



Suggested Methodology for Calculating Statutory Art. 40 & 42 Set Asides for School Construction

The landmark 2007 legislation granting a phase-in of county Medicaid relief in exchange for ceding the Article 44 one-half percent sales tax also directed a change in the distribution method of Article 42. Effective with sales on or after Oct. 1, 2009, Article 42's allocation changed from a per capita to a point of delivery basis, impacting the cash basis proceeds to counties in their January 2010 distribution. (Since the per capita food sales tax is no longer statutorily tied to Article 42, it remains distributed on a per capita basis.) While the statutory set aside of 60 percent for public school capital continues under the county Medicaid relief swap, the base for calculation was changed via a subsequent "technical corrections" bill (explanation below). Furthermore, discussions with General Assembly staff and School of Government faculty indicate that the required set asides under Articles 40 and 42 do not apply to the food sales taxes previously levied under these articles. A reformatting of the N.C. Department of Revenue's sales tax distribution report now clearly shows those sales tax collections attributed to food sales. Given all of these changes, counties have asked for guidance on calculating the required school capital set asides for Articles 40 and 42. This memo offers up a suggested methodology for those calculations, using DoR's distribution report published Jan. 12, 2010 (sales tax distribution report for month ending November 2009).

First, some statutory language that directs the required set aside:

N.C. General Statute 105-487 requires that 30 percent of the revenue received by a county from the one-half percent sales and use tax levied under Article 40 is to be used by the county only for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes.

N.C. General Statute 105-502 stipulates that the county must use 60 percent of the amount of revenue specified for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes during the period beginning five years prior to the date the taxes took effect. What is the revenue specified? It is Article 42's proceeds and the difference of Article 40 and Article 42 proceeds, if Article 40's proceeds are higher. This new provision in Article 42 is designed to hold harmless those school districts in counties whose Article 42 receipts have declined due to the switch in distribution method from per capita to point of delivery.

Food sales tax receipts once authorized through Articles 40 and 42 are no longer statutorily tied to these articles. Per the streamlined sales tax project, food is administered under the provisions of Article 5, the state sales tax article, and is allocated under Article 39 via 105-469. Since the per capita food tax is no longer connected to Articles 40 and 42, the required school construction set asides of 30 and 60 percent, respectively, do not apply to the per capita food sales tax.

The attached methodology allows counties to insert their sales tax data for automatic calculation of the required set asides. To help explain the formula, please see following the steps in the methodology:

Using Alamance County as an example, with data from the January 2010 local sales tax distribution reports:

1. Extract the countywide summary data from DoR's SALES AND USE COLLECTIONS OVERVIEW REPORT.
2. Article 40
 - a. Enter the total countywide Article 40 proceeds = \$592,916.27
 - b. Subtract the cost of collections = \$(2,910.83)
 - c. Add or subtract the per capita adjustment amount = \$15,572.54
 - d. Adjust the per capita adjustment amount by the per capita adjustment amount attributed to food (in order to exclude additions or subtractions due to food sales; as a surrogate, use the per capita adjustment amount listed in the Article 42 line, since it is only on the per capita food sales) = \$(2,099.20)
 - e. Subtotal of above = \$603,478.78
 - f. Enter county proportion of countywide sales taxes (From SUMMARY OF AMOUNTS DISTRIBUTABLE BY MUNICIPALITY & ARTICLE) = 61.73541 percent
 - i. For those counties that have elected the ad valorem distribution method with cities, they may need to manually lower this rate to account for special taxing districts, if any.
 - g. Apply county proportion of countywide sales taxes to subtotal = \$372,560.10
 - h. Multiply by statutorily required Article 40 set aside of 30 percent = \$111,768.03
3. Article 42
 - a. Enter the total countywide Article 42 proceeds = \$580,023.17
 - b. Subtract the payment for statewide services such as SOG and Property Tax Division = \$(7,752.07)
 - c. Subtract the cost of collections = \$(2,823.09)
 - d. Subtotal of above = \$569,448.01
 - e. Enter county proportion of countywide sales taxes (From SUMMARY OF AMOUNTS DISTRIBUTABLE BY MUNICIPALITY & ARTICLE) = 61.73541 percent
 - i. For those counties that have elected the ad valorem distribution method with cities, they may need to manually lower this rate to account for special taxing districts, if any.
 - f. Apply county proportion of countywide sales taxes to subtotal = \$351,551.06
 - g. Multiply by statutorily required Article 42 set aside of 60 percent = \$210,930.64
 - h. Test for school hold harmless by comparing total against Article 40 set aside, doubled = \$223,536.06
 - i. Set aside greater of g or h = \$223,536.06

