

SECTION 59 - SPECIFIC INDUSTRIES**59-1 BOTTLING PLANTS**

- A. Purchases by bottling plants of bottles, bottle caps, crates and cartons in which manufactured products are sold and delivered to retail or wholesale customers are exempt from tax. Amounts charged as deposits on beverage containers which are returnable to vendors for reuse and which amounts are refundable or creditable to vendees are exempt from sales tax, whether or not said deposits are separately charged.
- B. Purchases by bottling plants of bottling machinery and parts and accessories are subject to the 1% privilege tax with a maximum tax of \$80.00 per article. Purchases by bottling plants of lubricants for such machinery and cleaning compounds for bottles and bottling machinery are likewise subject to the 1% privilege tax.
- C. Purchases of pallet loaders and pallet unloaders by bottled drink manufacturers are subject to the 1% privilege tax with a maximum tax of \$80.00 per article when such items are used as a part of the production machinery between the beginning and ending steps of the manufacturing process.
- D. Purchases by bottled drink manufacturers of case cleaners and bottle unscramblers used in the production line to clean and assemble bottles and cases are subject to the 1% privilege tax with a maximum tax of \$80.00 per article.
- E. Purchases of the following items of tangible personal property by operators of bottling plants are subject to the general rate of State tax and any applicable local sales or use tax:
 - 1. cleaning compounds for janitorial and sanitary purposes;
 - 2. uniforms for employees;
 - 3. advertising materials;
 - 4. office furniture, fixtures and equipment;
 - 5. ice boxes, vending machines and pre-mix cylinders for use in vending machines;
 - 6. conveyance equipment such as jack lifts and repair parts therefor which are not used in the production process;
 - 7. paint for cases, trucks, signs and buildings;
 - 8. lubricants, repair parts and accessories for motor vehicles; and
 - 9. clocks, pencils, knives, etc., used as gifts.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50; 105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264; Issued: January 1, 2007.

59-2 CONCRETE MANUFACTURERS OR READY-MIXED CONCRETE PLANTS

- A. Purchases of weigh hoppers by ready-mix concrete manufacturers and purchases of scales by other manufacturers are subject to the 1% privilege tax with a maximum tax of \$80.00 per article when used for weighing cement or ingredient materials for the manufacturing process. Purchases by manufacturers of scales for use in shipping and receiving areas are subject to the general rate of State tax and any applicable local sales or use tax.
- B. The purchase of a truck with a ready-mix concrete mill mounted upon the chassis at the time of the purchase which is operated off a power train from the truck transmission is exempt from sales tax and the privilege tax and subject to the 3% highway use tax with applicable maximum tax in accordance with G.S. 105-187.3 when purchased by a ready-mix concrete manufacturer for use in mixing concrete for sale and transporting it to the purchaser.

- C. Purchases of calcium chloride by concrete manufacturers for use as an ingredient or component part of concrete manufactured for sale are exempt from tax. Purchases of calcium chloride by contractors for use or consumption in the performance of contracts are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50; 105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264; Issued: January 1, 2007.

59-3 DAIRIES AND CREAMERIES

- A. Purchases of the following items of tangible personal property by dairies, creameries and like businesses processing and manufacturing dairy products are exempt from tax if such materials are purchased for use in packaging, shipment or delivery of tangible personal property which is sold either at wholesale or retail and such articles constitute a part of the sale of such tangible personal property and are delivered with it to the customer:

1. butter boxes and cartons;
2. cheese cartons;
3. glass and other containers;
4. ice cream cups and milk bottle crates;
5. ice cream spoons, wood and fiber labels;
6. milk bottles and jugs of all sizes and materials;
7. milk bottle caps and hoods of all makes;
8. sealing tape;
9. twine;
10. straws; and
11. wrappers, wrapping paper and other tangible personal property used, consumed or furnished free in the packing, sale or distribution of milk and milk products.

- B. Purchases by dairies, creameries and like businesses of the following items of tangible personal property are subject to the 1% privilege tax with a maximum tax of \$80.00 per article:

1. Babcock testers electrically operated;
2. boilers producing steam to be used in manufacturing or processing, together with fire boxes, grates, fire brick, gauges, steam pipes and other necessary accessories to such boilers;
3. bottle cappers;
4. brine pumps;
5. butter molds;
6. butter churns and workers;
7. butter cutters, packers and printers;
8. cans for handling milk during processing or manufacturing;
9. can steamers;
10. circulating bar makers;
11. chocolate bar makers;
12. conveyors and conveyor chains;
13. cooling machines and their fittings and attachments; cottage cheese vats for manufacturing but not storage;
14. cream separators;
15. cream savers, vats and hose;
16. curd agitators and attachments;
17. dry ice saws;

