

SECTION 1- GENERAL PROVISIONS OF ARTICLES 5, 5A, 5B, 5C, AND 5D OF CHAPTER 105 OF THE GENERAL STATUTES**1-1 IMPOSITION OF AND LIABILITY FOR COLLECTING AND REMITTING TAX****A. Sales and Use Tax**

1. **Prior to December 1, 2006**, the general rate of State tax is 4.5%. **Effective December 1, 2006**, the general rate of State tax is 4.25%. Other State rates of tax that may apply to articles of tangible personal property or services that are not subject to the general State rate or are exempt by statute are 3%, 2.83%, 2.6% (**effective July 1, 2007**) 2.5%, 2%, 1.8% (**effective October 1, 2007**), 1.4% (**effective July 1, 2008**), and 0.8% (**effective July 1, 2009**), or 0.17% (**until October 1, 2007**).

The “**combined general rate**” of sales tax applies to sales of certain tangible personal property and services. That term is defined as “the State’s general rate of tax set in G.S. 105-164.4(a) plus the sum of the rates of local sales and use taxes authorized by Subchapter VIII of [Chapter 105] for every county in the State.”

Certain purchases by a manufacturer, a major recycling facility, and, **effective July 1, 2007**, a research and development company are subject to a 1% privilege tax with a maximum tax of \$80.00 per article where applicable. **Effective October 1, 2007**, the privilege tax also applies to certain purchases by eligible datacenters and software publishing companies. For information on the privilege tax, refer to Section 56 of the Sales and Use Tax Technical Bulletins.

2. The “**gross receipts**” derived from the lease or rental of tangible personal property by a person who is engaged in the business of leasing or renting tangible personal property, or is a retailer and leases or rents property of the type sold by the retailer, are subject to the applicable percentage rate and the maximum tax, if any, that applies to a sale of the property that is leased or rented.

Note: For additional information on the lease or rental of tangible personal property, refer to Section 23 of the Sales and Use Tax Technical Bulletins.

3. The general rate of State tax is levied on the gross receipts derived by operators of hotels, motels, tourist homes, tourist camps, and similar type businesses and persons who rent private residences and cottages to transients. The general rate of tax also applies to the rental of any rooms, lodgings or accommodations furnished to transients for a consideration except for any private residence or cottage that is rented for less than 15 days in a calendar year or to any room, lodging or accommodation supplied to the same person for a period of 90 or more continuous days.

Note: For additional information on hotels, motels, tourist homes, etc., refer to Section 27 of the Sales and Use Tax Technical Bulletins.

4. The general rate of State tax is levied on the gross receipts derived by dry cleaning, pressing or hat-blocking establishments, laundries or any similar businesses engaged in the business of renting clean linen or towels or wearing apparel, or any similar business. It is also levied on those persons engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental for any of these businesses. The tax does not apply to receipts derived from coin or token-operated washing machines, extractors and dryers or to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services.

Note: For additional information on laundries, drying cleaning plants, launderettes, etc., refer to Section 33 of the Sales and Use Tax Technical Bulletins.

5. Application of Tax to Food

Sales and purchases of qualifying food are subject to only the 2% local sales or use tax; the 0.5% Mecklenburg County Sales and Use Tax for Public Transportation does not apply to such sales and purchases. Purchases of nonqualifying food continue to be subject to the general rate of State tax and the applicable local tax.

“Food” and related terms are defined in G.S. 105-164.3. The basis for taxation of food is found in G.S. 105-164.13B.

Note: For additional information on food, refer to Section 19 of the Sales and Use Tax Technical Bulletins. For information on the taxation of alcoholic beverages, refer to Sales and Use Tax Technical Bulletin 34-23.

- 6.** A use tax at the applicable rate is levied on taxable tangible personal property purchased or received from within or without this State for storage, use or consumption in this State. The liability for the tax is not extinguished until it is fully paid, except that payment of the tax to a vendor who charges such tax shall relieve the purchaser of further liability with respect to the tax so paid.
- 7.** Where retail sales or use tax is due and has already been paid in another state by the purchaser with respect to such tangible personal property or service, such tax may be credited against the North Carolina use tax due thereon. If the tax paid in another state is less than the North Carolina use tax due, the difference must be paid in this State. No credit shall be allowed for sales or use taxes paid in another state if that taxing jurisdiction does not grant similar credit for sales taxes paid in North Carolina.
- 8.** Every person outside this State who is engaged in business in this State, as hereinafter defined, is required to register with the Department and collect and remit the tax due on all taxable tangible personal property sold or delivered for storage, use or consumption in this State. Every person who purchases any taxable tangible personal property for storage, use or consumption in this State for business use from out-of-state vendors upon which the tax has not been fully paid must register with the Department and remit the tax due on such purchases. A fee is not required for registration and a certificate is not issued in connection with such registration; however, all registrants will be furnished returns to be used in reporting and remitting all taxes due.
- 9.** Retail sales of specific items of tangible personal property are exempt from all State and local sales and use taxes, including the Mecklenburg County public transportation tax, if sold between 12:01 AM on the first Friday of August and 11:59 PM on the following Sunday. For additional information concerning the sales tax holiday, refer to Sales and Use Tax Technical Bulletin 34-24.

