

**North Carolina Department of Revenue
Post Office Box 25000
Raleigh, North Carolina 27640-0001**

To Registered Taxpayers:

This document lists the major changes made by the 2007 General Assembly to the taxes administered by the Sales and Use Tax Division. Legislative changes supersede any information previously set forth in Sales and Use Tax Administrative Rules or Technical Bulletins relating to any subject matter of the legislation. Part I lists the changes to sales and use tax and privilege tax rates; Part II lists the remaining legislative changes. The changes in both Parts are cited in order of effective date. A more detailed explanation of the legislative changes is available in the [2007 Tax Law Changes](#), which is available on the Department's website.

PART I: RATE CHANGES

Effective June 29, 2007

Temporary Extension of State General Rate

The additional 0.25% State sales and use tax was extended for one month. The additional 0.25% rate, resulting in a total general State rate of 4.25%, was scheduled to expire on June 30, 2007. As a result, the combined State and local sales and use tax remained at 6.75% in all counties except Mecklenburg; in Mecklenburg County, the combined State and local sales and use tax remained at 7.25%. The legislation providing for the temporary extension included a hold harmless provision for retailers for an over-collection or under-collection of tax due to the extension of the 0.25% tax for the month of July 2007.

Temporary Extension of Combined General Rate

The combined general rate is the State's general rate (4.25%) plus the sum of the rates of local tax authorized for every county in the State (2.5%). Since the State general rate remained at 4.25%, the combined general rate remained at 6.75%. The combined general rate applies to sales of telecommunications service, ancillary service, video programming service, and spirituous liquor.

Effective July 31, 2007

Permanent Extension of State General Rate

The additional 0.25% State sales and use tax was permanently extended. As a result, the total general State rate remains at 4.25%. The combined State and local sales and use tax remains at 6.75% in all counties except Mecklenburg; in Mecklenburg County, the combined State and local sales and use tax remains at 7.25%. Additional legislation included a hold harmless provision for retailers for an over-collection or under-collection of tax due to the extension of the 0.25% tax for the month of August 2007.

Permanent Extension of Combined General Rate

Since the State general rate remains at 4.25%, the combined general rate remains at 6.75%.

Effective October 1, 2007

Decrease in Rate for Electricity Sold to Manufacturers and Farmers

The rate of tax on the sale of electricity to a manufacturer for use in connection with the operation of the industry or plant is reduced from 2.6% to 1.8%. The rate of tax on the sale of electricity to a farmer to be used for any farm purpose other than preparing food, heating dwellings, and other household purposes is reduced from 2.83% to 1.8%. The electricity must be measured by a separate meter or another separate device.

Decrease in Rate for Manufacturing Fuel

The privilege tax imposed on a manufacturing industry or plant that purchases fuel, other than electricity or piped natural gas, to operate the industry or plant is reduced from 1% to 0.7%.

Effective July 1, 2008

Decrease in Rate for Electricity Sold to Manufacturers and Farmers

The rate of tax on the sale of electricity to a manufacturer for use in connection with the operation of the industry or plant and to a farmer to be used for any farm purpose other than preparing food, heating dwellings, and other household purposes is reduced from 1.8% to 1.4%. The electricity must be measured by a separate meter or another separate device.

Decrease in Rate for Manufacturing Fuel

The privilege tax imposed on a manufacturing industry or plant that purchases fuel, other than electricity or piped natural gas, to operate the industry or plant is reduced from 0.7% to 0.5%.

Effective October 1, 2008

Change in State and Local Rates

The general State rate of tax will increase from 4.25% to 4.5%. The third one-half percent (0.5%) local tax under Article 44 will decrease to one-quarter percent (0.25%). These changes occur as the State begins assuming Medicaid responsibilities for the counties over a three-year period. The total of the State and local rates of tax does not change, and the "combined general rate" that applies to telecommunications and ancillary services, video programming, and spirituous liquor other than mixed beverages does not change as a result of the simultaneous changes in the State and local rates.

