

SECTION 56 - GENERAL PROVISIONS OF ARTICLE 5F OF CHAPTER 105 OF THE GENERAL STATUTES**56-1 IMPOSITION OF AND LIABILITY FOR REMITTING PRIVILEGE TAX****A. Mill Machinery or Mill Machinery Parts or Accessories**

A 1% privilege tax with a maximum tax of \$80.00 per article is imposed on a manufacturing industry or plant that purchases mill machinery or mill machinery parts or accessories for storage use, or consumption in North Carolina. The tax also applies to a contractor or subcontractor that purchases mill machinery or mill machinery parts or accessories for use in the performance of a contract with a manufacturing industry or plant or with a general contractor that has a contract with such industry or plant. The term "accessories" does not include electricity.

B. Manufacturing Fuel

A 1% privilege tax is imposed on a manufacturing industry or plant that purchases fuel, other than electricity or piped natural gas, to operate the industry or plant. There is no maximum tax applicable to purchases of fuel. **Effective October 1, 2007**, the rate is reduced to 0.7%. **Effective July 1, 2008**, the rate is reduced to 0.5%. **Effective July 1, 2009**, the rate is reduced to 0.3%. **Effective July 1, 2010**, purchases of fuel are exempt.

C. Major Recycling Items

A 1% privilege tax with a maximum tax of \$80.00 per article is imposed on a major recycling facility, as defined in G.S. 105-164.3(19), that purchases the following items for use in connection with the facility: cranes, structural steel crane support systems, foundations related to the cranes and support systems, port and dock facilities, rail equipment, and material handling equipment.

D. Research and Development Items (Effective July 1, 2007)

A 1% privilege tax with a maximum tax of \$80.00 per article is imposed on a research and development company in the physical, engineering, and life sciences that is included in industry group 54171 of the North American Industry Classification System (NAICS). The tax applies to purchases of equipment or an attachment or repair part for equipment that meets all of the following requirements: is capitalized for income tax purposes, is used by the company for research and development of tangible personal property, and would be considered mill machinery if purchased by a manufacturer.

E. Software Publishing Items (Effective October 1, 2007)

A 1% privilege tax with a maximum tax of \$80.00 per article is imposed on a software publishing company that is included in the industry group 5112 of North American Industry Classification System (NAICS). The tax applies to purchases of equipment or an attachment or repair part for equipment that meets all of the following requirements: is capitalized for income tax purposes, is used by the company for research and development of tangible personal property, and would be considered mill machinery if purchased by a manufacturer.

F. Eligible Datacenter Items (Effective October 1, 2007)

A 1% privilege tax with a maximum tax of eighty dollars (\$80.00) per article on an eligible datacenter, other than one as defined in G.S. 105-164.3(8e) that purchases machinery or equipment to be located and used at the datacenter. The machinery and equipment must be capitalized for tax purposes under the Code and must be used either: (1) for providing datacenter services, including equipment cooling systems for managing the performance of the datacenter property; hardware and software for distributed and mainframe computers and servers; data

storage devices; network connectivity equipment and peripheral components and systems; or (2) for generating, transforming, transmitting, distributing, or managing electricity, including exterior substations and other business personal property used for these purposes.

The statute includes a forfeiture provision in the event the required level of investment for qualification as an eligible datacenter is not timely made or any eligible machinery and equipment is not located and used at an eligible datacenter. The statute also specifies that a taxpayer that forfeits the privilege tax rate is liable for all past sales and use taxes avoided, computed at the combined general rate of tax; a credit is allowed against the sales or use tax owed for privilege taxes paid. There are provisions that stipulate the date from which interest is computed.

The 1% privilege tax on an eligible datacenter expires for sales occurring on or after July 1, 2013.

G. Industrial Machinery Refurbishing Items (Effective July 1, 2008)

A 1% privilege tax with a maximum tax of eighty dollars (\$80.00) per article is imposed on industrial machinery refurbishing company that is included in industry group 811310 of the North American Industry Classification System (NAICS). The privilege tax applies to the purchase of equipment or an attachment or repair part for equipment that meets all of the following requirements: is capitalized by the company for tax purposes under the Code, is used by the company in repairing or refurbishing tangible personal property, and would be considered mill machinery under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used by the industry or plant to manufacture tangible personal property.

H. Other Purchases

Manufacturers and other purchasers, as set out in Paragraphs A. through G., purchasing tangible personal property that is not classified as property subject to the privilege tax should continue to pay the any applicable State and local sales or use tax to their sellers or to the Department, as appropriate.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-187.50; 105-187.51;
105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007;
Revised: June 1, 2009; December 1, 2008.

56-2 RETURNS

The privilege tax is reported and paid on **Form E-500J, Machinery, Equipment, and Fuel Tax Return**. Returns are filed as set out in Sales and Use Tax Technical Bulletin 1-4.

A manufacturer that currently files and remits sales or use tax to the Department should file returns and remit the privilege tax using the same filing frequency and payment method as for sales and use tax.

History Note: Authority G.S. 105-164.15; 105-164.16; 105-187.50; 105-187.51;
105-187.51A; 105-187.51B; 105-187.52; 105-264;
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