B. Utility and Liquor Sales Tax

1. Electricity

The gross receipts derived from sales of electricity (other than receipts from the sale of electricity by a municipality whose only wholesale supplier of electric power is a federal agency and who is required by contract with that federal agency to make payments in lieu of taxes) are subject to the 3% State rate of tax except as set out below. The local tax does not apply to electricity.

a. Electricity Sold to Farmers

Sales of electricity to farmers to be used by them for any farm purposes other than preparing food, heating dwellings, and other household purposes are subject to the 2.83% State rate of tax regardless of the quantity of electricity purchased or used at any one time. **Effective October 1, 2007**, the rate is reduced to 1.8%. **Effective July 1, 2008**, the rate is reduced to 1.4%. **Effective July 1, 2009**, the rate is reduced to 0.8%. **Effective July 1, 2010**, sales of electricity to farmers for qualifying purposes are exempt.

b. Electricity Sold to Manufacturers

Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants other than electricity for residential heating purposes are subject to the 2.83% State rate of tax regardless of the quantity of electricity purchased or used at any one time. **Effective July 1, 2007**, the rate of tax on the sale of electricity to a manufacturer for use in connection with the operation of the industry or plant and measured by a separate meter or other device is reduced from 2.83% to 2.6%. **Effective October 1, 2007**, the rate is reduced to 1.8%. **Effective July 1, 2008**, the rate is reduced to 1.4%. **Effective July 1, 2009**, the rate is reduced to 0.8%. **Effective July 1, 2010**, sales of electricity to manufacturers for qualifying purposes are exempt.

Effective October 1, 2004, sales of electricity to aluminum smelting facilities for use in connection with the operation of the facilities and measured by a separate meter or measuring device are subject to a 0.17% State rate of tax; the 0.17% rate expires for sales made **on or after October 1, 2007**.

c. Electricity Sold to Commercial Laundries and Dry-Cleaners

Sales of electricity to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service are subject to a 2.83% State rate of tax regardless of the quantity of electricity purchased or used at any one time.

In order to qualify for the applicable reduced rate, the electricity must be measured by a separate meter or other device. For additional information on sales of electricity, including eligibility and certification, refer to Section 39 of the Sales and Use Tax Technical Bulletins.

2. Telecommunications

Prior to October 1, 2005, the gross receipts derived from providing telecommunications service were subject to a 6% State rate of tax. The local tax does not apply to telecommunications service. **Effective October 1, 2005**, telecommunications service is subject to the “**combined general rate**” as defined in G.S. 105-164.3(4a). For additional information on telecommunications services, refer to Section 21 of the Sales and Use Tax Technical Bulletins.

3. Satellite Service

Prior to October 1, 2005, the gross receipts derived from providing direct-to-home satellite service to subscribers in North Carolina were subject to a 5% State rate of tax. The local tax does not apply to satellite service. **Effective October 1, 2005**, direct-to-home satellite service is subject to the “**combined general rate**” as defined in G.S. 105-164.3(4a). For additional information on satellite service, refer to Section 20 of the Sales and Use Tax Technical Bulletins.

4. Liquor

Prior to October 1, 2005, the gross receipts derived from sales of spirituous liquor other than mixed beverages were subject to a 6% State rate of tax. The local tax does not apply to liquor. **Effective October 1, 2005**, spirituous liquor other than mixed beverages is subject to the “**combined general rate**” as defined in G.S. 105-164.3(4a). For additional information on spirituous liquor, refer to Sales and Use Tax Technical Bulletin 34-23.

5. Cable Service

Effective January 1, 2006, the gross receipts derived from providing cable service to subscribers in North Carolina are subject to the “**combined general rate**” as defined in G.S. 105-164.3(4a).

