



**DIRECTIVE**

**Subject:** Manufactured Homes  
**Tax:** Sales and Use Tax  
**Law:** N.C. Gen. Stat. § 105-164.4(a)(1a)  
**Issued By:** Sales and Use Tax Division  
**Date:** December 13, 2013  
**Number:** SD-13-2

**Effective January 1, 2014**, Session Law 2013-316 amends N.C. Gen. Stat. § 105-164.4(a)(1a) and provides the 4.75% general State rate of sales and use tax applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser. N.C. Gen. Stat. § 105-467(a) provides that the sale of a manufactured home is not subject to local and transit sales and use taxes. Prior to January 1, 2014, each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser, is subject to the 2.00% State rate of tax with a maximum tax of \$300.00 per article.

N.C. Gen. Stat. § 105-164.3(20) defines “[m]anufactured home” as “[a] structure that is designed to be used as a dwelling and is manufactured in accordance with the specifications for manufactured homes issued by the United States Department of Housing and Urban Development.”

N.C. Gen. Stat. § 105-164.3(34) defines “[r]etail sale or sale at retail” as “[t]he sale, lease, or rental for any purpose other than for resale, sublease, or subrent.”

N.C. Gen. Stat. § 105-164.3(36) defines “[s]ale or selling,” in part, as “[t]he transfer for consideration of title . . . or possession of tangible personal property . . . or the performance for consideration of a service.”

**Manufactured Home Sales Price**

N.C. Gen. Stat. § 105-164.3(37) defines the term “[s]ales price” as “[t]he total amount or consideration for which tangible personal property . . . or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.

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- a. The term includes all of the following:
1. The retailer's cost of the property sold.
  2. The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense of the retailer.
  3. Charges by the retailer for any services necessary to complete the sale.
  4. Delivery charges.
  5. Installation charges.
  6. Repealed by Session Laws 2007-244, s. 1, effective October 1, 2007.
  7. Credit for trade-in.
  8. Discounts that are reimbursable by a third party and can be determined at the time of sale through any of the following:
    - I. Presentation by the consumer of a coupon or other documentation.
    - II. Identification of the consumer as a member of a group eligible for a discount.
    - III. The invoice the retailer gives the consumer.
- b. The term does not include any of the following:
1. Discounts that are not reimbursable by a third party, are allowed by the retailer, and are taken by a consumer on a sale.
  2. Interest, financing, and carrying charges from credit extended on the sale, if the amount is separately stated on the invoice, bill of sale, or a similar document given to the consumer.
  3. Any taxes imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer."

Any furniture, appliances, or accessories placed in or attached to a manufactured home by the manufacturer or the retailer which are a part of the sale of the manufactured home when it is delivered to a purchaser are included in the sales price of the manufactured home. In addition, charges by the retailer for anchor bolts, tie-downs, skirting, prefabricated steps, central air-conditioning units, window air-conditioning units, and HVAC systems (excluding central air-conditioning units or HVAC systems installed by a third party pursuant to a performance contract) that are to be attached to a manufactured home at the time of transfer of title or possession to a customer or at the time of installation of a manufactured home by the retailer are part of the sales price subject to tax, even if such charges are separately stated on the invoice, bill of sale, or similar document given to a purchaser. Permit charges that are imposed on the retailer to deliver a manufactured home sold at retail to a purchaser are costs of the retailer and such permit charges constitute a part of the sales price subject to tax, notwithstanding that the retailer may separately state such charges on the invoice, bill of sale, or similar document given to the purchaser by the retailer at

the time of the sale. Any charge by the retailer for running gear upon which a manufactured home is delivered to the purchaser is a part of the sales price for a sale at retail of the manufactured home subject to tax. Other charges by the retailer necessary to complete the sale at retail of a manufactured home constitute a part of the sales price subject to tax. A retailer's profit from the sale at retail of a manufactured home and accessories attached to the manufactured home at the time of transfer of title or possession to the purchaser is part of the sales price subject to sales and use tax.

N.C. Gen. Stat. § 105-164.13(49) provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State of installation charges that are separately stated on an invoice, bill of sale, or similar billing document given to the purchaser at the time of sale.

### **Items Excluded from the Sales Price of a Manufactured Home Sold at Retail**

The following charges in conjunction with the retail sale or purchase of a manufactured home are not part of the sales price subject to the sales and use tax provided such charges are separately stated on the invoice, bill of sale, or similar document given to the purchaser by the retailer at the time of a sale. Such charges must be for items handled by the retailer for the convenience of the purchaser and may occur before or after title or possession of the manufactured home is transferred to the purchaser:

- a. Clearing and grading real property,
- b. Building, electrical, plumbing and other similar permit fees,
- c. A central air-conditioning unit or a HVAC system installed by a third party pursuant to a performance contract,
- d. Well installation,
- e. Sidewalk and driveway installation,
- f. Brick foundation installed by a third party pursuant to a performance contract, or
- g. Wood deck installed by a third party pursuant to a performance contract.

The purchase of tangible personal property or taxable services for use in conjunction with the above items, which are excluded from the sales price of a manufactured home, are subject to the 4.75% general State and applicable local and transit rates of sales and use tax.

