



Sales and Use Tax Division  
North Carolina Department of Revenue  
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Raleigh, North Carolina 27640-0001  
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## **GENERAL GUIDANCE FOR A LOCAL SALES AND USE TAX RATE INCREASE**

The information below is provided for retailers, facilitators, and purchasers of tangible personal property, digital property, and services as general guidance regarding the correct local rate of sales and use tax that applies for certain transactions when a county adopts an increase in the local rate of sales and use tax. The local rate of tax is due on items subject to the general State rate of tax pursuant to N.C. Gen. Stat. § 105-164.4 excluding items listed in N.C. Gen. Stat. § 105-164.4(a)(1a). As discussed herein, the tax rate in effect prior to the tax rate increase is designated the “Lower Tax Rate” and the tax rate in effect on or after the tax rate increase is designated the “Higher Tax Rate.”

### **Tangible Personal Property, Digital Property, and Services**

The effective date of a tax change for tangible personal property, digital property, or services subject to the general State rate of sales and use tax as set in N.C. Gen. Stat. § 105-164.4(a) is administered pursuant to N.C. Gen. Stat. § 105-164.15A(a).

For a taxable item that is provided and **billed on a monthly or other periodic basis**, the tax rate increase applies to the first billing period that is at least 30 days after enactment and that starts on or after the effective date.

For a taxable item that is **not billed on a monthly or other periodic basis**, the tax rate increase applies to amounts received for items provided on or after the effective date, except amounts received for items provided under a lump-sum or unit-price contract entered into or awarded before the effective date or entered into or awarded pursuant to a bid made before the effective date.

### **“Prior to” and “On or After” the Effective Date of a Rate Increase**

Generally, any action taken prior to the effective date of a tax rate increase is subject to the Lower Tax Rate. Generally, any action taken on or after the effective date of a rate increase is subject to the Higher Tax Rate.

### **Leases or Rentals**

The gross receipts derived from the lease or rental of tangible personal property and certain digital property pursuant to a taxable lease or rental agreement entered into on or after the effective date of the tax rate increase are subject to the Higher Tax Rate. The gross receipts derived from a taxable lease or rental of tangible personal property or certain digital property for a period that begins on or after the effective date of the tax rate increase pursuant to a lease or rental agreement entered into for a definite, stipulated period of time prior to the effective date of the tax rate increase are subject to the Lower Tax Rate.

### **Tangible Personal Property, Digital Property, and Services Used to Fulfill a Real Property Contract**

Taxable tangible personal property, digital property, or services purchased by a person to fulfill a lump-sum or unit-price real property contract entered into or awarded to a real property contractor pursuant to a bid made on or after the effective date of the tax rate increase are subject to the Higher Tax Rate.

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Taxable tangible personal property, digital property, or services purchased by a person on or after the effective date of the tax rate increase to fulfill a lump-sum or unit-price real property contract (sourced to the county in which the tax rate increase occurred) entered into prior to the effective date of the tax rate increase, or entered into or awarded pursuant to a bid made before the effective date of the tax rate increase, are subject to the Lower Tax Rate.

The applicable Form E-589 affidavit available under [Sales and Use Tax Forms and Certificates](#) on the Department's website under sales and use tax forms, should be issued to a retailer by a person to purchase tangible personal property, digital property, or services on or after the effective date of the tax rate increase for use in performing qualifying real property contracts entered into, awarded, or awarded pursuant to a bid made prior to the effective date of the tax rate increase. For purchases of tangible personal property, digital property, or services by a person for use in a real property contract entered into or awarded to a real property contractor prior to the effective date of the tax rate increase, or entered into or awarded pursuant to a bid made by a real property contractor prior to the effective date of the tax rate increase, the person should obtain written documentation from the real property contractor and attach a copy of such to each Form E-589 issued to a retailer. A person, who purchases tangible personal property, digital property, or services, as discussed and provided herein, and the retailer should retain a copy of each Form E-589 and other documentation to substantiate that tangible personal property, digital property, or services purchased or sold on or after the effective date of the tax rate increase are subject to the Lower Tax Rate. Please note that for the purpose of this section, a "person" may include a real property contractor, retailer-contractor, or a subcontractor of a real property contractor or retailer-contractor.

