

SECTION 43 - INTERSTATE CARRIERS**43-1 INTERSTATE CARRIERS' LIABILITY FOR TAX ON PURCHASES**

Interstate carriers are liable for payment of State and local sales or use taxes on all purchases of tangible personal property for storage, use or consumption in this State. The tax is to be paid to retailers inside or outside North Carolina who are liable for collecting and remitting the tax to the Department. Carriers must report and pay use tax directly to the Department on purchases from retailers outside this State who do not charge the North Carolina use tax. The fact that interstate carriers may be eligible for a refund of tax paid under the provisions of G.S. 105-164.14(a) does not relieve them of liability for remitting sales or use tax on taxable purchases of fuel, lubricants, repair parts and accessories for motor vehicles, railroad cars, locomotives and airplanes and on taxable purchases of railway cars and locomotives.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.14; 105-264;
Issued: June 1, 1996;
Revised: July 1, 2007; June 1, 2002.

43-2 REFUNDS TO INTERSTATE CARRIERS**A. Refund Authorized by G.S. 105-164.14(a)**

1. An interstate carrier may secure from the Secretary of Revenue a refund of a portion of the North Carolina State and local sales and use tax paid on purchases of fuel, lubricants, repair parts and accessories in this State for motor vehicles, railroad cars, locomotives and airplanes operated by such person. **(Effective January 1, 2006,** for purchases made on or after that date, the list of items covered by this refund provision is expanded to include railway cars and locomotives.) An interstate carrier may secure a refund of a portion of sales or use tax paid on purchases of fuel. An **“interstate carrier”** is a person who is engaged in transporting persons or property in interstate commerce for compensation.
2. The refund provisions of this Bulletin do not apply to any of the following taxes:
 - a. State sales tax levied by G.S. 105-164.4(a)(4a) on sales of electricity, telecommunications services, and ancillary services;
 - b. occupancy taxes levied and administered by certain counties and cities in this State;
 - c. prepared food and beverage taxes levied by various local governments in this State;
 - d. highway use taxes levied on the purchase, lease or rental of motor vehicles;
 - e. scrap tire disposal tax levied on new tires;
 - f. white good disposal tax levied on new white goods;
 - g. dry-cleaning solvent tax levied on dry-cleaning solvent purchased by a dry-cleaning facility; or
 - h. excise tax levied on piped natural gas;

- i. mill machinery privilege tax; or
- j. solid waste disposal tax.

Persons not meeting all of the requirements of this Bulletin are not entitled to a refund authorized under the provisions of G.S. 105-164.14(a).

B. Refund Requirements

The Interstate Commerce Commission does not require carriers under its jurisdiction to keep records according to its standard classification of accounting. Instead, carriers may keep records according to generally accepted accounting principals (GAAP). Qualified carriers who keep records under one of the foregoing systems are eligible for refund under G.S. 105-164.14(a). Interstate carriers are classified by the ICC as common or contract carriers. The operating revenue criteria for the classes of motor carriers are shown below.

The term “**motor carriers**” refers to trucking companies and bus companies. Common and contract motor carriers of property subject to the Interstate Commerce Act are grouped into the following three classes:

- Class I. have annual operating revenues of \$10 million or more; or
- Class II. have annual operating revenues of at least \$3 million but less than \$10 million; or
- Class III. have annual operating revenues of less than \$3 million.

Common and contract motor carriers of passengers subject to the Interstate Commerce Act are grouped into the following two classes:

- Class I. have average annual gross transportation operating revenues of \$5 million or more from passenger motor carrier operations; or
- Class II. have average annual gross transportation operating revenues of less than \$5 million from passenger motor carrier operations.