### **Effective Date of Rate Change for Sale at Retail of Manufactured Home**

The date of transfer of title or possession, typically the delivery date, of a manufactured home determines the State rate of sales and use tax applicable to the retail sale or purchase. The date a retail sales invoice, bill of sale, or similar document is signed for the sale or purchase of a manufactured home does not determine the rate of State sales or use tax applicable to the sale or purchase where such date is different from the date of transfer of title or possession. For example, for a sales agreement signed December 15, 2013, between a retailer

and a purchaser, where the manufactured home is delivered with title or possession passing to the purchaser on January 30, 2014, the applicable rate of tax due is the 4.75% general State rate of tax, notwithstanding that the agreement was signed December 15, 2013.

**Land/Home Package Contract That Includes a Manufactured Home**

A lump-sum or unit-price contract generally means a contract under which a principal (purchaser or owner) agrees to pay a contractor a specified amount for completing work without receiving a cost breakdown. An example includes a manufactured home retailer that enters into a lump-sum contract with a purchaser to provide a manufactured home and land. This type of transaction is commonly referred to as a “land/home” package by which a person enters into a performance contract with a purchaser where title to both a manufactured home and land transfer by deed to the purchaser as a transfer of real property. A person responsible for a land/home package is commonly referred to as a contractor. A contractor is a consumer of tangible personal property and taxable services used to fulfill such contracts and is liable for payment of the 4.75% general State and applicable local and transit rates of sales or use tax on such items unless such items are exempt from sales and use tax or subject to a preferential rate of sales and use tax.

When a contractor or subcontractor makes a taxable purchase of a manufactured home for use in a land/home package pursuant to a performance contract, the contractor or subcontractor must pay the applicable rate of sales or use tax on the sales price of the manufactured home including all accessories attached at the time of delivery. If a retailer withdraws a manufactured home from inventory for use in a land/home package where such retailer operates as the contractor, such retailer shall remit the use tax due on the purchase price of the manufactured home. N.C. Gen. Stat. § 105-164.3(33) provides “[t]he term [purchase price] has the same meaning as the term ‘sales price’ when applied to an item subject to use tax.”

N.C. Gen. Stat. § 105-164.6(b) provides, in part, “[i]f the property purchased becomes a part of a building or other structure in the State and the purchaser is a contractor or subcontractor, the contractor, the subcontractor, and the owner . . . are jointly and severally liable for the tax. The liability of the contractor, subcontractor, or 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.”

A manufactured home purchased, sold or withdrawn by a retailer or other person from inventory on or after January 1, 2014, for use in fulfilling a performance contract for a land/home package in this State entered into or awarded on or after January 1, 2014, or entered into or awarded pursuant to a bid made on or after January 1, 2014, is subject to the 4.75% general State rate of tax.

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A manufactured home purchased, sold or withdrawn by a retailer or other person from inventory on or after January 1, 2014, for use in fulfilling a performance contract for a land/home package in this State entered into or awarded prior to January 1, 2014, or entered into or awarded pursuant to a bid made prior to January 1, 2014, continues to be subject to the 2.00% State rate of tax, with a maximum tax of \$300.00 per article. Form E-589H, Affidavit to Exempt Contractors from the Increase in State Tax from 2.00%, \$300.00 Maximum per Article, to 4.75% for Manufactured Home Purchases, must be executed by the contractor or subcontractor for a purchase made on or after January 1, 2014 to pay the 2.00% State rate of tax, with a maximum tax of \$300.00 per article. Form E-589H is available on the Department's website at [www.dornc.com](http://www.dornc.com). A retailer or other person that withdraws a manufactured home from inventory for use in fulfilling a performance contract for a land/home package entered into or awarded before January 1, 2014, or entered into or awarded pursuant to a bid made before January 1, 2014 must retain adequate documentation to support that use tax at the 2.00% State rate of tax is due on the purchase price of the manufactured home.

### **Other Items Sold at Retail**

A retailer that sells manufactured homes and also makes sales of other tangible personal property at retail including a freestanding structure, such as a storage building, is liable for collecting and remitting the 4.75% general State and applicable local and transit rates of sales and use tax on the sales price of the property sold at retail. The sales of such items are not accessories of a manufactured home.

### **Reporting**

Line 7 of Form E-500, Sales and Use Tax Return, is revised to accommodate the change in the sales and use tax rate on the retail sale of a manufactured home by including a blank space in the rate column of the return. The 2.00% State rate of tax with a maximum tax of \$300.00 per article applies to the retail sale, purchase, storage, or use in this State of a manufactured home and accessories attached to the manufactured home where title or possession passes to the purchaser or the purchaser's designee for returns due for periods October 1, 2013 through December 31, 2013. The 4.75% State rate of tax applies to the retail sale, purchase, storage, or use of a manufactured home in the State where title or possession passes to the purchaser or the purchaser's designee for returns due for a filing period beginning January 1, 2014, except as discussed above for certain manufactured homes sold, purchased, stored, used or withdrawn from inventory on or after January 1, 2014 for use in fulfilling qualifying land/home packages pursuant to qualifying performance contracts.

A taxpayer required to report both the 4.75% general and 2.00% State rates of tax on manufactured homes for returns due for a filing period beginning January 1, 2014, should add the tax due for both rates together and enter the sum in the "Tax" column on Line 7 on each return. Divide the tax amount entered in the

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“Tax” column on Line 7 of the return by 4.75% (.0475) and enter the calculated Receipts/Purchases amount in the Receipts or Purchases column as appropriate on Line 7 on each return. A taxpayer should not mark through other lines on a return or make any stray marks in an attempt to report the tax due on manufactured homes at more than one rate for a reporting period.

### **Assistance**

Questions regarding this notice should be directed to the Taxpayer Assistance and Collection Center at telephone number 1-877-252-3052 (toll-free).