6. Video Programming Service

Effective January 1, 2007, the gross receipts derived from providing video programming are subject to the “**combined general rate**” of tax as defined in G.S. 105-164.3(4a). The term “**video programming**” is defined in G.S. 105-164.3(50c) as “programming provided by, or generally considered comparable to programming provided by, a television broadcast station, regardless of the method of delivery.” Video programming service includes, but is not limited to, direct-to-home satellite service and cable service.

7. Rate Changes for Services

The effective date of rate changes for services shall be as follows:

- a. For a rate increase, the new rate shall apply to the first billing period starting on or after the effective date. For a service billed after it is provided, the first billing period starts on the effective date. For a service billed before it is provided, the first billing period starts on the first day of the month after the effective date.
- b. For a rate decrease, the new rate shall apply to bills rendered on or after the effective date.
- c. **Effective July 1, 2007**, the effective date of a rate change for an item subject to the “**combined general rate**,” as defined in G.S. 105-164.3(4a), is the effective date of any of the following:
 - (1) the effective date of a change in the general rate;
 - (2) for an increase in the authorization for local sales and use taxes, the date on which local sales and use taxes authorized for every county become effective in the first county or group of counties; or
 - (3) for a repeal in the authorization for local sales and use taxes, the effective date of the repeal.

C. Highway Use Tax and Alternate Gross Receipts Tax

1. Highway Use Tax

The retail sale of a motor vehicle for which a certificate of title is issued is subject to the 3% highway use tax.

There is a maximum tax of \$1,000 for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial vehicle as defined in G.S. 20-4.01. There is a maximum tax of \$1,500 for each certificate of title issued for a recreational vehicle as defined in G.S. 105-187.1 that is not subject to the \$1,000 maximum tax.

2. Alternate Gross Receipts Tax

A lessor of motor vehicles may elect to pay the highway use tax to the Commissioner of Motor Vehicles when applying for a certificate of title for a motor vehicle purchased by the lessor for lease or rental, or he may elect to collect and remit the tax to the Secretary of Revenue on the lease or rental receipts derived therefrom. The Highway Use Tax Act defines long-term and short-term lease or rental. “**Long-term lease or rental**” means a written agreement to lease or rent property for at least 365 continuous days to the same person. “**Short-term lease or rental**” is a lease for less than 365 continuous days. The rate of tax on the gross receipts from the short-term lease or rental of a motor vehicle is 8% and the tax rate on the gross receipts from the long-term lease or rental of a motor vehicle is 3%. The highway use tax may not be more than \$1,000 for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial vehicle as defined in G.S. 20-4.01. A \$1,500 maximum tax applies to the continuous lease or rental to the same person of a recreational vehicle that is not subject to the \$1,000 maximum tax.

Note: For additional information on highway use tax, refer to Section 35 of the Sales and Use Tax Technical Bulletins.

D. Scrap Tire Disposal Tax

Retail sales of new tires sold by a retailer and retail sales of new tires sold by a tire retailer or tire wholesale merchant to a wholesale merchant or retailer for placement on a vehicle offered for sale, lease or rental by the retailer or wholesaler are subject to the scrap tire disposal tax at a percentage rate of the sales price of each new tire. Purchases of new tires from outside North Carolina for storage, use or consumption in North Carolina or for placement in this State on vehicles offered for sale, lease or rental are subject to the scrap tire disposal tax. The exemptions to the tax are set forth in G.S. 105-187.18. The scrap tire disposal tax rate is 2% on tires with a bead diameter of less than 20 inches. The tax rate is 1% on tires with a bead diameter of 20 inches or more. The bead diameter is the diameter of the hole in the center of the tire or the diameter of the rim.

Note: For additional information on the scrap tire disposal tax, refer to Sales and Use Tax Technical Bulletin 29-2.

E. White Goods Disposal Tax

The “**White Goods Disposal Tax**” is a tax collected for the disposal of white goods. “**White goods**” includes refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers and other similar domestic and commercial large appliances. The White Goods Disposal Tax is \$3.00 and is applicable to all new white goods sold by a retailer or purchased outside the State for storage, use or consumption in this State. It applies to all new white goods with or without chlorofluorocarbon refrigerants. The tax is an additional State sales and use tax and, except as provided in the levy, is to be collected and administered in the same manner as the State sales and use tax.

Note: For additional information on the white goods disposal tax, refer to Sales and Use Tax Technical Bulletin 29-1.

