

## SECTION 35 - MOTOR VEHICLES, BOATS, AIRCRAFT, MANUFACTURED HOMES, ETC.

## 35-1 HIGHWAY USE TAX

## A. Retail Sales of Motor Vehicles

## 1. Motor Vehicle Tax Rates

Retail sales of motor vehicles are exempt from sales tax and subject to the 3% highway use tax under Article 5A of Chapter 105 of the General Statutes with certain exceptions. There is a maximum tax of \$1,000 for each certificate of title issued for a Class A or Class B motor vehicle that is a “**commercial motor vehicle**” as defined in G.S. 20-4.01. There is a maximum tax of \$1,500 for a certificate of title issued for a recreational vehicle that is not subject to the \$1,000 maximum tax. The highway use tax must be paid to the Commissioner of Motor Vehicles by the dealer, the purchaser, or other applicant for a certificate of title at the time of making application.

## 2. Definitions

a. **Commercial Motor Vehicle.** -- Any of the following motor vehicles that are designed or used to transport passengers or property:

- (1) a Class A motor vehicle [defined in G.S. 20-4.01 (2a)] that has a combined GVWR (Gross Vehicle Weight Rating) of at least 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds; or
- (2) a Class B motor vehicle [defined in G.S. 20-4.01 (2b)];
- (3) a Class C motor vehicle [defined in G.S. 20-01 (2c)] that meets either of the following descriptions:
  - (a) is designed to transport 16 or more passengers, including the driver; and
  - (b) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R Part 172, Subpart F.

b. “**Motor Vehicle**” is defined in G.S. 105-164.3(23) as a vehicle that is designed primarily for use upon the highways and is either self-propelled or propelled by a self-propelled vehicle, but does not include:

- (1) a “**moped**” as defined in G.S. 105-164.3(22);
- (2) “**special mobile equipment**” as defined in G.S. 105-164.3(41);
- (3) a “**tow dolly**” that is exempt from motor vehicle title and registration requirements under G.S. 20-51(10) or (11);
- (4) a farm tractor or other implement of husbandry;
- (5) a manufactured home, a mobile office, or a mobile classroom; or
- (6) road construction or road maintenance machinery or equipment.

**Note:** For additional information on mobile offices and mobile classrooms, refer to Sales and Use Tax Technical Bulletin 35-11.

c. “**Recreational vehicle**” is defined as a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has

its own motive power or is mounted on, or towed by, another vehicle. The basic entities are camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper. These terms are defined in G.S. 20-4.01 (32a).

3. The **basis for the tax** on sales of motor vehicles by retailers is the sales price of the motor vehicles including all accessories attached thereto at the time of delivery of the vehicles to the purchasers less the amount of any allowance given by the retailer for motor vehicles taken in trade. The basis for the tax on sales of motor vehicles for which a certificate of title is issued because of a sale of the vehicle by the seller who is not a retailer is the market value of the vehicle, less the amount of any allowance given by the seller for a motor vehicle taken in trade for the purchased motor vehicle. The **retail value** of a motor vehicle for which a certificate of title is issued because of a reason other than the sale of the motor vehicle is the market value of the vehicle. The **market value** of the vehicle is presumed to be the value of the vehicle set forth in a schedule of values adopted by the Commissioner of Motor Vehicles not to exceed the wholesale value.
  
4. **The highway use tax will not be applicable to the transfer of a motor vehicle:**
  - a. to the insurer under G.S. 20-109.01 of the Motor Vehicle Laws because the vehicle is a salvage vehicle;
  - b. to a **“manufacturer,”** as defined in G.S. 20-286, for resale;
  - c. to a motor vehicle retailer for the purpose of resale; or
  - d. to the same owner to reflect a change or correction in the owner’s name.
  - e. to one or more of the same co-owners to reflect the removal of one or more other co-owners, when there is no consideration for the transfer;
  - f. by will or intestacy;
  - g. by a conveyance between a husband and wife or a parent and child, or a stepparent and a stepchild;
  - h. by a distribution of marital property as a result of a divorce;
  - i. to a handicapped person from the Department of Human Resources after the vehicle has been equipped by the Department for use by the handicapped; or
  - j. to a local board of education for use in the driver education program of a public school when the motor vehicle is transferred:
    - (1) by a retailer and is to be transferred back to the retailer within 300 days after the transfer to the local board; or
    - (2) by a local board of education.
  
  - k. to a volunteer fire department or volunteer rescue squad that is not part of a unit of local government, has no more than two paid employees, and is exempt from State income tax under G.S. 105-130.11, when the motor vehicle is one of the following:
    - (1) a fire truck, a pump truck, a tanker truck, or a ladder truck used to suppress fire;
    - (2) a four-wheel drive vehicle intended to be mounted with a water tank and hose used for forest fire fighting; or
    - (3) an emergency services vehicle.
  
