

General Guidance and Instructions

1. For the purpose of this affidavit, a “person” may include a real property contractor, retailer-contractor, or a subcontractor of a real property or retailer-contractor.
2. This affidavit must be fully completed in all respects by a person who has: (a) entered into a lump-sum or unit-price contract, or was awarded such contract in **Durham or Orange Counties** pursuant to a bid made, prior to April 1, 2013. The affidavit must be submitted by such person to a supplier of **tangible personal property, digital property, or services** as evidence of the holding of such lump-sum or unit-price contract; or (b) entered into a lump-sum or unit-price contract, or was awarded such contract in **Wake County** pursuant to a bid made prior to April 1, 2017.
3. Where a retailer-contractor, acts as a contractor or subcontractor, withdraws tangible personal property from inventory and installs or applies the tangible personal property to real property to fulfill a contract, such person must accrue and remit use tax on the retailer-contractor’s purchase price of the tangible personal property, unless an exemption for tangible personal property is in effect on the date the lump-sum or unit-price contract is entered into or awarded pursuant to a bid.
4. “[T]he liability of a retailer-contractor, a subcontractor, an owner, or lessee who did not purchase the property or service is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid.” N.C. Gen. Stat. § 105-164.4H(b1). Additionally, N.C. Gen. Stat. § 105-164.6(b) provides “[t]he tax imposed by this section is payable by the person who purchases, leases, or rents tangible personal property or digital property or who purchases a service. *If the property purchased becomes a part of a building or other structure in the State and the purchaser is a contractor or subcontractor, the contractor, the subcontractor, and the owner of the building are jointly and severally liable for the tax. The liability of a contractor, a subcontractor, or an owner who did not purchase the property is satisfied by receipt of an affidavit from the purchaser certifying the tax has been paid.*” [Emphasis added.]
5. Purchase orders, invoices, shipping orders, delivery tickets or any other pertinent records of a person will be subject to examination as evidence of facts.
6. Under the provisions of N.C. Gen. Stat. § 105-236(7), any person who willfully attempts, or who aids or abets any person to attempt, in any manner to evade or defeat any tax imposed by law, or the payment of the tax, is guilty of a Class H felony. For each misuse of an exemption certificate, the Secretary must assess against the purchaser a penalty of \$250.