



**Sales and Use Tax Division
North Carolina Department of Revenue
Post Office Box 25000
Raleigh, North Carolina 27640-0001**

To Taxpayers:

This form includes changes enacted by the 2013 Session of the General Assembly to the taxes administered by the Sales and Use Tax Division. The 2013 Tax Law Changes publication issued annually by the Department will be available on the Department's website, www.dornrc.com, and will contain detailed explanations of legislative changes. Legislative changes supersede any information previously set forth in Sales and Use Tax Administrative Rules, Technical Bulletins, Notices, Directives, and Private Letter Rulings relating to any subject matter of the legislation.

Part I reflects information regarding changes in sales and use tax rates to various items. Part II includes new transactions subject to sales and use tax as a result of tax modernization efforts. Part III provides information for various sales and use tax exemptions repealed by the General Assembly and various other changes. Part IV provides information regarding miscellaneous items.

The general State, local and transit sales and use tax rates applicable to the sales price of tangible personal property, certain digital products, and certain services is 6.75% in seventy-four (74) counties; 7.00% in Alexander, Buncombe, Cabarrus, Catawba, Cumberland, Duplin, Edgecombe, Greene, Halifax, Haywood, Hertford, Lee, Martin, Montgomery, New Hanover, Onslow, Pitt, Randolph, Robeson, Rowan, Sampson, Surry, and Wilkes Counties; 7.25% in Mecklenburg County; and 7.50% in Durham and Orange Counties.

PART I: RATE CHANGES

Effective January 1, 2014

Manufactured Homes - G.S. 105-164.4(a)(1a) is amended and provides the 4.75% general State rate of tax applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser. Prior to January 1, 2014, retail sales of manufactured homes and attached accessories are subject to the 2.00% State tax rate with a maximum tax of \$300 per article. G.S. 105-467(a) is rewritten and provides that the sale of a manufactured home is not subject to local and transit sales and use taxes.

Modular Homes - G.S. 105-164.4(a)(8) is amended and provides the 4.75% general State rate of tax applies to the sales price of each modular home sold at retail, including all accessories attached to the modular home when it is delivered to the purchaser. Prior to January 1, 2014, retail sales of modular homes and attached accessories are subject to the 2.50% State tax rate. G.S. 105-467(a) is rewritten and provides that the sale of a modular home is not subject to local and transit sales and use taxes.

Effective July 1, 2014

Electricity - G.S. 105-164.4(a)(9) imposes a privilege tax on a retailer at the combined general rate of tax of 7.00% on the gross receipts derived from sales of electricity billed on or after July 1, 2014. Some statutory exemptions per G.S. 105-164.13 may apply. The 2.83% tax rate in G.S. 105-164.4(a)(1f) applicable to the sales price of electricity sold to a commercial laundry or to a pressing and dry-cleaning establishment is repealed. The 3.00% tax rate in G.S. 105-164.4(a)(4a) applicable to the gross receipts derived from sales of electricity is repealed. The combined general rate of tax due on gross receipts derived from sales of electricity billed on or after July 1, 2014, is to be reported on Form E-500E, Utility and Liquor Sales and Use Tax Return.

Piped Natural Gas - G.S. 105-164.4(a)(9) imposes a privilege tax on a retailer at the combined general rate of tax of 7.00% on the gross receipts derived from sales of piped natural gas billed on or after July 1, 2014. Some statutory exemptions per G.S. 105-164.13 may apply. The exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State of piped natural gas in G.S. 105-164.13(44) is repealed as of July 1, 2014. Prior to July 1, 2014, an excise tax is imposed on piped natural gas received for consumption in this State pursuant to G.S. 105-187.41. The combined general rate of tax due on gross receipts derived from sales of piped natural gas billed on or after July 1, 2014, is to be reported on a special form to be created by the Department and made available prior to July 2014.

PART II: EXPANSION OF SALES TAX

Effective January 1, 2014

Admission Charges - G.S. 105-164.4(a)(10) imposes a privilege tax on a retailer at the 4.75% general State and applicable local and transit rates of sales and use tax to admission charges to an entertainment activity listed below:

- a. A live performance or other live event of any kind.
- b. A motion picture or film.
- c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions.

An admission charge includes a charge for a single ticket, a multioccasion ticket, a seasonal pass, an annual pass, and a cover charge. An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities. When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price at the time of the resale of the ticket. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket. The reseller must retain in its books and records the amount originally paid for the ticket to be able to substantiate the amount of the resold ticket that is to be excluded from the tax at the time of resale.

G.S. 105-164.13(60) provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State for admission charges to any of the following entertainment activities:

- a. An event that is held at an elementary or secondary school and is sponsored by the school.
- b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.
- c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of Chapter 105 and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to the first two activities sponsored by the entity during a calendar year.
- d. A youth athletic contest sponsored by a nonprofit entity that is exempt from tax under Article 4 of Chapter 105. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age at the time of enrollment.
- e. A State attraction. A State attraction is a physical place supported with State funds that offers cultural, educational, historical, or recreational opportunities. The term "State funds" has the same meaning as defined in G.S. 143C-1-1. G.S. 143C-1-1 defines "State funds" as "[a]ny moneys including federal funds deposited in the State treasury except moneys deposited in a trust fund or agency fund as described in G.S. 143C-1-3."

