SECTION 17 - NONPROFIT ENTITIES - HOSPITALS, EDUCATIONAL INSTITUTIONS, CHURCHES, ORPHANAGES AND OTHER CHARITABLE OR RELIGIOUS INSTITUTIONS AND ORGANIZATIONS AND QUALIFIED RETIREMENT FACILITIES WHOSE PROPERTY IS EXCLUDED FROM PROPERTY TAX UNDER G.S. 105-278.6A

17-1 EXEMPT SALES, TAXABLE SALES AND PURCHASES BY NONPROFIT ENTITIES

A. Exempt Sales by Nonprofit Entities

1. Sales of items by a nonprofit civic, charitable, educational, scientific or literary organization are exempt from tax when the net proceeds of the sales will be given or contributed to the State of North Carolina or to one or more of its agencies or instrumentalities, or to one or more nonprofit charitable organizations, one of whose purposes is to serve as a conduit through which such net proceeds will flow to the State or to one or more of its agencies or instrumentalities. [G.S. 105-164.13(34)]

2. Sales by a nonprofit civic, charitable, educational, scientific, literary, or fraternal organization are exempt from sales or use tax when all of the following conditions are met:

a. The sales are conducted only upon an annual basis for the purpose of raising funds for the organization's activities.
b. The proceeds of the sale are actually used for the organization's activities.
c. The products sold are delivered to the purchaser within 60 days after the first solicitation of any sale made during the organization's annual sales period. [G.S. 105-164.13(35)]

3. Sales of food by a church or religious organization not operated for profit are exempt from sales and use taxes when the proceeds of the sales are actually used for religious activities. [G.S. 105- 164.13(31a)]

B. Taxable Sales by Nonprofit Entities

If any nonprofit entity named in this Bulletin makes retail sales, it must register with the Department and collect and remit the tax due on such taxable sales. Nonprofit entities properly registered for sales and use tax purposes may purchase the tangible personal property which they resell exempt from tax provided they furnish such suppliers with a properly executed **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E.** Certificates of Exemption may not be used by any nonprofit entity named in this Bulletin, or by any other vendee, in making purchases of tangible personal property to be used or consumed by such purchaser. The refund provisions contained in G.S. 105-164.14(b) do not apply to the tax on such sales and no part thereof shall be refunded or claimed as a refund.

C. Purchases by Nonprofit Entities

1. Purchases of taxable tangible personal property by hospitals not operated for profit, educational institutions not operated for profit, churches, orphanages, and other charitable or religious institutions or organizations not operated for profit and qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A are subject to sales or use tax when such property is purchased for use or consumption. Sales of building materials, supplies, fixtures, and equipment to contractors for use in the performance of contracts with any nonprofit entity named in this Bulletin are also subject to sales or use tax.

2. Purchases of tangible personal property by nonprofit entities such as chambers of commerce, civic clubs, fraternities, sororities or other fraternal, civic or patriotic organizations for use or consumption are subject to sales or use tax and such organizations are not entitled to any refund.

3. When any nonprofit entity named in G.S. 105-164.14(b) makes taxable purchases of tangible personal property from a North Carolina supplier or a registered out-of-state supplier who charges the North Carolina and any applicable local sales or use tax thereon, such nonprofit entity must remit the tax on such purchases to the supplier. Any such nonprofit entity making taxable purchases of tangible personal property from an out-of-state supplier who does not collect the North Carolina State and any applicable local sales or use tax thereon is required to register with the Department and file returns with remittance of the tax due on such purchases. Any such institution or organization which does not owe any tax for a given period shall file a return reflecting 0.00 on the **"Total Due"** line.

D. Donations of Tangible Personal Property to Nonprofit Organizations

Tangible personal property that is purchased by a retailer for resale or is manufactured or purchased by a wholesale merchant for resale and then withdrawn from inventory and donated by the retailer or wholesale merchant to a governmental entity or a nonprofit organization, contributions to which are deductible as charitable contributions for federal income tax purposes, is exempt from tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-264;
Issued: June 1, 1996;
Revised: February 1, 2007; July 1, 2005; February 1, 2004;
August 1, 2000; October 1, 1999.