5. **A maximum tax of \$40.00 will be imposed when a certificate of title is issued as a result of the transfer of a motor vehicle:**
  - a. to a secured party who has a perfected security interest in the motor vehicle; or

- b. to a partnership, limited liability company, corporation, trust or other person where no gain or loss arises on the transfer under Section 351 or Section 721 of the Internal Revenue Code, or because the transfer is treated under the Code as being to an entity that is not a separate entity from its owner or whose separate existence is otherwise disregarded, or to a partnership, limited liability company, or corporation by merger, conversion, or consolidation in accordance with applicable law.
- 6. A maximum tax of \$150 applies when a certificate of title is issued for a motor vehicle that, at the time of applying for a certificate of title, is and has been titled in another state for at least 90 days.
- 7. **Credits**
  - a. **Tax Paid in Another State**

A person who, within 90 days before applying for a certificate of title for a motor vehicle on which the tax is due, has paid a sales tax, an excise tax, or a tax substantially equivalent to the tax on the vehicle to a taxing jurisdiction outside this State is allowed a credit against the tax due for the amount of tax paid to the other jurisdiction.
  - b. **Tax Paid Within One Year**

A person who applies for a certificate of title for a motor vehicle that is titled in another state but was formerly titled in this State is allowed a credit against the tax due for the amount of tax paid by that person on the same vehicle within one year before the application for a certificate of title.
- 8. When a purchaser of a motor vehicle returns the motor vehicle to the seller within 90 days after the purchase and receives a vehicle replacement or a refund of the purchase price, the purchaser may obtain a refund of the privilege tax paid on the certificate of title issued for the returned motor vehicle. The purchaser must apply to the Division for a refund within 30 days after receiving the replacement vehicle or refund of the purchase price. The application must be made on a form prescribed by the Commission and must be supported by documentation from the seller of the returned vehicle.

#### **B. Motor Vehicle Leases - Highway Use Tax and Alternate Gross Receipts Tax**

- 1. Lessors of motor vehicles may elect to pay the highway use tax to the Commissioner of Motor Vehicles when applying for a certificate of title to a motor vehicle purchased by the retailer for lease or rental or may elect to collect and remit the tax to the Secretary of Revenue on the lease or rental receipts derived therefrom. Any credit allowed by a vendor in the lease agreement for a traded-in vehicle is not considered a part of the gross receipts derived from the lease or rental of a motor vehicle on which the alternate gross receipts tax is computed.
- 2. **Alternate Gross Receipts Tax Rate** - The rate of highway use tax on motor vehicle lease or rental receipts is 8% or 3%. The 8% rate is due on “**short-term lease or rental**” agreements. The 3% rate is due on “**long term lease or rental**” agreements. “**Short-term lease or rental**” is a lease for less than 365 continuous days. “**Long-term lease or rental**” is a written agreement to lease or rent property for at least 365 continuous days to the same person.

A maximum tax applies as follows:

- a. a maximum tax of \$1,500 is applicable to the continuous lease or rental to the same person of a “**recreational vehicle**” that is not subject to the \$1,000 maximum tax.
- b. a maximum tax of \$1,000 is applicable to a continuous lease or rental to the same person of a Class A or Class B motor vehicle that is a “**commercial motor vehicle**,” as defined in G.S. 20-4.01.

The 8% rate of tax will be deposited in the General Fund; the 3% rate of tax will be deposited to the Highway Trust Fund. The two rates of tax on motor vehicle lease receipts are reported on the **Motor Vehicle Lease and Rental Tax Return, Form E-500F**, which will be provided to motor vehicle lessors by the Department of Revenue upon request.

3. A retailer who elects to pay tax to the Secretary of Revenue on the gross receipts from the lease or rental of a motor vehicle must make this election when applying for a certificate of title for the vehicle. To make the election, the retailer must complete Form MVR-608 provided by the Division of Motor Vehicles. Once made, an election is irrevocable. **The highway use tax remitted to the Division of Motor Vehicles cannot be collected by the lessor from the lessee as a separate charge. A charge which is designated in any manner as a tax (i.e. sales, use or highway use tax) must be remitted to the Department of Revenue notwithstanding any agreement which indicates the charge represents a recoupment of tax paid. The lessor can recoup the highway use tax paid to the Division of Motor Vehicles, as well as any other expense incident to the conduct of business, by including such amount in the gross receipts.**
4. If North Carolina lessors lease motor vehicles to out-of-state lessees to be located, domiciled or assigned in this State for use in interstate operations, the lessors are required to remit the highway use tax to the Commissioner of Motor Vehicles when applying for a certificate of title for the vehicles or collect and remit the alternate gross receipts tax on the lease or rental receipts notwithstanding that the lease may be negotiated outside North Carolina or that the vehicles are delivered to the lessees at a point outside this State or are registered outside this State. If North Carolina lessors lease motor vehicles to out-of-state lessees for use exclusively in a state other than North Carolina and deliver the vehicles to the lessees at a point outside this State, the lessor is not liable for the highway use tax on the vehicle or the alternate gross receipts tax on the lease receipts.
5. G.S. 105-187.5(d) authorizes the Secretary of Revenue to administer the tax imposed on the gross receipts from the lease or rental of motor vehicles in the same manner as the tax levied under G.S. 105-164.4(a)(2). The administrative provisions and powers of the Secretary that apply to the tax levied under G.S. 105-164.4(a)(2) apply to the tax imposed on the gross receipts from the lease or rental of motor vehicles. The Division of Motor Vehicles may request the Secretary to audit a retailer who elects to pay tax on gross receipts under this section and the Division of Motor Vehicles shall reimburse the Secretary for the cost of the audit, as determined by the Secretary. In conducting an audit of a retailer under this section, the Secretary may audit any sales of motor vehicles made by the retailer.
6. The following items **are a part of the gross receipts** derived from the lease or rental of a motor vehicle and are subject to the alternate highway use tax whether the charges are paid directly to a third party by the lessee on behalf of the lessor or are billed by the lessor to the lessee:

