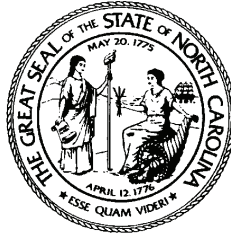


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# North Carolina Department of Revenue

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## **DIRECTIVE**

**Subject:** Machinery, Equipment, and Manufacturing Fuel Tax  
**Tax:** Privilege Tax  
**Law:** G.S. 105-187.51, G.S. 105-187.51A, and G.S. 105-187.51B  
**Issued By:** Sales and Use Tax Division  
**Date:** October 12, 2005  
**Number:** SD-05-1

This Directive sets out information on the imposition of a "Machinery, Equipment, and Manufacturing Fuel" privilege tax effective January 1, 2006 on the purchase of the following: (1) mill machinery or mill machinery parts and accessories by manufacturing industries and plants and contractors and subcontractors for use in the performance of a contract with a manufacturing industry or plant, (2) manufacturing fuel by manufacturing industries and plants, and (3) recycling equipment by a major recycling facility. The rate of tax on mill machinery, mill machinery parts and accessories, and eligible recycling equipment is 1% with a maximum tax of \$80.00 per article. The rate of tax on manufacturing fuel is 1%. The 2001 General Assembly enacted the new tax on mill machinery and mill machinery parts and accessories, and the 2005 General Assembly modified the tax to include manufacturing fuel and eligible recycling equipment as property subject to the tax.

Effective January 1, 2006, the 1% rate of sales and use tax with a maximum tax of \$80.00 per article, as applicable, is repealed on items subject to the new privilege tax, and these items are fully exempted from the sales and use tax.

The new privilege tax is imposed on the purchaser of qualifying property, and the purchaser will be liable for accruing and remitting the tax to the Department of Revenue.

### *Section I. The Law*

A new Article 5F of Chapter 105 was enacted and, pursuant to G.S. 105-187.51, imposes a privilege tax on the purchase of mill machinery or mill machinery parts and accessories by a manufacturing industry or plant for storage, use, or consumption in this State. Purchases of mill machinery or mill machinery parts and accessories by contractors and subcontractors for use in the performance of contracts with a manufacturing industry or plant and purchases of mill machinery or mill machinery parts and accessories by subcontractors for use in the performance of a contract with a general contractor that has a contract with a manufacturing industry or plant are subject

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to the machinery, equipment, and manufacturing fuel tax. The rate of tax is 1% with a maximum tax of \$80.00 per article.

G.S. 105-187.51A imposes a 1% rate of tax on the purchase by a manufacturing industry or plant of fuel used to operate the industry or plant. The tax does not apply to purchases of electricity or piped natural gas.

G.S. 105-187.51B imposes a 1% rate of tax with a maximum tax of \$80.00 per article on the purchase of the following items by a major recycling facility:

- (1) Cranes, structural steel, crane support systems, and foundations related to cranes and support systems.
- (2) Port and dock facilities.
- (3) Rail equipment.
- (4) Material handling equipment.

A major recycling facility is a recycling facility that meets the following conditions: is located in an area that, at the time the owner began construction, was an enterprise tier one area; will have an investment of at least \$300 million and create at least 250 new, full-time jobs; and the jobs at the recycling facility meet certain wage standards.

G.S. 105-164.13 was amended to add subsection (5a) to exempt from sales and use tax sales of products that are subject to the tax under Article 5F.

### *Section II. Administration*

The collection and administration of the machinery, equipment, and manufacturing fuel tax, except as otherwise provided in Article 5F, is the same as the State use tax imposed under Article 5 of Chapter 105. The definitions in G.S. 105-164.3 apply to Article 5F.

There will be few material changes to the application of the machinery, equipment, and manufacturing fuel tax from the formerly imposed sales and use tax with respect to property that is subject to the new machinery, equipment, and manufacturing fuel tax or to the determination as to whether a taxpayer constitutes an eligible business. The Department's Sales and Use Tax Technical Bulletins will be revised to reflect the enactment of the machinery, equipment, and manufacturing fuel tax. Until the revisions are made, the information provided in the Technical Bulletins relating to the application of sales and use tax on sales of mill machinery and mill machinery parts and accessories, manufacturing fuel, and major recycling equipment can be applied to the machinery, equipment, and manufacturing fuel tax.

### *Section III. Returns and Remittances*

A new form, E-500J, Machinery, Equipment, and Fuel Tax Return, will be used to report the amount of tax due on purchases subject to the machinery, equipment, and manufacturing fuel tax. An eligible business will be required to complete the return and remit the applicable tax due on purchases of qualifying property; sellers will not be liable for collecting the tax. A taxpayer who currently files and remits sales and use tax should file and remit the machinery, equipment, and manufacturing fuel tax using the same filing frequency and payment method as for sales and use tax.

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The Department is in the process of identifying from its records taxpayers that may be liable for the machinery, equipment, and manufacturing fuel tax. A notice will be sent to these taxpayers advising that an account has been established for them to report and remit the machinery, equipment, and manufacturing fuel tax, and forms will be mailed to them before December 31, 2005. If a taxpayer receives such a notice and will not be liable for the new tax, the firm should immediately return the appropriate section of the notice indicating that the firm will not be liable. A taxpayer that will be liable for the machinery, equipment, and manufacturing fuel tax that does not receive a notice of an account being established should complete and forward the appropriate sections of an application for registration, Form AS/RP1, to the Department or contact the Department for a copy of the form. Form AS/RP1 is available on the Department's website at [www.dornrc.com](http://www.dornrc.com) and contact information is set out at the bottom of the Directive. Form E-500J will also be available on the website in December.

### *Section IV. Exemption Certificate*

An eligible business should complete and submit Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption, to its vendors in order to document that the property being purchased is exempt from sales or use tax. Vendors who have exemption certificates on file from customers for transactions occurring prior to January 1, 2006 are not required to obtain new certificates from customers. However, vendors are encouraged to update their records since the property being sold will be fully exempt from sales and use tax rather than subject to a 1% sales or use tax. A direct pay permit holder completing Form E-595E should enter the firm's direct pay permit number on the appropriate line in the "Reason for Exemption" section of the form.

Questions about this Directive may be directed to the Taxpayer Assistance Division of the North Carolina Department of Revenue, P. O. Box 25000, Raleigh, North Carolina 27640-0001 or by telephone toll free at 1-877-252-3052.