



**Sales and Use Tax Division
North Carolina Department of Revenue
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To Taxpayers:

This form includes an overview of many changes enacted by the 2015 Session of the General Assembly to the taxes administered by the Sales and Use Tax Division. The annual Tax Law Changes publication produced by the Department will be available on the Department's website, www.dornc.com, and will contain detailed explanations of the 2015 legislative changes. Legislative changes may supersede any information previously set forth in Sales and Use Tax Administrative Rules, Technical Bulletins, Notices, Directives, Private Letter Rulings, or other information published by the Department relating to any subject matter of the legislation.

As of October 1, 2015, the general State, local and transit rates of sales and use tax applicable to the sales price of tangible personal property, certain digital products, and certain services is 6.75% in seventy (70) counties; 7.00% in Alexander, Anson, Ashe, Buncombe, Cabarrus, Catawba, Cumberland, Davidson, Duplin, Edgecombe, Greene, Halifax, Harnett, Haywood, Hertford, Lee, Martin, Montgomery, New Hanover, Onslow, Pitt, Randolph, Robeson, Rowan, Sampson, Surry, and Wilkes Counties; 7.25% in Mecklenburg County; and 7.50% in Durham and Orange Counties.

The combined general rate of tax applicable to the sales price of or the gross receipts derived from telecommunications service and ancillary service, video programming, piped natural gas, electricity, and spirituous liquor continues to be 7.00% in all one hundred (100) counties.

Effective September 24, 2015

Spirituos Liquor - As authorized by legislation enacted during the 2015 General Assembly Session, a distillery is permitted to sell spirituous liquor distilled on the premises to visitors of the distillery with certain restrictions for consumption off the premises. Spirituous liquor sold by a distillery is subject to the 7.00% combined general rate of sales and use tax. For additional information, refer to the [Important Notice: Spirituous Liquor Sold by a Distillery Subject to 7.00% Rate of Tax](#) published September 29, 2015 and available on the Department's website.

Effective October 1, 2015

Aircraft - The sales price of each aircraft sold at retail, including all accessories attached to the aircraft when it is delivered to the purchaser, is subject to the 4.75% general State rate of sales and use tax. The maximum tax is two thousand five hundred dollars (\$2,500) per article. The sale of an aircraft is not subject to the local and transit rates of sales and use tax.

Qualified Jet Engine - The sales price of each qualified jet engine sold at retail, including all accessories attached to the qualified jet engine when it is delivered to the purchaser, is subject to the 4.75% general State rate of sales and use tax. The sale of a qualified jet engine is not subject to the local and transit rates of sales and use tax. N.C. Gen. Stat. § 105-164.3(33b) defines a "qualified jet engine" as an "engine certified pursuant to Part 33 of Title 14 of the Code of Federal Regulations." N.C. Gen. Stat. § 105-164.27A(a2) provides "[a] person who purchases a qualified jet engine may apply to the Secretary for a direct pay permit for the purchase of a qualified jet engine. . . . The maximum use tax on a qualified jet engine [purchased under a direct pay permit] is two thousand five hundred dollars (\$2,500). A person who purchases a qualified jet engine under a direct pay permit must file a return and pay the tax due monthly to the Secretary."

Qualified Aircraft or a Qualified Jet Engine - N.C. Gen. Stat. § 105-164.13(45d) is added and provides an exemption from sales and use tax for parts and accessories for use in the repair or maintenance of a qualified aircraft or a qualified jet engine. N.C. Gen. Stat. § 105-164.3(33a) defines a "qualified aircraft" as "[a]n aircraft with a maximum take-off weight of more than 9,000 pounds but not in excess of 15,000 pounds." **N.C. Gen. Stat. § 105-164.4I(b)(5) is added and provides that the sales price of or the gross receipts derived from a service contract applicable to a qualified aircraft or a qualified jet engine is exempt from sales and use tax.**

Effective January 1, 2016

Aviation Gasoline and Jet Fuel - The gross receipts derived from the retail sale of aviation gasoline and jet fuel are subject to the 7.00% combined general rate of sales and use tax. N.C. Gen. Stat. § 105-449.60 defines “aviation gasoline” as “[f]uel blended or produced specifically for use in an aircraft motor.” N.C. Gen. Stat. § 105-449.60 defines “jet fuel” as “[k]erosene that meets all of the following requirements: a. [h]as a maximum distillation temperature of 400 degrees Fahrenheit at the ten percent (10%) recovery point and a final maximum boiling point of 572 degrees Fahrenheit. b. Meets American Society Testing Materials Specification D 1655 and Military Specifications MIL-T-5624P and MIL-T-83133D, Grades JP-5 and JP-8.”