- a. capital cost reductions/down payments;
  - b. security deposits. If a portion of a security deposit is refunded to the lessee, any tax collected thereon should also be refunded to the lessee. The lessor can then take credit on his **Motor Vehicle Lease and Rental Tax Return, Form E-500F**, by attaching an explanation thereto.
  - c. documentary fees;
  - d. personal property taxes. It does not matter if the property taxes are estimated by the lessor and included in the monthly lease, assessed against the lessor and separately billed to the lessee or if the taxes are paid by the lessee directly to the taxing authority on the lessor's behalf.
  - e. titling fees/title processing fees;
  - f. U.C.C. (Uniform Commercial Code) charges - fee charged to the lessee but paid by the lessor to the Clerk of Court to record a lien on the motor vehicle being leased;
  - g. prorata rental charges;
  - h. charges for excess mileage;
  - i. attorney's fees for the initial, direct cost of establishing a lease (recording fees, preparing lease agreements or other documents);
  - j. fees or charges incurred in collecting delinquent accounts;
  - k. extension fees - charged to the lessee for extending the lease agreement. This fee usually represents a month's interest and occurs in situations where the lessee is unable to pay the entire lease payment.
  - l. finance charges;
  - m. licensing fees;
  - n. mandatory maintenance agreements;
  - o. fuel purchased from the lessor;
  - p. administration fees;
  - q. any other miscellaneous fees charged at the time the lease is initiated.
7. The following items **are not part of the gross receipts** derived from the lease or rental of motor vehicles and are not subject to the alternate highway use tax:
- a. any allowance for a motor vehicle taken in trade as partial payment on the lease or rental amount;
  - b. bad check fees which the lessor bills separately to the lessee;

- c. penalties charged for late or delinquent lease payments which the lessor bills separately to the lessee;
- d. insurance premiums paid by the lessee directly to the insurer, or to the lessor as agent for the insurer, when the premium amounts are separately stated from the lease or rental charges;
- e. optional maintenance agreements.

**Note:** For additional information on the lease or rental of tangible personal property, refer to Section 23 of the Sales and Use Tax Technical Bulletins.

History Note: Authority G.S. 105-187.1 - 105-187.9; 105-187.11; 105-264;  
Issued: June 1, 1996;  
Revised: January 1, 2007; February 1, 2004; June 1, 2002;  
October 1, 1999; October 15, 1998; March 1, 1997.

## 35-2 FIRE TRUCKS AND EQUIPMENT AND RESCUE VEHICLES

### A. Fire Trucks and Equipment

#### 1. Fire Trucks Sold to Municipalities, Counties, Rural Fire Protection Districts, Volunteer Fire Departments and Volunteer Rescue Squads

Sales of fire trucks to municipalities, counties and rural fire protection districts organized under Chapter 69 of the North Carolina General Statutes are subject to the 3% rate of highway use tax.

If a fire truck is classified as a Class A or Class B commercial motor vehicle, a maximum tax of \$1,000 applies to the fire truck including all accessories built into or affixed thereto by the manufacturer such as nozzles, hoses, hose reels, hose straps, hose clamps, hose connections, adapters, play pipes, ladders, tanks, booster pumps, pike poles, etc. Otherwise, there is no maximum tax.

A volunteer fire Department or volunteer “**rescue squad**,” as defined by G.S. 105-187.1(5), that is not part of a unit of local government, has no more than two paid employees, and is exempt from State income tax under G.S. 105-130.11 is exempt from the 3% rate of highway use tax on its purchases of the following motor vehicles:

- a. a fire truck, a pump truck, a tanker truck, or a ladder truck used to suppress fire;
- b. a four-wheel drive vehicle intended to be mounted with a water tank and hose and used for forest fire fighting;
- c. an emergency services vehicle.

#### 2. Privately Owned Fire Trucks

Privately owned fire trucks or vehicles on which fire fighting equipment has been mounted that are used only for fire fighting purposes are classified as special mobile equipment, and sales thereof are subject to the general rate of State tax and any applicable local sales or use tax.

**3. Repair Parts For Fire Trucks**

Sales of repair parts to municipalities, counties, rural fire protection districts, and industrial users for use in repairing fire trucks are subject to the general rate of State tax and any applicable local sales or use tax.