18. electric fillers, cappers and attachments;
19. filling machines and attachments;
20. filters and filter cartridges;
21. heat exchanges;
22. heaters and sterilizing machines;
23. homogenizers;
24. ice cream freezers;
25. ice cream hardening cases;
26. ice cream molds and pans;
27. Jalco testers;
28. jug fillers and cappers mechanically operated;
29. machines and cleaning compounds for washing and sterilizing bottles, cans and other containers; cleaning compounds for cleaning production machinery;
30. pasteurizers and attachments;
31. pipe line filters;
32. pipe and fittings for use on, or attached to, machinery;
33. purity brine units;
34. rapid flow frigid filters;
35. receiving tanks and units;
36. rinsers and sterilizers;
37. roller conveyors;
38. scales when attached to a machine;
39. specialty brass filters and cappers, but not hand operated;
40. storage tanks and vats for milk, ice cream and other milk products;
41. thermometers, charts and gauges when attached to any part of a machine; and
42. York freezers and all other machinery, special tools therefor, attachments and accessories used in the manufacture or processing of milk and milk products whether or not specifically enumerated above; all repair and replacement parts for machinery, attachments and accessories, and all engines, motors, pulleys, motor bases but not foundations, gears, belts, line shafting with hangers and pulleys and other types and makes of drives connecting motors to the driven machinery and all repair and renewal parts of the same.

- C. Purchases by dairies, creameries and like businesses of freezing or cooling units not classified as processing machinery or accessories are subject to the general rate of State tax and any applicable local sales or use tax. Freezing or cooling units in which finished dairy products are stored pending distribution or dispensation to wholesale or retail customers do not qualify as processing machinery or accessories.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50; 105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264; Issued: January 1, 2007.

59-4 ELECTRIC POWER COMPANIES

- A. Purchases of the following items of tangible personal property by firms engaged in generating, producing or processing electric power to be distributed to consumers are subject to the 1% privilege tax with a maximum tax of \$80.00 per article:
1. all production machinery and accessories thereto; all machinery controls located within a power plant or a plant substation; and control gates and control valves located at the dam site for regulating flow of water to turbines;
 2. control panel boards located within the powerhouse and their connecting wiring;

3. bus bars conducting electric current from generator to powerhouse substation transformer;
 4. powerhouse pumping equipment for drainage;
 5. all pumping equipment for transferring transformer oil from storage tank to powerhouse transformers or fuel oil to emergency generator motors;
 6. electric traveling cranes built into powerhouse structures for handling turbines, generators and transformers in making installations or repairs; and
 7. distribution and power transformers capacitors of 1½ KVA and larger; induction feeder voltage and constant current regulators; de-ion gaps and expulsion type cutouts for transformers; relays; oil switches; sectionalizing switches; lightning arresters; arcing horns and gaps; watt-hour and panel control meters but not testing or laboratory equipment and meters. Current and potential transformers used in metering equipment are also included as machinery and accessories.
- B. Purchases of the following items of tangible personal property by electric power companies are subject to the general rate of State tax and any applicable local sales or use tax:
1. materials for the construction, repair or maintenance of powerhouses and powerhouse transformer stations;
 2. materials for dams, penstocks and canals; pipes or ducts carrying water to turbines;
 3. all lines, wiring, poles, bracing, cross-arms, insulators or any other materials going into or constituting a part of a power line structure used for distribution of power or current;
 4. all storage tanks, including those located in or used in connection with the powerhouse; and
 5. all tools and maintenance equipment used separate and apart from those items classified as production machinery and equipment.
- C. The gross receipts derived from the sale of electricity are subject to State sales tax. The rate that applies depends on the person to whom the electricity is sold and the purpose for which the electricity is used. Gross receipts derived from sales of electricity to farmers, manufacturers, laundries, and dry cleaners for one of the purposes described in G.S. 105-164.4(a)(1f) are subject to State sales tax at the rate of 2.83%. To qualify for the 2.83% preferential rate, all statutory requirements must be met. All other gross receipts from sales of electricity are subject to State sales tax at the rate of 3% except as provided in Sales and Use Tax Technical Bulletin 59-4 D.
- D. **Effective July 1, 2007**, the rate of sales tax on electricity sold to manufacturers for use in connection with the operation of the industry or plant and measured by a separate device is reduced from 2.83% to 2.6%.
- E. **Effective October 1, 2004**, the rate of 0.17% applies to the sales price of electricity sold to an aluminum smelting facility for use in connection with the operation of that facility and measured by a separate meter or measuring device. The 0.17% State rate of tax is repealed effective July 1, 2007.

- F. The gross receipts upon which the tax is due is the total amount for which electricity is sold, including any charges for services that go into the production or delivery of the electricity and that are a part of the sale valued in money, whether paid in money or otherwise, and including any amount for which credit is given to the purchaser by the seller without any deduction on account of the cost of the electricity sold, the cost of materials used, labor or service costs, interest charged, losses, or any other expenses whatsoever. Therefore, all charges for tangible personal property and services provided in the production and delivery of electricity to customers are a part of the gross receipts from the sale of electricity upon which the tax is due notwithstanding that some charges may be billed separately to the customers from the charge for the metered service.

