

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

To Registered Taxpayers:

This document lists changes made by the 2006 Session of the 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 relating to any subject matter of the legislation. Part I lists the changes to sales and use tax rates; Part II lists the remaining legislative changes. The changes in both Parts are cited in order of effective date.

PART I: RATE CHANGES

Effective December 1, 2006

Decrease in State General Rate

The State general rate of sales and use tax will decrease from 4.5% to 4.25% effective December 1, 2006. As a result, the combined State and local sales and use tax will decrease from 7% to 6.75% in all counties except Mecklenburg; in Mecklenburg County, the combined State and local sales and use tax will decrease from 7.5% to 7.25%.

Decrease in Combined General Rate

The combined general rate is the State's general rate (4.5%) plus the sum of the rates of local tax authorized for every county in the State (2.5%). Since the State general rate will decrease from 4.5% to 4.25%, the combined general rate will decrease from 7% to 6.75%. The combined general rate applies to sales of telecommunications service, direct-to-home satellite service, cable service, and spirituous liquor.

Effective July 1, 2007

Decrease in State General Rate

The State general rate of sales and use tax will decrease from 4.25% to 4% effective July 1, 2007. As a result, the combined State and local sales and use tax will decrease from 6.75% to 6.5% in all counties except Mecklenburg; in Mecklenburg County, the combined State and local sales and use tax will decrease from 7.25% to 7%.

Decrease in Combined General Rate

Since the State general rate will decrease from 4.25% to 4%, the combined general rate will decrease from 6.75% to 6.5%. The combined general rate applies to sales of telecommunications service, ancillary service, video programming service, and spirituous liquor.

Decrease in Rate for Electricity Sold to Manufacturers

The rate of tax on the sale of electricity to a manufacturer for use in connection with the operation of the industry or plant and measured by a separate meter or other device is reduced from 2.83% to 2.6%.

PART II: OTHER LEGISLATIVE CHANGES

Effective July 1, 2005

Refund for Schools Reinstated

G.S. 105-467(b) authorizes refunds of the local sales and use taxes paid by local school administrative units and joint agencies created by interlocal agreements among local school administrative units. The refund provision applies only to the local tax and is effective for purchases made on or after July 1, 2005.

Effective July 1, 2006

Refund for Qualifying Nonprofit and Governmental Entities

G.S. 105-164.14 is rewritten to provide that sales and use taxes paid on purchases of alcoholic beverages are not eligible for refund.

Credit for Tax Paid by Sellers of Modular Homes

G.S. 105-164.4(a)(8) is rewritten to allow a person selling a modular home at retail a credit against the North Carolina sales or use tax for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale occurs when the modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home.

Exemption for Commercial Logging Machinery

Purchases of certain logging machinery by a person engaged in the commercial logging business are exempt from the sales and use tax and from the privilege tax. The exemption applies to logging machinery (machinery used to harvest raw forest products for transport to first market), attachments and repair parts for logging machinery, lubricants applied to logging machinery, and fuel used to operate logging machinery.

Refund for Certain Industrial Facilities

G.S. 105-164.14(j)(3), which authorizes refunds to certain industrial facilities, is rewritten to add a facility that provides financial services, securities operations, and related systems development to the list of industries that are allowed refunds. The statute contains a definition of "financial services, securities operations, and related systems development." The facility must be owned and operated by the business for which the services are provided or by a related entity of that business, and no part of the facility may be leased to a third-party tenant that is not a related entity of the business. The refund provision applies to taxes paid on qualified building materials, building supplies, fixtures, and equipment that become a part of the real property and is effective for purchases made on or after July 1, 2006.

G.S. 105-164.14(j)(5), which provides a sunset for the refund for certain industrial facilities, is amended to extend the sunset three years. As rewritten, G.S. 105-164.14(j) is repealed for purchases made on or after January 1, 2013.

Utility Company Railway Cars and Locomotives

A utility is allowed a seminannual refund of part of the sales and use taxes it pays on railway cars and locomotives and accessories for railway cars and locomotives purchased in this State and operated by the utility. The refund is based on the ratio of miles of operation in this State to total miles of operation. In addition, the sourcing principles are changed for payments for a railway car that is leased or rented by a utility company and would be transportation equipment if it were used in interstate commerce. The payments are sourced based on where the railway car is delivered.

Effective July 10, 2006

Extension of Sunset for Tax Refund for Motorsports Team and Interstate Passenger Air Carrier

G.S. 105-164.14, which authorizes refunds for certain entities and organizations, provides that an interstate passenger air carrier is allowed a refund of the net amount of sales and use tax paid by it in North Carolina on fuel during a calendar year in excess of \$2,500,000.00. It also provides that a motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel used to travel to or from certain motorsports events. Both provisions were effective for purchases made on or after January 1, 2005 and were scheduled to be repealed effective for purchases made on or after January 1, 2007. The sunset has been extended two years; the refund provision is repealed effective for purchases made on or after January 1, 2009.

Effective July 24, 2006

Amended Definition

G.S. 105-164.3(49), which defines “use,” is amended to modernize the language and to clarify that the term applies to services in addition to tangible personal property.

Effective October 1, 2006

Internet Data Center Exemption

Sales to an eligible Internet data center of electricity for use at the center and eligible business property to be located and used at the center are exempt from sales and use tax. A \$250 million investment is required, and the exemption specifies the property that is considered eligible business property.

