



**Sales and Use Tax Division
North Carolina Department of Revenue
Post Office Box 25000
Raleigh, North Carolina 27640-0001**

To Taxpayers:

This form includes changes enacted by the 2013 and 2014 Sessions of the General Assembly to the taxes or other items administered by the Sales and Use Tax Division. The 2014 Tax Law Changes publication produced annually by the Department will be available on the Department's website, www.dornc.com, and will contain detailed explanations of legislative changes. Legislative changes may supersede any information previously set forth in Sales and Use Tax Administrative Rules, Technical Bulletins, Notices, Directives, and Private Letter Rulings relating to any subject matter of the legislation.

Part I reflects information regarding changes in sales and use tax rates. Part II includes transactions subject to sales and use tax as a result of the expansion of the sales and use tax base through tax modernization efforts. Part III provides information for various sales and use tax exemptions repealed by the General Assembly and other miscellaneous changes.

As of October 1, 2014, the general State, local and transit sales and use tax rates applicable to the sales price of tangible personal property, certain digital products, and certain services is 6.75% in seventy-two (72) counties; 7.00% in Alexander, Buncombe, Cabarrus, Catawba, Cumberland, Davidson, Duplin, Edgecombe, Greene, Halifax, Harnett, Haywood, Hertford, Lee, Martin, Montgomery, New Hanover, Onslow, Pitt, Randolph, Robeson, Rowan, Sampson, Surry, and Wilkes Counties; 7.25% in Mecklenburg County; and 7.50% in Durham and Orange Counties.

PART I: RATE CHANGES

Effective July 1, 2014

Electricity – N.C. Gen. Stat. § 105-164.4(a)(9) imposes a privilege tax on a retailer at the 7.00% combined general rate of sales and use tax to the gross receipts derived from sales of electricity sold at retail, sourced to the State, and billed on or after July 1, 2014, except as otherwise provided herein. Some statutory exemptions per N.C. Gen. Stat. § 105-164.13 may apply to electricity sold at retail. Effective for gross receipts derived from sales of electricity by Cape Hatteras Electric Membership Corporation (“CHEMC”) sold at retail, sourced to the State, and billed on or after July 1, 2014 and before July 1, 2015, N.C. Gen. Stat. § 105-164.4(a)(14a) imposes a privilege tax at a 3.50% rate of sales and use tax. The gross receipts derived from sales of electricity by CHEMC sold at retail, sourced to the State, and billed on or after July 1, 2015 are subject to the 7.00% combined general rate of sales and use tax.

The applicable sales and use tax due on the gross receipts derived from sales of electricity sold at retail, sourced to the State, and billed on or after July 1, 2014, is reported on Form E-500E, Utility and Liquor Sales and Use Tax Return. For additional information regarding the application of sales and use to the gross receipts derived from sales of electricity, see the [important notices](#) published on [July 1, 2014](#) and [June 2, 2014](#) available on the Department's website, www.dornc.com.

Piped Natural Gas – N.C. Gen. Stat. § 105-164.4(a)(9) imposes a privilege tax on a retailer at the 7.00% combined general rate of sales and use tax to the gross receipts derived from sales of piped natural gas sold at retail, sourced to the State, and billed on or after July 1, 2014, except as otherwise provided herein. Some statutory exemptions per N.C. Gen. Stat. § 105-164.13 may apply to piped natural gas sold at retail. N.C. Gen. Stat. § 105-164.4(a)(14) imposes a privilege tax at a 3.50% rate of sales and use tax to the gross receipts derived from sales of piped natural gas sold at retail, sourced to the State, and billed on or after July 1, 2014 and before July 1, 2015 for piped natural gas (i) received by a gas city for consumption by that city, and (ii) delivered by a gas city to a sales customer or transportation customer of the gas city. Gas cities engaged in business in the State that sell piped natural gas at retail

that is sourced to the State are liable for the 7.00% combined general rate of sales and use tax due on the gross receipts derived from sales of piped natural gas sold and billed on or after July 1, 2015.

