

DIRECTIVE

Subject: Continuing Care Retirement Communities
Tax: Sales and Use Tax
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This directive provides the interpretation of the Secretary of Revenue regarding the tax exemption for qualifying items sold by a provider of continuing care to its residents.

The following important information is addressed in this directive:

- Definitions
- Who can make exempt sales?
- What sales are exempt from tax?
- What tax is due on purchases by a provider of continuing care?

Background

[Session Law 2023-134](#) creates an exemption from sales and use tax for qualifying sales by a provider of continuing care to its residents (“CCRC Exemption”)¹. The CCRC Exemption applies to sales made on or after November 1, 2023.

Definitions

Alcoholic beverage² - any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, mixed beverages, and any alcohol consumable.

Continuing care³ - The furnishing to an individual other than an individual related by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services, under a contract approved by the Department [of Insurance] in accordance with this Article effective for the life of the individual or for a period longer than one year. "Continuing care" may also include home care services provided or arranged by a provider of lodging at a facility to an individual who has entered into a continuing care contract with the provider but is not yet receiving lodging.

Provider⁴ - The promoter, developer, or owner of a facility, whether a natural person, partnership, or other unincorporated association, however organized, trust, or corporation, of an institution, building, residence, or other place, whether operated for profit or not, or any other

¹ Session Law 2023-134, Section 42.10

² N.C. Gen. Stat. § 18B-101

³ N.C. Gen. Stat. § 58-64-1

⁴ N.C. Gen. Stat. § 58-64-1

person, that solicits or undertakes to provide continuing care under a continuing care facility contract, or that represents himself, herself, or itself as providing continuing care or "life care."

Resident⁵ - A purchaser of, a nominee of, or a subscriber to, a continuing care contract.

Who is Eligible to Make Exempt Sales?

A person must be a provider of continuing care to make sales that qualify for the CCRC Exemption. North Carolina law requires a provider of continuing care to hold a license issued by the Commissioner of Insurance. As a result, a person must hold a license as a provider of continuing care to be eligible to make exempt sales.

You can find a list of licensed providers at the following link: [Continuing Care Retirement Communities \(ncdoi.net\)](https://ncdoi.net/continuing-care-retirement-communities).

What sales are eligible for the CCRC Exemption?

Sales must meet two requirements in order to qualify for the exemption:

- 1) The sales must be made by a provider of continuing care directly to its resident; and
- 2) The sales must be of an item that is not an alcoholic beverage.

The CCRC Exemption does not apply to sales of alcoholic beverages. In addition, CCRC Exemption does not apply to sales by a provider of continuing care to a person that is not a resident of the facility.

What tax do providers of continuing care owe on their purchases?

A provider of continuing care must pay sales or use tax on the purchase price of items sold to residents exempt from tax pursuant to the CCRC Exemption as if the provider is the user of the item. You can find specific guidance for types of items a provider of continuing care may purchase below:

- **Items sold to residents other than alcoholic beverages:**

A provider of continuing care must pay sales or use tax on the purchase price of these items unless an exemption would apply to the sale if the provider purchased the item for its own use. As a result, a provider of continuing care *cannot* use the resale exemption to avoid payment of sales and use tax on these items.

If North Carolina law would allow a provider of continuing care to purchase these items for its own use exempt from tax, the provider may purchase the items exempt from sales and use tax. To purchase items exempt from tax, the provider must comply with the exemption administration requirements found in Sales and Use Tax Bulletin ("SUTB"), 5-1.

- **Alcoholic beverages for resale:**

A provider of continuing care may purchase alcoholic beverages exempt from sales and use tax when purchased for resale to its residents or other persons. To purchase these

⁵ N.C. Gen. Stat. § 58-64-1

items exempt from tax, the provider must comply with the exemption certificate requirements found in SUTB 5-1.

- **Items for resale to persons other than residents:**

A provider of continuing care may purchase items for resale to a person other than a resident exempt from sales and use tax. To purchase these items exempt from tax, the provider must comply with the exemption certificate requirements found in SUTB 5-1.

