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**IMPORTANT NOTICE: MOTOR VEHICLE SERVICE CONTRACTS**

The changes discussed herein are effective January 1, 2017 for sales made on or after that date, unless noted otherwise. The notice addresses the application of the sales and use tax laws for the following changes:

- The definition of the term “motor vehicle service contract.”
- The expansion of the exemption from sales and use tax to include contracts for **one or more components, systems, or accessories of a motor vehicle** sold by a motor vehicle dealer or by or on behalf of a motor vehicle service agreement company.

**Motor Vehicle Service Contract**

The sales price of or the gross receipts derived from a “motor vehicle service contract” is exempt from sales and use tax. N.C. Gen. Stat. § 105-164.4(b)(6). The term “**motor vehicle service contract**” is defined as:

A **service contract** sold by a motor vehicle dealer or by or on behalf of a motor vehicle service agreement company for a motor vehicle or for one or more components, systems, or accessories for a motor vehicle. For purposes of the definition of “motor vehicle service contract,” the term “motor vehicle dealer” has the same meaning as defined in N.C. Gen. Stat. § 20-286 and the term “motor vehicle service agreement company” has the same meaning as defined in N.C. Gen. Stat. § 66-370. N.C. Gen. Stat. § 105-164.3(23a).

The definition of the term “**service contract**,” as amended, is as follows:

A contract where the obligor under the contract agrees to maintain, monitor, inspect, or repair digital property or tangible personal property for a period of time or some other defined measure, regardless of whether the property becomes a part of or is applied to real property. The term does not include a single repair, maintenance, or installation service. The term includes a service contract for a pool, fish tank, or similar aquatic feature and a home warranty. Examples include a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract. N.C. Gen. Stat. § 105-164.3(38b).

The sales price of or the gross receipts derived from “repair, maintenance, or installation services” sold at retail for a motor vehicle continue to be subject to tax at the general 4.75% State, applicable local (2.00% or 2.25%), and applicable transit (0.50%) rates of sales and use tax, no matter that the services are covered under a “motor vehicle service contract.” N.C. Gen. Stat. 105-164.4(a)(16). For the exemption from sales and use tax for a replacement item, a repair part, or repair, maintenance, and installation services to maintain or repair a motor vehicle pursuant to a manufacturer's warranty or a dealer's warranty, see N.C. Gen. Stat. § 105-164.13(62a) or review the important notices referenced at the end of this notice under the section “Prior Sales and Use Tax Law Application.”

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### **Service Contracts that Qualify as Motor Vehicle Service Contracts**

The failure of a retailer to keep records that establish that a sale is exempt from sales and use tax subjects the retailer to liability for tax due on the sale. The sales price of or the gross receipts derived from the retail sale of a service contract must meet one of the following requirements to be exempt from sales and use tax:

- A service contract sold by a “motor vehicle dealer” for a motor vehicle or for one or more components, systems, or accessories for a motor vehicle.
- A service contract sold by a “motor vehicle service agreement company” for a motor vehicle or for one or more components, systems, or accessories for a motor vehicle.
- A service contract sold on behalf of a “motor vehicle service agreement company” for a motor vehicle or for one or more components, systems, or accessories for a motor vehicle.

A “service contract” that meets one of the above requirements and includes one or more of the following is a “motor vehicle service contract.” This list is not all-inclusive.

- A contract indemnifying the motor vehicle service contract holder (purchaser of contract) against loss caused by a motor vehicle failure that is listed in the contract.
- Repair or maintenance of a motor vehicle that is listed in the contract.
- Maintain, monitor, inspect, repair, or replace tires, wheels, or rims on a motor vehicle.
- Maintain, monitor, inspect, or repair chips or cracks in or the replacement of motor vehicle windshields.
- Maintain, monitor, inspect, repair, or replace individual components including the following: engine, transmission, drive axles, battery, alternator, turbo/supercharger, fuel tank, suspension, electrical system components, airbag electronics, air conditioning, seals and gaskets, transfer unit, and amenities (audio system, DVD, internet, Bluetooth/phone, GPS).
- Removal of dents, dings, or creases on a motor vehicle including the process of paintless dent removal without affecting the existing paint or finish and without replacing vehicle body panels, sanding, bonding, or painting.
- Maintain, monitor, inspect, repair, or replace the electrical, emissions, fuel, cooling, steering, or braking system of a motor vehicle.
- Lubrication of a motor vehicle.
- Maintain, monitor, inspect, repair or replace leather or other fabric.
- Maintain, monitor, inspect, repair, or replace paint.
- Maintain, monitor, inspect, repair, or replace a motor vehicle key or key fob.

**Motor Vehicle Dealer** – A person who does any of the following:

- For commission, money, or other thing of value, buys, sells, or exchanges, whether outright or on conditional sale, bailment lease, chattel mortgage, or otherwise, five or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
- On behalf of another and for commission, money, or other thing of value, arranges, offers, attempts to solicit, or attempts to negotiate the sale, purchase, or exchange of an interest in five or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
- Engages, wholly or in part, in the business of selling new motor vehicles or new or used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by that person, and sells five or more motor vehicles within any 12 consecutive months.
- Offers to sell, displays, or permits the display for sale for any form of compensation five or more motor vehicles within any 12 consecutive months.