The applicable sales and use tax due on gross receipts derived from sales of piped natural gas sold at retail, sourced to the State, and billed on or after July 1, 2014, is reported on Form E-500E, Utility and Liquor Sales and Use Tax Return. For additional information regarding the application of sales and use tax to the gross receipts derived from sales of piped natural gas, see the [Important Notice: Gross Receipts Derived from Sales of Piped Natural Gas](#), as revised July 2, 2014, available on the Department's website, www.dornc.com.

PART II: EXPANSION OF SALES TAX

Effective May 29, 2014

Admission Charges – N.C. Gen. Stat. § 105-164.4(a)(10), as amended, provides the gross receipts derived from an admission charge sold at retail to an entertainment activity are taxable in accordance with N.C. Gen. Stat. § 105-164.4G and are subject to the general 4.75% State and applicable local and transit rates of sales and use tax. For purposes of N.C. Gen. Stat. § 105-164.4G, the term “gross receipts” has the same meaning as the term “sales price” as defined in N.C. Gen. Stat. § 105-164.3(37). An “entertainment activity” is defined as:

- a. A live performance or other live event of any kind, the purpose of which is for entertainment.
- b. A movie, motion picture, or film.
- c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction.
- d. A guided tour at any of the activities listed in c. above.

The definition of “admission charge” as amended is: “[g]ross receipts derived for the right to attend an entertainment activity. The term includes a charge for a single ticket, a multi-occasion ticket, a seasonal pass, and an annual pass; a membership fee that provides for admission; a cover charge; a surcharge; a convenience fee, a processing fee, a facility charge, a facilitation fee, or similar charge; or any other charges included in gross receipts derived from admission.”

The sales and use tax on an admission charge is due for the filing period in which the admission charge sold at retail and sourced to the State is received, notwithstanding the admission charge may be for the right to attend an entertainment activity for a future date. Where season tickets are billed in advance of the season and payment is rendered at such time, the sales and use tax is due for the period in which the payment is rendered by the purchaser or other person on behalf of the purchaser.

An admission charge to an entertainment activity is sourced to the location where admission to the entertainment activity may be gained by a person. When the location where admission may be gained is not known at the time of the receipt of the gross receipts for an admission charge, the sourcing principles in N.C. Gen. Stat. § 105-164.4B(a) apply.

Sales and use tax imposed on an admission charge to an entertainment activity does not apply to:

- (1) An amount paid for the right to participate in sporting activities. Examples include bowling fees, golf green fees, and gym memberships.
- (2) Tuition, registration fees, or charges to attend instructional seminars, conferences, or workshops for educational purposes.
- (3) A political contribution.
- (4) A charge for lifetime seat rights, lease, or rental of a suite or box for an entertainment activity, provided the charge is separately stated on an invoice or similar billing document given to the purchaser at the time of sale.
- (5) An amount paid solely for transportation.

The General Assembly enacted legislation to clarify that gross receipts derived from an admission charge to an entertainment activity to the following are specifically exempt from sales and use tax:

- (1) The portion of a membership charge that is deductible as a charitable contribution under section 170 of the Internal Revenue Code.
- (2) A donation that is deductible as a charitable contribution under section 170 of the Internal Revenue Code.
- (3) Charges for an amenity. If a charge for an amenity is separately stated on a billing document given to the purchaser at the time of the sale, then the sales and use tax does not apply to the separately stated charge for the amenity. If a charge for an amenity is not separately stated on the billing document given to the purchaser at the time of the sale, then the transaction is a bundled transaction and taxed in accordance with N.C. Gen. Stat. § 105-164.4D except that N.C. Gen. Stat. § 105-

164.4D(a)(3) does not apply. An amenity is defined as a feature that increases the value or attractiveness of an entertainment activity that allows a person access to items that is not subject to sales and use tax and that are not available with the purchase of admission to the same event without the feature. The term amenity includes parking privileges, special entrances, access to areas other than general admission, mascot visits, and merchandise discounts. The term amenity does not include any charge for food, prepared food, and alcoholic beverages subject to sales and use tax.

