



Sales Tax Refund Issue Brief

Background

From 1998 until 2005, local boards of education were able to provide additional educational opportunities with savings from State and local sales and use tax refunds. Unfortunately, a 2005 budget provision revoked local education agency (LEA) sales and use tax refund authority and redirected the estimated State refund amount (\$33.3 million in FY 2006-07) to the State Public School Fund.¹ This might have been considered a “wash” since all funding was going to education, but the General Assembly took a further step in that fiscal year by reducing the General Fund appropriation to K-12 education by \$33.3 million. The net result was that education lost \$33.3 million.

Since 2005, the transfer of the State refund amount to the State Public School Fund has been adjusted annually for increases or decreases in total collection of State sales taxes. The transfer grew to \$71.2 million in FY 2018-19.² The General Assembly has also increased the amount in the General Fund that it withholds from the State Public School Fund. The withheld amount went from \$33.3 million in 2006-07 to \$46.3 million in 2007-08, then to \$52.85 million in 2014-15.

³ In FY 2018-19, the net benefit to public schools from the loss of the state sales tax refund stood at \$18.35 million.

During the 2006 legislative session, the General Assembly reinstated local school boards’ ability to receive the local sales tax refund but declined to do likewise with regards to the State sales tax refund.⁴ Interestingly, sales of mobile classrooms to local school boards are exempt⁵ but not sales taxes associated with additions, renovations, and new buildings – a provision that could be interpreted as encouraging more classroom trailers.

The list of government entities - other than counties and cities - entitled to a state sales tax refund is long and varied: a water and sewer authority; a lake authority; a sanitary district; a regional waste management authority; an area mental health, developmental disabilities, and substance abuse authority; a regional council of governments; a regional economic development commission; a regional planning commission; a regional sports authority; a public transportation authority; a local airport authority; a constituent institution of the University of North Carolina; the UNC Health Care System; a soil and water conservation district; a district confinement facility; and a district health department. Even though charter schools, private schools, and other non-profits still receive state sales tax refunds, local boards of education do not for some reason that remains unclear.

¹ S.L. 2005-276, sec. 7.51(a) created G.S. 105-164.44H

² N.C. Department of Revenue (data from unpublished Statistical Abstract)

³ Certified Budget – Office of State Budget and Management (Code 13510-438150)

⁴ S.L. 2006-66 sec. 7.20(a)

⁵ G.S. 105-164.13 (41)

Not allowing LEAs to receive a sales tax refund is costly for districts that are building or renovating schools. A 2009 report from the General Assembly's Joint Education Oversight Committee found that without authority to apply for a State sales tax refund, some school districts resort to a burdensome, wasteful, and highly inefficient exercise of transferring title to their buildings to the county during the construction phase so that the county can apply for the sales tax refund on the school district's behalf.⁶ The Committee found that "there are reports of significant costs related to these property transfers, and that the ability to engage in such transfers varies depending on the relationship between the school board and county commissioners." Districts that cannot transfer their capital costs, meanwhile, have delayed necessary renovations longer than they otherwise would because of the added costs. Some school boards are also entering into similar agreements with their county commissions, whereby school supplies and equipment are purchased by the county commissions and transferred to the school board so that the refunds on sales taxes paid can be realized. This practice raises its own set of concerns, including whether the applicable equipment warranties can be validly transferred from the county commission (the original purchaser) to the school board. Reinstating school district sales tax refunds/exemptions would eliminate these costly and wasteful transactions.

NCSBA Position

NCSBA requests that the General Assembly reinstate the State sales tax refund for local school boards. Reinstatement of the State sales tax refund, or an exemption, will bring local school boards in line with other government entities. Restoration of the sales tax refund will also provide local school boards and counties with another tool to finance both the operating and capital expense of public schools.

Another factor worth noting is that the elimination of the sales tax refund and subsequent transfer of funds to the State Public School Fund amounts to a transfer of wealth among school districts. Those districts that spend great sums on capital purchases or incur large sales tax liability subsidize those districts that have a relatively low sales tax exposure.

NCSBA takes no position on the underlying policy of whether sales tax refunds or exemptions should be retained or abolished. If North Carolina's tax code is going to continue to allow numerous entities, including other governmental entities and charter schools to not pay sales tax, then local boards of education should either be granted a State sales tax exemption or have their sales tax refund reinstated. NCSBA requests that public schools be treated equally.

⁶Report to the 2009 General Assembly (page 12), Joint Legislative Education Oversight Committee.
<http://www.ncleg.net/documentsites/committees/JLEOC/Report%20to%20the%20General%20Assembly%20Session/Archives/2009%20Ed%20Oversight%20Report.pdf>