



**Sales and Use Tax Division  
North Carolina Department of Revenue  
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**IMPORTANT NOTICE: TAX ON ACCOMMODATIONS**

**G.S. 105-164.4(a)(3) is amended to modernize the sales tax due on the gross receipts derived from an accommodation rental occupied on or after January 1, 2011, including gross receipts derived from an accommodation rental pursuant to a reservation made prior to January 1, 2011.** Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation and are taxed at the applicable combined State and county sales tax rates. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. **The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the accommodation rental.** The requirements imposed by this statute on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

The following apply in administration of G.S. 105-164.4(a)(3):

**Accommodation** – A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.

**Facilitator** – A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation. (Examples of a facilitator may include an online travel company, a tour operator, a travel consolidator or any other business, dependent upon their business activity.)

**Rental agent** – A rental agent includes a real estate broker, as defined in G.S. 93A-2. (An example of a rental agent is a real estate company that handles accommodation rentals.)

**Retailer** – A person who provides an accommodation that is offered for rent or a person who, by written contract, agrees to be the rental agent for the provider of an accommodation. (Examples of retailers are operators of hotels, motels, tourist homes, tourist camps, bed and breakfast inns, persons who rent private residences and cottages, and similar type businesses providing accommodations.)

A facilitator must report to the retailer with whom it has a contract, the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. Communication of the sales price from the facilitator to the retailer may be by facsimile, email, electronic file or, if agreed upon between the facilitator and the retailer any other means. The sales price may be provided by the facilitator to the retailer in advance of the accommodation or subsequent to the accommodation depending on the business model and practice of each facilitator.

The statute requires a retailer to notify a facilitator when an accommodation rental marketed by the facilitator is completed and requires the facilitator to send the retailer the portion of the sales price (discount price) the facilitator owes the retailer and the tax due on the sales price (tax on discount price and tax on facilitation charges and other charges necessary to complete the rental) within 3 days of receiving a notice from the retailer that the accommodation rental marketed by the facilitator is completed. In lieu of the facilitator sending payment within 3 days of receipt of notice from the retailer, a facilitator may (i) provide a credit card number to the retailer to be used by the retailer before, during, or after the accommodation rental is completed, to receive payment for the portion of the sales price the facilitator owes the retailer and any portion of tax due on the sales price; or (ii) pay any portion of the tax due on the sales price by check, electronic payment or any other means negotiated with the retailer, at the same time as the information described below is provided to the retailer.

To ensure proper collection of taxes on the sales price of the accommodation rental, the facilitator should determine the State, county, and room occupancy taxes at the time of processing the reservation. The gross receipts derived from the rental of an accommodation occupied on or after January 1, 2011 pursuant to a reservation made prior to January 1, 2011, and paid in full, secured with an advance deposit, or secured with a credit card, are subject to the tax rates in effect as of January 1, 2011. The combined State and county sales tax rates in effect as of January 1, 2011 are 7.75% in eighty-two counties, 8% in Alexander, Catawba, Cumberland, Duplin, Haywood, Hertford, Lee, Martin, New Hanover, Onslow, Pitt, Randolph, Robeson, Rowan, Sampson, Surry and Wilkes Counties, and 8.25% in Mecklenburg County. The rental of an accommodation is sourced to the location of the accommodation.

A retailer is liable for reporting and remitting the tax imposed by G.S. 105-164.4(a)(3) to the Department. Tax remitted by a retailer must include the tax received from the facilitator on the portion of the sales price applicable to facilitation fees and any other charges necessary to complete the accommodation rental, in addition to the tax due on the discount charge on the accommodation rental between the retailer and the facilitator. A retailer is not liable for tax due on facilitation fees and other charges necessary to complete the accommodation rental but not sent by a facilitator. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Department. A retailer should include the sales price and sales tax applicable to the facilitation fees and other charges necessary to complete the accommodation rental received from a facilitator for accommodation rentals occupied during the calendar month in the North Carolina Gross Receipts, General State Rate Receipts and applicable County Rate Receipts fields on Form E-500, Sales and Use Tax Return, along with receipts and tax due by the retailer on other transactions. The retailer

should also include the applicable county sales tax received from a facilitator along with county sales tax due by the retailer on other transactions on Form E-536, Schedule of County Sales and Use Taxes, or during the electronic filing process.