The following list describes specific charges and states whether the charges are taxable gross receipts:

1. Electric service meter charges are a part of gross receipts subject to sales tax.
2. The basic service charges to the customer, whether or not the customer uses metered service, are a part of gross receipts from the sale of electricity subject to sales tax.
3. Security deposit interest paid to customers on deposits is not subject to sales tax.
4. Conservation discounts on electric service metered charges are exempt from sales tax when the discounts reduce the amount the customer is billed for the charges.
5. Service charges made to customers when the company first supplies electricity under any applicable metered rate schedule are a part of gross receipts from sales of electricity subject to sales tax.
6. Construction charges to new customers for extending facilities to these customers are a part of gross receipts from sales of electricity subject to sales tax.
7. Underground service charges to residential, commercial, and industrial customers who are served by underground facilities are a part of gross receipts from sales of electricity subject to sales tax.
8. Temporary service charges for installing and removing a service of a temporary nature are a part of gross receipts from the sale of electricity subject to sales tax.
9. Advance payments for temporary service that are collected prior to meter installation and customer account establishment are a part of gross receipts from the sale of electricity subject to sales tax. If the amount charged to the customer is in excess of the amount due by the customer for this service, it shall be refunded to the customer, including the sales tax.
10. Charges for providing customers additional facilities to furnish service are a part of gross receipts from the sale of electricity subject to sales tax notwithstanding that the facilities are requested by the customers.
11. Charges for transformers that constitute charges for additional equipment furnished as a part of the electric service are subject to sales tax.
12. Charges for transformers under bona fide rental agreements are subject to the general rate of State tax and any applicable local sales or use tax, and the tax on the rentals must be reported monthly on **Sales and Use Tax Return, Form E-500**.

13. Area lighting charges for area lighting service that is available to customers for the purpose of lighting private streets, private driveways, and other outdoor areas by means of mercury vapor or sodium vapor units constitute receipts from the sale of electricity subject to sales tax.
14. Residential subdivision street lighting charges for services supplied in the lighting of residential dedicated public streets by means of mercury vapor and sodium vapor lighting units are a part of gross receipts from sales of electricity subject to sales tax.
15. The amounts actually charged to customers for electricity consumed for the billing period are the amounts on which the sales tax is due and is to be charged notwithstanding that the customers may be under equal pay agreements.
16. Charges for reconnecting service to customers after service has been terminated for nonpayment are a part of gross receipts from sales of electricity subject to sales tax.
17. Sales of electricity to manufacturing industries and plants, laundries, dry cleaning plants, and farmers are subject to sales tax.
18. Receipts from sales of electricity must be reported on an accrual basis. The receipts are to be reflected on the **Utility and Liquor Sales and Use Tax Return, Form E-500E**.
19. Load control discounts on electric service metered charges for residential customers that reduce the amounts by which the customers are billed are not a part of the sale of electricity on which sales tax is due.
20. Charges to customers for supplying information through energy or time pulses are not a part of the sale of electricity subject to sales tax if the customer already has the facilities for electric service in place.
21. Demand profile charges or pulse data charges for demand information as requested by a customer are not a part of gross receipts from the sale of electricity subject to sales tax.
22. Energy audit amounts charged to customers for a comprehensive energy audit provided by a utility are not a part of gross receipts from sales of electricity subject to sales tax.
23. Late payment charges billed on a balance that was not paid on the previous month's bill are not a part of gross receipts of sales of electricity subject to sales tax.
24. Return check charges for checks received in payment of an account and returned by the bank because of insufficient funds are not a part of gross receipts from the sale of electricity subject to sales tax.
25. Home energy loan amounts that represent the amount due under The Help Loan Program are not a part of gross receipts from the sale of electricity.
26. Loan late payment charges for an amount due under the loan program that is not paid in accordance with the loan agreement are not gross receipts from the sale of electricity subject to sales tax.
27. Sales of electricity directly to the United States Government or any agency thereof are not subject to sales or use tax. In order to be a sale to the United States Government, the Government or agency involved must make the purchase of electricity and pay

directly to the vendor the purchase price of the electricity. While sales directly to the United States Government or an agency thereof are exempt from sales tax, a purchase requisition from each agency must be obtained.