NC Association of County Commissioners
Suggested Methodology for Calculating Statutory Art. 40 &
42 Set Asides for School Construction

Data Source: DoR SALES AND USE COLLECTIONS OVERVIEW REPORT

COUNTY NAME	ART	TX ALLOC-CAPITA	TX ALLOC-SALE..	TX ALLOC-OTHER.	TX ALLOC TOTAL.	TX ALLOC ADJ...	COST OF COLLECTION	PER CAP ADJ	NET DISTRIBUTION	POPULATION	County TOT ADV/PE
ALAMANCE	39	\$ -	\$ 1,160,028.20	\$ 204,315.94	\$ 1,364,344.14	\$ -	\$ (5,798.46)	\$ -	\$ 1,358,545.68	0	61.73541%
ALAMANCE	40	\$ 592,916.27	\$ -	\$ 91,986.48	\$ 684,902.75	\$ -	\$ (2,910.83)	\$ 15,572.54	\$ 697,564.46	145,995	
ALAMANCE	42	\$ -	\$ 580,023.17	\$ 91,986.48	\$ 672,009.65	\$ (7,752.07)	\$ (2,823.09)	\$ 2,099.20	\$ 663,533.69	0	
ALAMANCE	43	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0	
ALAMANCE	44	\$ -	\$ (7,936.66)	\$ -	\$ (7,936.66)	\$ -	\$ 33.73	\$ -	\$ (7,902.93)	0	
ALAMANCE	45	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0	
Using Alamance as an example:				ALAMANCE	46	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Methodology:

Cell Ref. Art. 40

\$C\$10	Tx Alloc-Capita	\$ 592,916.27
\$H\$10	Less cost of coll	\$ (2,910.83)
\$I\$10	+/- per cap adj	\$ 15,572.54
\$J\$11	+/- per cap adj, excluding food	\$ (2,099.20)
	Subtotal	\$ 603,478.78

Notes:

Countywide tax allocation for Art. 40
Excludes cost of collection
Incr/Decr. due to statutory adj. factor
Excludes per cap. adj factor on food

\$M\$9	County proportion of countywide alloc.	61.73541%
	County Total Art. 40 base for school construction set aside	\$ 372,560.10
	Art. 40 statutory set aside for school construction	<u>30%</u>
	Total Art. 40 set aside for school construction	\$ 111,768.03

From SUMMARY OF AMOUNTS DISTRIBUTABLE BY MUNICIPALITY & ARTICLE
County proportion x subtotal
Statutory set aside x county total Art. 40 base for school construction set aside

Need to manually lower for special taxing districts!

Art. 42 - Point of Sale

\$D\$11	Tax Alloc. Sale	\$ 580,023.17
\$G\$11	Less tax alloc. adj	\$ (7,752.07)
\$H\$11	Less cost of coll	\$ (2,823.09)
	Subtotal	\$ 569,448.01

Countywide tax allocation for Art. 42
Excludes funding of SOG, property tax division, other
Excludes cost of collection

\$M\$9	County proportion of countywide alloc.	61.73541%
	County Total Art. 42 base for school construction set aside	\$ 351,551.06
	Art. 42 statutory set aside for school construction	<u>60%</u>
	Subtotal Art. 42 set aside for school construction, point of sale basis	\$ 210,930.64

From SUMMARY OF AMOUNTS DISTRIBUTABLE BY MUNICIPALITY & ARTICLE
County proportion x Art. 42 countywide subtotal
Statutory set aside x county total Art. 42 base for school construction set aside

Need to manually lower for special taxing districts!

Test - is Art. 42 point of delivery school capital set aside >= Art. 42 per capita

FALSE

Art. 42 - Per Capita

Subtotal school hold harmless for Medicaid relief swap; > of Art. 42 on per capita or point of sale

\$ 223,536.06

Art. 40 set aside x 2

If greater than Art. 42 point sale = school hold harmless

\$ 223,536.06

If less than Art. 42 point sale = Art. 42 point sale

\$ 210,930.64