The General Assembly enacted legislation that provides that the sales and use tax is due and payable by the retailer and for the purposes of sales and use tax on the gross receipts derived from an admission charge, the retailer is the following applicable person:

- (1) The operator of the venue where the entertainment activity occurs, unless the retailer and the facilitator have a contract between them allowing for dual remittance as discussed below.
- (2) The person that provides the entertainment and that receives admission charges directly from a purchaser.

For purposes of sales and use tax on the gross receipts derived from an admission charge, a “facilitator” is a person who accepts payment of an admission charge to an entertainment activity and who is not the operator of the venue where the entertainment activity occurs. A facilitator must report to the retailer with whom it has a contract the admission charge a consumer pays to the facilitator for an entertainment activity. The facilitator must send the retailer the portion of the gross receipts the facilitator owes the retailer and the sales and use tax due on the gross receipts derived from an admission charge no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the sales and use tax due on the gross receipts derived from an admission charge is liable for the amount of sales and use tax the facilitator fails to send to the retailer. A facilitator is not liable for sales and use tax sent to a retailer but not remitted by the retailer to the Secretary. Sales and use tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a sales and use tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for sales and use tax due on admission charges but not received from a facilitator. The requirements within this paragraph imposed between the retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

The sales and use tax due on the gross receipts derived from an admission charge may be partially reported and remitted to the operator of the venue for remittance to the Department and partially reported and remitted by the facilitator directly to the Department (**Dual Remittance**). The portion of the sales and use tax not reported and remitted to the operator of the venue must be reported and remitted directly by the facilitator to the Department. A facilitator that elects to remit sales and use tax due on admission charges under the dual remittance option is required to obtain a certificate of registration from the Department and is subject to the provisions of Article 9 (General Administration; Penalties and Remedies) of Chapter 105 of the N.C. General Statutes.

For additional information on the application of sales and use tax to an admission charge, refer to the [Important Notice: Recent Changes for Admission Charges to Entertainment Activities](#) published on June 25, 2014, and available on the Department’s website, www.dornc.com.

Effective July 1, 2014

Prepaid Meal Plans – N.C. Gen. Stat. § 105-164.4(a)(12) provides that the general 4.75% State and applicable local and transit rates of sales and use tax apply to the sales price of or the gross receipts derived from a prepaid meal plan sold at retail, sourced to this State, and sold or billed on or after July 1, 2014. A bundle that includes a prepaid meal plan is taxable in accordance with N.C. Gen. Stat. § 105-164.4D. N.C. Gen. Stat. § 105-164.3(27a) defines the term “prepaid meal plan” as “[a] plan offered by an institution of higher education that meets all of the following requirements:

- a. Entitles a person to food or prepared food.
- b. Must be billed or paid for in advance.
- c. Provides for predetermined units or unlimited access to food or prepared food but does not include a dollar value that declines with use.”

The gross receipts derived from a prepaid meal plan are sourced to the location where the food or prepared food is available to be consumed by the person.

For additional information on the application of sales and use tax to the sales price of or the gross receipts derived from a prepaid meal plan regarding a bundled transaction, exemptions, and a reporting option for retailers that enter into an agreement with a food service contractor, refer to the [Important Notice: Prepaid Meal Plans](#) published June 23, 2014, available on the Department’s website, www.dornc.com.

Effective October 1, 2014

Service Contracts – N.C. Gen. Stat. § 105-164.4(a)(11), as amended, provides the general 4.75% State and applicable local and transit rates of sales and use tax apply to the sales price of or the gross receipts derived from a service contract sold at retail on or after October 1, 2014, and sourced to the State. A service contract is taxed in accordance with N.C. Gen. Stat. § 105-164.4I. N.C. Gen. Stat. § 105-164.3(38b), as amended, defines a “service contract” as “[a] contract where the obligor under the contract agrees to maintain or repair tangible personal property or a motor vehicle. Examples of a service contract include a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract.” The sale of a service contract at retail by the retailer or on behalf of a retailer by another person to a purchaser at a location in the State is the location where the sale of the service contract is sourced provided the purchaser can potentially first make use of the service at the location. If the purchaser of the service contract cannot potentially make first use at the location where the service contract is sold, the sale is sourced in accordance with N.C. Gen. Stat. § 105-164.4B(a) (3), (4) or (5) based on the hierarchy and available address.

