



Sales and Use Tax Division
North Carolina Department of Revenue
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IMPORTANT NOTICE: CERTAIN RECYCLERS

On July 14, 2016, the Governor signed Session Laws 2016-94. The Session Laws enact N.C. Gen. Stat. § 105-187.51B(a)(6) that provides, **effective July 1, 2016**, a privilege tax is imposed on certain purchases by a person, other than a major recycling facility as defined in N.C. Gen. Stat. § 105-129.25 and subject to tax under N.C. Gen. Stat. § 105-187.51B(a)(1), "that gathers and obtains ferrous metals, nonferrous metals, and items that have served their original economic purpose and that converts them by processes, including sorting, cutting, classifying, cleaning, baling, wrapping, shredding, or shearing into a new or different product for sale consisting of prepared grades." The privilege tax applies to the purchase of equipment or an attachment or repair part for the equipment that meets all of the following requirements:

- a. Is capitalized by the person for tax purposes under the Code.
- b. Is used by the person in a conversion process described in this subdivision.
- c. Is not a motor vehicle or an attachment or repair part for a motor vehicle.

The privilege tax is imposed at a rate of one percent (1.00%) on the purchase price of each qualifying piece of equipment or an attachment or repair part for the equipment with a maximum tax of eighty dollars (\$80.00) per article.

For purposes of the tax imposed as discussed herein, a person must do all of the following: "gather," "obtain," and "convert." A person that meets all the requirements of N.C. Gen. Stat. § 105-187.51B(a)(6) who only conducts a single conversion process is afforded the one percent (1%) rate of tax on the equipment or an attachment or repair part for the equipment that is capitalized by the person for tax purposes under the Code.

Definitions

The term "**gather**" is defined, in part, in the Merriam-Webster Dictionary as "to bring (things or people) together into a group; to choose and collect (things); to get or take (things) from different people or places and bring them together."

The term "**obtain**" is defined, in part, in the Merriam-Webster Dictionary as "to gain or attain usually by planned action or effort."

The term "**convert**" is defined, in part, in the Merriam-Webster Dictionary as "to change (something) into a different form or so that it can be used in a different way."

The term "**prepared grades**" refers to industry specifications for the new or different products created by the conversion process.

The term "**ferrous**" is defined, in part, in the Merriam-Webster Dictionary, as "of, relating to, or containing iron."

The term "**nonferrous metals**" is defined in N.C. Gen. Stat. § 66-420(4) as "[m]etals not containing significant quantities of iron or steel, including, but not limited to, copper, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead-acid batteries, and

stainless steel beer kegs or containers. The term shall not include precious metals as defined and regulated in Part 2 of [Article 45 of Chapter 66 of the North Carolina General Statutes].”

Registration, Reporting, and Remittance

The privilege tax is imposed on the purchaser. The purchaser must [register](#) to file and remit certain machinery and equipment tax. The purchaser must report the privilege tax due by filing [Form E-500J, Machinery and Equipment Tax Return](#), and pay the tax due to the Department.

Purchase Qualifying Tangible Personal Property Exempt from Sales and Use Tax

N.C. Gen. Stat. § 105-164.13(5a) provides an exemption from sales and use tax for the purchase of each qualifying piece of equipment or an attachment or repair part for the equipment subject to the privilege tax. The purchaser of qualifying equipment or an attachment or repair part for the equipment subject to the privilege tax should provide the seller with a properly completed [Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption](#), or the required data elements pursuant to N.C. Gen. Stat. § 105-164.28, as the seller’s authority to exempt the transaction from sales or use tax.

Exemption for Certain Fuel, Piped Natural Gas, and Electricity

Effective July 1, 2016, N.C. Gen. Stat. § 105-164.13(57a) provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State of “[f]uel, piped natural gas, and electricity sold to a secondary metals recycler for use in recycling at its facility at which the *primary activity is recycling* [emphasis added].”

Purchases Subject to Sales and Use Tax

The purchase of any tangible personal property, digital property, or taxable service by a person that does not meet the requirements of N.C. Gen. Stat. § 105-187.51B(a)(6) is subject to the general 4.75% State, applicable local (2.00% or 2.25%), and applicable transit (0.50%) rates of sales and use tax on the purchase price.

Additionally, the purchase of any tangible personal property by a person that does not meet the requirements of N.C. Gen. Stat. § 105-187.51B(a)(6) does not qualify for the one percent (1.00%) privilege tax rate. The purchase price of any such purchase is generally subject to the general 4.75% State, applicable local, and applicable transit rates of sales and use tax. Examples of equipment or an attachment or repair part for equipment subject to the general 4.75% State, applicable local, and applicable transit rates of sales and use tax on sales price or purchase price include, but are not limited to, the following:

- Cranes for **general use**.
- Cranes **not solely used** to move ferrous metals, nonferrous metals, or other items through or along the conversion process. Such include cranes to unload incoming items or to load converted items for shipment.
- Scales used to weigh arriving and departing motor vehicles or other containers or arriving or departing motor vehicles or other containers.
- Bulldozers, front-end loaders, and similar equipment used at the facility but not directly in a conversion process.

Assistance

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

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, technical bulletin, or published guidance issued prior to the date of this notice conflicts with this important notice, the provisions contained in this important notice supersede.