

**North Carolina Department of Revenue
Post Office Box 25000
Raleigh, North Carolina 27640-0001**

To Registered Taxpayers:

This document lists the changes made by the 2001 General Assembly to the taxes administered by the Sales and Use Tax Division. Legislative changes supersede any information previously set forth in Sales and Use Tax Administrative Rules or Technical Bulletins. The changes are cited in order of effective date. NOTE: *The General Assembly was still in session when this document was printed, and additional notification will be provided to the affected taxpayers if further law changes are enacted.*

Effective August 1, 2001

Dry-Cleaning Solvent Tax Changes

The tax on chlorine-based solvent was increased from \$5.85 to \$10.00 per gallon and the tax on hydrocarbon-based solvent was increased from \$0.80 to \$1.35 per gallon effective August 1, 2001. The increased per gallon tax rates on dry-cleaning solvents were originally scheduled to become effective October 1, 2001. The dry-cleaning solvent tax will expire on January 1, 2010. The taxpayers registered for this tax were advised of this change on July 16, 2001.

Effective October 1, 2001

Highway Use Tax

G.S. 105-187.3(a) was amended to repeal the maximum tax of \$1,500 on a motor vehicle for which a certificate of title is issued. G.S. 105-187.5(b) was amended to clarify that the repeal of the maximum tax also applies to leases of motor vehicles. G.S. 105-187.6(a) was amended to add to the list of exemptions from highway use tax the transfer of certain motor vehicles to a volunteer fire department or volunteer rescue squad that is not a part of a unit of local government.

Effective October 16, 2001

Increase in State Sales and Use Tax Rate

The general State rate was increased from 4% to 4½%. The additional ½% was effective October 16, 2001 and will expire June 30, 2003. Additional information regarding the increase was included in a notice that was mailed to all registered taxpayers during the weeks ending September 28th and October 5th.

Effective December 1, 2001

Sales Tax on Liquor

G.S. 105-164.13(37), which exempted spirituous liquor from the sales tax, is repealed. G.S. 105-164.4(a) was amended to add new subdivision (7), which imposes a 6% State tax on spirituous liquor other than mixed beverages. Sales of spirituous liquor will not be subject to county sales or use tax. Sales of mixed beverages continue to be subject to the applicable State and county rates of tax. The Alcoholic Beverage Control Boards have previously been notified of this change.

Effective January 1, 2002

Change in Definitions (G.S. 105-164.3)

The following definitions were amended:

Prepared Food - G.S. 105-164.3(11b): Food that meets at least one of the following conditions:

- a. It is sold in a heated state or it is heated by the retailer
- b. It consists of two or more foods mixed or combined by the retailer for sale as a single item
- c. It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws

The term does not include food the retailer sliced, repackaged, or pasteurized but did not otherwise process.

Sales Price - G.S. 105-164.3(16): The amended definition includes: cost of property sold, materials costs, labor costs, service costs, delivery charges, and installation charges. The definition does not include: cash or term discounts or retailer coupons; interest, finance charges or carrying charges; and taxes directly imposed on the consumer. Installation charges which are separately stated were added to the list of items that are exempt from the sales and use tax. *The effect is that cash discounts are now excluded from sales price.*

Use - G.S. 105-164.3(18): The amended definition includes "distribution." Any taxable tangible personal property purchased for distribution in North Carolina will be subject to this State's use tax.

Retail Sale or Sale at Retail - G.S. 105-164.3(13): The amended definition includes the sale, lease, or rental for any purpose other than for resale, sublease, or subrent. This does not represent a change in the application of tax.

New definitions were added as follows:

Candy - G.S. 105-164.3(2): A preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces that do not require refrigeration. The term does not include any preparation that contains flour.

Delivery Charges - G.S. 105-164.3(4a): Charges imposed by the retailer for preparation and delivery of personal property or services to a location designated by the consumer. *The partial exclusion from sales tax for delivery charges made in connection with shipments of property sold that originate inside North Carolina when title passes at the point of origin is repealed. All delivery charges made in connection with taxable sales of tangible personal property are subject to sales or use tax.*

Dietary Supplement - G.S. 105-164.3(4b): A product that is intended to supplement the diet of humans and is required to be labeled as a dietary supplement under federal law, identifiable by the "Supplement Facts" box found on the label.

Direct-to-Home Satellite Service - G.S. 105-164.3(4c): Programming transmitted or broadcast by satellite directly to the subscribers' premises without the use of ground equipment or distribution equipment, except equipment at the subscribers' premises or the uplink process to the satellite.

Food - G.S. 105-164.3(5a): Substances that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. The substances may be in liquid, concentrated, solid, frozen, dried, or dehydrated form. The term does not include alcoholic beverages, as defined in G.S. 105-113.68, or tobacco products, as defined in G.S. 105-113.4. *The basis for taxation of food is changed but most food items will be taxed as under the law in effect prior to January 1, 2002. Food is defined broadly and is exempt from State tax; the exemption for food no longer references items*

eligible under the Federal Food Stamp Program. The following items are subject to State and local tax: alcoholic beverages, tobacco products, candy not sold for home consumption, dietary supplements, prepared food not sold for home consumption, food sold through vending machines, and soft drinks not sold for home consumption.

Food Sold Through a Vending Machine - G.S. 105-164.3(5b): Food dispensed from a machine or another mechanical device that accepts payment.