**4. Fire Fighting Equipment**

Retail sales of axes, brooms, buckets, shovels, ropes, general purpose tools, gas masks, first aid kits, blankets, portable pumps, portable fire extinguishers and like articles are considered to be other fire fighting equipment rather than accessories to the fire truck, and retail sales of such items are subject to the general rate of State tax and any applicable local sales or use tax without any maximum tax applicable thereto notwithstanding such sales are made to the above type customers or that the items are sold with fire trucks.

**B. Rescue Vehicles**

A volunteer fire department or volunteer “**rescue squad**,” as defined by G.S. 105-187.1(5), that is not part of a unit of local government, has no more than two paid employees, and is exempt from State income tax under G.S. 105-130.11 is exempt from the 3% rate of highway use tax on its purchases of an emergency services vehicle.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-187.1; 105-187.3;  
105-187.6; 105-264;  
Issued: June 1, 1996;  
Revised: January 1, 2007; June 1, 2002; October 15, 1998.

**35-3 SPECIAL EQUIPMENT - ACCESSORIES MOUNTED ON MOTOR VEHICLES**

Persons selling pulling devices, hole digging devices, aerial working devices or other such special accessories at retail which they mount upon a motor vehicle chassis or body belonging to others must collect and remit the general rate of State tax and any applicable local sales or use tax thereon. Any charges for labor or services rendered in installing or applying such items are not subject to tax provided such charges are segregated from the charge for the tangible personal property sold on the invoice given to the customer at the time of sale and in the vendor's records; otherwise, the total amount is subject to the tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;  
Issued: June 1, 1996;  
Revised: June 1, 2002.

**35-4 SPECIAL MOBILE EQUIPMENT**

Receipts derived from the sale, lease, or rental of “**special mobile equipment**,” as defined by G.S. 105-164.3(41), are subject to the general rate of State tax and any applicable local sales or use tax. The sales or use tax is imposed at the time the special mobile equipment is sold to the purchaser without regard to the manner in which it will subsequently be registered, licensed, or titled with the Division of Motor Vehicles. If the special mobile equipment is purchased for lease or rental, the purchaser should properly execute a **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E**, at the time of the purchase and collect tax on the receipts derived from the lease or rental.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-264;  
Issued: March 1, 1997;  
Revised: January 1, 2007; July 1, 2005; June 1, 2002;

October 1, 1999; October 15, 1998.

### 35-5 PARTS FROM JUNKED MOTOR VEHICLES

Persons, firms, or corporations engaged in the business of making retail sales of used parts from junked motor vehicles are liable for collecting and remitting the applicable rate of tax on such sales. When traded-in or repossessed articles are dismantled and the parts therefrom are sold at retail by such businesses, the parts lose their identity as repossessed articles and are subject to the tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;  
Issued: June 1, 1996;  
Revised: October 1, 1999.

### 35-6 PICKUP CAMPER TRAILERS

Camper trailers which are designed to run on the streets and highways and which are pulled by a self-propelled vehicle are properly classified as motor vehicles and are exempt from sales tax. Retail sales of such camper trailers are subject to the highway use tax. Retail sales of slide-in pickup camper units are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;  
Issued: June 1, 1996;  
Revised: June 1, 2002; October 15, 1998.

### 35-7 MOTOR VEHICLE SERVICE BUSINESSES

#### A. Repair of Motor Vehicles

Persons engaged in the business of repairing automobiles and other motor vehicles are liable for collecting and remitting the general rate of State tax and any applicable local sales or use tax on the sales price of any parts, accessories or other tangible personal property which they furnish in connection with repairing their customers' vehicles. Charges for labor to install the parts, accessories and similar property are not subject to tax if such charges are separately stated on the customers' invoices and in the vendor's records; otherwise, the total charges are subject to the tax.

#### B. Parts Purchased For Resale

Sales of repair parts, accessories and other tangible personal property to automotive repair shops for resale in connection with repairing their customers' vehicles are not subject to tax when supported by a properly executed **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E**.

#### C. Tools, Equipment and Supplies Sold to Automotive Repair Shops

Sales of tools, equipment and supplies to automotive repair shops for use in conducting their business are subject to the general rate of State tax and any applicable local sales or use tax and vendors making such sales are required to collect and remit same. Certificates of Exemption are not applicable to sales of this nature. If, in addition to repairing motor vehicles, a repair shop actually makes sales of tools, equipment, supplies, and similar items to its customers, such repair shop may purchase such items under a Certificate of Exemption. Vendors selling tools, equipment, supplies and similar items to a repair shop or similar business which does not

ordinarily and customarily engage in reselling such articles at retail shall require from such vendee a Certificate of Exemption with each order for such articles. Such vendee is then liable for collecting and remitting the general rate of State tax and any applicable local sales or use tax on its sales of tools, equipment, supplies and similar items and for remitting use tax on any items used in the business.