17-2 REFUNDS TO NONPROFIT ENTITIES AND MEDICINES AND DRUGS PURCHASED BY HOSPITALS

A. Prior to July 1, 2008, hospitals not operated for profit, educational institutions not operated for profit, churches, orphanages, and other charitable or religious institutions and organizations not operated for profit, and qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A are entitled to semiannual refunds of sales and/or use taxes paid by them in North Carolina on their purchases of tangible personal property used in carrying on their nonprofit work. **Effective July 1, 2008,** the following nonprofit entities are entitled to the semiannual refunds of sales and/or use taxes paid by them in this State on their purchases of tangible personal property used in carrying on their nonprofit work:

1. Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority created under the Hospital Authorities Law, Article 2 of Chapter 131E of the General Statutes.

2. An organization that is exempt from income tax under Section 501(c)(3) of the Internal Revenue Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:

a. Community Improvement and Capacity Building;
b. Public and Societal Benefit;
c. Mutual and Membership Benefit.

3. Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.

In addition, **effective January 1, 2004**, a university-affiliated nonprofit organization that procures, designs, constructs, or provides facilities to, or for use by, a constituent institution of The University of North Carolina, including an entity exempt from taxation as a disregarded entity of the nonprofit organization, is entitled to the semiannual refunds of sales and/or use taxes paid by them in this State on their purchases of tangible personal property used in carrying on their nonprofit work .

Purchases of building materials, supplies, fixtures and equipment by contractors under contract with a **qualifying** nonprofit entity that becomes a part of or are annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered or repaired and which is used in carrying on the nonprofit activities of such nonprofit entity are deemed to be direct purchases. The provisions of this Bulletin apply to out-of-state nonprofit entities to the extent of sales or use taxes paid by them in this State on purchases of tangible personal property for use in carrying on their activities within or without this State which are not for profit.

In addition, all other hospitals not specifically excluded herein are entitled to semiannual refunds of sales and/or use taxes paid by them on medicines and drugs purchased for use in carrying out the work of such hospitals. The refund provisions contained in G.S. 105-164.14(b) do not apply to the tax on taxable sales by the nonprofit entities named in G.S. 105-164.14(b) and no part thereof shall be refunded or claimed as a refund. Nonprofit entities registered for sales and use tax purposes may purchase the tangible personal property which they resell without paying tax thereon to their suppliers provided they have furnished such suppliers with a properly executed **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E.** Certificates of Exemption may not be used by any nonprofit entity in making purchases of tangible personal property to be used or consumed by such purchaser. **Nonprofit and Governmental Entity Claim for Refund State and County Sales and Use Taxes, Form E-585,** shall be used by qualifying nonprofit entities when filing the refund authorized pursuant to G.S. 105-164.14(b).

B. Refund claims filed under G.S. 105-164.14(b) are due to be filed with the North Carolina Department of Revenue covering the first six months of the calendar year on or before the 15th day of October following the close of the first six-month period. Refund claims covering the second six months of the calendar year are due to be filed on or before the 15th day of April following the close of the second six-month period. Refunds applied for more than three years after the due date are barred.

Refund claims filed by qualifying university-affiliated nonprofit organizations for the period January 1, 2004 through December 31, 2007 are timely if submitted to the Department of Revenue by October 15, 2008.

C. All refund claims must be substantiated by proper documentary proof and only the taxes actually paid by the claimant during the period for which the claim for refund is filed may be included in the claim. Any local sales or use taxes included in the claim must be separately stated in the claim for refund. In cases where more than one county's tax has been paid, a breakdown must be attached to the claim showing the amount of each county's local tax separately.

D. As to taxes paid on the claimant's purchases for use, other than those made by contractors performing work for the claimant, invoices or copies of invoices showing the property purchased, the cost thereof, the date of purchase and the amount of State and local sales or use tax paid during the refund period will constitute proper documentary proof.

E. To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, and equipment by its contractor, the claimant must secure from such contractor certified statements setting forth specific required information. A **"certified statement"** is a statement that is signed by the contractor/owner, a corporate officer, or an employee of the

contractor who is authorized to provide the information. The certified statement must include all of the following information:

1. the date the property was purchased;
2. the type of property purchased;
3. the cost of property purchased and the amount of sales and use taxes paid thereon;
4. the project for which the property was used;
5. if the property was purchased in this State, the county to which it was delivered; and
6. if the property was not purchased in this State, the county in which the property was used.

