



**Sales and Use Tax Division
North Carolina Department of Revenue
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GENERAL GUIDANCE FOR A LOCAL SALES AND USE TAX RATE INCREASE

The information below is provided as guidance for retailers, facilitators, and purchasers of tangible personal property, digital property, and services regarding the correct local rate of sales and use tax that applies for certain transactions when a county adopts an increase in the local rate of sales and use tax. The local rate of tax is due on items subject to the general State rate of tax pursuant to N.C. Gen. Stat. § 105-164.4 excluding items listed in N.C. Gen. Stat. § 105-164.4(a)(1a). As discussed herein, the tax rate in effect prior to the rate increase is designated the “Lower Tax Rate” and the tax rate in effect on or after the rate increase is designated the “Higher Tax Rate.”

Tangible Personal Property, Digital Property, and Services

The effective date of a tax change for tangible personal property, digital property, or services subject to the general State rate of sales and use tax is administered pursuant to N.C. Gen. Stat. § 105-164.15A(a).

For a taxable item that is provided and billed on a monthly or other periodic basis, the tax rate increase applies to the first billing period that is at least 30 days after enactment and that starts on or after the effective date.

For a taxable item that is not billed on a monthly or other periodic basis, the tax rate increase applies to amounts received for items provided on or after the effective date, except amounts received for items provided under a lump-sum or unit-price contract entered into or awarded before the effective date or entered into or awarded pursuant to a bid made before the effective date.

“Prior to” and “On or After” the Effective Date of a Rate Increase

Generally, any action taken prior to the effective date of a rate increase is subject to the Lower Tax Rate. Generally, any action taken on or after the effective date of a rate increase is subject to the Higher Tax Rate.

Leases or Rentals

The gross receipts derived from the lease or rental of tangible personal property and certain digital property pursuant to a taxable lease or rental agreement entered into on or after the effective date of the increase are subject to the Higher Tax Rate. The gross receipts derived from a taxable lease or rental of tangible personal property or certain digital property for a period that begins on or after the effective date of the increase pursuant to a lease or rental agreement entered into for a definite, stipulated period of time prior to the effective date of the increase are subject to the Lower Tax Rate.

Construction Materials Used to Fulfill a Real Property Contract

Taxable construction materials purchased by a real property contractor, subcontractor, or builder in conjunction with a lump-sum or unit-price real property contract entered into or awarded to a real

property contractor pursuant to a bid made on or after the effective date of the increase are subject to the Higher Tax Rate.

Taxable construction materials purchased by a real property contractor, subcontractor, or builder on or after the effective date of the increase to fulfill a lump-sum or unit-price real property contract (sourced to the county in which the increase occurred) entered into prior to the effective date of the increase, or entered into or awarded pursuant to a bid made before the effective date of the increase, are subject to the Lower Tax Rate.

The applicable Form E-589 affidavit available under [Sales and Use Tax Forms and Certificates](#) should be issued to a retailer by a real property contractor, subcontractor, or builder to purchase construction materials on or after the effective date of the increase for use in performing qualifying real property contracts entered into, awarded, or awarded pursuant to a bid made prior to the effective date of the increase. For purchases of construction materials by a subcontractor or builder for use in a real property contract entered into or awarded to a real property contractor prior to the effective date of the increase, or entered into or awarded pursuant to a bid made by a real property contractor prior to the effective date of the increase, the subcontractor or builder should obtain written documentation from the real property contractor and attach a copy of such to each Form E-589 issued to a retailer. A real property contractor, subcontractor or builder, and the retailer should retain a copy of each Form E-589 and other documentation to substantiate that construction materials purchased or sold on or after the effective date of the increase are subject to the Lower Tax Rate.

Change Order for a Real Property Contract

Taxable construction materials used to fulfill a real property contract and purchased by a real property contractor, subcontractor, or builder for a change order in conjunction with a lump-sum or unit-price real property contract (sourced to the county in which the increase occurred) entered into or awarded to a real property contractor on or after the effective date of an increase, are subject to the Higher Tax Rate. Taxable construction materials used to fulfill a real property contract purchased on or after the effective date of the increase, by a real property contractor, subcontractor, or builder for a change order in conjunction with a lump-sum or unit-price contract (sourced to the county in which the increase occurred) entered into or awarded to a real property contractor prior to the effective date of the increase or entered into or awarded to a real property contractor pursuant to a bid made prior to the effective date of the increase, are subject to the Lower Tax Rate.

Layaway Sales

A taxable item placed in a layaway or similar deferred purchase plan prior to the effective date of the increase and delivered by the retailer or on behalf of the retailer to the purchaser on or after the effective date of the increase is subject to the Higher Tax Rate.

Gross Receipts Derived from the Rental of an Accommodation

The gross receipts derived from a transaction where a person reserves a taxable accommodation with an owner, facilitator, provider of an accommodation, or rental agent prior to the effective date of the increase for the rental of an accommodation on or after the effective date of the increase, and the agreement is secured with an advance deposit, guarantee by credit card, or payment in full, are subject to the Higher Tax Rate. If the rental of a taxable accommodation begins prior to the effective date of the increase and extends beyond the effective date of the increase, the gross receipts derived from the rental of the accommodation occupied prior to the effective date of the increase are subject to the Lower Tax Rate. The gross receipts derived from the taxable rental of an accommodation occupied on or after the effective date of the increase are subject to the Higher Tax Rate. The retailer or facilitator should separately document and account for the gross receipts applicable to a rental of an accommodation occupied prior to

and on or after the effective date of the increase in the books and records and on the invoice or other documentation provided to the customer.

Taxable Service Contracts

The sales price of or the gross receipts derived from a taxable service contract sold on an annual basis, without regard to whether it is billed or paid on a less than annual basis, where such contract is sold and entered into on or after the effective date of the increase is subject to the Higher Tax Rate. The sales price of or the gross receipts derived from the sale of a taxable service contract sold and entered into prior to the effective date of the increase is subject to the Lower Tax Rate, no matter that the contract may be billed to the customer on a monthly or other periodic basis. A retailer who sells or derives gross receipts from a service contract must report those sales on an accrual basis of accounting per N.C. Gen. Stat. § 105-164.4I(d).

Admission Charges to a Taxable Entertainment Activity

Gross receipts derived from a taxable admission charge to an entertainment activity on or after the effective date of the increase, where admission to or the right to attend the event is gained in the county subject to the increase are subject to the Higher Tax Rate. It is irrelevant whether the tickets or admission charges for the entertainment activity were on sale and available for purchase prior to the effective date of the increase.

Cash Basis

A retailer or facilitator who reports and pays sales and use tax on the cash basis of accounting is liable for remitting the Lower Tax Rate on collections received on or after the effective date of the increase for taxable sales and gross receipts (except those required by statute to be remitted on the accrual basis) made prior to the effective date of the increase. If a retailer or facilitator who generally reports on the cash basis of accounting for sales and use tax is unable to separately account for collections received on or after the effective date of the increase for sales transactions before the date of the increase, the retailer or facilitator is liable for remitting the Higher Tax Rate on such collections received on or after the effective date of the increase.

Assistance

Questions regarding this notice should be directed to the Taxpayer Assistance and Collection Center at telephone number 1-877-252-3052 (toll-free).