28. Sales of electricity directly to the North Carolina Department of Transportation or any division thereof are not subject to sales or use tax. In order to be a sale to the North Carolina Department of Transportation, the division involved must make the purchase of electricity and pay directly to the vendor the purchase price of the electricity. While sales directly to the North Carolina Department of Transportation or a division thereof are exempt from sales tax, a purchase requisition from each division must be obtained.
29. Sales of electricity to registered electric membership cooperatives and to registered municipalities for resale are exempt from sales tax when the sales are supported by a properly completed **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E**. Electric membership cooperatives and municipalities selling electricity must add and collect sales tax on their gross receipts from the sale of electricity. A municipality that pays the sales tax imposed on its sales of electricity is allowed a deduction under G.S. 105-164.21A.
30. Accounts of purchasers representing taxable sales on which sales tax has been paid that are found to be worthless and are actually charged off for income tax purposes may, at corresponding periods, be deducted from gross sales. Any amount that is deducted and subsequently collected must be added to gross sales.
31. Local sales taxes do not apply to gross receipts derived from sales of electricity. Local sales taxes apply to receipts from sales and leases of tangible personal property that are subject to the general rate of State tax.
32. Electricity that enters into or becomes an ingredient or component part of a manufactured product is not exempt. In addition, electricity is not considered an "accessory" for manufacturing purposes and is not subject to the 1% privilege tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6;
105-164.13; 105-164.21A; 105-187.50; 105-187.51;
105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007.

59-5 ELECTROPLATING INDUSTRIES

- A. Receipts derived from electroplating tangible personal property belonging to users or consumers are not subject to sales or use tax. However, such persons are liable for remitting the general rate of State tax and any applicable local sales or use tax on all metal and other tangible personal property purchased for use in the operation of their businesses.
- B. Receipts derived from electroplating tangible personal property for persons who will sell same at retail or wholesale are not subject to sales or use tax. Persons doing this type of electroplating are classified as manufacturers, and their purchases of metal and other tangible personal property which enters into or becomes an ingredient or component part of property being electroplated for sale are exempt from tax under the provisions of G.S. 105-164.13(8). Purchases by such persons of items which are properly classified as mill machinery or mill machinery parts or accessories are subject to the 1% privilege tax with a maximum tax of \$80.00 per article.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50;

105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007.

59-6 FERTILIZER PLANTS

Dynamite purchased by fertilizer manufacturers for use in blasting mounds of fertilizer which has been stored for aging processes is not classified as mill machinery or mill machinery parts or accessories and such purchases are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-264;
Issued: January 1, 2007.

59-7 FOOD PROCESSORS

- A. Purchases of production machinery or parts and accessories thereto by food processors, including meat processors, flour and feed manufacturers, poultry processors, fish and other food canneries and grist mills, for use in the production process, as the term “**production**” is defined in Sales and Use Tax Technical Bulletin 57-1, to fabricate, process or manufacture articles of tangible personal property are subject to the 1% privilege tax with a maximum tax of \$80.00 per article. The term “**manufacturing industries and plants**” does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers primarily engaged in the retail sale of food which they prepare for customers on or off their premises.
- B. Purchases of caustic soda by food processors for use in peeling fruits and vegetables, such as apples and potatoes, are subject to the 1% privilege tax when the caustic soda does not enter into or become an ingredient or component part of the product being processed.
- C. Purchases by meat processors of ammonia and other refrigerants for use in refrigeration machinery which is used to condition meat for processing are subject to the 1% privilege tax.
- D. Purchases of rubber fingers by poultry processing plants for use in plucking feathers from poultry during the production process are subject to the 1% privilege tax.
- E. Purchases of propylene glycol by poultry processors for use as a refrigerant in the manufacturing process are subject to the 1% privilege tax.
- F. Purchases of insecticides by flour and feed manufacturers for use in the control of grain weevils in grain storage areas are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50;
105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007.

59-8 FURNITURE FACTORIES

- A. Purchases by furniture factories of wax and rubbing oils to be applied to manufactured products are deemed to be purchases of ingredient or component parts and therefore exempt from tax. Purchases by furniture factories of lumber, including plywood and veneers; hardware, such as screws, bolts, nails, tacks, mirrors, hinges, fasteners and similar items; and paints, varnishes, bleaches, stains, lacquers and other similar items of tangible personal property which enter into or become an ingredient or component part of the furniture manufacturers' manufactured products are also exempt from tax.

- B. Paper tape, when purchased by veneer or plywood manufacturers who apply it to the manufactured products and do not remove it from the veneer or plywood panels before they are sold, is a component part of the finished product and is exempt from tax. The 1% privilege tax applies to purchases of paper tape by furniture and plywood manufacturers who apply the tape to products manufactured for sale and subsequently remove the tape from the manufactured products during the sanding and finishing process.
- C. Purchases by furniture factories of pumice stone, sandpaper and similar items, machine or hand instruments for applying finishing materials, paint brushes, filler brushes, rubbing tow, cloths, waste and other materials similarly used on a manufactured product are subject to the 1% privilege tax with a maximum tax of \$80.00 per article.
- D. Purchases of rags by furniture manufacturers to buff or polish furniture being manufactured for sale are subject to the 1% privilege tax. The total charge to manufacturing industries and plants for the laundering of such rags or similar finishing materials for such use is subject to the general rate of State tax and any applicable local sales or use tax.
- E. Paper or plastic which is sold as liner stock for use in lining paint spraying booths and chambers used in the manufacture of furniture is subject to the 1% privilege tax.
- F. Purchases of lumber stackers by manufacturers for use in moving tangible personal property before the manufacturing process begins and after the manufacturing process has been completed are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50; 105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264; Issued: January 1, 2007.