F. Dry-Cleaning Solvent Tax

The “**Dry-Cleaning Solvent Tax**” is a tax collected for cleanup of dry-cleaning solvent contamination. This is an additional State sales and use tax.

The dry-cleaning solvent tax is \$10.00 for each gallon of dry-cleaning solvent that is chlorine-based and \$1.35 for each gallon of dry-cleaning solvent that is hydrocarbon-based. (**Effective**

August 31, 2007, the term “**halogenated hydrocarbon-based**” replaces the term “**chlorine-based.**”) These taxes are in addition to all other taxes. The tax expires on January 1, 2010.

Note: For additional information on the dry-cleaning solvent tax, refer to Sales and Use Tax Technical Bulletin 29-3.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.5; 105-164.6; 105-164.13B; 105-164.13C; 105-187.1-11; 105-187.15-19; 105-264; Issued: June 1, 1996; Revised: April 1, 2008; March 1, 2007; July 1, 2005; February 1, 2004; December 1, 2002; June 1, 2002; November 15, 2000; August 1, 2000; October 1, 1999; January 15, 1999; October 15, 1998; March 1, 1997.

1-2 DEFINITIONS

A. Engaged in Business

“**Engaged in business**” means maintaining, occupying or using permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, any office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business, for the selling or delivering of tangible personal property for storage, use or consumption in this State, or permanently or temporarily, directly or through a subsidiary, having any representative, agent, salesman, canvasser or solicitor operating in this State in such selling or delivering, and the fact that any corporate retailer, agent or subsidiary engaged in business in this State may not be legally domesticated or qualified to do business in this State is immaterial. It also means maintaining in this State, either permanently or temporarily, directly or through a subsidiary, tangible personal property for the purpose of lease or rental. It also means making a mail order sale, as defined in G.S. 105-164.3(18), if one of the conditions listed in G.S. 105-164.8(b) is met. It also means the direct shipment of wine to a purchaser in this State by a wine shipper permittee under G.S. 18B-1001.1.

B. Retail Sale

“**Retail sale**” or “**sale at retail**” is defined as the sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

C. Sales Price

“**Sales price**” is defined as the total amount for which personal property or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.

1. The term includes all of the following:
 - a. the retailer’s cost of the property sold;
 - b. the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense to the retailer;
 - c. charges by the retailer for any services necessary to complete the sale;
 - d. delivery charges;
 - e. installation charges;
 - f. the value of exempt personal property given to the consumer when taxable and exempt personal property are bundled together and sold by the retailer as a single product or piece of merchandise; **(Effective October 1, 2007, this**

provision is deleted as a result of a new definition of “**bundled transaction**” and related taxability rules. For information on “**bundled transactions**,” refer to Sales and Use Tax Technical Bulletin 34-25.);

- g. credit for trade-in; and
- h. **effective October 1, 2007**, discounts that are reimbursable by a third party and can be determined at the time of sale by the presentation by the consumer of a coupon or other documentation, the identification of the consumer as a member of a group eligible for a discount, or the invoice the retailer gives the consumer.

2. The term does not include any of the following:

- a. discounts that are not reimbursable by a third party, are allowed by the retailer, and are taken by a consumer on a sale;
- b. interest, financing, and carrying charges from credit extended on the sale, if the amount is separately stated on the invoice, bill of sale, or a similar document given to the consumer; or
- c. any taxes imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer.

D. Use

“**Use**” is defined as the exercise of any right, power, or dominion whatsoever over tangible personal property or a service by the purchaser of the property or service. The term includes withdrawal from storage, distribution, installation, affixation to real or personal property, and exhaustion or consumption of the tangible personal property or service by the owner or purchaser. The term does not include the sale of tangible personal property or a service in the regular course of business.

E. Wholesale Sale

“**Wholesale sale**” shall mean a sale of tangible personal property by a wholesale merchant to a manufacturer, or registered jobber or dealer, or registered wholesale or retail merchant, for the purpose of resale but does not include a sale to users or consumers not for resale.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13;
105-264;
Issued: June 1, 1996;
Revised: April 1, 2008; March 1, 2007; July 1, 2005;
February 1, 2004; June 1, 2002; October 15, 1998.

1-3 LICENSES REQUIRED

A. Certificate of Registration

Every person who is engaged in the business of selling at retail or wholesale and/or renting or leasing tangible personal property or providing taxable services in this State or who operates a laundry, dry cleaning plant or similar business or a hotel, motel or similar business in this State is liable for a Certificate of Registration. There is no fee for a Certificate of Registration. The registration will allow the issuance of a **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E**, to obtain property or services for resale. A purchaser is liable for a \$250 penalty for each misuse of a Certificate of Exemption. See the Certificate of Exemption for instructions for its proper use.

