



Sales and Use Tax Division
North Carolina Department of Revenue
Post Office Box 25000
Raleigh, North Carolina 27640-0001
www.dornrc.com

IMPORTANT NOTICE: SALES AND USE TAXES – ACCOMMODATIONS AND LINENS

The Governor signed into law S.L. 2017-204 that amended Article 9 of Chapter 105 of the General Statutes effective August 11, 2017 by adding a new section:

“§ 105-244.4. Reduction of certain sales tax assessments.

(a) **Reduction** – The Secretary may reduce an assessment against a taxpayer for State and local sales and use taxes in the amount as provided in this section and waive any penalties imposed as part of the assessment when the assessment is the result of an audit of the taxpayer by the Department and all of the following apply:

- (1) The taxpayer remitted to the Department all of the sales and use taxes it collected during the audit period.
- (2) The taxpayer had not been informed by the Department in a prior audit to collect sales and use taxes in the circumstance that is the basis of the assessment, as reflected in the written audit comments of the prior audit.
- (3) The taxpayer had not requested and received from the Department a private letter ruling advising to collect sales and use taxes in the circumstance that is the basis of the assessment.
- (4) The assessment is based on the incorrect application of one or both of the following areas of the sales and use tax statutes:
 - a. The failure to collect sales tax on separately stated linen charges where the linens are furnished by a facilitator, rental agent, or other person and the charges are part of the gross receipts derived from the rental of the accommodation taxed in accordance with G.S. 105-164.4F.
 - b. The failure to pay sales or use tax on the rental of linens used by a facilitator, rental agent, or other person in providing the rental of an accommodation taxed in accordance with G.S. 105-164.4F where the facilitator, rental agent, or other person issued a certificate of exemption or the required data elements per G.S. 105-164.28 to the lessor.
- (5) The taxpayer files a written request with the Secretary no later than 120 days following the receipt of a proposed assessment to request the amount of sales or use taxes be reduced as provided in this section citing the specific reasons therefor. A taxpayer who does not agree with a proposed assessment must also file a request for review within 120 days of the date of the notice of proposed assessment as provided in G.S. 105-241.11 in order for a request to reduce the amount of tax as allowed by this section to be considered by the Secretary.

(b) **Amount.** – A sales and use tax assessment against a taxpayer may be reduced by ninety percent (90%) of the total amount of sales and use tax assessed. The Secretary may also waive all penalties that were imposed as part of the assessment. A reduction of an assessment under this section and the waiver of penalties imposed as part of the assessment apply only to the amount of the assessment attributable to the incorrect application of one or both of the areas of the law listed in subdivision (a)(4) of this section.

(c) **Application.** – This section applies to the following for a tax period ending prior to January 1, 2018:

- (1) A proposed assessment or portion of a proposed assessment.
- (2) An assessment that becomes collectible under G.S. 105-241.22.
- (3) A pending request for review case.
- (4) This section does not authorize a refund for sales or use taxes that were originally collected and remitted to the Department.

(d) **Expiration.** – This section is not applicable to an assessment attributable to the incorrect application of one or both areas listed in subdivision (a)(4) of this section for a period beginning on or after January 1, 2018.”

Request for Reduction

A taxpayer, who meets all of the requirements of N.C. Gen. Stat. § 105-244.4(a) and who would like the Secretary to consider allowing a reduction to the sales and use tax assessment against the taxpayer, must file a written request citing the specific reasons no later than 120 days following the receipt of the proposed assessment. Additionally, in order for a request to reduce the amount of tax as allowed to be considered by the Secretary, the taxpayer must also file a request for review within 120 days of the date of the notice of proposed assessment by submitting a completed form [NC-242, Objection and Requested for Departmental Review](#). Both the written request and the completed form NC-242 should be mailed to the following address:

Attention: Sales and Use Tax Director
NC Department of Revenue
PO Box 871
Raleigh, NC 27602-0871

Gross Receipts Derived from the Rental of an Accommodation

As provided in Sales and Use Tax Technical Bulletin Section 27, following are examples of charges or fees that are **part of the gross receipts derived from the rental of an accommodation** and 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 no matter if the charge or fee for such is separately stated on the invoice or other documentation provided by the retailer or facilitator:

1. Credit card fees;
2. Damage fees;
3. Early/late departure fees;
4. Extra person charges;
5. In-room safe rentals;
6. Inspection fees;
7. **Linen fees**; [*emphasis added*]
8. Maid/cleaning fees;
9. "Peace of mind" fees (similar to insurance but provided by hotel or rental agency rather than third-party carrier);
10. Pet fees (incurred by guests who have pets traveling with them);
11. Reservation fees (also referred to as a handling, processing, or administrative fee);
12. Security deposits;
13. Smoking fees;
14. Transfer fees (for changing to a different room or unit or a different date);
15. Tentative reservation fees (for priority reservation the following year);
16. Charges for cribs and roll-away beds; and
17. Charges for microwave ovens and refrigerators.

Purchase, Lease, or Rental of Linens

The purchase, lease, or rental of linens by a retailer or facilitator of a rental of an accommodation continues to be subject to the general 4.75% State, applicable local (2.00% or 2.25%), and applicable transit (0.50%) rates of sales or use tax on the purchase price at the time of purchase, lease, or rental. Such linen purchases, leases, or rentals are subject to sales and use tax no matter if the linens are optional or provided for a fee by the accommodation retailer or facilitator to a person renting an accommodation. A retailer or facilitator of a rental of an accommodation, who has issued a certificate of exemption or otherwise erroneously advised a linen retailer that such purchases, leases, or rentals are exempt from sales and use tax, should provide notice to the linen retailer to begin charging tax.

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.