59-9 HATCHERIES

Purchases of mill machinery or mill machinery parts or accessories by commercial hatcheries for use in the production of baby chicks are subject to the 1% privilege tax with a maximum tax of \$80.00 per article. The other provisions of the Sales and Use Tax Article, Manufacturing Fuel and Certain Machinery and Equipment Article, and Sales and Use Tax Technical Bulletins which are applicable to sales and purchases of tangible personal property by manufacturers apply in like manner to sales and purchases by commercial hatcheries.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50; 105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264; Issued: January 1, 2007.

59-10 ICE MANUFACTURERS

Purchases of ice manufacturing machines and parts or accessories thereto by persons engaged in the business of manufacturing and selling ice at retail or wholesale are subject to the 1% privilege tax with a maximum tax of \$80.00 per article. Purchases of ice machines by grocery stores, restaurants and motels for use in making ice are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50; 105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264; Issued: January 1, 2007.

59-11 MINES AND QUARRIES

- A. Machinery and piping used in the flotation process in mining operations are subject to the 1% privilege tax with a maximum tax of \$80.00 per article. Chemicals used during the flotation process are exempt from tax.
- B. Purchases of articles of tangible personal property used in direct production or extractive processes inside the mine, including dynamite and other explosives, are deemed to be purchases of mill machinery or mill machinery parts or accessories and are subject to the 1% privilege tax with a maximum tax of \$80.00 per article.
- C. Purchases of front-end loaders and repair parts therefor by commercial quarry and mine operators for use in the direct extractive processes are subject to the 1% privilege tax with a maximum tax of \$80.00 per article. Purchases of front-end loaders and repair parts therefor by quarry and mine operators for use in transporting the extracted product from the mine or quarry to the initial step in the process on the same premises as the mine or quarry are subject to the 1% privilege tax with a maximum tax of \$80.00 per article. Purchases of front-end loaders and repair parts therefor by quarry and mine operators for use in the receiving and distribution areas are subject to the general rate of State tax and any applicable local sales or use tax and no maximum tax is applicable thereto.
- D. Purchases by mine operators of bulldozers to be used for general purposes are subject to the general rate of State tax and any applicable local sales or use tax. Purchases of bulldozers by mine operators only for use in the extraction processes in strip mining, including the removal of overburden from the products to be mined, are subject to the 1% privilege tax with a maximum tax of \$80.00 per article.
- E. Mucking machines, pumps and pipe used to remove water and muck from the mine are subject to the general rate of State tax and any applicable local sales or use tax.
- F. Pipe used to ventilate a mine is subject to the general rate of State tax and any applicable local sales or use tax.
- G. Purchases of irrigation pipe by quarries for use in the manufacturing process to wash stone which they produce for sale are subject to the 1% privilege tax.
- H. Quarries, in the generally accepted sense of the term, regularly operated for the production of stone, sand, clay, marble, granite, gravel, crushed stone and similar products for commercial purposes are deemed to be manufacturing plants and industries, and purchases by such manufacturing plants and industries of production machinery and parts or accessories thereto are subject to the 1% privilege tax with a maximum tax of \$80.00 per article. Power shovels, drills and similar equipment sold for use in mines or quarries in the extractive processes are classified as production machinery. However, if such equipment is not used in the mine or in the production processes in the mine or quarry, it does not qualify as production equipment and is subject to the general rate of State tax and any applicable local sales or use tax.
- I. The process of mining shall be considered completed when the extracted product leaves the excavation and is ready for transportation elsewhere. Transportation of the extracted product is deemed to be part of the manufacturing or processing operation if the manufacturing or processing and the mining are performed on the same premises; therefore, locomotives or other power units and cars or conveyors which are pulled by these power units from the excavation to the processing plants on such premises are deemed to be mill machinery. Tracks for cars and power units and power lines either inside or outside the excavation are deemed to be structures,

and purchases of materials used in constructing the same are subject to the general rate of State tax and any applicable local sales or use tax.