PART II: OTHER LEGISLATIVE CHANGES

Effective January 1, 2007

Exemption and Refund for Eligible Railroad Intermodal Facilities

G.S. 105-164.13(56) provides an exemption for sales to the owner or lessee of an eligible railroad intermodal facility of intermodal cranes, intermodal hostler trucks, and railroad locomotives that reside on the premises of the facility and are used at the facility. G.S. 105-164.14(n) authorizes a refund of sales and use taxes paid by the owner or lessee (including liability incurred indirectly) of an eligible railroad intermodal facility on building supplies, fixtures, and equipment that become a part of the real property of the facility. "Eligible railroad intermodal facility" and "railroad intermodal facility" are defined in new G.S. 105-164.3(8f) and new G.S. 105-129.95. A refund request is due by December 31 for the prior fiscal year ending June 30; a refund applied for after the due date is barred. *(NOTE: The legislation authorizing refunds of tax paid on items that become a part of real property of an eligible railroad intermodal facility and on analytical service supplies designated both provisions as subsection (n). The codifier of the Statutes will change the designation of one of the subsections.)*

Effective July 1, 2007

Refund for Aircraft Manufacturers Expanded

The refund authorized for aircraft manufacturing facilities under G.S. 105-164.14(j)(3) is expanded. As rewritten, the definition of "aircraft manufacturing" now includes the manufacturing or assembling of the specific aircraft parts listed in the statute.

Refund for Analytical Service Businesses

G.S. 105-164.3(33a) is a new definition for "analytical services." The term is defined as testing laboratories or medical laboratories included in national industry 541380 or 621511, respectively, of NAICS. G.S. 105-164.14, which authorizes refunds for certain entities and organizations, is amended to add new subsection (n). It provides that a taxpayer engaged in analytical services in this State is allowed a refund of sales and use tax paid in this State. The amount of the refund is the greater of 50% of the "eligible amount of sales and use tax paid" as defined in the statute or 50% of the amount of tax paid in the fiscal year on medical reagents. A refund request is due by December 31 for the prior fiscal year ending June 30; a refund applied for after the due date is barred. *(NOTE: The legislation authorizing refunds of tax on analytical service supplies and on items that become a part of real property of an eligible railroad intermodal facility designated both provisions as subsection (n). The codifier of the Statutes will change the designation of one of the subsections.)*

Effective July 31, 2007

Authorization for Additional Local Sales and Use Tax

Counties are authorized to levy either an additional local sales and use tax or a land transfer tax upon the favorable vote by the residents of a county. The rate of the additional sales and use tax authorized is 0.25%; the earliest the additional tax could become effective is April 1, 2008. Once the additional 0.25% local tax becomes effective in at least one county, the "combined general rate" as defined in G.S. 105-164.3(4a) will increase to 7%. Notice will be sent if any county or counties enact the additional 0.25% sales and use tax.

Effective October 1, 2007

Revised Definition of "Sales Price"

G.S. 105-164.3(37) is rewritten to conform to the definition in the Streamlined Sales and Use Tax Agreement. The provision stipulating that the value of exempt personal property given to the consumer when taxable and exempt personal property are bundled together and sold by the retailer as a single product or piece of merchandise is included in the term "sales price" was deleted; the provision is addressed in the new definition of "bundled transaction" and related tax application statute. A provision for including certain discounts in the term "sales price" is added and codifies the current treatment of discounts for sales and use tax purposes. Included in the term, as rewritten, are discounts that are reimbursable by a third party and can be determined at the time of sale through: (a) presentation by the consumer of a coupon or other documentation, (b) identification of the consumer as a member of a group eligible for a discount, or (c) the invoice the retailer gives the consumer. The legislation codifies the Department's current practice; there is no change in the application of tax to discounts.

Exemption for Baler Twine Sold to Farmers

G.S. 105-164.13(1)a. is rewritten to provide that baler twine sold to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals is exempt from sales and use tax.

Exemption for Bread Sold at a Bakery Thrift Store (State Tax Only)

G.S. 105-164.13(27a) is a new exemption from the State tax. It provides that sales of bread, rolls, and buns at a bakery thrift store are exempt from the State sales and use tax and subject only to the 2% local tax applicable to sales of qualifying food. For purposes of the exemption, a "bakery thrift store" is "a retail outlet of a bakery that sells at wholesale over ninety percent (90%) of the items it makes and sells at the retail outlet day-old bread, rolls, and buns returned to it by retailers that acquired these items from the bakery."

Bundled Transactions

A "bundled transaction" is defined in G.S. 105-164.3(1b) as "a retail sale of two or more distinct and identifiable products, at least one of which is taxable and one of which is exempt, for one nonitemized price. Products are not sold for one nonitemized price if an invoice or another sales document made available to the purchaser separately identifies the price of each product. A bundled transaction does not include the retail sale of any of the following: (a) A product and any packaging item that accompanies the product and is exempt under G.S. 105-164.13(23). (b) A sale of two or more products whose combined price varies, or is negotiable, depending on the products the purchaser selects. (c) A sale of a product accompanied by a transfer of another product with no additional consideration. (d) A product and the delivery or installation of the product. (e) A product and any service necessary to complete the sale."