B. Users or Consumers Use Tax Registration

Every person who buys taxable tangible personal property or taxable services for business use from out-of-state vendors for storage, use or consumption in North Carolina is required to obtain a Users or Consumers Use Tax Registration except:

1. persons registered for payment of sales tax; and
2. persons who have paid their vendors all taxes due on their purchases for storage, use or consumption.

A fee is not required for registration and a Certificate of Registration is not issued in connection with such registration; however, all registrants will be furnished returns to be used in reporting and remitting all taxes due.

History Note: Authority G.S. 105-164.4; 105-164.5; 105-264;
Issued: June 1, 1996;
Revised: March 1, 2007; July 1, 2005; February 1, 2004;
August 1, 2000; October 1, 1999; October 15, 1998.

1-4 RETURNS

A. Sales and Use Tax Return

1. General

G.S. 105-164.16 establishes the filing frequency of sales and use tax returns and the content of the returns. G.S. 105-164.4(c) requires a retailer to register with the Department and obtain a Certificate of Registration. G.S. 105-164.6 requires a retailer who delivers property for storage, use, or consumption but does not have a place of business in this State to register with the Department. A person who is engaged in business, is not otherwise required to file a sales and use tax return, and, on two or more occasions within a twelve-month period, purchases property subject to use tax must register with the Department and begin filing sales and use tax returns. A person who is engaged in business, is not otherwise required to file a sales and use tax return, and purchases property subject to use tax only once in a twelve-month period must file a return and pay the tax due within 20 days after the end of the month in which the purchase was made.

2. Every person engaged in the business of selling tangible personal property at retail, rendering a service taxable at the general State rate and applicable local rate under G.S. 105-164.4, or making purchases subject to the use tax must file a return for each reporting period showing gross sales and/or receipts and purchases and an itemization of all exempt sales or receipts which are not included in the computation of tax due. Returns for periods in which no sales or purchases were made must indicate 0.00 on the "Total Due" line.

3. Filing Frequency

a. Monthly

Taxpayers whose total monthly tax liability is consistently more than \$100 but less than \$10,000 per month shall file a return monthly and pay taxes due on or before the 20th day of each month for all taxes due for the preceding calendar month.

b. Quarterly

Taxpayers whose total monthly tax liability is consistently less than \$100 per month shall file a return quarterly and pay taxes due on or before the last day of the month following the end of the calendar quarter.

c. Semimonthly

Prior to October 1, 2007, a taxpayer who is consistently liable for at least \$10,000 per month in State and local sales and use taxes shall pay the tax twice a month and shall file a return on a monthly basis. One semimonthly payment covers the period from the first day of the month through the 15th day of the month. The other semimonthly payment covers the period from the 16th day of the month through the last day of the month. The semimonthly payment for the period that ends on the 15th day of the month is due by the 25th day of that month. The semimonthly payment for the period that ends on the last day of the month is due by the 10th day of the following month.

The return covering both semimonthly payment periods is due by the 20th day of the month following the month of the payment periods covered by the return. A taxpayer is not subject to interest on or penalties for an underpayment for a semimonthly payment period if the taxpayer timely pays at least 95% of the lesser of the following and includes the underpayment with the monthly return for those semimonthly payment periods:

- (1) the amount due for each semimonthly payment period; or
- (2) the average semimonthly payment for the prior calendar year.

In determining the amount of tax due from a taxpayer for a reporting period, the Secretary shall consider the total amount due from all places of business owned and operated by the same person as the amount due from that person.

Effective October 1, 2007, (for returns for the month of October 2007)

A taxpayer who is consistently liable for at least \$10,000 a month in State and local sales and use taxes must make a monthly prepayment of the next month's tax liability. The prepayment is due on the date a monthly return is due. Therefore, beginning with the return for October 2007, a taxpayer who previously paid on a semimonthly basis will be required to include a prepayment for the next period when filing the monthly return and remitting the tax due. The prepayment must equal at least 65% of any of the following:

- (1) the amount of tax due for the current month;
- (2) the amount of tax due for the same month in the preceding year; or
- (3) the average monthly amount of tax due in the preceding calendar year.

A taxpayer will not be subject to interest or penalties for the underpayment of a prepayment if one of the above three calculation methods is used. In addition, a taxpayer is not required to utilize the same method for calculating the amount of the prepayment each month. Additional information on prepayment is available on the Department's website.

