



STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

SHARON EDMUNDSON
DEPUTY TREASURER

RESOLUTION ESTABLISHING GUIDELINES FOR SUCCESSFUL APPEAL OF
SALES TAX WITHHOLDING PURSUANT TO SESSION LAW 2023-59

WHEREAS, North Carolina Session Law [2023-59](#) (SB299), An Act to Increase Compliance by Counties and Municipalities That Fail to Timely Submit an Annual Audit Report, was enacted on June 27, 2023; and

WHEREAS, the law provides that the Secretary of the Local Government Commission (the "Commission") must provide notices of noncompliance to each county or municipality that fails to submit an annual audit report within nine months of its fiscal year end; and that a county or municipality that fails to complete its annual audit within 12 months of its fiscal year end shall be deemed to have given consent to the withholding of a portion of its sales tax distributions (G.S. 159-34(e)) and may have a portion of its sales tax distributions withheld; and

WHEREAS, the law provides that a county or municipality that receives a notice of noncompliance may notify the Secretary in writing that it plans to appeal the action and state the basis for the appeal as well as evidence to support the appeal (G.S. 159-34(f)); and

WHEREAS, the law requires that the Commission establish guidelines outlining specific criteria that would warrant a successful appeal (G.S. 159-34(f)); that these guidelines must be established and made available prior to issuing notices of noncompliance; that the guidelines may be established prior to January 1, 2024 but may not become effective until on or after that date;

NOW THEREFORE BE IT RESOLVED,

- 1) That the Commission shall deem an appeal successful if a county or municipality states as the basis for appeal that the county or municipality has submitted all annual audit reports within 12 months of fiscal year end for each of the prior five fiscal years to the Secretary as required pursuant to G.S. 159-34(a) other than the audit for which the non-compliance notice was issued.

- 2) That the Commission may waive the requirement for a county or municipality to appear before the Commission if the appeal is considered successful based on the guideline established in Paragraph 1 above.
- 3) That a county or municipality that cannot successfully appeal the Commission's action based on the guideline established in Paragraph 1 above may submit an appeal to the Secretary based on other good cause with evidence to support the basis for the appeal.
- 4) That the Commission retains the discretion to direct or delay withholding portions of sales tax distributions of counties and municipalities that have failed to submit an appeal or are unable to successfully appeal the Commission's action under the guideline established in Paragraphs 1 or 3 above.
- 5) That the Commission directs staff to develop procedures and processes to facilitate submission of appeals by counties and municipalities.
- 6) That the guideline above is hereby established as of the date of this Resolution and is effective as of January 1, 2024.
- 7) That the Commission directs staff to make this guideline available prior to issuing notices of noncompliance.

I, Sharon G. Edmundson, Secretary of the North Carolina Local Government Commission, DO HEREBY CERTIFY that the foregoing is a true and correct copy of the resolution adopted by the North Carolina Local Government Commission at its meeting held on December 5, 2023.

WITNESS my hand this 5th day of December 2023.



Sharon G. Edmundson, Secretary
North Carolina Local Government Commission