C. The following items of tangible personal property may be included in purchases on line 4 of the **Interstate Carrier Claim for Refund State and County Sales and Use Taxes, Form E-581**:

- 1. antennas;
- 2. antifreeze;
- 3. bedding for motor vehicle sleeping compartments;
- 4. charts for tachographs;
- 5. decals for motor vehicles;
- 6. emergency flares and reflectors;
- 7. fire extinguishers;
- 8. Freon or nitrogen used in refrigerating and cooling motor vehicles;
- 9. fuel;
- 10. furniture pads;
- 11. lifeboats and oxygen masks;
- 12. load jacks and chains;
- 13. mobile CB radios;
- 14. motor vehicle seat cushions;
- 15. paints for decals;
- 16. polyethylene liners (used to waterproof trailers);
- 17. pouches for registration cards and permits;
- 18. radios;

19. railway cars and locomotives (**effective January 1, 2006**);
20. ramp equipment (aircraft steps used to embark or disembark aircraft);
21. ropes and chains to tie down cargo (adapted for use on motor vehicles; otherwise not allowed);
22. signs (metal signs attached to trucks);
23. tarpaulins;
24. tire chains;
25. tire and tubes;
26. welding rods for repair of motor vehicles;
27. windshield solvents; and
28. zipped covers for grills.

This list is not intended to be exclusive but is for illustrative purposes only.

- D. The following items of tangible personal property **shall not** be included in purchases on line 4 of the **Interstate Carrier Claim for Refund, State and County Sales and Use Taxes, Form E-581**:

1. drivers' gloves;
2. drivers' uniforms;
3. food trays (airplanes);
4. fork lift tires and parts;
5. gauges for testing equipment;
6. hand trucks;
7. license and inspection fees;
8. pallets;
9. pillows (airplanes);
10. repair labor;
11. road service charges;
12. security seals;
13. sixty percent on recapped tires where forty percent of the combined price is taxed;
14. tire volume discounts;
15. tools, shop supplies;
16. trip logs; and
17. wax and washing supplies.

This list is not intended to be exclusive but is for illustrative purposes only.

- E. The Secretary shall compute the North Carolina sales or use tax which would be due with respect to all fuel, lubricants, repair parts and accessories (and **effective January 1, 2006**, railway cars and locomotives) acquired during the refund period as though all such purchases were made in this State but only on such proportion of the total purchase prices thereof as the total number of miles of operation of such applicant's motor vehicles, railroad cars, locomotives and airplanes within this State bears to the total number of miles of operation of such applicant's motor vehicles, railroad cars, locomotives and airplanes within and without this State, and such amount of sales and use tax as the applicant has paid in this State during said refund period in excess of the amount so computed shall be refunded to the applicant.
- F. The Secretary shall compute the local sales or use tax which would be due with respect to all fuel, lubricants, repair parts and accessories (and **effective January 1, 2006**, railway cars and locomotives) acquired during the refund period in the same manner as the State sales and use tax set out in Paragraph E. of this Bulletin.