N.C. Gen. Stat. § 105-164.4I(d) states “[a] retailer who sells or derives gross receipts from a service contract must report those sales on an accrual basis of accounting, notwithstanding that the retailer reports tax on the cash basis for other sales at retail. The tax on the sales price of or the gross receipts derived from a service contract is due at the time of the retail sale, notwithstanding any portion that may be financed. If the sales price of or the gross receipts derived from the service contract is financed in whole or in part, the financed amount of the sales price of or the gross receipts derived from the service contract included in each payment is exempt from sales tax if the amount is separately stated in the contract and on the billing statement or other documentation provided to the purchaser at the time of the sale.”

The sales and use tax does not apply to the sales price of or the gross receipts derived from a service contract for tangible personal property sold at retail that is or will become a part of real property unless the service contract is sold by the obligor or by a third party or facilitator on behalf of the obligor at the same time as the item of tangible property covered by the service contract. An “obligor” is a person or entity who is legally, or contractually, obliged to provide the services for the service contract to the purchaser. Additionally, sales and use tax does not apply to a security or similar monitoring contract for real property or to a renewal of a service contract where the tangible personal property becomes a part of or affixed to real property prior to the effective date of the renewal.

The retailer of a service contract is required to collect the sales and use tax due at the time of the retail sale of the contract and is liable for payment of the sales and use tax. The retailer of a service contract is the following applicable person:

- (1) When a service contract is sold at retail to a purchaser by the obligor under the contract, the obligor is the retailer.
- (2) When a service contract is sold at retail to a purchaser by a facilitator on behalf of the obligor under the contract, the facilitator is the retailer unless the provisions of (3) apply.
- (3) When a service contract is sold at retail to a purchaser by a facilitator on behalf of the obligor under the contract and there is an agreement between the facilitator and the obligor that states the obligor will be liable for the payment of the tax, the obligor is the retailer.

For additional information on the application of sales and use tax to the sales price of or the gross receipts derived from a service contract, refer to the [Important Notice: Service Contracts](#) published September 26, 2014 on the Department's website www.dorn.com. Additionally, [SD-13-5](#) issued by the Department and revised January 17, 2014 provides information regarding service contracts exempt from sales and use tax, sourcing of local and transit sales and use tax for service contracts, and various examples. Please note that some of the information contained in [SD-13-5](#) is superseded effective for service contracts sold on or after October 1, 2014 as a result of legislative changes.

Effective January 1, 2015

Real Property Contractors – N.C. Gen. Stat § 105-164.4(a)(13) imposes the general 4.75% State and applicable local and transit rates of sales and use tax to the sales price of tangible personal property sold to a real property contractor for use by the real property contractor in erecting structures, building on, or otherwise improving, altering, or repairing real property in the State. Such sales are taxed in accordance with N.C. Gen. Stat. § 105-164.4H. The statutory provisions for real property contractors under N.C. Gen. Stat. §§ 105-164.4(a)(13) and 105-164.4H apply to sales on or after January 1, 2015 for contracts entered into on or after that date. N.C. Gen. Stat § 105-164.4H(a) provides a real property contractor is the consumer of the tangible personal property that the real property contractor installs or applies for others and that becomes part of real property.

N.C. Gen. Stat § 105-164.3(33a) defines a “real property contractor” as “[a] person that contracts to perform construction, reconstruction, installation, repair, or any other service with respect to real property and to furnish tangible personal property to be installed or applied to real property in connection with the contract and the labor to install or apply the tangible personal property that becomes part of real property. The term includes a general contractor, a subcontractor, or a builder for purposes of G.S. 105-164.4H.”

