



**Sales and Use Tax Division
North Carolina Department of Revenue
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Raleigh, North Carolina 27640-0001
www.ncdor.gov**

IMPORTANT NOTICE:

Additional State Sales and Use Tax Rate Decrease Issues

Effective July 1, 2011, the general State tax rate applicable to sales and purchases of tangible personal property, certain digital property, and certain services is 4.75%. As a result, the general State and local tax rate will be 6.75% in eighty-two counties, 7% in Alexander, Catawba, Cumberland, Duplin, Haywood, Hertford, Lee, Martin, New Hanover, Onslow, Pitt, Randolph, Robeson, Rowan, Sampson, Surry and Wilkes Counties, and 7.25% in Mecklenburg County.

For purposes of determining the applicable rate of tax, a sale is generally considered to be consummated when the item is delivered to the purchaser. Therefore, the rate of tax due is generally the rate in effect when delivery or occupancy occurs. The categories, issues and examples below are to assist in determining the proper rate of tax applicable to transactions.

Leases – State Tax

The gross receipts derived from the lease or rental of tangible personal property or certain digital property billed on or after July 1, 2011 are subject to the 4.75% State tax rate notwithstanding that the lease agreement may have been entered into prior to July 1, 2011 for a definite, stipulated period of time.

Leases – Local Tax

The gross receipts derived from the lease or rental of tangible personal property or certain digital property billed on or after July 1, 2011 are subject to the applicable local rate in effect as of October 1, 2009 if the lease agreement was entered into prior to October 1, 2009. Gross receipts derived from the lease or rental of tangible personal property or certain digital property billed in conjunction with lease agreements entered into on or after October 1, 2009 are subject to the applicable local rate in effect at the time the lease agreement was entered into.

Construction Contracts

All “construction materials” purchased by contractors and subcontractors on or after July 1, 2011 to fulfill a lump-sum or unit-price contract entered into or awarded prior to or after July 1, 2011 or entered into or awarded pursuant to a bid made prior to or after July 1, 2011, are subject to the

4.75% State rate of tax. Form E-589E, Affidavit to Exempt Contractors from the Additional 1% State Sales and Use Tax, is no longer necessary in order for the purchaser to obtain the 4.75% State rate of tax. If a vendor is not registered to collect North Carolina tax, the purchaser is responsible for reporting the 4.75% State rate of tax and the applicable local rate on such purchases directly to the Department.

The local rate of tax due on a lump-sum or unit-price contract is not affected by the decrease of the State rate of tax. The local rate of tax applicable to purchases of construction materials is the rate in effect at the time a lump-sum or unit-price contract was entered into, awarded or bid on. To determine the local rate of tax in effect at the time a lump-sum or unit-price contract was entered into, awarded or bid on, review the Department's website at the following location www.ncdor.gov/taxes/sales-and-use-tax/sales-and-use-tax-rates-other-information. Contractors and subcontractors should continue to issue Form E-589D, Affidavit to Exempt Contractors From the ¼% County Sales and Use Tax Rate, as applicable. Subcontractors should obtain written documentation from the general contractor and attach a copy the documentation to Form E-589D as support that purchases of such construction materials are not subject to the ¼% county sales and use tax rate, as applicable.

Change Orders for Construction Contracts

“Construction materials” purchased for change orders in conjunction with lump-sum or unit-price contracts are subject to the 4.75% State rate of tax and applicable local rate in effect at the time the lump-sum or unit-price contract was entered into, awarded, or bid on by the general contractor.

Construction materials include the following:

- Lumber, doors, siding, fasteners (nails and screws), plaster, gypsum board, and windows.
- Steel beams, concrete, asphalt, rebar, stone, brick, and mortar.
- Pipes, plumbing fixtures such as sinks, faucets, tubs, wash basins, and tile.
- Conduit, light fixtures and switches, electrical outlets, coaxial cable, central heating and air conditioning systems, and central intercom systems.
- Architectural millwork, cabinets, and countertop materials.
- Parts to fire sprinkler systems, fireplace units, and other items that become a part of a structure such as commercial range hoods, freezer lockers that are built into a building, built-in ovens, cook tops, and stoves.

Construction materials do not include the following:

- Movable refrigerators and ranges, free-standing freezers, portable heaters or air conditioning units, portable dishwashers, clothes washers and dryers, toaster ovens, dehumidifiers, and similar small household or commercial appliances.
- Supply items such as:

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- Mechanical and hand tools, parts and accessories to mechanical and hand tools.
 - Gloves, boots, harnesses, and safety equipment.
 - Scaffolding, ladders, lifts, electrical power cords, and generators.
 - Air compressors and tanks, paint sprayers, welders, power washers, and fuels.