- G.** Claims for refund are to be filed on **Form E-581, Interstate Carrier Claim for Refund State and County Sales and Use Taxes**. Claimants are required to include on Line 4 of Form E-581 all purchases of fuel, lubricants, repair parts and accessories (and **effective January 1, 2006**, railway cars and locomotives) without regard to the state in which the sale was consummated or the particular state or local tax paid thereon. The refund form shall be signed by a duly authorized person and notarized. Claims shall be filed quarterly within 60 days from the close of each quarter ending in March, June, September and December of each year covering the purchases or acquisitions during the preceding quarter of fuel, lubricants, repair parts and accessories for motor vehicles, railroad cars, locomotives and airplanes (and **effective January 1, 2006**, railway cars and locomotives). An interstate carrier claim for refund must be filed within three years after the due date. A claim filed more than three years after the due date will be barred. Requests for forms and other inquiries may be submitted to the North Carolina Department of Revenue, Post Office Box 25000, Raleigh, North Carolina 27640, telephone number 1-877-252-3052 (toll free).
- H.** The claim for refund shall show, in addition to all other required information, the total number of miles of operation of motor vehicles, railroad cars, locomotives and airplanes within and without this State, the total number of miles of operation of motor vehicles, railroad cars, locomotives and airplanes in this State, the total purchase price of fuel, lubricants, repair parts and accessories for motor vehicles, railroad cars, locomotives and airplanes (and **effective January 1, 2006**, railway cars and locomotives) regardless of where made and the total amount of North Carolina State and local sales and use tax paid on such purchases. Any sales or use tax paid to state or local taxing authorities must be excluded from total purchases as shown on line 4 of the claim for refund. The amount of purchases of accessories attached to motor vehicles at the time of purchase on which the highway use tax was paid shall not be included in the total purchases on line 4 of the refund form. The claim for refund form contains the procedure prescribed for computing the amount of the refund and the information necessary to complete such claim. Records, upon which the claim for refund is based, must be maintained in such manner as to enable a representative of the Department of Revenue to accurately and conveniently verify the correctness of the claimant's statements. The claim for refund shall be completed in triplicate and two copies returned to the North Carolina Department of Revenue, Post Office Box 25000, Raleigh, North Carolina 27640, within the time prescribed herein. After a representative of the Department has verified the correctness of the claim for refund, a voucher for the amount due, if any, will be issued.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.14; 105-264;
Issued: June 1, 1996;
Revised: December 1, 2008; July 1, 2007; February 1, 2004;
June 1, 2002; October 1, 1999; June 1, 1999;
October 15, 1998.

43-3 REFUNDS TO RAILROAD COMPANIES

The repair of cars of a foreign line operated by an applicant shall be included in total purchases by the applicant for refund regardless of the fact that the operating company may bill the owner for repairs performed on such cars. Repairs to the applicant's cars operating on foreign lines shall be excluded since such cars are not being operated by the applicant for refund, regardless of the fact that the foreign company may bill the applicant for repair parts used to maintain the applicant's cars when in operation over foreign lines. Because there is no record kept of the miles that the applicant's railroad cars may travel over foreign lines, the applicant for refund shall exclude fuel, lubricants, repair parts and accessories for which the applicant is billed by the operating company when its cars are traveling over foreign lines; however, the car miles that foreign cars travel over the lines of the applicant for refund shall be taken into consideration in establishing the number of miles of operation in this State and the total number of miles of

operation within and without this State for the calendar quarter. Locomotives are not ordinarily interchanged in the same manner as railroad cars; however, if locomotives are operated in the same manner as railroad cars, the provisions of this Bulletin will also be applicable to the operation of locomotives.

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

43-4 REFUND CLAIMS - LIMITATIONS

A. Current Quarters Refund Claim

Persons, firms or corporations who are qualified under G.S. 105-164.14(a) to receive a refund of North Carolina State and local sales or use tax paid by them on purchases or acquisitions of fuel, lubricants, repair parts or accessories in this State for motor vehicles, railroad cars, locomotives and airplanes (and **effective January 1, 2006**, railway cars and locomotives) operated by such taxpayer shall include in a current quarterly refund claim only fuel, lubricants, repair parts or accessories (and **effective January 1, 2006**, railway cars and locomotives) acquired and the tax paid thereon during the quarter covered by the claim. If a taxpayer includes in a current quarterly refund claim any fuel, lubricants, repair parts or accessories acquired or the tax paid thereon during a noncurrent quarter, same will be disallowed.