In the event the contractor makes several purchases from the same vendor, such certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices and the sales and use taxes paid thereon. Such statement must also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of State and local sales or use tax paid thereon by the contractor. Similar certified statements by his subcontractors must be obtained by the general contractor and furnished to the claimant. Any local sales or use taxes included in the contractor's statements must be shown separately from the State sales or use taxes. The contractor's statements must not contain sales or use taxes paid on purchases of tangible personal property by such contractors for use in performing the contract which does not annex to, affix to or in some manner become a part of the building or structure being erected, altered or repaired for the qualifying nonprofit organizations named in G.S. 105-164.14(b). Examples of property on which sales or use tax has been paid by the contractor and which shall not be included in the contractor's statement are scaffolding, forms for concrete, fuel for the operation of machinery and equipment, tools, equipment, equipment repair parts, equipment rentals, supplies and blueprints.

F. **Prior to July 1, 2008,** the refund provisions set forth in this Bulletin apply only to the nonprofit entities described in G.S. 105-164.14(b), but do not apply to nonprofit fraternal, civic or patriotic organizations, notwithstanding that such organizations may perform certain charitable functions. The refund provisions set forth in this Bulletin do not apply to nonprofit entities which are owned and controlled by the United States, the State or a unit of local government except hospitals and medical accommodations created under the Hospital Authorities Law, Article 2 of Chapter 131E of the General Statutes, and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under G.S. 105-164.14(b) instead of annual refunds under G.S. 105-164.14(c). Any nonprofit hospital owned and controlled by a unit of local government may submit a written request to receive semiannual refunds under G.S. 105-164.14(b) instead of annual refunds under G.S. 105-164.14(c). The request is effective beginning with the six-month refund period following the date of the request and applies to sales or use taxes paid on or after the first day of the refund period for which the request is effective.

Effective July 1, 2008, the refund provisions set forth in this Bulletin apply only to the nonprofit entities described in G.S. 105-164.14(b).

G. The refund provisions allowed under G.S. 105-164.14(b) are not applicable to the following taxes:

1. the tax paid on taxable sales made by nonprofit entities;

2. sales taxes incurred by employees on purchases of food, lodging or other taxable travel expenses paid by employees and reimbursed by a nonprofit entity named in G.S. 105-164.14(b). These expenses are personal to the employee because the contract for food, shelter, and travel is between the employee and the provider and payment of the tax is by the employee individually and personally. In this circumstance, a nonprofit entity has not incurred any sales tax liability and has not paid any sales tax; instead, it has chosen to reimburse a personal expense of the employee.

3. State sales tax levied by G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c) on sales of electricity and telecommunications and ancillary services; **effective July 1, 2006,** sales or use taxes paid on purchases of alcoholic beverages;

4. occupancy taxes levied and administered by certain counties and cities in this State;

5. prepared food and beverage taxes levied by various local governments in this State;

6. highway use taxes paid on the purchase, lease, or rental of motor vehicles;

7. scrap tire disposal tax levied on new tires;

8. white goods disposal tax levied on new white goods;

9. dry-cleaning solvent tax levied on dry-cleaning solvent purchased by a dry-cleaning facility;

10. excise tax paid on piped natural gas; and

11. solid waste disposal tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.14; 105-264;
Issued: June 1, 1996;
Revised: January 15, 2009; April 1, 2008; February 1, 2007;
July 1, 2005; February 1, 2004; June 1, 2002; August 1, 2000;
October 1, 1999; January 15, 1999; October 15, 1998; January 6, 1997.

17-3 PARENT AND TEACHER ASSOCIATIONS

A. Prior to July 1, 2008, parent and teacher associations are nonprofit and charitable organizations within the meaning of G.S. 105-164.14 and are entitled to a refund of sales and use taxes paid in this State on their purchases of taxable tangible personal property for use in carrying on their work.

B. Effective July 1, 2008, the National Parent and Teacher Association and its local units (Parent Teacher Associations) are entitled to refunds of sales and use taxes paid in this State on their purchases of taxable tangible personal property for use in carrying on their work.

Other parent and teacher organizations may be entitled to refunds of sales and use taxes if they are one of the nonprofit entities described in G.S. 105-164.14(b).

History Note: Authority G.S. 105-164.14; 105-264;
Issued: June 1, 1996;
Revised: January 15, 2009.

17-4 RETAIL SALES BY CLUBS, LODGES, ASSOCIATIONS, ETC.

Clubs, lodges, parents and teachers associations, scout councils and similar organizations which make regular retail sales of taxable tangible personal property must register with the Department of Revenue and pay the sales tax on such sales except as provided by G.S. 105-164.13(34) and G.S. 105-164.13(35).

History Note: Authority G.S. 105-164.4; 105-164.13; 105-264;
Issued: June 1, 1996.