- J. Sales or purchases of items such as caps, lights, gloves or other devices, regardless of whether paid for or owned by employees or employers, first aid equipment and supplies for use in connection with the maintenance of a first aid station and safety supplies, such as dust masks, eye shields, goggles and respirators are subject to the general rate of State tax and any applicable local sales or use tax. Fire extinguishers sold to mining and quarrying operators are deemed to be safety equipment and are therefore subject to the general rate of State tax and any applicable local sales or use tax.
- K. Contractors who operate mines or quarries primarily for the purpose of using the products extracted from the mines or quarries in fulfilling performance contracts are not considered manufacturers. Therefore, purchases of mill machinery or mill machinery parts or accessories by such contractors are subject to the general State and applicable local rates of sales and use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50;
105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007.

59-12 MODULAR HOME MANUFACTURERS

A. Prior to January 1, 2004

When a modular home manufacturer enters into a sales contract to manufacture and sell a modular home to a contractor or other user or consumer, he is making a retail sale of a manufactured item of tangible personal property and is liable for collecting and remitting the general rate of State tax and any applicable local sales or use tax on the total retail sales price thereof including all charges for fabrication labor performed and services rendered that go into the manufacture and delivery of the modular home. A modular home manufacturer who is engaged in the business of manufacturing homes for sale to contractors or other users is liable for remitting the 1% State rate of tax on purchases of tools and machinery for use during the production processes with a maximum tax of \$80.00 per article applicable thereto.

When a modular home manufacturer purchases land and enters into a contract to sell his customer a lot with a house built thereon, or when the manufacturer enters into a turn key contract to furnish labor and materials to build a home on the customer's lot, manufactures the house after the contract is executed and transports it to the lot for erection and finishing, the manufacturer is liable for payment of the general rate of State tax and any applicable local sales or use tax on the materials which he uses in fulfilling the contract. The basis for the tax is the cost price of such materials, and the fact that sections of the house are fabricated in the plant and transported to the job site does not affect the basis for the tax. A modular home manufacturer who engages primarily in the business of manufacturing homes which he uses in the performance of contracts to furnish and erect homes is liable for remitting the general rate of State tax and any applicable local sales or use tax on purchases of tools, machinery and other tangible personal property for use in the manufacture and erection of such homes.

B. Effective January 1, 2004

A modular home manufacturer that primarily fabricates and makes outright sales of modular homes to modular homebuilders as defined in the law is deemed to be a manufacturer for sales and use tax and privilege tax purposes without regard to the nature of the agreements entered into with the modular homebuilders. A modular home manufacturer's purchases of ingredient or component materials used to fabricate modular homes are not subject to tax. Purchases of mill

machinery or mill machinery parts or accessories used in a firm's production process are subject to the 1% State rate of tax (**1% privilege tax effective January 1, 2006**) with a maximum tax of \$80.00 per article.

Note: For additional information on modular homes, refer to Sales and Use Tax Technical Bulletin 35-12.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50;
105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007.

59-13 MONUMENT MANUFACTURERS

Purchases by **monument manufacturers** of stencils, abrasives and cutting tools and equipment used by such manufacturers in the cutting, shaping and polishing process and the solvents used to remove the stencils from the monuments are subject to the 1% privilege tax. **Monument dealers** who cut, shape, polish and otherwise process monuments are classified as manufacturers. Purchases of stencils and other supplies by monument dealers who are not classified as manufacturers for use in lettering or polishing monuments which they sell are subject to the general rate of State tax and any applicable local sales or use tax.

Note: For information on monument dealers, refer to Sales and Use Tax Technical Bulletins 22-2 and 22-3.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50;
105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007.

59-14 OTHER MILLS AND PROCESSORS

Purchases of production machinery and parts and accessories thereto by millwork plants, photo finishers, printers, asphalt plants (but not asphalt contractors), wood preserving plants, brick manufacturers, cement, cinder and clinker block manufacturers, paper mills, tanneries, pottery makers, novelty manufacturers, and any other producer for use in the production process, as the term "**production**" is defined in Sales and Use Tax Technical Bulletin 57-1, to fabricate, process or manufacture articles of tangible personal property for sale are subject to the 1% privilege tax with a maximum tax of \$80.00 per article.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50;
105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007.

59-15 PURIFICATION PLANTS

Public or private water purification plants are considered to be manufacturing plants for privilege tax purposes when they purify and sell water. Their purchases of machinery and equipment for use directly in the purification processes are subject to the 1% privilege tax with a maximum tax of \$80.00 per article. Chemicals which are introduced into the water during the purification processes are exempt from tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50;
105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007.

59-16 RECYCLING FACILITY**A. Major Recycling Facility**

A “**major recycling facility**” is defined in G.S. 105-129.25(5) as “a recycling facility that qualifies under G.S. 105-129.26(a).”

B. Exemptions For a Major Recycling Facility**1. Sales of Tangible Personal Property**

G.S. 105-164.13(10a) provides an exemption from sales and use tax for sales to a major recycling facility of:

- a. lubricants and other additives for motor vehicles or machinery and equipment used at the facility; and
- b. materials, supplies, parts, and accessories, other than machinery and equipment, that are not capitalized by the taxpayer and are used or consumed in the manufacturing and material handling process at the facility.