#### **D. Tangible Personal Property Installed Upon or in Motor Vehicles**

The total charge for all tangible personal property, including windshields, window glass, seat covers, floor mats, head liners, runners, channels, pig rings, felt, tacks, screws, thread, tape, windlass, welt cord, and similar items installed in or upon motor vehicles by persons selling and installing such property, are subject to the general rate of State tax and any applicable local sales or use tax. The charge for labor performed or other services rendered in installing the same are also subject to the general rate of State tax and any applicable local sales or use tax unless such charges are separately stated on the customer's invoice and in the vendor's records. All tax due must be collected and remitted to the Department by the person selling and performing such installation service. Sales of tangible personal property for resale in connection with glass repair and reupholstery jobs are not subject to tax when supported by properly executed Certificates of Exemption; however, any tools, supplies or other property sold for use in performing such work are subject to the general rate of State tax and any applicable local sales or use tax.

#### **E. Painting and Refinishing Motor Vehicles**

Persons engaged in the business of painting or refinishing motor vehicles are the users or consumers of tangible personal property which they purchase for use in the performance of such services. Sales to such businesses of paint, primer, sandpaper and belts, masking tape, putty and other finishing or refinishing materials, including those named in Paragraph F. of this Bulletin, tools, supplies and any other tangible personal property for use in body repair, painting or refinishing work are subject to the general rate of State tax and any applicable local sales or use tax. If, in addition to such body repair, painting or refinishing work, said businesses purchase tangible personal property such as automobile fenders, doors, windshields or other parts or accessories and sell the same to their customers, such businesses are liable for collecting and remitting the tax on such sales irrespective of whether the sales are made in connection with repair or refinishing jobs.

#### **F. Purchases of Detail Materials**

Sales of soap, wax, polish, glaze, undercoating, scotchguard, finish protectants and other related materials to motor vehicle dealers and other businesses that use such materials to wash, wax, and/or apply a protective coating to automobiles are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.5;  
105-164.6; 105-264;  
Issued: June 1, 1996;  
Revised: January 1, 2007; July 1, 2005; June 1, 2002.

### **35-8 BOATS, BOAT TRAILERS, PARTS AND ACCESSORIES THERETO**

#### **A. Boats**

##### **1. Exempt Sales of Boats, Accessories and Supplies**

G.S. 105-164.13(9) exempts from sales and use taxes sales of boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints, parts, accessories, and supplies to

persons for use by them principally in commercial fishing operations within the meaning of G.S. 113-168, except when the property is for use by persons principally to take fish for recreation or personal use or consumption.

## 2. Retail Sales of Boats

Retail sales of boats are subject to the 3% State rate of sales or use tax with a maximum tax of \$1,500 applicable to the sale of any one boat except those sales exempt from tax under the provisions of G.S. 105-164.13(9). The tax shall be computed on the gross sales price of the boat without any deduction for any trade-in credit or allowance. The gross sales price of a boat includes charges for all parts and accessories attached thereto at the time of delivery to the purchaser, such as the boat motor, fenders, boat and motor controls, compass, windshield, horn, lights, labor for installing such parts and accessories, freight or any other charges for preparing the boat for sale.

The sale of a used article taken in trade as a credit on the sale of a new article (boat) is subject to the applicable tax. The tax is due on the full sales price of the traded-in article. The tax continues to be due on the full sales price of the new article (boat). “**New article**” means the original stock in trade of a merchant and is not limited to a newly manufactured article. This provision does not apply to the sale of a motor vehicle.

## 3. Sales of Parts and Accessories For Boats

- a. **Parts and accessories**, including boat motors, fenders, boat and motor controls, lights, windshields, horns, and other accessories sold separately from the sale of the boat are subject to the general rate of State tax and any applicable local sales or use tax; however, charges for labor to install such parts and accessories are not subject to tax when separately stated on the customer's invoice and in the vendor's records.
- b. Life jackets, life rings, cushions, flares, fire extinguishers, and rope are considered to be **safety equipment** rather than accessories to the boat and sales of such items at retail are subject to the general rate of State tax and any applicable local sales or use tax notwithstanding that they may be sold with the boat.

## B. Boat Trailers

### 1. Retail Sales of Boat Trailers

A retail sale of a boat with a boat trailer is considered to be the sale of two separate articles. A boat trailer is a motor vehicle and is subject to the 3% highway use tax applicable to the trailer including any parts or accessories thereto installed thereon at the time of the sale, labor for installing such parts and accessories, freight, or any other charges for preparing the boat trailer for sale. The tax must be computed on the gross sales price of the boat trailer less any allowance for a boat trailer (or other type of motor vehicle) taken in trade as a part of the consideration for the purchased trailer. The retail sale of a used boat trailer or other motor vehicle taken trade is then also subject to the highway use tax. When property other than a boat trailer or other type of motor vehicle is taken in trade as a credit or part payment of the purchase price of a boat trailer, the highway use tax must be computed and paid on the full gross sales price without any deduction whatever for such trade-in credit or allowance. The sale of the used property (other than a boat trailer or other motor vehicle) by the vendor who accepted same in trade would then be subject to sales tax.