4. Schedules

A retailer who reports tax payable by more than one location in this State must attach two schedules to the return. **Schedule of State Sales and Use Tax by City, Form E-543**, must list the amount of State tax due for each location in the State and **Schedule of County Sales and Use Taxes, Form E-536**, must list the amount of local tax due for each county. The 2% food tax (on food that is exempt from the State tax) is not listed on Form E-536 by county; however, the total 2% food tax for all counties is reflected on the form as a cumulative amount.

5. No Sales or Purchases By Business

A retailer who does not make any sales during a reporting period must file a return for that period and indicate 0.00 on the “**Total Due**” Line. Similarly, a person who is not a retailer but is engaged in business, purchases tangible personal property for the business that is subject to use tax, and does not make any taxable purchases during a reporting period must file a return for that period and indicate 0.00 on the “**Total Due**” Line.

6. Seasonal Business

A retailer who engages in business for six or fewer consecutive months in each year may register as a seasonal filer and indicate the months in which the retailer engages in business. A retailer who is registered as a seasonal filer is not required to file a return for an off-season reporting period in which the retailer did not engage in business.

7. Wholesale Merchant

A person who engages exclusively in the business of making wholesale sales is not required to file a return. A person who, on two or more occasions within a twelve-month period, either makes taxable sales to users, consumers, or nonregistered merchants or makes purchases subject to use tax is not engaged exclusively in the business of making wholesale sales and must begin filing sales and use tax returns. A wholesale merchant who is not required to file a sales and use tax return and who, on only one occasion within a twelve-month period, either makes taxable sales to users, consumers, or nonregistered merchants or makes purchases subject to use tax must file a return and pay the tax due within 20 days after the end of the month in which the sale or purchase was made.

8. Out-of-State Purchases for Non-Business Use

An individual who purchases tangible personal property other than boats and aircraft outside the State for a non-business purpose is required to accrue and remit the use tax due on an annual basis. For an individual who is not required to file a North Carolina individual income tax return, the annual reporting period ends on the last day of the calendar year and a use tax return is due, using **Form E-554, Consumer Use Tax Return**, by the following April 15th. For an individual who is required to file a North Carolina individual income tax return, the annual reporting period ends on the last day of the individual's income tax year, and the use tax must be paid on the income tax return as provided in G.S. 105-269.14. The use tax on purchases of boats and aircraft is to be reported on **Form E-555, Boat and Aircraft Use Tax Return**. The return and tax are due on or before the 20th day of the month following the month in which the purchase was made.

Effective for purchases made on or after January 1, 2010, any use tax due from purchases of tangible personal property from outside the State for a non-business purpose must be filed on Form E-554. There will no longer be a line on the income tax return to report use tax. The annual reporting period ends on the last day of the calendar year. The return is due by the due date, including any approved extensions, for filing the individual's income tax return.

B. Utility and Liquor Sales and Use Tax Return**1. Electricity, Telecommunications and Ancillary Service, Direct-to-Home Satellite Service, and Cable Service**

Every person engaged in the business of providing electricity, telecommunications and ancillary service, direct-to-home satellite service, and, **effective January 1, 2006**, cable

service shall file a **Utility and Liquor Sales and Use Tax Return, Form E-500E**, as required by Paragraph A. of this Bulletin.

2. Liquor Sales and Use Taxes

Every person engaged in the business of selling spirituous liquor shall file a **Utility and Liquor Sales and Use Tax Return, Form E-500E**, as required by Paragraph A. of this Bulletin.

3. Video Programming Service Sales and Use Taxes

Effective January 1, 2007, every person engaged in the business of providing any type of video programming shall file a **Utility and Liquor Sales and Use Tax Return, Form E-500E**, as required by Paragraph A. of this Bulletin. The term **“video programming”** includes, but is not limited to, direct-to-home satellite service and cable service.

C. Scrap Tire Disposal Tax Return

The sale of new tires at retail and the purchase of new tires for storage, use or consumption in this State are subject to the scrap tire disposal tax. Also, the sale or purchase of new tires for placement on a vehicle offered for sale, lease or rental is subject to this tax. The tax is to be collected and paid in the same manner as the State sales tax. See the filing requirements set out in Paragraph A. of this Bulletin.