Effective January 1, 2007

Definitions

G.S. 105-164.3(01) is added and defines “ancillary service” as “a service associated with or incidental to the provision of a telecommunications service. The term includes detailed communications billing, directory assistance, vertical service, and voice mail service. A vertical service is a service, such as call forwarding, caller ID, three-way calling, and conference bridging, that allows a customer to identify a caller or manage multiple calls and call connections.”

G.S. 105-164.3(27), which defines “prepaid telephone calling service,” is amended and defines the term as “prepaid wireline calling service or prepaid wireless calling service.”

G.S. 105-164.3(27a) is added and defines “prepaid wireline calling service” as “a right that meets all of the following requirements: (a) Authorizes the exclusive purchase of wireline telecommunications service. (b) Must be paid for in advance. (c) Enables the origination of calls by means of an access number, authorization code, or another similar means, regardless of whether the access number or authorization code is manually or electronically dialed. (d) Is sold in units or dollars whose number or dollar value declines with use and is known on a continuous basis.”

G.S. 105-164.3(27b), is added and defines “prepaid wireless calling service” as “a right that meets all of the following requirements: (a) Authorizes the purchase of mobile telecommunications service, either exclusively or in conjunction with other services. (b) Must be paid for in advance. (c) Is sold in units or dollars whose number or dollar value declines with use and is known on a continuous basis.”

G.S. 105-164.3(48), which defines “telecommunications service,” is amended to incorporate language required in the Streamlined Sales and Use Tax Agreement. The term is defined as “the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term includes any transmission, conveyance, or routing in which a computer processing application is used to act on the form, code, or protocol of the content for purposes of the transmission, conveyance, or routing, regardless of whether it is referred to as voice-over Internet protocol or the Federal Communications Commission classifies it as enhanced or value added...” The definition also specifically lists certain services that are not included in the definition.

G.S. 105-164.3(50c) is added and defines “video programming” as “programming provided by, or generally considered comparable to programming provided by, a television broadcast station, regardless of the method of delivery.”

Telecommunications Service Changes

The statutes pertaining to telecommunications service are rewritten to incorporate provisions of the Streamlined Sales and Use Tax Agreement. There are new and revised definitions and a new exemption. The combined general rate of sales and use tax applies separately to “telecommunications service” and “ancillary service.” The application of tax to telecommunications service remains the same

with the following two exceptions: (1) all paging service is taxable (only two-way paging service is currently taxable) and (2) the surcharge for the Universal Service Fund is taxable (currently that charge is exempt).

Tax on Video Programming Service

The combined general rate of sales and use tax applies to the gross receipts derived from providing video programming in this State. Video programming includes, but is not limited to, cable service and direct-to-home satellite service. A person engaged in the business of providing any type of video programming is considered a retailer and is liable for collecting and remitting the tax on those services. The credit against the sales tax imposed for local cable television franchise taxes is repealed since cable service providers will no longer pay franchise taxes on cable services to local governments.

Effective July 1, 2007

Definitions

G.S. 105-164.3(30a) is added and defines "professional motorsports racing team" as "a racing team that satisfies all of the following conditions: (a) is operated for profit, (b) a majority of the revenues of the team is derived from sponsorship of the racing team and prize money, and (c) the team competes in at least sixty-six percent of the races sponsored in a single season by a motorsports sanctioning body." As a result of this definition being designated as (30a), the definition of prosthetic device was renumbered as subsection (30b).

Refund for Professional Motor Racing Vehicles

G.S. 105-164.14 is further amended to add new subsection (m) that authorizes a refund of fifty percent of the sales and use tax paid by a professional motorsports racing team in this State on certain tangible personal property that comprises any part of a professional motor racing vehicle. The refund provision does not apply to tires or to accessories such as instrumentation, telemetry, consumables, and paint. A refund request is due by December 31 for the prior fiscal year ending June 30; a refund applied for after the due date is barred. The refund provision is effective for purchases made on or after July 1, 2007 and does not have a sunset. Information on procedures for claiming the refund will be issued at a later date.

Privilege Tax on Purchases by Research and Development Companies

The 1% privilege tax with a maximum tax of \$80.00 per article is imposed on a research and development company in the physical, engineering, and life sciences. The tax applies to purchases of qualifying equipment that is capitalized for income tax purposes, used for research and development of tangible personal property, and would be considered mill machinery if purchased by a manufacturer. The research and development company must remit the privilege tax directly to the Department. Prior to this date, purchases by research and development companies are subject to the combined State and local sales or use tax.

Effective October 1, 2007

Prepayments for Semimonthly Taxpayers

Taxpayers owing over \$10,000.00 a month in sales and use tax are required to remit prepayments in lieu of semimonthly payments. A return with payment is due the 20th of a month; in addition, a prepayment for the next month is due on the 20th. The prepayment is at least 65% of either: (1) the tax amount due for the current month, (2) the tax amount due for the same month in the preceding year, or (3) the average monthly amount of tax due in the preceding calendar year.

Frequently asked questions with responses can be found on the Department's website at www.dorn.com. If you have questions about the information in this document or about sales and use tax, you may contact the Taxpayer Assistance Call Center at 1-877-252-3052 (toll-free) or write to the Taxpayer Assistance Division, North Carolina Department of Revenue, Post Office Box 25000, Raleigh, North Carolina 27640-0001.