**2. Sales of Parts and Accessories For Boat Trailers**

Retail sales of parts and accessories for boat trailers are subject to the general rate of State tax and any applicable local sales or use tax when sold separately from the sale of the trailers; however, charges for labor to install such parts and accessories are not subject to tax when separately stated on the customer's invoice and in the vendor's records.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.5; 105-164.6;  
105-164.13; 105-187.3; 105-264;  
Issued: June 1, 1996;  
Revised: January 1, 2007; February 1, 2004; June 1, 2002;  
October 1, 1999; October 15, 1998; January 6, 1997.

**35-9 AIRCRAFT, RAILWAY CARS AND LOCOMOTIVES**

- A. Prior to January 1, 2006**, retail sales of aircraft, railway cars and locomotives, including all accessories attached to the item when it is delivered to the purchaser, are subject to the 3% State tax with a maximum tax of \$1,500.
- B. Effective January 1, 2006**, retail sales of railway cars and locomotives, including all accessories attached to the item when it is delivered to the purchaser, are subject to the general rate of State tax and any applicable local sales or use tax. Retail sales of aircraft continue to be subject to the 3% State tax with a maximum tax of \$1,500.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;  
Issued: June 1, 1996;  
Revised: January 1, 2007; October 15, 1998.

**35-10 MANUFACTURED HOMES****A. Tax on Gross Sales Price**

Retail sales of manufactured homes, including all accessories attached to the manufactured home when it is delivered to the purchaser, are subject to the 2% State rate of sales tax with a maximum tax of \$300 per article. Each section of a manufactured home that is transported to the site where it is to be erected is a separate article subject to the 2% State rate of sales or use tax with a maximum tax of \$300 applicable thereto. The tax is to be computed on the gross sales price of the manufactured home without any deduction whatever on account of any trade-in credit or allowance. The gross sales price of the manufactured home includes any parts or accessories installed thereon at the time of the sale and delivery to the customer, labor for installing such parts or accessories, freight, or any other charges for preparing the manufactured home for sale.

**Effective January 1, 2004**, there is a new definition of “**manufactured home.**” A “**manufactured home**” is a structure that is designed to be used as a dwelling and is manufactured in accordance with the specifications for manufactured homes issued by the United States Department of Housing and Urban Development.

**B. Items Included in Gross Sales Price**

- 1. Any furniture, appliances or accessories** placed in a manufactured home by the manufacturer or the dealer and which are a part of the sale and delivery of the manufactured home to a customer are included in the gross sales price of the manufactured home, subject to the 2% State rate of tax with a maximum tax of \$300 applicable to the sale.

2. **Anchor bolts, tie-downs, skirting, steps, and central or window air-conditioning units** that are to be attached to a manufactured home and that are a part of the sale of a manufactured home at the time of delivery to the customer or at the time of installation by a dealer for his customer are included in the sales price subject to the 2% State rate of tax with a maximum tax of \$300 applicable to the sale of each manufactured home.
3. Any charge made by a vendor to a customer for **running gear** upon which a manufactured home is delivered is a part of the gross sales price of such manufactured home subject to the 2% State rate of tax, with a maximum tax of \$300, notwithstanding that such charge may be separately stated from the charge for the manufactured home on the invoice given to the customer at the time of the sale. The return of running gear to a dealer for credit or refund of such charge does not alter the rate of tax applicable to the sale, and the customer is not entitled to a credit or refund of the tax paid on the charge for the running gear returned or sold to the dealer.

#### C. Items Sold Separate From Manufactured Homes

1. Any sale of furniture, appliances and other accessories to a customer by a dealer after the sale of the manufactured home has been consummated is subject to the general rate of State tax and any applicable local sales or use tax.
2. **Parts or accessories** sold separately from the sale of a manufactured home are subject to the general rate of State tax and any applicable local sales or use tax; however, charges for labor to install such parts or accessories are not subject to tax when separately stated on the customer's invoice and in the vendor's records.

#### D. Purchases by Dealers and Others Used in Installation of Manufactured Homes

**Cement blocks** which are used to prepare or build the foundation for or to level a manufactured home, the **sewer pipe** used to connect a manufactured home to the septic or sewer system, and **wedges** used for leveling a manufactured home do not come within the definition of accessories attached at the time of delivery and, therefore, purchases of these items by dealers or other users or consumers in this State to be used in the installation of a manufactured home are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;  
Issued: June 1, 1996;  
Revised: July 1, 2005; February 1, 2004; June 1, 2002;  
October 15, 1998.

### 35-11 MOBILE OFFICES AND MOBILE CLASSROOMS

- A. **Prior to January 1, 2006**, G.S. 105-164.4(a)(1e) levies the 3% rate of State tax, up to a maximum tax of \$1,500 per section, on retail sales of mobile offices and mobile classrooms. G.S. 105-164.13(41) exempts from sales and use tax sales of mobile classrooms to local boards of education or to local boards of trustees of community colleges.
- B. **Effective January 1, 2006**, retail sales of mobile offices and mobile classrooms are subject to the general rate of State tax and any applicable local sales or use tax. Sales of mobile classrooms to local boards of education or to local boards of trustees of community colleges continue to be exempt from sales and use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-264;

Issued: June 1, 1996;  
Revised: January 1, 2007; October 15, 1998.