N.C. Gen. Stat § 105-164.3(35a) defines a “retailer-contractor” as “[a] person that acts as a retailer when it sells tangible personal property at retail and as a real property contractor when it performs real property contracts.” A retailer-contractor that purchases tangible personal property to be installed or affixed to real property may purchase items exempt from sales and use tax under a certificate of exemption provided the retailer-contractor also purchases inventory items from the seller for resale. When the tangible personal property is withdrawn from inventory and installed or affixed to real property, use tax must be accrued and paid on the retailer-contractor’s purchase price of the tangible personal property. Tangible personal property that the retailer-contractor withdraws from inventory for use that does not become a part of real property is also subject to sales and use tax. If a retailer-contractor subcontracts any part of the real property contract, sales and use tax is payable by the subcontractor on the subcontractor’s purchase of tangible personal property that is installed or affixed to real property in fulfilling the contract. The retailer-contractor, the subcontractor, and the owner of the real property are jointly and severally liable for the sales and use tax. The liability of a retailer-contractor, a subcontractor, or an owner who did not purchase the property is satisfied by receipt of an affidavit from the purchaser certifying that the sales and use tax has been paid.

An invoice or other documentation issued to a consumer at the time of the sale by a real property contractor shall not separately state any amount for sales and use tax. Any amount for sales and use tax separately stated on an invoice or other documentation given to a consumer by a real property contractor is an erroneous collection and must be remitted to the Secretary, and the provisions of N.C. Gen. Stat. § 105-164.11(a)(2) do not apply.

PART III: EXEMPTION REPEALS AND OTHER MISCELLANEOUS CHANGES

Effective May 29, 2014

Applicable Due Date When Due Date Falls on a Weekend, Holiday, or When the Federal Reserve is Closed –

N.C. Gen. Stat. § 105-164.45 is added and provides when the last day for doing an act required or permitted by Article 5 (Sales and Use Tax) of Chapter 105 of the N.C. General Statutes or Subchapter VIII of Chapter 105 falls on a Saturday, Sunday, or holiday, the act is considered to be done within the prescribed time limit if it is done on the next business day. Additionally, if the Federal Reserve Bank is closed on a due date that prohibits a person from making a payment by ACH debit or credit as required by Article 5 (Sales and Use Tax) of Chapter 105 of the N.C. General Statutes or Subchapter VIII of Chapter 105, the payment is timely if made on the next day the Federal Reserve Bank is open. The electronic payment transaction must be initiated by 5:30 PM EST on the last business day prior to the weekend, holiday, or when the Federal Reserve is closed in order for the payment to be timely processed and received on the first day after the weekend, holiday, or when the Federal Reserve is closed.

Effective June 1, 2014

Accommodation Rentals – The gross receipts derived from the rental in the State of a private residence, cottage, or similar accommodation listed with a real estate broker or agent where a person occupies or has the right to occupy such on or after June 1, 2014 is subject to the general 4.75% State and applicable local and transit rates of sales and use tax and any local occupancy tax imposed, collected and separately administered by a city or county. N.C. Gen. Stat § 105-164.4(a)(3) provides that the rental of an accommodation is taxed in accordance with N.C. Gen. Stat. § 105-164.4F. A retailer is not liable for an undercollection of sales and use tax or occupancy tax for the period June 1, 2014 through June 30, 2014 for a private residence, cottage, or similar accommodation listed with a real estate broker or agent if the retailer made a good-faith effort to comply with the law.

Effective July 1, 2014

Breads, Rolls, and Buns Sold at a Bakery Thrift Store – N.C. Gen. Stat. § 105-164.13(27a) which provided an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State of breads, rolls, and buns sold at a bakery thrift store, was repealed. Effective July 1, 2014, retail sales of breads, rolls, and buns at a bakery thrift store in the State provided such sales are sourced to the State, are subject to the general 4.75% State and applicable local and transit rates of sales and use tax.

Sales and Use Tax Holidays – N.C. Gen. Stat. § 105-164.13C which provided a sales tax holiday for certain items sold between 12:01 A.M. on the first Friday of August and 11:59 P.M. the following Sunday, was repealed. N.C. Gen.

Stat. § 105-164.13D which provided a sales tax holiday for certain Energy Star qualified products sold between 12:01 A.M. on the first Friday of November and 11:59 P.M. the following Sunday, was repealed.