B. Amended Refund Claim

Any taxpayer qualified to receive refunds authorized by G.S. 105-164.14(a) who pays sale or use tax to a supplier or use tax directly to the Secretary of Revenue as a result of an assessment made by the Secretary on sales or purchases of fuel, lubricants, repair parts or accessories (and **effective January 1, 2006**, railway cars and locomotives) made during a noncurrent quarter may apply for a refund of such taxes under G.S. 105-164.14(a) by filing an amended claim for refund of taxes within the time and in the manner prescribed by G.S. 105-241.7 for each quarter during which such purchases were made. The amended claim must show the information required by Sales and Use Tax Technical Bulletin 43-2, including the number of miles of operation within and without this State of motor vehicles, railroad cars, locomotives and airplanes during each quarter; the total purchase price of fuel, lubricants, repair parts or accessories for motor vehicles, railroad cars, locomotives and airplanes (and **effective January 1, 2006**, railway cars and locomotives) purchased during each quarter; and the total amount of North Carolina State and local sales and/or use taxes paid on such purchases during each quarter, including any tax paid thereon to vendors or directly to the Secretary of Revenue as the result of the assessments referred to in this Bulletin. Records must be maintained in such manner as to enable a representative of the Secretary of Revenue to accurately verify such claim.

History Note: Authority G.S. 105-164.14; 105-264; 105-241.7;
Issued: June 1, 1996;
Revised: December 1, 2008; July 1, 2007; June 1, 2002.

43-5 INTERSTATE AIR COURIER

A. Definitions

1. Interstate Air Courier [G.S. 105-164. 3(15)]

Interstate air courier is defined as "a person whose primary business is the furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service."

2. Hub [G.S. 105-164.3(13)]

Interstate air courier's hub is the interstate air courier's principal airport within the State for sorting and distributing letters and packages and from which the interstate air courier has, or expects to have upon completion of construction, no less than 150 departures a month under normal operating conditions.

B. Exemptions

1. G.S. 105-164.13(45b) exempts sales of the following items to an interstate air courier for use at the hub:
 - a. aircraft lubricants;
 - b. aircraft repair parts;
 - c. aircraft accessories; and
 - d. materials handling equipment, racking systems, and related parts and accessories for the storage or handling and movement of tangible personal property at an airport or in a warehouse or distribution facility **(effective January 1, 2006)**.
2. G.S. 105-164.13(45a) exempts sales to an interstate air business (which includes an interstate air courier) of tangible personal property that becomes a component part of or is dispensed as a lubricant into a commercial aircraft during its maintenance, repair, or overhaul. For the purpose of this exemption, a commercial aircraft includes only aircraft that has a certified maximum take-off weight of more than 12,500 pounds and is regularly used to carry for compensation passengers, commercial freight, or individually addressed letters and packages.

C. Preferential Rate

1. Sales of the following items to an interstate air courier for use at its hub were subject to the 1% rate of State tax with a maximum tax of \$80.00 per article **prior to January 1, 2006**; materials handling equipment, racking systems, and related parts and accessories, for the storage or handling and movement of tangible personal property at an airport or in a warehouse or distribution facility. **Effective January 1, 2006**, sales of these items to an interstate air carrier for use at its hub are exempt from tax.
2. **Prior to January 1, 2006**, G.S. 105-164.4A(12) provided that sales to an interstate passenger air carrier or an interstate air courier of aircraft simulators for flight crew training for use at the air carrier or the air courier's hub were subject to the 1% State rate of tax with a maximum tax of \$80.00 per article. **Effective January 1, 2006**, sales of aircraft simulators for flight crew training to an interstate passenger air carrier for use at its hub are exempt from tax.

History Note: Authority G.S. 105-129; 105-164.3; 105-164.4; 105-164.13; 105-264;
Issued: October 15, 1998;
Revised: July 1, 2007; July 1, 2005; February 1, 2004;
December 1, 2002; June 1, 2002; October 1, 1999.

43-6 INTERSTATE PASSENGER AIR CARRIER

A. Definitions

1. **Interstate Passenger Air Carrier [G.S. 105-164.3(16)]**
Interstate passenger air carrier means a person whose primary business is scheduled passenger air transportation, as defined in the North American Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce.
2. **Hub [G.S. 105-164.3(13)]**
An Interstate Passenger Air Carrier's Hub means an interstate passenger air carrier's airport in this State that meets both of the following conditions:
 - a. The air carrier has allocated to the airport under G.S. 105-338 more than 60% of its aircraft value apportioned to this State.
 - b. The majority of the air carrier's passengers boarding at the airport are connecting from other airports rather than originating at that airport.