N.C. Gen. Stat. § 105-164.13(11b) provides an exemption from sales and use tax for “[s]ales of aviation gasoline and jet fuel to an interstate air business for use in a commercial aircraft.” For purposes of this exemption, the term “commercial aircraft” is defined in N.C. Gen. Stat. § 105-164.13(45a). This exemption expires January 1, 2020.

Additional information regarding the application of the sales and use tax statutes to aviation gasoline and jet fuel will be issued by the Department prior to January 1, 2016.

Datacenter - N.C. Gen. Stat. § 105-164.3(33c) is added and defines “qualifying datacenter” as a datacenter that satisfies specific conditions. N.C. Gen. Stat. § 105-164.13(55a) provides an exemption from sales and use tax for “[s]ales of electricity for use at a qualifying datacenter and datacenter support equipment to be located and used at the qualifying datacenter.” The language of the exemption provides that “datacenter support equipment” is property that is capitalized for tax purposes under the Code and is used for one of the purposes listed in N.C. Gen. Stat. § 105-164.13(55a).

Additional information regarding the application of the sales and use tax statutes to a “qualifying datacenter” will be issued by the Department prior to January 1, 2016.

Effective March 1, 2016

Repair, Maintenance, and Installation Services - The 4.75% general State and applicable local and transit rates of sales and use tax apply to the sales price of or the gross receipts derived from repair, maintenance, and installation services. The tax on repair, maintenance, and installation services applies to sales occurring on or after March 1, 2016 and to gross receipts derived from such services provided on or after that date.

N.C. Gen. Stat. § 105-164.3(33d) provides the term “repair, maintenance, and installation services” includes the following activities:

- a. To keep or attempt to keep tangible personal property or a motor vehicle in working order to avoid breakdown and prevent repairs.
- b. To calibrate, restore, or attempt to calibrate or restore tangible personal property or a motor vehicle to proper working order or good condition. This activity may include replacing or putting together what is torn or broken.
- c. To troubleshoot, identify, or attempt to identify the source of a problem for the purpose of determining what is needed to restore tangible personal property or a motor vehicle to proper working order or good condition.
- d. To install or apply tangible personal property except tangible personal property installed or applied by a real property contractor pursuant to a real property contract.

Repair, Maintenance, and Installation Services Exemptions - N.C. Gen. Stat. § 105-164.13 is amended and provides the following exemptions:

- (61a) Repair, maintenance, and installation services provided for an item, other than a motor vehicle, for which a service contract on the item is exempt from tax under N.C. Gen. Stat. § 105-164.4I. Repair, maintenance, and installation services provided for a motor vehicle are subject to tax, except as provided in N.C. Gen. Stat. § 105-164.13(62a) for a manufacturer’s warranty or dealer’s warranty.
- (61b) Repair, maintenance, and installation services purchased for resale are exempt from sales and use tax.
- (62) An item or repair, maintenance, and installation services used to maintain or repair tangible personal property pursuant to a service contract taxable under this Article if the purchaser of the contract is not charged for the item or services. This exemption does not apply to an item or repair, maintenance, and installation services provided for a motor vehicle pursuant to a service contract exempt from tax under this Article unless the purchaser of the contract is not charged for the item or services. For purposes of this exemption, the term “item” does not include a tool, equipment, supply, or similar tangible personal property used to complete the maintenance or repair and that is not deemed to be a component or repair part of the tangible personal property for which a service contract is sold to a purchaser.

Shoe Repair Services - The sales price of or the gross receipts derived from charges for labor and services performed in connection with shoe repair are subject to the 4.75% general State and applicable local and transit rates

of sales and use tax. Prior to March 1, 2016, if no segregation is made between the charges for the materials furnished and the charges for labor and services performed in connection with the repair work, a shoe repairman is allowed to remit tax on 40 percent of the combined price or charge made for the materials, labor, and services as representing the retail charge for the materials furnished by the shoe repairman. With the enactment of S.L. 2015-241, the Secretary is directed to repeal 17 NCAC 07B .1002 effective March 1, 2016; therefore tax is due on the total gross receipts derived from shoe repair services on or after March 1, 2016. A repair part or other tangible personal property historically purchased and taxed in accordance with the administrative rule in effect prior to March 1, 2016 should be purchased for the purpose of resale on or after March 1, 2016.