Sales and Lay-Away Contracts

- A person places an item on "lay-away" prior to July 1, 2011 and pays the vendor a nonrefundable deposit to hold the item. The sale is completed on or after July 1, 2011 when the person takes delivery of the item and the vendor issues a receipt or invoice for the item. The 4.75% State rate of tax and applicable local rate in effect at the time the person takes delivery of the item are due on the sale.
- A person purchases an item, pays for the item in full and the vendor issues a sales invoice prior to July 1, 2011. If the vendor delivers the item on or after July 1, 2011 because the item is out of stock or on backorder, the 4.75% State rate of tax and applicable local rate in effect at the time the person takes delivery of the item are due on the sale.
- A person purchases an item, pays for the item in full and the vendor issues a sales invoice prior to July 1, 2011. If the vendor cannot deliver the item due to the store's delivery truck schedule until on or after July 1, 2011, the 5.75% State rate of tax and applicable local rate in effect at the time the person pays for the item are due on the sale notwithstanding that the person did not take delivery of the item until on or after July 1, 2011.
- A person purchases an item on or after July 1, 2011 with a rain check received prior to July 1, 2011. The 4.75% State rate of tax and applicable local rate are due on the sale.

Gross Receipts Derived from the Rental of an Accommodation

An accommodation is defined as a hotel room, a motel room, a residence, a cottage, or similar lodging facility for occupancy by an individual. A facilitator is a person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation. For more information regarding sales tax on the rental of accommodations, review the Department's notice located on its website at www.ncdor.gov/documents/important-notice-tax-accommodations.

- A person reserves an accommodation with an owner, facilitator, provider of an accommodation or rental agent prior to July 1, 2011 and enters into an agreement to rent an accommodation on or after July 1, 2011. The rental of the accommodation may be secured with an advance deposit, guarantee by credit card or paid in full prior to July 1, 2011. The gross receipts derived from the rental of the accommodation are subject to the 4.75% State rate of tax and applicable local rate.
- A person reserves an accommodation with an owner, facilitator, provider of an accommodation or rental agent prior to July 1, 2011 and enters into an agreement for the rental of an accommodation that begins prior to July 1, 2011 and extends beyond July 1, 2011. The rental of the accommodation may be secured with an advance deposit, guarantee by credit card, or paid in full. The gross receipts derived from the rental of the accommodation for the entire rental period are subject to the 5.75% State rate of tax and

applicable local rate unless the retailer can document the daily charges. If the retailer can document the gross receipts derived from the rental of the accommodation on a daily basis, the gross receipts derived from the rental of the accommodation occupied prior to July 1, 2011 are subject to the 5.75% State rate of tax and the applicable local rate and the gross receipts derived from the rental of the accommodation occupied on or after July 1, 2011 are subject to the 4.75% State rate of tax and applicable local rate.

- A person reserves an accommodation with an owner, facilitator, provider of an accommodation or rental agent and occupies the accommodation prior to July 1, 2011 on a day-to-day rental basis and continues to occupy the accommodation on or after July 1, 2011. The gross receipts derived from the rental of the accommodation occupied prior to July 1, 2011 are subject to the 5.75% State rate of tax and applicable local rate. The gross receipts derived from the rental of the accommodation occupied on or after July 1, 2011 are subject to the 4.75% State rate of tax and applicable local rate.
- A person rents an accommodation from an owner, facilitator, provider of an accommodation or rental agent for a definite, stipulated period of time, which ends prior to July 1, 2011 and the person extends the stay several days beyond July 1, 2011. The person may pay a deposit to reserve the accommodation for the extended rental period. The gross receipts derived from the rental of the accommodation occupied prior to July 1, 2011 are subject to the 5.75% State rate of tax and applicable local rate. The gross receipts derived from the rental of the accommodation occupied on or after July 1, 2011 are subject to the 4.75% State rate of tax and applicable local rate. This will be the case notwithstanding that the person might be required to move to a different accommodation during the additional rental period.

Cash Basis Taxpayers

Taxpayers who report and pay sales and use tax on the cash basis of accounting are liable for remitting the 5.75% State rate of tax on collections received on or after July 1, 2011 for sales made prior to July 1, 2011. The taxpayer should separately account for collections on sales transactions made prior to and after July 1, 2011 in order to remit the proper tax to the Department.

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