Purchase Price - G.S. 105-164.3(12a): The term has the same meaning as the term "sales price" when applied to an item subject to use tax.

Soft Drink - G.S. 105-164.3(16c): A nonalcoholic beverage that contains natural or artificial sweeteners. The term does not include beverages that contain one or more of the following:

- a. Milk or milk products
- b. Soy, rice, or similar milk substitutes
- c. More than fifty percent (50%) vegetable or fruit juice

Change in Exemptions (G.S. 105-164.13)

The following items, which were previously excluded from tax under the prior definition of sales price, were added as exemptions:

Amounts charged as deposits on returnable beverage containers - G.S. 105-164.13(47)

Amounts charges as deposits on various replacement parts (except tires or batteries) - G.S. 105-164.13(48)

Separately stated installation charges - G.S. 105-164.13(49)

50% of the sales price of property sold through vending machines except tobacco and closed container soft drinks - G.S. 105-164.13(50)

G.S. 105-164.13B, which exempts certain food from the State tax, was amended. The statute now clarifies that dietary supplements and food sold through a vending machine are subject to the tax. In addition, candy, prepared food, and soft drinks are subject to the State tax except when sold for home consumption by a retailer participating in the Federal Food Stamp Program.

Change in Semimonthly Reporting

Effective for the reporting period beginning January 1, 2002, semimonthly taxpayers will not be required to submit returns on a semimonthly basis. All semimonthly taxpayers will submit returns on a monthly basis with the return due on the 20th of the following month. Payments continue to be due on a semimonthly basis. The tax owed for the first through the fifteenth day of the month is due on the 25th of the month, and the tax owed for the sixteenth through the last day of the month is due on the 10th of the following month.

G.S. 105-164.16(b) was amended to lower the threshold for the semimonthly filing requirement from \$20,000 to \$10,000 effective January 1, 2002. Effective with the return for the period January 1 through January 15, 2002, a taxpayer who is consistently liable for at least ten thousand dollars (\$10,000) a month in State and county taxes must pay and file returns as indicated above.

Taxpayers filing utility sales tax returns will be subject to the same filing requirements as taxpayers filing sales and use tax returns. Prior to the effective date of the law change, utilities filed either monthly or quarterly.

Change in Sourcing for County Tax

A retailer engaged in business in North Carolina will be required to collect the county tax for all counties to which property is shipped. For an over-the-counter sale, the retailer's business location is where the sale is made, and county tax is collected for the county in which the business is located. If the property is shipped to the purchaser at a place other than the retailer's business location,

county tax is collected for the county to which the property is shipped (destination county). *This represents a change for an in-state retailer who delivers or ships products to North Carolina purchasers. Prior to this law change, county tax was collected for the county in which the retailer was located. Under the new law, a retailer will have to report county tax for all counties to which property is delivered or shipped. The breakdown of county tax is reported on Form E-536, Schedule of County Sales and Use Tax.*

Taxation of Satellite Television

G.S. 105-164.4(a) was amended to add new subdivision (6), which taxes direct-to-home satellite service to subscribers in this State at the State rate of 5%. Providers of this service will be required to collect and remit the tax.

Taxation of Telecommunications Services and Prepaid Calling Cards

The application of sales and use tax to telephone services is significantly revised. These services will no longer be subject to the franchise tax. Rather, all telecommunications services (including mobile telecommunications) will be subject to a 6% State sales tax; the county tax will not apply. Local, long-distance intrastate, and interstate telecommunications services previously subject to varying rates or exempt from tax will become subject to a 6% State tax.

The legislation also provides that prepaid telephone calling cards will be subject to the State and applicable county tax. The tax will be added to the sales price of the card at the time of the sale to the customer. Prior to this change, the transaction was considered to be the sale of a service and the calling card was exempt from sales or use tax. In addition, the legislation contains special provisions for call centers, including a limit on tax liability and payment of the tax directly to the Department.

Sales Tax Holiday

G.S. 105-164.13C provides an exemption for certain items of tangible personal property sold between 12:01 A.M. on the first Friday in August and 11:59 P.M. the following Sunday. Clothing, footwear, and school supplies (of \$100.00 or less per item); sports and recreation equipment (of \$50.00 or less per item); and computers, computer supplies, and educational software (of \$3,500.00 or less per item) will be exempt. Jewelry, cosmetics, protective equipment, wallets, furniture, layaway transactions, items used in a trade or business, and rentals are not covered by the exemption and will be subject to the applicable tax. Additional information will be provided prior to the sales tax holiday.

Effective January 1, 2006

Mill Machinery

Mill machinery and mill machinery parts and accessories will be exempt effective January 1, 2006. Effective that date, this property will become subject to a new privilege tax. The rate (1% with a maximum tax of \$80.00 per article) and the application of the new tax are the same as under current law. However, the new tax is imposed on a qualified purchaser of mill machinery and mill machinery parts and accessories, and the tax will be paid directly to the Department by the purchaser instead of to the retailer. Purchasers of this equipment will issue an exemption certificate or a direct pay permit at the time of the purchase.

If you have questions about the information in this document or about sales and use tax, you may call the Department at (919) 733-3661. You may also write to the Taxpayer Assistance Division, North Carolina Department of Revenue, Post Office Box 25000, Raleigh, North Carolina 27640-0001 or contact a local office of the Department.