Watch, Clock and Jewelry Repair Services - The sales price of or the gross receipts derived from watch, clock, and jewelry repair services are subject to the 4.75% general State and applicable local and transit rates of sales and use tax. Prior to March 1, 2016, if no segregation is made between the charges for the materials furnished and the charges for labor and services performed in connection with such repair work, repairmen may collect and remit the tax on 10 percent of the combined price or charge made for the materials, labor and services as representing the retail charge for the materials furnished. With the enactment of S.L. 2015-241, the Secretary is directed to repeal 17 NCAC 07B .1003 effective March 1, 2016; therefore tax is due on the total gross receipts derived from watch, clock, and jewelry repair services on or after March 1, 2016. A repair part or other tangible personal property historically purchased and taxed in accordance with the administrative rule in effect prior to March 1, 2016 should be purchased for the purpose of resale on or after March 1, 2016.

Tire Recapping or Retreading Sales and Services - The sales price of or the gross receipts derived from charges for materials furnished and labor or services rendered to recap or retread tires are subject to the 4.75% general State and applicable local and transit rates of sales and use tax. Prior to March 1, 2016, if no segregation is made between the charges for the materials furnished and the charges for the labor and services performed in connection with the recapping or retreading of tires, a tire recapper or tire retreader is permitted to collect and remit tax on 40 percent of the combined price or charge made for the materials, labor, and service as representing the retail charge for the materials furnished. With the enactment of S.L. 2015-241, the Secretary is directed to repeal 17 NCAC 07B .1901 effective March 1, 2016; therefore tax is due on the total gross receipts derived from tire recapping or retreading sales and services on or after March 1, 2016. A repair part or other tangible personal property historically purchased and taxed in accordance with the administrative rule in effect prior to March 1, 2016 should be purchased for the purpose of resale on or after March 1, 2016.

Additional information regarding the application of the sales and use tax statutes to repair, maintenance, and installation services will be issued by the Department prior to March 1, 2016.

Retailer - N.C. Gen. Stat. § 105-164.3(35), as amended, provides the term “retailer” includes “[a] person engaged in business of delivering, erecting, installing, or applying tangible personal property for use in this State, ~~regardless of whether the property is permanently affixed to real property or other tangible personal property, that does not become part of real property pursuant to the tax imposed under G.S. 105-164.4(a)(13)~~ unless the person is one or more of the following:

1. A person that solely operates as a real property contractor.
2. A person whose only business activity is providing repair, maintenance, and installation services where the person’s activities do not otherwise meet the definition of a retail trade.”

Retail Trade - N.C. Gen. Stat. § 105-164.3(35b) defines “retail trade” as a “trade in which the majority of revenue is from retailing tangible personal property, digital property, or services to consumers. The term includes activities of a person properly classified in NAICS sector 44-45, buying goods for resale, and rendering services incidental to the sale of merchandise. The term typically includes maintaining an inventory and may include the provision of repair, maintenance, and installation services. Not all activities provided in this subdivision are required for a trade to be considered retail trade.”

A person engaged in “retail trade” is a retailer and must treat all transactions as retail sales, including the sale of or the gross receipts derived from repair, maintenance, and installation services, no matter that such person may install or apply tangible personal property that becomes part of or affixed to real property.

Real Property Contractor & Retailer-Contractor - The definition of “real property contractor” in N.C. Gen. Stat. § 105-164.3(33d), as amended, provides the term “does not include a person engaged in retail trade.” If a person meets the definition of retail trade, such person cannot act as a “real property contractor” or a “retailer-contractor.” A person that meets the amended definition of a “real property contractor” is liable for payment of sales and use tax on taxable repair, maintenance, and installation services purchased to fulfill a real property contract. A person that does not meet the definition of retail trade may operate as a “retailer-contractor.”