Farmers – N.C. Gen. Stat. § 105-164.13E provides an exemption from sales and use tax for certain tangible personal property and services purchased by a qualifying farmer for farming purposes. A “qualifying farmer” is a person who has an annual gross income for the preceding income tax year of \$10,000 or more from farming operations or who has an average annual gross income for the three preceding income tax years of \$10,000 or more from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in N.C. Gen. Stat. § 106-758.

Additionally, N.C. Gen. Stat. § 105-164.13E allows certain persons engaged in farming operations that otherwise do not meet the definition of the term “qualifying farmer” to apply for a conditional farmer exemption certificate. A conditional farmer exemption certificate issued by the Department is valid for the income tax year in which the certificate is issued and the following two income tax years, subject to other reporting requirements to the Department of Revenue.

For additional information refer to the [Important Notice: Qualifying Farmer and Conditional Farmer Exemption](#) published June 25, 2014 as well as frequently asked questions for Form E-595QF and Form E-595CF available on the Department’s website www.dornc.com.

Effective September 1, 2014

Manufactured Homes & Modular Homes – N.C. Gen. Stat. § 105-164.13(64) exempts 50% of the sales price of a manufactured home or modular home sold at retail, including all accessories attached when delivered to the purchaser, on or after September 1, 2014. Effective January 1, 2014, N.C. Gen. Stat. §§ 105-164.4(a)(1a) & 105-164.4(a)(8) were amended and provide the general 4.75% State rate of tax applies to the sales price of a manufactured home or a modular home sold at retail, including all accessories attached to the manufactured home or modular home when it is delivered to the purchaser. For additional information on the sale of a manufactured home for sales and use tax purposes and charges included in the sales price of manufactured home sold at retail see Directive [SD-13-2, Manufactured Homes](#). For additional information on the sale of a modular home for sales and use tax purposes and charges included in the sales price of a modular home, see Directive [SD-13-3, Modular Homes](#). Both Directives are available on the Department’s website at www.dornc.com.

Effective October 1, 2014

Sales of Newspapers – N.C. Gen. Stat. § 105-164.13(50), as amended, no longer exempts 50% of the sales price of a newspaper sold through a coin-operated vending machine. Sales at retail or purchases for use, storage, or consumption in this State of newspapers through a coin-operated vending machine, by street vendors, and by newspaper carriers making door-to-door deliveries, are subject to the general 4.75% State and applicable local and transit sales and use taxes.

Seller’s Responsibility and Relief from Liability – Farmer Certificates of Exemption – For qualifying purchases of items for farming operations on or after October 1, 2014 by a qualifying or conditional farmer, a seller that does not have a Form E-595E or other exemption information containing a qualifying farmer exemption certificate number, which is a six digit number that begins with the numeral seven, or a conditional farmer exemption certificate number, a six digit number that begins with numeral eight, must charge and collect any sales and use tax due on the sale.

A seller that relies on a Form E-595E provided to the seller by a purchaser claiming an exemption for farming or agricultural purposes that includes a qualifying farmer or conditional farmer exemption number or where data requirements are maintained per the requirements of N.C. Gen. Stat. § 105-164.28, is not liable for any tax due on a sale to such person provided the certificate is completed in full and if the sale is made in person, the certificate is signed by the purchaser. If the purchaser fails to give proper notice to a seller that the exemption information should no longer be relied upon or where a purchaser claims an invalid exemption, the purchaser is liable for any tax, penalty, and interest due on such purchase unless the seller is involved in any of the fraud activities listed in N.C. Gen. Stat. § 105-164.28(c).

If you have questions about the information in this document or about sales and use tax, you may contact the Taxpayer Assistance and Collection Center at 1-877-252-3052 (toll-free). If a written response would require the Department to interpret the law in a manner not specifically addressed in a statute, regulation, or Departmental or IRS publication, the person requesting the written response must follow the procedure (and pay the required fee) for requesting a private letter ruling available on the Department’s website at the following address: http://www.dornc.com/practitioner/plr_policy.pdf.