If a provider of continuing care has issued an exemption certificate, or provided the data elements electronically, to a vendor, the provider should review whether the purchases are exempt from tax as of November 1, 2023. If the claimed exemption no longer applies to the purchases, the provider should notify the seller that the exemption certificate is no longer valid.

Examples:

Example 1: A provider of continuing care (“PoCC”) sells food and beverages to its residents. The provider purchases food and non-alcoholic beverage items, which it prepares into meals for residents. The provider sells these meals directly to its residents.

The purchases by the PoCC are subject to the applicable rates of sales and use tax. If the purchases are of qualifying food, the PoCC must pay the 2% food rate of sales and use tax on the purchase price. All others food and beverage purchases are subject to the general state, and applicable local and transit rates of sales and use tax.

The CCRC Exemption applies to the sale of meals by the PoCC to its residents.

Example 2: A PoCC sells food and beverages to its residents, visitors, and staff. The provider purchases food and non-alcoholic beverage items, which it prepares into meals for residents, visitors, and staff. The PoCC pays the applicable rates of sales or use tax on the purchase price of all of these items at the time of purchase. The provider then sells these meals directly to its residents, visitors, and staff. The PoCC collects the general state, and applicable local and transit rates of sales and use tax on the meals sold to visitors and staff.

The PoCC correctly collected sales tax on the meals sold to visitors and staff. The PoCC may recover the sales tax paid on the purchase of the food and non-alcoholic beverages it sold to visitors and staff in accordance with SUTB 73-3 because the PoCC paid sales tax on the purchase price of the food and alcoholic beverages it resold to its visitors and staff. The PoCC must maintain the proper documentation supporting these transactions.

Example 3: A PoCC engages a third-party to sell food and beverages to its residents. The third-party purchases and prepares food and non-alcoholic beverage items into meals for residents. The third-party charges residents for the meals.

Sales by the third-party to the residents of the PoCC are subject to the general state, applicable local and transit rates of sales and use tax. The third-party may purchase items resold exempt from sales and use tax. When making such

purchases, the third-party must comply with the exemption administration requirements found in SUTB 5-1.

Example 4: A PoCC engages a third-party to prepare meals for the PoCC. The third-party purchases and prepares food and non-alcoholic beverage items into meals and provides them to residents. The third-party charges the PoCC for these meals.

Sales by the third-party to the PoCC are subject to the general state, and applicable local and transit rates of sales and use tax. The third-party may purchase items resold exempt from sales and use tax. When making such purchases, the third-party must comply with the exemption administration requirements found in SUTB 5-1.

Example 5: A PoCC purchases corrective eyeglasses to sell to its residents.

Corrective eyeglasses are prosthetic devices and are exempt from sales and use tax. The PoCC may purchase these items exempt from sales and use tax because the item would be exempt from sales and use tax when purchased by the PoCC for its own use. The sale to its resident is also exempt from sales and use tax.

Example 6: A PoCC sells repair, maintenance, and installation services to its residents including the replacement of light bulbs. The PoCC purchases light bulbs from a vendor to replace resident light bulbs.

The PoCC must pay the general state, and applicable local and transit rates of sales and use tax on the purchase price of the light bulbs because they would be taxable if purchased by the PoCC for its own use. The CCRC exemption applies to the sale of RMI services by the PoCC to its residents.

Example 7: During January, 2023, a PoCC issued a blanket exemption certificate to a vendor who sells food to the PoCC that the PoCC resells to its residents. As of November 1, 2023, the PoCC must pay sales or use tax on these purchases.

The provider must notify the seller that the exemption certificate is no longer valid. The provider is liable for any sales and use tax due on its food purchases.

Assistance

If you have questions about this directive, you may call the Department at 1-877-252-3052 (8:00 am until 4:30 pm EST, Monday through Friday).

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 directive, the provisions in this directive may be superseded or voided. To the extent that any provisions in any other notice, directive, bulletin, or published guidance regarding the subject of this directive and issued prior to the date of this directive conflict with this directive, the provisions contained in this directive supersede the previous guidance.