G.S. 105-164.4D sets out the application of tax to bundled transactions. A bundled transaction is subject to sales and use tax with certain exceptions. For bundles of tangible personal property, if one of the products is either food subject to only the 2% local tax, a drug exempt under G.S. 105-164.13(13), or a medical device, equipment, or supply exempt under G.S. 105-164.13(12), and the price of the taxable products in the bundle does not exceed 50% of the price of the bundle, the "bundled transaction" is exempt from tax. For bundles including a service, the retailer can determine an allocated price for each product and charge tax only on the taxable item(s). For bundles where the price of the taxable products in the bundle does not exceed 10% of the price of the bundle, and neither of the other exceptions applies, the "bundled transaction" is exempt. Additional information will be issued regarding bundled transactions.

Sales Tax Holiday Changes

G.S. 105-164.3(37b) is added and defines "school instructional material." Items included in the new definition were previously included in the definition of "school supply." G.S. 105-164.13C(a) is amended to add school instructional materials with a sales price of three hundred dollars (\$300.00) or less per item to the list of items that are exempt from sales and use tax during the sales tax holiday.

Privilege Tax on Purchases by Datacenters

G.S. 105-187.51C is a new section that imposes the 1% privilege tax with a maximum tax of eighty dollars (\$80.00) per article on an eligible datacenter, other than one as defined in G.S. 105-164.3(8e), that purchases machinery or equipment to be located and used at the datacenter. "Eligible datacenter" is defined in G.S. 105-187.50 and includes, among other conditions, a minimum investment requirement of either \$150,000,000 or \$300,000,000 depending on the location of the facility. The machinery and equipment must be capitalized for tax purposes under the Code and must be used either: (1) for providing datacenter services, including equipment cooling systems for managing the performance of the datacenter property; hardware and software for distributed and mainframe computers and servers; data storage devices; network connectivity equipment and peripheral components and systems; or (2) for generating, transforming, transmitting, distributing, or managing electricity, including exterior substations and other business personal property used for these purposes.

The section includes a forfeiture provision in the event the required level of investment is not timely made or any eligible machinery and equipment is not located and used at an eligible datacenter. The privilege tax on an eligible datacenter expires for sales occurring on or after July 1, 2013.

Privilege Tax on Purchases by Software Publishing Companies

G.S. 105-187.51B(a)(3) is a new subdivision. It provides that the 1% privilege tax with a maximum tax of \$80.00 per article is imposed on a software publishing company that is included in the industry group 5112 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets certain requirements. In order to be subject to the privilege tax, the equipment or an attachment or repair part for the equipment must be: (1) capitalized by the company for tax purposes under the Code, (2) used by the company in the research and development of tangible personal property, and (3) considered mill machinery if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.

Prepayments for Semimonthly Taxpayers (from 2006 Session of the General Assembly)

Taxpayers owing over \$10,000.00 a month in sales and use tax are required to remit prepayments in lieu of semimonthly payments. A return with payment is due the 20th of a month; in addition, a prepayment for the next month is due on the 20th. The prepayment is at least 65% of either: (1) the tax amount due for the current month, (2) the tax amount due for the same month in the preceding year, or (3) the average monthly amount of tax due in the preceding calendar year. Additional information will be forwarded to affected taxpayers by October 1, 2007.

Effective July 1, 2008

New Solid Waste Disposal Tax

New Article 5G imposes a new tax on the disposal of municipal solid waste and construction and demolition debris in a landfill permitted under Article 9 of Chapter 130A of the General Statutes and on the transfer of such waste and debris to a transfer station permitted under the same Article for disposal outside the State. The rate of tax is \$2.00 per ton of waste; it is due on waste and debris received from third parties and on waste and debris disposed of by the owner or operator and is payable by the owner or operator of the landfill or transfer station. The tax may be passed on to third parties disposing of the waste and debris.

Frequently asked questions with responses can be found on the Department's website at www.dornrc.com. If you have questions about the information in this document or about sales and use tax, you may contact the Taxpayer Assistance Call Center at 1-877-252-3052 (toll-free) or write to the Taxpayer Assistance Division, North Carolina Department of Revenue, Post Office Box 25000, Raleigh, North Carolina 27640-0001.