



GENERAL GUIDANCE FOR A LOCAL SALES AND USE TAX RATE INCREASE

The information below is provided for retailers and purchasers of tangible personal property, digital property, and services (“items”) as general guidance regarding the correct local rate of sales and use tax that applies for certain transactions when a county adopts an increase in the local rate of sales and use tax. The local rate of tax is due on items subject to the general State rate of tax pursuant to N.C. Gen. Stat. § 105-164.4 excluding items listed in N.C. Gen. Stat. § 105-164.4(a)(1a). As discussed herein, the tax rate in effect prior to the tax rate increase is designated the “Lower Tax Rate” and the tax rate in effect on or after the tax rate increase is designated the “Higher Tax Rate.”

Effective Date of Tax Rate Change

The effective date of a tax change for items subject to the general State rate of sales and use tax as set in N.C. Gen. Stat. § 105-164.4(a) is administered pursuant to N.C. Gen. Stat. § 105-164.15A(a).

For a taxable item that is provided and **billed on a monthly or other periodic basis**, the tax rate increase applies to the first billing period that is at least 30 days after enactment and that starts on or after the effective date.

For a taxable item that is **not billed on a monthly or other periodic basis**, the tax rate increase applies to amounts received for items provided on or after the effective date, except amounts received for items purchased to fulfill a real property contract for a capital improvement entered into or awarded before the effective date or entered into or awarded pursuant to a bid made before the effective date.

“Prior to” and “On or After” the Effective Date of a Rate Increase

Generally, any action taken prior to the effective date of a tax rate increase is subject to the Lower Tax Rate. Generally, any action taken on or after the effective date of a rate increase is subject to the Higher Tax Rate.

Leases or Rentals

The gross receipts derived from a taxable lease or rental agreement of tangible personal property are subject to the applicable rates of sales and use tax in effect on the day of the billing no matter when the lease or rental agreement was entered into.

Items Purchased or Sold to Fulfill a Real Property Contract

Taxable items purchased by a person on or after the effective date of a tax rate increase and used to fulfill a real property contract for a capital improvement entered into or awarded after the effective date of the tax rate increase or awarded pursuant to a bid made after the effective date of the tax rate increase are subject to the Higher Tax Rate.

Taxable items purchased or sold by a person on or after the effective date of the tax rate increase and used to fulfill a real property contract for a capital improvement (sourced to a county in which a tax rate increase occurred) entered into or awarded prior to the effective date of the tax rate increase or awarded pursuant to a bid made prior to the effective date of the tax rate increase are subject to the Lower Tax Rate provided the [applicable Form E-589 affidavit](#) to exempt the purchaser from the additional tax due and documentation from the real property contractor are retained for substantiation as provided below.

The applicable Form E-589 affidavit should be issued by the purchaser to the retailer as documentation to substantiate the taxable items purchased on or after the effective date of the tax rate increase are being purchased to fulfill a real property contract entered into or awarded prior to the effective date or awarded pursuant to a bid made prior to the effective date of the tax rate increase are subject to the Lower Tax Rate. For purchases



of taxable items for use in a real property contract entered into or awarded to a real property contractor prior to the effective date of the tax rate increase, or entered into or awarded pursuant to a bid made by a real property contractor prior to the effective date of the tax rate increase, the purchaser should obtain documentation from the real property contractor and attach a copy of such to each Form E-589 issued to a retailer. The purchaser and the retailer should retain a copy of each Form E-589 and documentation from the real property contractor to substantiate that the items sold or purchased on or after the effective date of the tax rate increase are subject to the Lower Tax Rate.

For purposes of this section, a “purchaser” may include a real property contractor, retailer-contractor, or a subcontractor of a real property contractor or retailer-contractor and an “item” does not include a tool, equipment, supply, or similar tangible personal property that is not a component part used to fulfill the real property contract.

Change Order for a Real Property Contract

Taxable items sold or purchased on or after the effective date of the tax rate increase to fulfill a change order in conjunction with a real property contract for a capital improvement (sourced to a county in which a tax rate increase occurred) entered into or awarded to a real property contractor after the effective date of the tax rate increase or awarded to a real property contractor pursuant to a bid made after the effective date of the tax rate increase are subject to the Higher Tax Rate.