Additional information regarding the changes for a real property contractor and a retailer-contractor will be issued by the Department prior to March 1, 2016. For current information regarding the application of the sales and use tax statutes to real property contractors, refer to the [real property contractor overview web page](#) available on the Department's website, www.dorn.com.

Service Contracts - Following is discussion of the application of the sales and use tax statutes to service contracts for specific items or transactions:

Motor Vehicles - N.C. Gen. Stat. § 105-164.4(b)(1), as amended, provides the sales price of or the gross receipts derived from a service contract for a motor vehicle is exempt from tax. The exemption in N.C. Gen. Stat. § 105-164.13(62) is amended to remove the term "motor vehicle."

Tangible Personal Property that Becomes Part of or Affixed to Real Property - The definition of "service contract" in N.C. Gen. Stat. § 105-164.3(38b), as amended, includes a contract to maintain or repair tangible personal property regardless of whether the property becomes a part of or is affixed to real property. The retailer of the service contract is required to collect the tax due at the time of the retail sale of the contract and is liable for payment of the tax. Additionally, N.C. Gen. Stat. § 105-164.4(c) as amended provides that a renewal of a service contract for tangible personal property where the tangible personal property becomes a part of or affixed to real property prior to the effective date of the renewal is subject to sales and use tax.

~~**Qualified Aircraft or a Qualified Jet Engine** - N.C. Gen. Stat. § 105-164.4(b)(5) is added and provides that the sales price of or the gross receipts derived from a service contract applicable to a qualified aircraft or a qualified jet engine is exempt from sales and use tax. See correction on page one under "Effective October 1, 2015."~~

Additional information regarding the application of sales and use tax to service contracts will be issued by the Department prior to March 1, 2016. For current information regarding the application of sales and use tax to service contracts, refer to the [service contracts overview web page](#) available on the Department's website, www.dorn.com.

Installation Charges - N.C. Gen. Stat. § 105-164.13(49) which provides an exemption from sales and use tax for installation charges when separately stated on an invoice or similar billing document given to the purchaser at the time of sale, **is repealed effective March 1, 2016**. By definition, the term "sales price" includes "installation charges." Any installation charges made by a retailer as part of the retail sale of tangible personal property, certain digital property, and taxable services are subject to the applicable rate of tax for the product as set forth in N.C. Gen. Stat. § 105-164.4(a), no matter that installation charges may be separately stated by the retailer.

Any installation charges by a retailer to provide telecommunications service and ancillary service, video programming service, piped natural gas, and electricity are subject to the 7.00% combined general rate of tax. Installation charges that are part of the purchase price of an item subject to the 1.00% certain machinery and equipment privilege tax, with maximum tax of \$80.00 per article, are subject to tax.

Manufacturer's Warranty or Dealer's Warranty - N.C. Gen. Stat. § 105-164.13(62a) codifies the historical treatment of a dealer's and manufacturer's warranty for sales and use tax purposes. The exemption provides that a "replacement item, a repair part, or repair, maintenance, and installation services to maintain or repair tangible personal property or a motor vehicle pursuant to a manufacturer's warranty or a dealer's warranty [are not subject to sales and use tax]." The exemption defines a "dealer's warranty" and a "manufacturer's warranty" as follows:

Dealer's warranty - An explicit warranty the seller of an item extends to the purchaser of the item as part of the purchase price of the item.

Manufacturer's warranty - An explicit warranty the manufacturer of an item extends to the purchaser of the item as part of the purchase price of the item.

Highway Use Tax - N.C. Gen. Stat. § 105-187.3(a) as amended provides, in part, "[t]he tax does not apply to the sales price of a service contract, provided the charge is separately stated on the bill of sale or other similar document given to the purchaser at the time of the sale."

N.C. Gen. Stat. § 105-187.5(a) as amended provides, in part, "[t]he portion of a lease or rental billing or payment that represents any amount applicable to the sales price of a service contract as defined in G.S. 105-164.3 should not be included in the gross receipts subject to the tax imposed by this Article. The charge should be separately stated on documentation given to purchaser at the time the lease or rental agreement goes into effect, or on the monthly billing statement or other documentation given to the purchaser. Where a retailer fails to separately state any portion of a lease or rental billing or payment that represents an amount applicable to the sale[s] price of a service contract, the amount is deemed to be part of the gross receipts of a lease or rental of a vehicle."