

SECTION 44 - PREMIUMS, GIFTS, TRADING STAMPS AND SALES AND GIFTS BY EMPLOYERS TO EMPLOYEES**44-1 PREMIUMS AND GIFTS**

Sales to a retailer of tangible personal property for use by the retailer as premiums or gifts are subject to the general rate of State tax and any applicable local sales or use tax. The retailer shall remit the tax on such purchases to his suppliers if registered to collect the North Carolina tax. If the suppliers are located outside this State and do not collect the North Carolina sales or use tax on such purchases, the purchaser shall remit such tax directly to the Department. If the property purchased is of the character customarily sold by the retailer, he may purchase the property without payment of the tax if he furnishes his supplier with a **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E**. In such case, the retailer must remit to the Department the tax on all taxable articles withdrawn from stock and used as premiums or gifts. The provisions of this Paragraph do not apply to any purchases of property to be used in redeeming trading stamps or other media.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;
Issued: June 1, 1996;
Revised: April 1, 2007; July 1, 2005; June 1, 2002.

44-2 GIFT CERTIFICATES

Charges by vendors for gift certificates which can be exchanged for merchandise are not subject to sales tax. When the holder of such gift certificates exchanges the certificate for merchandise, the transaction is subject to the general rate of State tax and any applicable local sales or use tax unless specifically exempt by statute. The basis for the tax is the sales price of the property.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-264;
Issued: June 1, 1996;
Revised: April 1, 2007; June 1, 2002.

44-3 TRADING STAMPS**A. Sales of Trading Stamps**

Sales of trading stamps to a registered merchant, whether a trading stamp company or other retailer, are deemed to be sales for the purpose of resale and such sales are not subject to the tax. When the retailer distributes the stamps to his customers in connection with retail sales of other property, the stamps are considered to be included in the price of the items purchased by such customers. Sales to a trading stamp company of catalogues, stamp books, advertising matter or other tangible personal property furnished free to retail merchants or used by the trading stamp company to promote its stamp program are subject to the general rate of State tax and any applicable local sales or use tax. Sales of such items to other retail merchants are also subject to said tax.

B. Redemption of Trading Stamps

1. Trading stamp companies which redeem trading stamps are deemed to be engaged in the business of selling tangible personal property at retail for a consideration. Such companies must register with the Department and collect and remit the general rate of State tax and any applicable local sales or use tax due on all such sales. The tax is to be computed on the redemption value of the stamps, stamp book, or other media which the trading stamp company accepts for the premium.

2. A trading stamp company or other vendor which sells goods and trading stamps to a retailer who will himself redeem the stamps shall secure a **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E**, from such retailer since, in such instances, the trading stamp company or other vendor is deemed to be selling tangible personal property for the purpose of resale. Such retailer is liable for the general rate of State tax and any applicable local sales tax on the redemption value of the stamps, stamp book or other media which he accepts for any such premium.
3. If a trading stamp company or other merchant has questions relative to any transaction or operation involving the use of trading stamps, premiums or gifts, such trading stamp company or other merchant shall submit all pertinent facts relating thereto to the Department for a ruling as to their tax status.

History Note: Authority G.S. 105-164.4; 105-164.5; 105-164.6; 105-264;
Issued: June 1, 1996;
Revised: April 1, 2007; July 1, 2005; June 1, 2002.

44-4 SALES AND GIFTS BY EMPLOYERS TO EMPLOYEES OR OTHER USERS

A. Sales to Employees

Sales of tangible personal property by any employer, manufacturer, processor, wholesaler, distributor or jobber to his employees or others for use or consumption are subject to the general rate of State tax and any applicable local sales or use tax, unless specifically exempt, notwithstanding that such sales are infrequent or comprise only a small fraction of the vendor's total business. Every employer, manufacturer, processor, wholesaler, distributor or jobber making such sales must register with the Department and collect and remit the tax due thereon. The fact that any such vendor only makes sales to his employees shall in no way relieve him of this requirement.

B. Gifts to Employees and Others

1. Except as provided in Paragraph 2., gifts of tangible personal property by any employer, manufacturer, processor, wholesaler, distributor or jobber to his employees or other persons are subject to the general rate of State tax and any applicable local sales or use tax, unless the donor paid sales or use tax on the sales or purchase price of the donated property at the time he acquired the property. The tax due by reason of any such gift shall be paid by the donor and shall be computed on the donor's cost price of the property donated, irrespective of whether fabricated, produced, manufactured or processed by the donor, or acquired elsewhere.
2. If a retailer engaged in the business of selling prepared food and drink for immediate or on-premises consumption also gives prepared food or drink to its patrons or employees free of charge, the property given away is considered sold along with the property sold. If a retailer gives an item of inventory to a customer free of charge on the condition that the customer purchase similar or related property, the item given away is considered sold along with the item sold. In all other cases, property given away or used by any retailer or wholesale merchant is not considered sold, whether or not the retailer or wholesale merchant recovers its cost of the property from sales of other property.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;
Issued: June 1, 1996;
Revised: April 1, 2007; February 1, 2004; June 1, 2002; March 1, 1997.