Service Contracts - G.S. 105-164.4(a)(11) imposes a privilege tax on a retailer at the 4.75% general State and applicable local and transit rates of sales and use tax on the sales price of a service contract. G.S. 105-164.3(38b) defines "service contract" as a warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract by which the seller agrees to maintain or repair tangible personal property.

G.S. 105-164.13(61) provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State of a service contract for tangible personal property that is provided for any of the following:

- a. An item exempt from tax under Article 5 of Chapter 105, other than an item exempt from tax under G.S. 105-164.13(32). G.S. 105-164.13(32) provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State of sales of motor vehicles, the sale of a motor vehicle body to be mounted on a motor vehicle chassis when a certificate of title has not been issued for the chassis, and the sale of a motor vehicle body mounted on a motor vehicle chassis that temporarily enters the State so the manufacturer of the body can mount the body on the chassis.
- b. A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.
- c. An item purchased by a professional motorsports racing team for which the team may receive a sales tax refund under G.S. 105-164.14A(5).

G.S. 105-164.13(62) provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State for an item used to maintain or repair tangible personal property pursuant to a service contract if the purchaser of the contract is not charged for the item. Where a service contract is subject to tax, the seller should issue Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption, at the time of purchase for items used by a seller to maintain or repair tangible personal property to purchase such items without payment of tax to seller.

PART III: EXEMPTION REPEALS AND OTHER LEGISLATIVE CHANGES

Effective July 23, 2013

Economic Incentive Refunds - G.S. 105-164.14A(a) is amended to extend the sunset provision for purchases made prior to January 1, 2014, to purchases made prior to January 1, 2016, for qualifying sales and use tax paid by an interstate passenger air carrier, motorsports team or sanctioning body, and professional motorsports team.

Effective August 23, 2013

Definition of "Storage" - G.S. 105-164.3(44) is amended to clarify the term "storage" does not include a purchaser's storage of tangible personal property or digital property when the purchaser is able to document that at the time the purchaser acquires the property the property is designated for the purchaser's use outside the State and the purchaser subsequently takes it outside the State and uses it solely outside the State. The definition of storage includes purchases of tangible personal property by a purchaser that, at some point in the future, may be used by the purchaser outside the State but it is not known for certain at the time of the purchase.

Facilitator Reporting Requirements for Rentals of Accommodations - G.S. 105-164.4(a)(3) is amended to recognize additional business models used by facilitators of rentals of accommodations. A facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price no later than 10 days after the end of each calendar month.

Computer Software - G.S. 105-164.13(43a)a. is amended and provides that the sale at retail and the use, storage, or consumption in this State of certain computer software is exempt from sales and use tax if purchased to run on an enterprise server operating system. Prior to August 23, 2013, computer software qualifies for the exemption from sales and use tax if it is designed to run on an enterprise server operating system. To claim an exemption from sales and use tax for computer software purchased to run on an enterprise server operating system, the purchaser should issue Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption, and indicate the purpose for claiming such exemption in the "Other" field under "Reason for exemption."

Electricity Purchased by a Facility - G.S. 105-164.13(57) is amended and provides the sale at retail and the use, storage, or consumption in this State of fuel and electricity is exempt from sales and use tax when sold to a manufacturer for use in connection with the operation of a manufacturing facility but the exemption is not applicable to electricity used at a facility at which the primary activity is not manufacturing.

Advertising and Promotional Direct Mail and Other Direct Mail - G.S. 105-164.3(1) defines "advertising and promotional direct mail" as printed material that meets the definition of "direct mail" and the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this definition, "product" means tangible personal property, digital property, or a service.

G.S. 105-164.3(25a) defines "other direct mail" as any direct mail that is not advertising and promotional mail regardless of whether advertising and promotional direct mail is included in the same mailing.

G.S. 105-164.4E is a new section that provides the sourcing requirements for "advertising and promotional direct mail," "other direct mail," and also provides relief from liability for a seller of direct mail as required per the Streamlined Sales and Use Tax Agreement.

Local Government Sales & Use Tax Sourcing - G.S. 105-467(c) is amended to clarify the sourcing principles in G.S. 105-164.4B apply in determining whether the local sales tax applies to a transaction. G.S. 105-468 is amended to harmonize the language and to clarify a retailer engaged in business in the State and required to collect the general State rate of tax pursuant to G.S. 105-164.4(a) is required to collect a local use tax on a transaction if a local sales tax does not apply to the transaction.

Effective January 1, 2014

Nutritional Supplements Sold by Chiropractic Physicians - G.S. 105-164.13(13c) which provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State of nutritional supplements sold by a chiropractic physician at a chiropractic office to a patient as part of the patient's plan of treatment, as authorized by G.S. 90-151.1, is repealed. Chiropractic practices are required to collect and remit the general State and applicable local and transit sales and uses taxes on sales of such nutritional supplements effective January 1, 2014.