Examples of items that are taxable as part of the accommodation rental include: credit card fees; damage fees; early/late departure fees; extra person charges; in-room safe rentals; inspection fees; linen fees; maid/cleaning fees; "peace of mind" fees (similar to insurance but provided by hotel or rental agency rather than third-party carrier); pet fees (incurred by guests who have pets traveling with them); reservation fees (also referred to as a handling, processing, or administrative fee); security deposits; smoking fees; transfer fees (for changing to a different room or unit or a different date); tentative reservation fees (for priority reservation the following year); charges for cribs and roll-away beds; and charges for microwave ovens and refrigerators.

To ensure proper reporting and remittance of taxes due by the retailer on the portion of the sales price applicable to facilitation fees and other charges necessary to complete the accommodation rental, the facilitator should provide information to each retailer, no later than the 10th day of the following calendar month for all accommodation rentals occupied during the previous calendar month. If the 10th day of the following calendar month falls on a Saturday, Sunday or State legal holiday, the information should be provided on the next business day. The retailer should retain the information provided by each facilitator as support for taxes due and payable to the Department on the portion of the sales price applicable to facilitation fees and other charges necessary to complete the accommodation rental. The information should include, at a minimum:

- Reservation number for each accommodation rental marketed by the facilitator.
- Check in and checkout dates for each accommodation rental marketed by the facilitator.
- Invoice number or credit card authorization, as applicable, for each accommodation rental marketed by the facilitator.
- A separate accounting of State tax, county tax by jurisdiction, and room occupancy tax by jurisdiction, applicable to all accommodation rentals marketed by the facilitator for the prior month.

A facilitator is not liable for tax sent to a retailer on the portion of the sales price applicable to facilitation charges and other charges necessary to complete the accommodation rental, but not remitted by the retailer to the Department. A facilitator that does not send the retailer the tax due on the sales price applicable to facilitation charges and other charges necessary to complete the accommodation rental is liable for the amount of tax the facilitator fails to send to the retailer.

The gross receipts derived from an occasional or isolated rental of a private residence or cottage by the owner for less than a total of 15 days in a calendar year are not subject to sales tax. If the private residence or cottage is generally or routinely made available by the owner for rental to transients, the less than 15 days exclusion is not applicable to such rentals and all gross receipts are taxable. When private residences and cottages are listed with real estate agents, including "real estate brokers" as defined in G.S. 93A-2, for rental to transients, such private residences and cottages are deemed to be generally available for

rental to transients and the less than 15 days exclusion is not applicable to any receipts from such rentals to transients. The liability of a rental agent for tax due on accommodation rentals relieves the provider of the accommodation from liability.

An accommodation rented to the same person for a period of 90 or more continuous days is not subject to sales or room occupancy taxes. The tax collected from any person prior to the accumulation of such 90 continuous days of occupancy by said person shall be refunded to such person by the retailer collecting the same. A retailer actually making any such refund of tax which he has paid to the Department shall be entitled to claim credit for the tax so refunded on a subsequent return filed by him with the Department.

A retailer who is required to remit to the Department the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is also required to remit a room occupancy tax to the taxing county and/or city as applicable. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as the sales tax. A rental agent or facilitator, as defined in G.S. 105-164.4(a)(3), has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations. The room occupancy taxes should be remitted to the applicable local city and county governments that administer and levy each room occupancy tax.

Telephone numbers for counties that may levy room occupancy taxes are available at <http://www.ncacc.org/countyinfo.htm> and telephone numbers for cities that may levy room occupancy taxes are available at <http://www.ncim.org/resource-center/municipalities/pages/>. Representatives from these counties and cities may be contacted by using the telephone numbers located on their respective websites to seek information as to whether room occupancy taxes are levied in the county or city and, if so, the applicable rate. The room occupancy taxes are not administered by the Department and should not be remitted along with State and county sales taxes to the Department.

Questions about this notice can be directed to the Taxpayer Assistance and Collection Center at telephone number 1-877-252-3052 (toll-free) or in writing to the Taxpayer Assistance Division, North Carolina Department of Revenue, PO Box 25000, Raleigh, N.C. 27640-0001.