2. Electricity

G.S. 105-164.13(10a) provides an exemption from sales or use tax for sales to a major recycling facility of electricity used at the facility.

C. Capitalized Manufacturing and Material Handling Equipment

The 1% privilege tax with a maximum tax of \$80.00 per article applies to purchases by a major recycling facility of the following tangible personal property for use in connection with the facility:

1. cranes;
2. structural steel crane support systems;
3. foundations related to the cranes and support systems;
4. port and dock facilities;
5. rail equipment; and
6. material handling equipment.

D. Refund of Sales or Use Tax

G.S. 105-164.14(g) provides that the owner of a major recycling facility is allowed an annual refund of sales and use taxes paid by it under Article 5 of the Revenue Laws on building materials, building supplies, fixtures, and equipment that become a part of the real property of the recycling facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the major recycling facility's fiscal year. Refunds applied for after the due date are barred.

History Note: Authority G.S. 105-129; 105-164.3; 105-164.4; 105-164.13; 105-164.14; 105-187.50; 105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007.

59-17 REFRACTORY MANUFACTURERS

When refractory manufacturers enter into performance contracts to fabricate, furnish and install or apply the necessary refractory materials for the repair of boilers operated by other manufacturers for power generation for use in connection with their production processes, as the term “**production**” is defined in Sales and Use Tax Technical Bulletin 57-1, the 1% privilege tax is due on the cost price of the refractory materials used or consumed in the performance of such contracts.

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.

59-18 SAWMILLS, LUMBER MILLS, AND WOOD PRODUCTS MANUFACTURERS**A. Purchases Subject to 1% Privilege Tax**

1. Purchases of tractors for use in transporting logs from a stockpile to the mill on the same premises are subject to the 1% privilege tax with a maximum tax of \$80.00 per article.
2. Sawmills and power units therefor purchased by sawmill operators and lumber manufacturers for use in the manufacture of lumber for sale are subject to the 1% privilege tax with a maximum tax of \$80.00 per article.
3. Saw bits and other repair parts for production machinery purchased by sawmill operators for use in the manufacture of lumber for sale are subject to the 1% privilege tax with a maximum tax of \$80.00 per article.

B. Purchases Exempt from Sales and Use Tax (and from the Privilege Tax Effective July 1, 2006)

1. Purchases of chemicals by lumber manufacturers to be applied to lumber at the end of the sawing operation to keep the lumber from molding are exempt from tax.
2. **Effective July 1, 2006**, purchases of tractors to be used in snaking logs which they have cut from the woods to the sawmill or from the woods to points where they can be loaded in trucks or other vehicles for transportation to the sawmills are exempt from tax. **Prior to July 1, 2006**, these items were subject to the 1% privilege tax.
3. **Effective July 1, 2006**, wedges, cant hooks, log binders, log jacks and log chains purchased by sawmill and lumber mill operators for use in cutting timber are exempt from tax. **Prior to July 1, 2006**, these items were subject to the 1% privilege tax.
4. **Effective July 1, 2006**, purchases by **wood products manufacturers** or producers and their contractors or subcontractors of log skidders, log carts, tree shears, feller bunchers, grapple skidders, winches, chain saws, clippers, tractors, axes and mallets for use in cutting and transporting timber on lands owned by them or on lands where timber rights have been acquired for timber to be manufactured into wood products or for sale either directly or indirectly to wood products manufacturers are exempt from tax. **Prior to July 1, 2006**, these items were subject to the 1% privilege tax.

C. Purchases Subject to General State and Applicable Local Rates of Sales and Use Tax

1. The general rate of State tax and any applicable local sales or use tax applies to purchases of tractors by sawmills, lumber mills, and wood products manufacturers for use in unloading raw materials or in handling lumber in finished goods inventory or in the distribution or shipping areas.
2. Bulldozers or other equipment purchased by sawmill operators for the purpose of opening or maintaining entries to timber lands are not mill machinery, and such purchases are subject to the general rate of State tax and any applicable local sales or use tax.
3. Purchases of machinery or equipment otherwise classified as manufacturing equipment or logging machinery by employees of wood products manufacturers or producers are subject to the general rate of State tax and any applicable local sales or use tax.
4. Purchases of lumber stackers by manufacturers for use in moving tangible personal property before the manufacturing process begins and after the manufacturing process has been completed are subject to the general rate of State tax and any applicable local sales or use tax.

D. Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E

1. The Certificate of Exemption may be completed by a purchaser and accepted by any vendor as the authority for exempting from the sales and use tax the sale of tangible personal property classified by the Statute and Sales and Use Tax Technical Bulletins as mill machinery or mill machinery parts and accessories or logging machinery.
2. Vendors that do not choose to use the Certificate of Exemption must maintain other evidence in writing adequate to support an exemption from tax.
3. Vendors shall keep and preserve suitable records of the gross income, gross receipts and/or gross receipts of sales of such business and such other books, records or accounts as may be necessary to determine the amount of tax for which they are liable. Such records must be retained for a period of three years and must be available for examination by the Secretary of Revenue or his duly authorized agents.
4. Purchasers will be held liable for any additional tax which is found to be due on property purchased under this certificate plus interest and any applicable penalties.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50; 105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264; Issued: January 1, 2007.

59-19 SEWAGE TREATMENT PLANTS

Sewage treatment plants are not manufacturers under the Sales and Use Tax Law, and purchases of chemicals, machinery and equipment for use in their operation are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264; Issued: January 1, 2007.

59-20 STATE AGENCIES OPERATING MANUFACTURING PLANTS

The printing plant, metal plant, soap plant, duplicating plant, forestry unit, woodworking plant and the sign plant of the Prison Enterprises Division of the North Carolina Department of Corrections engage in the business of manufacturing tangible personal property for sale and are classified as manufacturers for sales and use tax and privilege tax purposes. Their sales are subject to the tax unless specifically exempt under G.S. 105-164.13. Purchases by State agencies for their own use in accordance with G.S. 105-164.29A are exempt from sales and use tax **effective July 1, 2004** and from the privilege tax **effective January 1, 2006**.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50; 105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264; Issued: January 1, 2007.

59-21 TEXTILE MILLS

- A. Box wraps, labels, printed toppers for polyethylene bags and cardboard hosiery inserts upon which hosiery is placed are exempt from tax when sold to hosiery manufacturers and such items attach to, contain or otherwise become a part of the sale of the hosiery.
- B. Purchases of oil by manufacturers for use in conditioning nylon yarn are exempt from tax since the oil enters into and becomes an ingredient or component part of the manufactured product.
- C. Purchases by manufacturers of fabric conditioners and other chemicals which actually enter into manufactured products at some step between the initial and final steps in the manufacturing process are exempt from tax.
- D. Purchases of cotton knit tubing by manufacturing industries for use in the manufacturing process, including the dyeing process, are exempt from tax when such items become a part of the sale of the manufactured product and are delivered with it to the customers. Purchases by manufacturers of cotton knit tubing which is used in the manufacturing process but which does not become a part of the sale of the manufactured product and is not delivered with it to the customer are subject to the 1% privilege tax.
- E. Purchases of special gloves by hosiery manufacturers for use by employees such as knitters and examiners to prevent picks and pulls on manufactured products and which are for the protection of the products and not for the protection of the employees are subject to the 1% privilege tax.
- F. Purchases of filter paper by textile manufacturers for use in filtering dye solution are subject to the 1% privilege tax.
- G. Purchases of color charts by manufacturers for use in quality control or in preparing new color shades for the dyeing process for their manufactured products are subject to the 1% privilege tax.
- H. Purchases of dye nets by manufacturers for use by them in the dyeing process are classified as accessories to the manufacturing process and are subject to the 1% privilege of tax.
- I. Purchases of folding machines by textile manufacturers for use in folding manufactured products in the line of process are subject to the 1% privilege tax with a maximum tax of \$80.00 per article.
- J. Leases or rentals of button attaching equipment and other mill machinery by apparel manufacturers are subject to the 1% privilege tax.

- K.** When a person engaged in the business of ginning cotton for others purchases a gin stand and feeder for use in the ginning process, the purchase is subject to the 1% privilege tax with a maximum tax of \$80.00 on each machine.
- L.** Purchases by manufacturers of loom cleaners which remove lint from raw materials during the production process to prevent it from becoming entangled in the machine are subject to the 1% privilege tax with a maximum tax of \$80.00 per article. Purchases of air draft cleaners by manufacturers for general cleaning purposes are subject to the general rate of State tax and any applicable local sales or use tax.
- M.** Hosiery inventory control and reorder cards are subject to the general rate of State tax and any applicable local sales or use tax when purchased by hosiery manufacturers.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50;
105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007.

59-22 COMMERCIAL LOGGERS (EFFECTIVE JULY 1, 2006)

Purchases of certain logging machinery by a person engaged in the commercial logging business are exempt from sales and use tax and from the privilege tax when supported by documentation as set out in Sales and Use Tax Technical Bulletin 59-18 D. The exemption applies to the following when purchased by a commercial logger:

1. logging machinery (machinery used to harvest raw forest products for transport to first market);
2. attachments and repair parts for logging machinery;
3. lubricants applied to operate logging machinery; and
4. fuel used to operate logging machinery.

Prior to July 1, 2006, purchases of qualifying mill machinery or mill machinery parts or accessories were subject to the 1% sales or use tax or 1% privilege tax, as appropriate.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50;
105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264;
Issued: January 1, 2007.