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- Primarily engages in the leasing or renting of motor vehicles to others and sells or offers to sell those vehicles at retail.  
N.C. Gen. Stat. § 20-286(11).

**Motor Vehicle Service Agreement Company** – Any person that issues motor vehicle service agreements and that is not a licensed insurer. N.C. Gen. Stat. § 66-370(b)(6).

*Example:*

*A motor vehicle dealer engaged in business in North Carolina makes a retail sale to a North Carolina customer of a service contract sourced to this State for the powertrain and heating and air conditioning systems of a new motor vehicle. The sales price of the service contract is \$3,200.00, in addition to the retail price of the motor vehicle. The service contract is a motor vehicle service contract and the sales price of \$3,200.00 is not subject to sales and use tax.*

*Example:*

*A facilitator, other than a motor vehicle dealer for purposes of this example, engaged in business in North Carolina makes a retail sale to a North Carolina customer of a service contract sourced to this State for the steering and braking systems of a new motor vehicle. The service contract is sold on behalf of a motor vehicle service agreement company. The sales price of the service contract is \$2,500.00, in addition to the retail price of the new motor vehicle. The service contract is a motor vehicle service contract sold on behalf of a motor vehicle service agreement company; therefore, the sales price of \$2,500.00 for the motor vehicle service contract sold at retail is not subject to sales and use tax.*

*Example:*

*A recreational vehicle dealer sells a motor home for a retail price of \$100,000.00. In addition, the recreational vehicle dealer sells a service contract for \$10,000.00 that includes the repair or replacement of any component of the motor home including the engine, transmission, toilet, or refrigerator. The service contract is a motor vehicle service contract and the sales price of \$10,000.00 is not subject to sales and use tax.*

### **Motor Vehicle Definition**

For purposes of the sales and use tax laws discussed herein, the term “**motor vehicle**” is defined, in part, as “[a] vehicle that is designed primarily for use upon the highways and is either self-propelled or propelled by a self-propelled vehicle.” A motor vehicle includes but is not limited to:

- Private passenger vehicle.
- Motorcycle.
- Recreational vehicle including a motor home, travel trailer, fifth wheel trailer, camping trailer, and truck camper as the terms are defined in N.C. Gen. Stat. § 20-4.01(32b).
- Park model RV as defined in N.C. Gen. Stat. § 105-187.1(4).
- A commercial motor vehicle used to transport passengers or property.

The term “motor vehicle” does not include a moped; special mobile equipment; a tow dolly that is exempt from motor vehicle title and registration requirements under N.C. Gen. Stat. §§ 20-51(10) or (11); a farm tractor or other implement of husbandry; a manufactured home, a mobile office, or a mobile classroom; or road construction or road maintenance machinery or equipment. N.C. Gen. Stat. § 105-164.3(23).

### **Application of the Effective Date for the Exemption for Motor Vehicle Service Contracts**

For purposes of the changes effective January 1, 2017 for sales made on or after that date, the following apply to the sales price of or the gross receipts derived from a service contract provided such are sold by a motor vehicle dealer or by or on behalf of a motor vehicle service agreement company:

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- The sales price of or gross receipts derived from the sale of a “motor vehicle service contract” entered into on or after January 1, 2017, is exempt from sales and use tax.
  - The sales price of or the gross receipts derived from the renewal of a service contract that meets the definition of “motor vehicle service contract” on or after January 1, 2017 at the time of the renewal, that was exempt from sales and use tax prior to January 1, 2017 as a service contract for a motor vehicle that covered the entire motor vehicle, except for exclusions for normal wear and tear for certain items or regular maintenance items, is exempt from sales and use tax.
  - The sales price of or the gross receipts derived from the renewal of a service contract that meets the definition of “motor vehicle service contract” on or after January 1, 2017 at the time of the renewal, that was subject to sales and use tax on or after March 1, 2016 as a service contract for one or more components, systems, or accessories for a motor vehicle, is exempt from sales and use tax.
  - The sales price of or the gross receipts derived from the renewal of a service contract that meets the definition of “motor vehicle service contract” on or after January 1, 2017 at the time of the renewal, that was subject to sales and use tax prior to March 1, 2016 as a service contract for a motor vehicle, is exempt from sales and use tax.

### **Prior Sales and Use Tax Law Application**

For more detailed information concerning the application of the sales and use tax laws to the sales price of or the gross receipts derived from a service contract for a motor vehicle sold on or after March 1, 2016 and prior to January 1, 2017, see the [Important Notice: Motor Vehicles \(Installation Charges; Repair, Maintenance, and Installation Services; and Service Contracts\)](#) issued February 11, 2016 and the [Important Notice: Service Contract for One or More Components, Systems, or Accessories for a Motor Vehicle – Taxable](#) issued February 19, 2016.

### **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.*