B. Exemptions

1. G.S. 105-164.13(45) exempts sales of the following items to an interstate passenger air carrier for use at its hub:
 - a. aircraft lubricants;
 - b. aircraft repair parts; and
 - c. aircraft accessories.
2. G.S. 105-164.13(45a) exempts sales to an interstate air business (which includes an interstate passenger air carrier) of tangible personal property that becomes a component part of or is dispensed as a lubricant into a commercial aircraft during its maintenance, repair, or overhaul. For the purpose of this exemption, a commercial aircraft includes only aircraft that has a certified maximum take-off weight of more than 12,500 pounds and is regularly used to carry for compensation passengers, commercial freight, or individually addressed letters and packages.

C. Preferential Rate

Prior to January 1, 2006, G.S. 105-164.4A(12) provided that sales to an interstate passenger air carrier or an interstate air courier of aircraft simulators for flight crew training for use at the air carrier or air courier's hub were subject to the 1% State rate of tax with a maximum tax of \$80.00 per article. **Effective January 1, 2006**, these items are exempt when sold to an interstate passenger air carrier for use at its hub.

D. Refunds

Effective January 1, 2005, an interstate passenger air carrier is allowed a refund of the net amount of sales and use tax paid by it in North Carolina on fuel during a calendar year in excess of \$2,500,000.00. The "net amount of sales and use tax paid" is the amount paid less the refund allowed under 105-164.14(a) for interstate carriers; this refund is in addition to the refund allowed for interstate carriers. The refund request is due within six months after the end of the calendar year for which the refund is claimed. This additional refund provision is effective for purchases

made on or after January 1, 2005 and is repealed effective for purchases made on or after January 1, 2011.

History Note: Authority G.S. 105-129; 105-164.3; 105-164.4; 105-164.13;
105-264;
Issued: October 1, 1999;
Revised: December 1, 2008; July 1, 2007; July 1, 2005;
February 1, 2004; June 1, 2002.

43-7 INTERSTATE AIR BUSINESS

A. Definition

Interstate air business is defined as “an interstate air courier, an interstate freight air carrier, or an interstate passenger air carrier.” [G.S. 105-164.3(14c)]

B. Exemption

G.S. 105-164.13(45a) exempts sales to an interstate air business of tangible personal property that becomes a component part of or is dispensed as a lubricant into a commercial aircraft during its maintenance, repair, or overhaul. For the purpose of this exemption, a commercial aircraft includes only aircraft that has a certified maximum take-off weight of more than 12,500 pounds and is regularly used to carry for compensation passengers, commercial freight, or individually addressed letters and packages.

History Note: Authority G.S. 105-129; 105-164.3; 105-164.4; 105-164.13;
105-264;
Issued: July 1, 2005;
Revised: July 1, 2007.

43-8 INTERSTATE FREIGHT AIR CARRIER

A. Definition

Interstate freight air carrier is defined as “a person whose primary business is scheduled freight air transportation, as defined in the North American Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce.” [G.S. 105-164.3(15b)]

B. Exemption

G.S. 105-164.13(45a) exempts sales to an interstate air business (which includes an interstate freight air carrier) of tangible personal property that becomes a component part of or is dispensed as a lubricant into a commercial aircraft during its maintenance, repair, or overhaul. For the purpose of this exemption, a commercial aircraft includes only aircraft that has a certified maximum take-off weight of more than 12,500 pounds and is regularly used to carry for compensation passengers, commercial freight, or individually addressed letters and packages.

History Note: Authority G.S. 105-129; 105-164.3; 105-164.4; 105-164.13;
105-264;
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