



**Sales and Use Tax Division
North Carolina Department of Revenue
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IMPORTANT NOTICE: CERTAIN METAL WORK FABRICATION COMPANIES

On July 14, 2016, the Governor signed Session Laws 2016-94. The Session Laws enact N.C. Gen. Stat. § 105-187.51B(a)(8) that provides **effective July 1, 2016**, a privilege tax is imposed on certain purchases by “[a] company (i) that is engaged in the fabrication of metal work, (ii) that has annual gross receipts, including the gross receipts of all related persons . . . from the fabrication of metal work of at least eight million dollars (\$8,000,000), and (iii) that purchases equipment, or an attachment or repair part for equipment, that meets all of the following requirements:

- a. Is capitalized by the company for tax purposes under the Code.
- b. Is used by the company at the establishment in the fabrication or manufacture of metal products or used by the company to create equipment for the fabrication or manufacture of metal products.”

The privilege tax applies to qualifying purchases made by a qualifying company, no matter that the equipment is used in the fabrication of metal work for its own use in fulfilling contracts. Additionally, metal work fabricated by a qualifying company through use of its qualifying equipment is not required to be sold at retail or wholesale to a customer for purposes of N.C. Gen. Stat. § 105-187.51B(a)(8). For purposes of this notice, the term “related persons” is persons described in one of the relationships set forth in section 267(b) or 707(b) of the Code.

Rates of Tax, Registration, Reporting, and Remittance

The privilege tax is imposed at a rate of one percent (1.00%) on the purchase price of each qualifying piece of equipment or an attachment or repair part for the equipment with a maximum tax of eighty dollars (\$80.00) per article. N.C. Gen. Stat. § 105-164.13(5a) provides an exemption from sales and use tax for a purchase of tangible personal property subject to the privilege tax. The privilege tax is imposed on the purchaser. In order to remit the tax due, the purchaser must [register](#) to file certain machinery and equipment tax returns. The purchaser should report the privilege tax due by filing [Form E-500J, Machinery and Equipment Tax Return](#) and pay the tax due to the Department.

The purchase of any tangible personal property, digital property, or taxable service by a metal work fabrication company that does not meet the requirements of N.C. Gen. Stat. § 105-187.51B(a)(8) is subject to the general 4.75% State, applicable local (2.00% or 2.25%), and applicable transit (0.50%) rates of sales and use tax. Additionally, purchases of equipment that are not used by the company **at the establishment** are subject to the general State, applicable local, and applicable transit rates of sales and use tax, no matter that the equipment may be capitalized by a company for tax purposes under the Code and used in the fabrication or manufacture of metal products or used by the company to create equipment for the fabrication or manufacture of metal products.

Purchase Qualifying Tangible Personal Property Exempt from Sales and Use Tax

The purchaser of qualifying equipment or an attachment or repair part for the equipment should provide the seller with a properly completed [Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption](#), or other exemption information required per N.C. Gen. Stat. § 105-164.28 as the vendor’s authority to exempt the transaction from the sales or use tax.

Assistance

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

To the extent there is any change in the rate or amount of tax, change to a statute or regulation, or new case law subsequent to the date of this notice, the provisions in this important notice may be superseded or voided. To the extent that any provisions in any other notice, directive, technical bulletin, or published guidance issued prior to the date of this notice conflicts with this important notice, the provisions contained in this important notice supersede.