### 35-12 MODULAR HOMES – PRIOR TO JANUARY 1, 2004

- A. Retail sales of modular homes are subject to the general rate of State tax and any applicable local sales or use tax. Modular homes are considered as “**manufactured homes**” subject to the 2% State rate of tax with a maximum tax of \$300 per article only if the following conditions are met:
1. The home is built on a permanent chassis;
  2. The home is transportable in one or more sections; and
  3. The home is manufactured in accordance with the specifications for manufactured homes as issued by the United States Department of Housing and Urban Development or for modular homes as issued by the North Carolina State Building Code.

If any of the above conditions is not met, the home shall be considered a modular home subject to the general rate of State tax and any applicable local tax.

Depending on the terms of agreements between the parties, the acquisition of a modular home may constitute a retail sale and installation or a performance contract. The Transactions can involve manufacturers, dealers, contractors and individuals.

#### B. Retail Sale and Installation

1. A **manufacturer** entering into a sales contract to sell a modular home to a contractor or an individual is making a retail sale of the modular home and is liable for collecting and remitting the combined general rate of State tax and any applicable local sales or use tax on the total sales price including all charges for fabrication labor rendered in fabricating the home. Separately stated charges for installation of the modular home by the seller are not subject to tax. The manufacturer is not liable for sales or use tax on its purchases of materials that become a component part of the fabricated home.
2. A **dealer** making a retail sale of a modular home to a contractor or individual is liable for collecting and remitting the combined general rate of State tax and any applicable local sales or use tax on the gross sales price of the home excluding charges made for labor to install the home. The dealer's purchase of the modular home for resale from a manufacturer or wholesale merchant is not subject to tax. Dealers must complete and issue a properly executed **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E**, to their suppliers as documentation to support the exemption from tax.

#### C. Performance Contracts

Contractors are deemed to be the users or consumers of tangible personal property purchased for use in fulfilling a performance contract.

1. If a **manufacturer** enters into a contract to sell a customer a lot with a house built thereon; or enters into a turnkey contract to furnish labor and materials to build a home on a customer's lot, manufacture the house after the contract is executed and transport it to the lot for erection, the manufacturer is liable for the general rate of State tax and any applicable local sales or use tax on its purchases of materials used in fulfilling the contract.

2. A **dealer** that enters into contracts like those described in Paragraph C. 1. is liable for the general rate of State tax and any applicable local sales or use tax on the cost price of the modular home and any other articles of tangible personal property used in performance of the contract.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.28; 105-264;  
Issued: October 15, 1998;  
Revised: January 1, 2007; July 1, 2005; February 1, 2004;  
June 1, 2002; November 15, 2000.

### 35-13 MODULAR HOMES – EFFECTIVE JANUARY 1, 2004

#### A. Tax Imposed

G.S. 105-164.4(a)(8) imposes a sales and use tax at the State rate of 2½% on the sales price of each modular home sold, including all accessories attached to the modular home when it is delivered to the purchaser. The retail sale is deemed to be the sale of a modular home to a modular homebuilder. Local sales and use taxes are not imposed on the sale of a modular home.

#### B. Definitions

1. “**Manufactured home**” is defined in G.S. 105-164.3(20) as “a structure that is designed to be used as a dwelling and is manufactured in accordance with the specifications for manufactured homes issued by the United States Department of Housing and Urban Development.” This revised definition no longer includes a modular home.
2. “**Modular home**” is defined in G.S. 105-164.3(21b) as “a factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with specifications for modular homes under the North Carolina Residential Building Code, and bears a seal or label issued by the Department of Insurance pursuant to G.S. 143.139.1.”
3. “**Modular homebuilder**” is defined in G.S. 105-164.3(21c) as “a person who furnishes for consideration a modular home to a purchaser that will occupy the modular home. The purchaser can be a person that will lease or rent the unit as real property.”

#### C. Sales of Modular Homes

Modular home manufacturers and other sellers that are engaged in business in North Carolina for sales and use tax purposes are required to collect the 2½% State rate of sales or use tax on the sales price of modular homes sold to modular homebuilders. Sales price includes the total amount or consideration for which the modular home is sold including charges for delivery of the property and all accessories attached to the home at the time of delivery. Separately stated charges for installation or erection are not subject to tax.

1. **Prior to January 1, 2004**, it was necessary to determine whether the seller and purchaser of a modular home had entered into a performance contract or a retail sales agreement in order to determine the proper application of tax. A modular home dealer or modular home manufacturer that entered into a performance contract to furnish and erect a home was liable for the general State and local rate of sales and use tax on the cost price of materials used to fulfill the contract. A seller that entered into a retail sales agreement was liable for collecting and remitting the 2% State rate of tax with a maximum tax of \$300 per article on retail sales of modular homes that constituted

manufactured homes and the general State and applicable local rates of tax on sales of modular homes that were not considered to be manufactured homes.