D. Motor Vehicle Lease and Rental Return

Retailers engaged in the business of leasing or renting motor vehicles who elect not to pay the highway use tax when applying for a certificate of title for a motor vehicle purchased for lease or rental shall pay a tax on the gross receipts from the lease or rental of the vehicle. A retailer who makes this election shall report and remit to the Secretary the tax on the gross receipts from the lease or rental of the motor vehicle. The Secretary shall administer the tax imposed by this section on gross receipts in the same manner as the tax levied under G.S. 105-164.4(a)(2). See the filing requirements set out in Paragraph A. of this Bulletin.

E. White Goods Disposal Tax Return

The white goods disposal tax is imposed on each new white good sold by a retailer or purchased outside the State for storage, use or consumption in this State. The tax is an additional State sales and use tax and, except as provided in Article 5C, is to be collected and administered in the same manner as the State sales and use tax. See the filing requirements set out in Paragraph A. of this Bulletin.

F. Dry-Cleaning Solvent Tax

The tax is imposed on each gallon of dry-cleaning solvent sold by a retailer to a dry-cleaning facility or purchased by a dry-cleaning facility from outside the State for storage, use or consumption in this State. The dry-cleaning solvent tax is an additional State sales and use tax and, except for the application of exemptions and refunds, is to be collected and administered in the same manner as the State sales and use tax imposed by Article 5 of Chapter 105 of the General Statutes. The dry-cleaning solvent tax is to be reported separately to the Department of Revenue on the **Dry-Cleaning Solvent Tax Return, Form E-500S**. See the filing requirements set out in Paragraph A. of this Bulletin.

History Note: Authority G.S. 105-164.4; 105-164.16; 105-187.1-11;
105-187.15-19; 105-264;
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Revised: April 1, 2008; March 1, 2007; February 1, 2004;

December 1, 2002; June 1, 2002; November 15, 2000;
August 1, 2000; October 1, 1999; January 15, 1999; October 15, 1998.

1-5 MEASURE OF SALES AND USE TAX DUE

- A. The tax is due on the merchant's gross retail sales after deducting exempt sales and other nontaxable receipts. The merchant shall pay to the State the amount due, as provided by statute, at the applicable rates on his total taxable retail sales, whether or not he has collected the tax thereon and shall also pay any amount of tax collected in excess of the amount which should have been collected on taxable sales. If tax is collected on exempt or nontaxable sales, the tax erroneously collected must be paid to the Secretary, and no refund shall be made to a taxpayer unless the purchaser has received credit for or has been refunded the amount of tax erroneously collected.
- B. When the customer purchases more than one article at one trading period, the applicable rate of tax can be applied to each article purchased or to the total charge for all articles purchased. Those businesses having cash registers at each counter or in each department shall collect a tax equal to the tax due on the total charge for tangible personal property purchased by a customer at one trading period without leaving the place of business.
- C. The sales price of tangible personal property sold shall be computed to the third decimal place. The amount of tax shall be rounded up whenever the third decimal place is greater than four.

History Note: Authority G.S. 105-164.11; 105-264;
Issued: June 1, 1996;
Revised: March 1, 2007; February 1, 2004.

1-6 SALES FOR RESALE

- A. A purchaser of tangible personal property who is properly registered with the Sales and Use Tax Division of the North Carolina Department of Revenue or in a taxing jurisdiction outside this State and is engaged in the business of selling tangible personal property or taxable services at retail or wholesale and makes purchases of tangible personal property or services for the purpose of resale shall furnish to his vendors as their authority for not collecting the tax, either:
 - 1. a **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E**; or
 - 2. other evidence in writing adequate to support the conclusion that he is registered with the Department of Revenue or in a taxing jurisdiction outside this State for sales and use tax purposes and that the property or service is being purchased for the purpose of resale.

Such certificates or other written evidence shall be completed in duplicate and a copy retained by both the vendor and the vendee in their files. In the absence of such certificates or other adequate written evidence, vendors selling taxable tangible personal property or taxable services to wholesale and retail merchants shall be deemed to be making retail sales and will be liable for collecting and remitting the tax thereon at the applicable rate.

- B. The Secretary may revoke the registration of any registered merchant who misuses a Certificate of Exemption. Vendors shall charge the applicable rate of tax on sales to registered merchants when the property sold is for use by the purchaser and not for resale. In the case of a sale for resale, a vendor who accepts a Certificate of Exemption from a purchaser of tangible personal property has the burden of proving that the sale is not a retail sale unless all of the following conditions are met:

1. For a sale made in person, the certificate is signed by the purchaser, states the purchaser's name, address, registration number, and type of business.
2. For a sale made in person, the tangible personal property sold is the type of property typically sold by the type of business stated on the certificate.
3. For a sale made over the Internet or by other remote means, the seller obtains the purchaser's name, address, registration number, and type of business and maintains this information in a retrievable format in its records.

