



# State of North Carolina

## Department of State Treasurer

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*State and Local Government Finance Division  
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TO: County and School Board Officials and Certified Public Accountants

FROM: T. Vance Holloman, Director  
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SUBJECT: Sales Tax Refunds and Motor Vehicle Property Taxes

### **Sales Tax Refunds**

During the 2005 legislative session, the General Assembly took action to amend G.S. 164.4(c) to delete local school administrative units (LEAs) from those governmental entities eligible to receive a sales tax refund. This change is effective during the current fiscal year, so LEAs may claim a refund of sales taxes paid during the fiscal year ended June 30, 2005. However, as G.S. 164.4(c) is currently written, LEAs can not claim a refund for subsequent years.

Action was also taken to require the Department of Revenue to deposit to the State Public School Fund each quarter an amount equal to the one-fourth of the prior year refund of sales taxes paid to LEAs. Effective July 1, 2006, that amount will be equal to the refunds paid for the 2005 fiscal year adjusted by increases or decreases in State sales tax collections. These funds will be distributed to LEAs on the basis of average daily membership.

We are aware of speculation that G.S. 164.4(c) may be amended to permit LEAs to claim refunds for local sales taxes paid. If this change does occur we will inform local officials.

The LGC issued Memorandum No. 859 on October 16, 1997 which addresses the circumstances under which sales taxes paid for the construction of school facilities, as well as for the purchase of tangible property, by a county for a LEA are eligible for a refund of sales tax under G. S. 105-164.14(c). At the time that Memorandum was issued LEAs were not among the governmental units that could claim a sales tax refund.

Memorandum No. 859 stated that under the provisions of G. S. 115C-521 and 522 LEAs are responsible for the construction of school facilities and the purchase of supplies and materials. The fact that a county might issue a check in payment to a vendor for the construction of school facilities or the purchase of tangible property for the LEA does not result in the county assuming responsibility for those tasks. Two provisions of the General Statutes make it possible for a county to assume this responsibility for a local board of education. The first is the authorization under G. S. 153A-158.1 for counties to acquire property for use by a LEA. The second way in which a county can assume this responsibility for a LEA is through an inter-local cooperation agreement between the

county and the LEA under the provisions of G.S. 160A-460. The inter-local cooperation agreement should state that the county will contract for the construction of school facilities and will purchase tangible school property. In either case the county must have title to the asset at the time the construction or purchase takes place and payments are made. Title to school facilities may pass from the county to the LEA once construction is complete and all payments under the contract have been made. Ownership of tangible property may pass from the county to the LEA once the purchase has been completed.

Since the issuance of Memorandum No. 859, schools become eligible for sales tax refunds under G.S. 164.4(c) and have recently lost that eligibility. The North Carolina Department of Revenue has reconfirmed to us that these two options are still valid provisions under which a county may claim a sales tax refund for school capital expenditures. Unless a county undertakes to make contracts for construction of school facilities or for purchase of tangible property under one of the two methods described in the preceding paragraph, a county should not claim a sales tax refund for taxes paid.

At the time Memorandum No. 859 was issued, not all counties were authorized to use the provisions of G. S. 153A-158.1. Other counties had to use inter-local cooperation agreements to become eligible for sales tax refunds for school expenditures. All 100 counties are now eligible to use G.S. 153A-158.1.

### **Interest on Unpaid Motor Vehicle Property Taxes**

The General Assembly enacted House Bill 1779 which provides for the creation of a combined motor vehicle registration renewal and property tax collection system. The Bill calls for an increase in the first month's interest on uncollected property taxes on registered motor vehicles. This will apply to all property taxes levied on the registered motor vehicle: those levied by the county, any municipality and any special districts. The additional interest collected will be remitted to the Department of State Treasurer to be used by the Division of Motor Vehicles to create the combined registration and collection system.

A memorandum providing greater detail about the provisions of House Bill 1779 will be issued by the Department. Counties should be aware that effective January 1, 2006, the interest rate charged for the first month that registered motor vehicles taxes are delinquent will increase from the current rate of 2% to 5%. The interest rate for subsequent months will remain at three-fourths of a percent (3/4%).

The additional interest collected and remitted to the State should be accounted for in an agency fund, similar to the motor vehicle property taxes collected for municipalities and special districts. The additional interest would not be included in the county's budget.

If you have questions or comments regarding this memorandum, please contact Vance Holloman at (919) 807-2380.