#### **Change Order for a Real Property Contract**

Taxable tangible personal property, digital property, or services used to fulfill a real property contract and purchased by a person for a change order in conjunction with a lump-sum or unit-price real property contract (sourced to the county in which the tax increase occurred) entered into or awarded to a real property contractor on or after the effective date of a tax rate increase, are subject to the Higher Tax Rate. Taxable tangible personal property, digital property, or services used to fulfill a real property contract purchased on or after the effective date of the tax rate increase by a person for a change order in conjunction with a lump-sum or unit-price contract (sourced to the county in which the tax rate increase occurred) entered into or awarded to a real property contractor prior to the effective date of the tax rate increase or entered into or awarded to a real property contractor pursuant to a bid made prior to the effective date of the tax rate increase, are subject to the Lower Tax Rate. Please note that for the purpose of this section, a "person" may include a real property contractor, retailer-contractor, or a subcontractor of a real property contractor or retailer-contractor.

#### **Layaway Sales**

A taxable item placed in a layaway or similar deferred purchase plan prior to the effective date of the tax rate increase and delivered by the retailer or on behalf of the retailer to the purchaser on or after the effective date of the tax rate increase is subject to the Higher Tax Rate.

#### **Gross Receipts Derived from the Rental of an Accommodation**

The gross receipts derived from a transaction where a person reserves a taxable rental of an accommodation with an owner, facilitator, provider of an accommodation, or rental agent prior to the effective date of the tax rate increase for the rental of an accommodation on or after the effective date of the tax rate increase, and the agreement is secured with an advance deposit, guarantee by credit card, or payment in full, are subject to the Higher Tax Rate. If the taxable rental of an accommodation begins prior to the effective date of the tax rate increase and extends beyond the effective date of the increase, the gross receipts derived from the rental of the accommodation occupied prior to the effective date of the tax rate increase are subject to the Lower Tax Rate. The gross receipts derived from the taxable rental of an accommodation occupied on or after the effective date of the tax rate increase are subject to the Higher Tax Rate. The retailer or facilitator should separately document and account

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for the gross receipts applicable to a rental of an accommodation occupied prior to and on or after the effective date of the tax rate increase in the books and records and on the invoice or other documentation provided to the customer.

**Taxable Service Contracts**

The sales price of or the gross receipts derived from a taxable service contract sold on an annual basis, without regard to whether it is billed or paid on a less than annual basis, where such contract is sold and entered into on or after the effective date of the tax rate increase is subject to the Higher Tax Rate. The sales price of or the gross receipts derived from the sale of a taxable service contract sold and entered into prior to the effective date of the tax rate increase is subject to the Lower Tax Rate, no matter that the contract may be billed to the customer on a monthly or other periodic basis. A retailer who sells or derives gross receipts from a service contract must report those sales on an accrual basis of accounting per N.C. Gen. Stat. § 105-164.4(d) for sales and use tax purposes.

**Admission Charges to a Taxable Entertainment Activity**

Gross receipts derived from a taxable admission charge to an entertainment activity on or after the effective date of the tax rate increase, where admission to or the right to attend the event is gained in the county subject to the tax rate increase, are subject to the Higher Tax Rate. It is irrelevant whether the tickets or admission charges for the entertainment activity were on sale and available for purchase prior to the effective date of the tax rate increase. Gross receipts derived from an admission charge sold at retail to an entertainment activity, are subject to the local rate of tax in effect when the admission charges are sold plus the general State and applicable transit rates of tax, regardless of when the initial sale of the tickets to the event occurred.

**Cash Basis**

A retailer or facilitator who reports and pays sales and use tax on the cash basis of accounting is liable for remitting the Lower Tax Rate on collections received on or after the effective date of the tax rate increase for taxable sales and gross receipts (except those required by statute to be remitted on the accrual basis) made prior to the effective date of the tax rate increase. If a retailer or facilitator who generally reports on the cash basis of accounting for sales and use tax is unable to separately account for collections received on or after the effective date of the tax rate increase for sales transactions before the date of the tax rate increase, the retailer or facilitator is liable for remitting the Higher Tax Rate on such collections received on or after the effective date of the tax rate increase.

**Assistance**

Questions regarding this notice should be directed to the Taxpayer Assistance and Collection Center at telephone number 1-877-252-3052 (toll-free).