Merchants purchasing tangible personal property for resale on a regular basis from a vendor shall only be required to furnish one Certificate of Exemption or other written evidence to the vendor for such purchases provided the tangible personal property purchased is of the type generally and ordinarily sold by the type of business operated by the purchaser and provided there is no change in the character of the purchaser's business which is known to the vendor or which should be known to him in the exercise of ordinary and reasonable care. Otherwise, the vendor shall require Certificates of Exemption or other written evidence in connection with individual purchases supporting that the property is being purchased for resale.

- C. Persons who issue Certificates of Exemption to vendors to obtain property without payment of tax when due are subject to assessment of the penalties set out in G.S. 105-236(5) and \$250 for each misuse of a Certificate of Exemption [G.S. 105-236(5a)] and may be guilty of a Class H Felony. The penalty for misuse of a Certificate of Exemption is applicable only to a purchaser. The act of executing a Certificate of Exemption by a vendee and furnishing the document to a vendor does not constitute a use or misuse of the certificate. The actual use or misuse occurs when a purchase is made and the vendor, relying on the certificate furnished by the vendee, does not charge sales or use tax thereon on the basis that the sale is a **"wholesale sale"** as defined in G.S. 105-164.3(52). A single purchase is considered to be the tangible personal property purchased at one time as reflected on the bill of sale. The penalty is to be applied only once to each invoice or bill of sale for which a misuse of the certificate has occurred. This penalty is subject to the discretionary authority of the Secretary of Revenue pursuant to G.S. 105-237.
- D. A purchaser may make purchases for his own use pursuant to the Certificate of Exemption and assume liability for payment of the applicable tax to the Department when the character of the business of the purchaser is such that it would impose undue hardship upon the vendor and vendee to determine the transactions upon which the vendor would ordinarily be required to impose the tax.
- E. The foregoing provisions with regard to Certificates of Exemption are applicable to sales to nonresident retail or wholesale merchants. The term **"nonresident retail or wholesale merchant"** means "a person who does not have a place of business in this State, is engaged in the business of acquiring, by purchase, consignment or otherwise, tangible personal property and selling the property outside this State, and is registered for sales and use tax purposes in a taxing jurisdiction outside this State."

Note: For additional information on nonresident retail or wholesale merchants, refer to Sales and Use Tax Technical Bulletin 42-3.

History Note: Authority G.S. 105-164.28; 105-236; 105-264;
Issued: June 1, 1996;
Revised: March 1, 2007; July 1, 2005; November 15, 2000.

1-7 RECORDS REQUIRED TO BE KEPT

Every retail merchant, wholesale merchant and consumer shall keep and preserve for a period of not less than three years suitable records of gross income, gross receipts and/or gross receipts of sales and records of purchases of such business and such other books or accounts as required by law to determine the amount of sales and use tax for which he may be liable. Retailers shall keep separate records disclosing sales of tangible personal property and services taxable under G.S. 105-164.4 and sales transactions not taxable because exempt under G.S. 105-164.13 or elsewhere excluded from taxation. The required records shall include and show:

1. all cash and credit sales, including sales under any type of financing or installment plan;
2. the amount of all merchandise purchased and all bills of lading, invoices and copies of purchase orders;
3. copies of all sales invoices furnished by wholesale merchants, which invoices must show the name and address of the purchaser, the date of purchase, the article or articles purchased and the purchase price of the merchandise;
4. all deductions and exemptions allowed by law and claimed in filing sales and use tax returns, including the **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E**.
5. all tangible personal property used or consumed in the conduct of business; and
6. a true and complete inventory of the value of the stock on hand, which inventory must be taken at least once each year.

All such records shall be open for examination at all reasonable hours during the day by the Secretary or his authorized agents. Unless such records shall be kept, the exemptions and exclusions shall not be allowed, and it shall be the duty of the Secretary or his authorized agents to assess a tax upon gross sales at the rate levied upon retail sales; and if records are not kept disclosing gross sales, it shall be the duty of the Secretary to assess tax based upon the best information available.

History Note: Authority G.S. 105-164.22; 105-164.23; 105-164.25;
105-164.30; 105-164.31; 105-264;
Issued: June 1, 1996;
Revised: March 1, 2007; July 1, 2005.