



STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

RESOLUTION ESTABLISHING REVISED 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;

WHEREAS, the Commission adopted a resolution at its December 5, 2023 meeting which established guidelines outlining specific criteria that would warrant a successful appeal (G.S. 159-34(f)) ("Guidelines for Successful Appeal") effective January 1, 2024; and

WHEREAS, the Commission wishes to establish revised guidelines;

NOW THEREFORE BE IT RESOLVED,

- 1) That the Commission shall deem an appeal successful if the audit for which the non-compliance notice was issued to the county or municipality is the only audit not submitted as required pursuant to G.S. 159-34(a).

- 2) A written appeal filed pursuant to Paragraph 1 above should also include (a) an explanation by the unit for the delay in audit submission and (b) a plan and timeline for submission of the outstanding audit.
- 3) 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.
- 4) 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.
- 5) A written appeal filed pursuant to Paragraph 4 above shall also include (a) an explanation by the unit for the delay in audit submission which addresses all applicable criteria contained in guidance published by the LGC staff, along with clear, verifiable facts supporting each criteria cited for the Commission's consideration and (b) a plan and timeline for submission of the outstanding audits.
- 6) That a county or municipality filing an appeal pursuant to Paragraph 4 above will be scheduled to appear before the Commission at its next scheduled meeting, held as soon as practicable after July 1, to answer any questions of the Commission related to the appeal.
- 7) 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 guidelines established in Paragraphs 1 or 4 above.
- 8) That the Commission directs staff to maintain procedures and processes to facilitate the submission of appeals by counties and municipalities.
- 9) That the Commission directs staff to develop guidance for the content of appeals including specific criteria on which appeals should be based and to publish this guidance to the LGC's website and via other communications prior to issuing notices of noncompliance.
- 10) That the guidelines above are hereby established as of the date of this Resolution and are effective as of January 1, 2025.
- 11) That the Commission directs staff to make these guidelines available prior to issuing notices of noncompliance.

Resolution Establishing Revised Guidelines for Successful Appeal of Sales Tax Withholding
Required Pursuant to Session Law 2023-59
November 12, 2024

I, Debbie Tomasko 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 November 12, 2024.

WITNESS my hand this 12th day of November 2024.

A handwritten signature in cursive script, reading "Debbie Tomasko", written over a horizontal line.

Debbie Tomasko Secretary
North Carolina Local Government Commission