



**NCDOR**

**NORTH  
CAROLINA  
DEPARTMENT  
OF REVENUE**

**IMPORTANT NOTICE: ALTERNATE HIGHWAY USE TAX ON LIMITED POSSESSION COMMITMENTS**

The following important information is addressed in this notice:

- The definition of limited possession commitment.
- The rate of tax due on limited possession commitments.

**Definitions**

The following terms and definitions in N.C. Gen. Stat. § 105-187.1(a) are added or amended **effective October 1, 2019**:

Long-term lease or rental – A lease or rental made under a written agreement to lease or rent one or more vehicles to the same person for a period of at least 365 continuous days and that is not a vehicle subscription.

Limited possession commitment – Long-term lease or rental, short-term lease or rental, and vehicle subscriptions.

Retailer – A retailer as defined in N.C. Gen. Stat. § 105-164.3 who is engaged in the business of selling, leasing, renting, or offering vehicle subscriptions for motor vehicles.

Short-term lease or rental – A lease or rental of a motor vehicle or motor vehicles, including a vehicle sharing service, that is not a long-term lease or rental or a vehicle subscription.

Vehicle sharing service – A service for which a person pays a membership fee for the right to use a motor vehicle or motor vehicles upon payment of an additional time-based or mileage-based fee.

Vehicle subscription – A written agreement that grants a person the right to use and exchange motor vehicles owned, directly or indirectly, by the person offering the agreement upon payment of a subscription fee, but it does not include a vehicle sharing service. The subscription fee must provide a person exclusive use of an agreed-upon number of motor vehicles at any given time during the full term of the subscription.

**Note:** *The terms and definitions in N.C. Gen. Stat. § 105-187.1(a) do not apply to Chapter 20 of the North Carolina General Statutes, which includes the licensing requirements, restrictions, limitations, and prohibition on unfair methods of competition contained in Article 12 of Chapter 20.*

## **Tax Rates for Limited Possession Commitments**

Effective October 1, 2019 and applicable to vehicle lease and subscription agreements entered into on or after that date, the applicable rates of tax due on the gross receipts of the limited possession commitments are as follows:

Short-term lease or rental	8%
Vehicle Subscription	5%
Long-term lease or rental	3%

Gross receipts do not include the amount of any allowance given for a motor vehicle taken in trade as a partial payment on the limited possession commitment. The maximum tax in N.C. Gen. Stat. § 105-187.3(a1) on certain motor vehicles applies to a continuous limited possession commitment of such a motor vehicle to the same person.

## **Alternate Highway Use Tax Due on Limited Possession Commitments**

A retailer may elect not to pay the highway use tax imposed by Article 5A of Chapter 105 of the North Carolina General Statutes at the rate set in N.C. Gen. Stat. § 105-187.3 when applying to the Commissioner of Motor Vehicles for a certificate of title for a motor vehicle purchased by a retailer for a limited possession commitment. A retailer who makes this election is required to pay the alternate highway use tax to the Secretary of Revenue on the gross receipts derived from the limited possession commitment as provided in N.C. Gen. Stat. § 105-187.5. The portion of a limited possession commitment billing or payment that represents any amount applicable to the sales price of a service contract as defined in N.C. Gen. Stat. § 105-164.3 should not be included in the gross receipts subject to the tax imposed by this Article. The charge must be separately stated on documentation given to the purchaser at the time the limited possession commitment goes into effect, or on the monthly billing statement or other documentation given to the purchaser.

When a limited possession commitment is sold to another retailer, the seller of the limited possession commitment should provide to the purchaser of the limited possession commitment the documentation showing that the service contract and applicable sales taxes were separately stated at the time the limited possession commitment went into effect and the new retailer must retain the information to support an allocation for tax computed on the gross receipts subject to highway use tax. Like the tax imposed by N.C. Gen. Stat. § 105-187.3, this alternate tax is a tax on the privilege of using the highways of this State. The tax is imposed on a retailer, but is to be added to the limited possession commitment of a motor vehicle and thereby be paid by the person who enters into a limited possession commitment with a retailer.

If a retailer elects to pay the alternate highway use tax on the gross receipts derived from the limited possession commitment of a motor vehicle, the retailer must make the election by completing a form provided by the Division of Motor Vehicles when the retailer applies for a certificate of title for the vehicle. Once the retailer makes the election, the election is irrevocable.

## **Registration and Reporting**

A retailer who makes this election must report and pay to the Secretary the alternate highway use tax on the gross receipts derived from the limited possession commitment of the motor vehicle. A retailer that is not registered with the Department that is required to pay the alternate highway use tax must complete Form NC-BR, Business Registration Application for Income Tax Withholding, Sales and Use Tax, and Other Taxes and Service Charge, to register for a Motor Vehicle Lease and Subscription Tax account. Both an [online business registration portal](#) and a [web-fill version](#) of Form NC-BR are available

on the Department's website, [www.ncdor.gov](http://www.ncdor.gov). There is no fee to register for a Motor Vehicle Lease and Subscription Tax account.

The alternate highway use tax on limited possession commitments should be reported on [Form E-500F, Motor Vehicle Lease and Subscription Tax Return](#). For additional information regarding the gross receipts subject to tax, refer to the [Alternate Highway Use Tax Bulletin](#) found on the Department's website.

### **Assistance**

If you have questions about this notice, 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 in the rate or amount of tax, change to a statute or regulation, or new case law subsequent to the date of this notice, the provisions in this important notice may be superseded or voided. To the extent that any provisions in any other notice, directive, bulletin, or published guidance regarding the subject of this notice and issued prior to the date of this notice conflict with this important notice, the provisions contained in this important notice supersede the previous guidance.*