this section becomes effective July 1, 2005, and applies to sales made on or after that date.

The General Assembly is expected to adjust the language in the short session so that the provision is consistent with the intent of the money item. LEAs should therefore continue to account for sales tax paid in 2005-06 just as they have before. Once the provision is changed, they will be able to apply in 2006-07 for a refund of the local sales tax paid in 2005-06. The State sales tax (4.5%) will be redirected, per the budget bill, to the State Public School Fund.