Taxable items sold or purchased on or after the effective date of the tax rate increase to fulfill a change order in conjunction with a real property contract for a capital improvement (sourced to the county in which the tax rate increase occurred) entered into or awarded to a real property contractor prior to the effective date of the tax rate increase or awarded to a real property contractor pursuant to a bid made prior to the effective date of the tax rate increase are subject to the Lower Tax Rate provided the [applicable Form E-589 affidavit](#) to exempt the purchaser from the additional tax due and documentation from the real property contractor are retained to substantiate the items are subject to the Lower Tax Rate.

The applicable Form E-589 affidavit should be issued by the purchaser to the retailer as documentation to substantiate the taxable items purchased on or after the effective date of the tax rate increase are being purchased to fulfill a real property contract entered into or awarded prior to the effective date or awarded pursuant to a bid made prior to the effective date of the tax rate increase are subject to the Lower Tax Rate. For purchases of taxable items for use in a real property contract entered into or awarded to a real property contractor prior to the effective date of the tax rate increase, or entered into or awarded pursuant to a bid made by a real property contractor prior to the effective date of the tax rate increase, the purchaser should obtain documentation from the real property contractor and attach a copy of such to each Form E-589 issued to a retailer. The purchaser and the retailer should retain a copy of each Form E-589 and documentation from the real property contractor to substantiate that the items sold or purchased on or after the effective date of the tax rate increase are subject to the Lower Tax Rate.

For purposes of this section, an “item” does not include a tool, equipment, supply, or similar tangible personal property that is not a component part used to fulfill the real property contract.

Layaway Sales

A taxable item placed in a layaway or similar deferred purchase plan prior to the effective date of the tax rate increase and delivered by the retailer or on behalf of the retailer to the purchaser on or after the effective date of the tax rate increase is subject to the Higher Tax Rate.

Gross Receipts Derived from the Rental of an Accommodation

The gross receipts derived from a reservation for a taxable rental of an accommodation made prior to the effective date of the tax rate increase for the rental of an accommodation occurring on or after the effective date of the tax rate



increase; no matter that the agreement is secured with an advance deposit, guarantee by credit card, or payment in full, are subject to the Higher Tax Rate.

If the taxable rental of an accommodation begins prior to the effective date of the tax rate increase and extends beyond the effective date of the increase, the gross receipts derived from the rental of the accommodation occupied prior to the effective date of the tax rate increase are subject to the Lower Tax Rate. The gross receipts derived from the taxable rental of an accommodation occupied on or after the effective date of the tax rate increase are subject to the Higher Tax Rate. The retailer should separately document and account for the gross receipts applicable to a rental of an accommodation occupied prior to and on or after the effective date of the tax rate increase in the books and records and on the invoice or other documentation provided to the customer.

Taxable Service Contracts

The sales price of or the gross receipts derived from a taxable service contract are subject to the applicable rates of tax in effect when the service contract is sold (e.g., a month-to-month service contract is subject to the Higher Tax Rate if sold after the effective date of the tax rate increase). A retailer who sells or derives gross receipts from a service contract must report those sales on an accrual basis of accounting for sales and use tax purposes. 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 a service contract is financed in whole or in part, the financed amount 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.

Admission Charges to a Taxable Entertainment Activity

Gross receipts derived from an admission charge sold at retail to an entertainment activity, are subject to the applicable rates of tax in effect when the admission charges are sold, regardless of when the initial sale of the tickets to the event occurred.

The gross receipts derived from an admission charge to an entertainment activity are sourced to the location where admission to the entertainment activity may be gained by the 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 G.S. 105-164.4B(a) apply.

Cash Basis

A retailer who reports and pays sales and use tax on the cash basis of accounting is liable for remitting the Lower Tax Rate on collections received on or after the effective date of the tax rate increase for taxable sales and gross receipts (except those required by statute to be remitted on the accrual basis) made prior to the effective date of the tax rate increase. If a retailer who generally reports on the cash basis of accounting for sales and use tax is unable to separately account for collections received on or after the effective date of the tax rate increase for sales transactions before the effective date of the tax rate increase, the retailer is liable for remitting the Higher Tax Rate on such collections.

Assistance

If you have questions about this document, you may call the Department at 1-877-252-3052 (8:00 am until 5:00 pm EST, Monday through Friday).

To the extent there is any change to a statute or regulation or new case law subsequent to the date of this document, the provisions in this document may be superseded or voided.