2. **Effective January 1, 2004**, modular homes no longer constitute manufactured homes notwithstanding that the structure may be built on a permanent chassis. The retail sale of a modular home is subject to a 2½% State rate of sales and use tax with no maximum tax. The retail sale is deemed to be the sale by a modular home manufacturer or other seller to a modular homebuilder. A modular homebuilder is the party that furnishes for consideration a modular home to a purchaser that will occupy the home. If a purchaser that will occupy a modular home acquires a home directly from a modular home manufacturer, the purchaser is considered to be the modular homebuilder and the sale to the purchaser is subject to the 2½% State rate of sales or use tax. Sales of modular homes that are delivered to modular homebuilders at a point outside the State are exempt from tax as sales in interstate commerce. On and after January 1, 2004, the type of agreement entered into by a modular homebuilder and a customer is not a factor in determining the application of tax.

#### D. Administration

1. Charges made by modular home manufacturers for deposits on carriers constitute part of the sales price on which sales or use tax is due. A purchaser is not entitled to a refund or credit of tax paid on the carrier deposit charge when the carrier is returned and a credit or refund is issued by the seller for all or part of the deposit charge.
2. If a modular homebuilder makes a purchase of a modular home from an out-of-state seller that does not collect sales or use tax, the modular homebuilder is liable for use tax on the purchase of the home. The modular homebuilder is required to accrue and remit the 2½% State rate of tax on the purchase price of the modular home directly to the Department.
3. A modular homebuilder is liable for accruing and remitting the 2½% State rate of use tax on the purchase price of modular homes withdrawn from an on-site inventory and sold to a homebuyer after January 1, 2004. The tax is due to be reported and paid to the Department for the period in which the withdrawal from inventory occurs.
4. If a modular home manufacturer delivered and transferred ownership of a modular home to a modular homebuilder at the location of the erection of the home prior to January 1, 2004, the manufacturer should have applied tax based on the laws in effect prior to January 1, 2004 notwithstanding that the modular homebuilder and homebuyer did not complete the sale to the homebuyer until after that date. The general State and applicable local rates of tax were due on the purchase price of materials used to fabricate the home if a performance contract was entered into or the applicable State and/or local rates of tax were due on the sales price of a home if a retail sale was made.
5. A modular homebuilder is not required to collect sales or use tax on charges for a modular home to a customer. A modular homebuilder should not indicate on a sales invoice or like document issued to a customer that sales tax is being collected. If a modular homebuilder presents a customer with a list of the costs or expenses associated with the sale of the modular home, the amount of the sales or use tax paid by the modular homebuilder can be shown as a cost or expense.

#### E. Add-Ons to Modular Homes

Add-ons provided by a modular homebuilder, such as decks, garages, and storage buildings, are not considered a part of the sale of the modular home to the homebuyer. If a modular homebuilder enters into a performance contract to construct a structure, such as a deck or garage, the modular homebuilder is liable for the general State and applicable local sales and use tax on the purchase of materials used to complete the contract. If a modular homebuilder engages a subcontractor to perform the construction, the subcontractor is liable for the general State and applicable rates of sales and use tax on purchases of building materials. The subcontractor and modular homebuilder, in its capacity of general contractor, are jointly and severally liable for the tax, and the modular homebuilder should secure an affidavit from the subcontractor prior to final settlement certifying that tax has been paid in order to satisfy the modular homebuilder's liability. If a modular homebuilder makes a retail sale of a freestanding structure, such as a storage building, the modular homebuilder is liable for collecting and remitting the combined general State and local rates of tax on the sales price of the property.

#### F. Modular Home Manufacturers

A modular home manufacturer that primarily fabricates and makes outright sales of modular homes is deemed to be a manufacturer for sales and use tax purposes. A modular home manufacturer's purchases of ingredient or component materials used to fabricate modular homes are not subject to sales or use tax. Purchases of mill machinery and mill machinery parts and accessories used in a firm's production process are subject to the 1% State rate of tax with a maximum tax of \$80.00 per article.

1. **Prior to January 1, 2004**, a firm that fabricated modular homes could operate as a manufacturer that made outright sales of modular homes or as a contractor that entered into performance contracts to furnish and install modular homes, and sales and use tax applied accordingly. A firm that primarily entered into performance contracts was deemed to be a contractor for sales and use tax purposes. A contractor is liable for sales or use tax on its purchases of tangible personal property used to fulfill a contract and is liable for the general State and applicable local rates of tax on equipment used to fabricate any articles necessary to complete a contract.
2. **Effective January 1, 2004**, a sale to a modular homebuilder is deemed to be a retail sale. A firm that fabricates and transfers modular homes to modular homebuilders is considered to be a manufacturer for sales and use tax purposes without regard to the nature of the agreements entered into with the modular homebuilders. Such a firm is not subject to sales or use tax on its purchases of ingredient or component materials and is liable for collecting and remitting the 2½% State rate of sales or use tax on sales to modular homebuilders in the State.

#### G. Credit for Modular Home Manufacturers

**Effective July 1, 2006** (for purchases made on or after that date), a person selling a modular home at retail is allowed 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 the modular home to a modular homebuilder or directly to the end user of the modular home.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-264;  
Issued: February 1, 2004;  
Revised: March 1, 2007; January 1, 2007; July 1, 2005.