Food Sold Not for Profit by a School - G.S. 105-164.13(26) amends the exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State to include food and prepared food sold not for profit by a nonpublic or public school, including a charter school and a regional school, within the school building during the regular school day. Prior to January 1, 2014, the exemption as written provides an exemption from sales and use tax for food and prepared food sold not for profit by public or private school cafeterias within school buildings during the regular school day.

Food and Prepared Food Served at Institutions of Higher Education - G.S. 105-164.13(27) which provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State for food and prepared food served to students in dining rooms regularly operated by State or private educational institutions or student organizations thereof is repealed. Such transactions are subject to sales and uses taxes effective January 1, 2014.

Sales of Newspapers - G.S. 105-164.13(28) which provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State of newspapers by newspaper street vendors, by newspaper carriers making door-to-door deliveries, and by means of vending machines is repealed. Effective January 1, 2014, sales at retail or purchases for use, storage, or consumption in this State of newspapers by street vendors and by newspaper carriers making door-to-door deliveries are subject to the general State and applicable local and transit sales and use taxes. Effective January 1, 2014, sales of newspapers through a coin operated vending machine are subject to tax on 50% of the sales price at the general State and applicable local and transit rates of sales and use taxes.

Effective July 1, 2014

Breads, Rolls, and Buns Sold at a Bakery Thrift Store - G.S. 105-164.13(27a) which provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State of breads, rolls, and buns sold at a bakery thrift store is repealed. Effective July 1, 2014, sales of breads, rolls, and buns at a bakery thrift store are subject to the general State and applicable local and transit sales and use taxes. Prior to July 1, 2014, sales of such items by a qualifying "bakery thrift store" are subject to the 2.00% food rate of tax.

Sales and Use Tax Holiday - G.S. 105-164.13C which provides a sales tax holiday for certain clothing, school supplies, school instructional materials, computers, computer supplies and sports or recreational equipment sold between 12:01 A.M. on the first Friday of August and 11:59 P.M. the following Sunday, is repealed.

Sales and Use Tax Holiday for Energy Star Products - G.S. 105-164.13D which provides a sales tax holiday for certain Energy Star qualified products sold between 12:01 A.M. on the first Friday of November and 11:59 P.M. the following Sunday, is repealed.

Farmers - G.S. 105-164.13E is a new section for farmers and includes the exemptions from sales and use tax noted below as repealed, with the exception of horses and mules. G.S. 105-164.13E provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in this State for specific items purchased by a qualifying farmer and for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "qualifying farmer" is a farmer who has an annual gross income of \$10,000 or more from farming operations for the preceding calendar year and includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. Effective July 1, 2014, a farmer that did not have \$10,000 or more of gross income from farming operations for calendar year 2013 should no longer purchase the items contained in G.S. 105-164.13E exempt from State, local, and transit sales and use taxes. The exemptions in G.S. 105-164.13(1), (1a), (1b), (2a), (4a), (4c), and (4d) are repealed.

PART IV: MISCELLANEOUS ITEMS

Effective August 23, 2013

Specialty Market or Operator of an Event Registration List - G.S. 66-255 is amended and provides that a specialty market operator or operator of an event where space is provided to a vendor must maintain a daily registration list of all specialty market or other vendors selling or offering goods for sale at the specialty market or other event. The registration list must clearly and legibly show each vendor's name, permanent address, and certificate of registration number, if applicable. The specialty market operator or other event operator must require each vendor to exhibit a valid certificate of registration, if applicable, for visual inspection by the specialty market operator or other event operator at the time of registration, and must require each vendor to keep the certificate of registration, if applicable, conspicuously and prominently displayed, so as to be visible for inspection by patrons of the vendor at the places or locations at which the goods are offered for sale. Each daily registration list must be retained by the specialty market operator or other event operator for no less than two years and must at any time be made available upon request to any law enforcement officer or the Secretary of Revenue or the Secretary's duly authorized agent.

Effective December 1, 2013

Automated Sales Suppression Device - G.S. 14-118.7 provides no person shall knowingly sell, purchase, install, transfer, possess, use or access any automated sales suppression device, zapper, or phantom-ware. Any person convicted of a violation of this section is guilty of a Class H felony with a fine of up to \$10,000. Any person who violates this section is liable for all taxes, fees, penalties, and interest due the State as the result of the use of an automated sales suppression device, zapper, or phantom-ware and shall forfeit to the State as an additional penalty all profits associated with the sale or use of an automated sales suppression device, zapper, or phantom-ware. An automated sales suppression device, zapper, or phantom-ware, or any device containing such device or software, is contraband.

Frequently asked questions with responses and additional information 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 and Collection Center at 1-877-252-3052 (toll-free) or write to the Taxpayer Assistance Division, North Department of Revenue, Post Office Box 25000, Raleigh, North Carolina 27640-0001. If a written response would require the Department to interpret the law in a manner not specifically addressed in a statute, regulation, or Departmental or IRS publication, the person requesting the written response must follow the procedure (and pay the required fee) for requesting a private letter ruling found on the Department's website at the following address: www.dor.state.nc.us/practitioner/plr_policy.pdf.