



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

IMPORTANT NOTICE: COLLECTION OF TAX ON SERVICE CONTRACTS

As noted in SD-13-5 issued December 23, 2013 and revised January 17, 2014, effective January 1, 2014, N.C. Gen. Stat. § 105-164.4(a)(11) imposes the 4.75% general State and applicable local (2.00% or 2.25%) and transit (0.50%) rates of sales and use tax "to the sales price of a service contract" sold at retail by a retailer on or after January 1, 2014 and sourced to this State. Effective January 1, 2014, N.C. Gen. Stat. § 105-164.3(38b) defines "[s]ervice 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." N.C. Gen. Stat. § 105-164.3(46) defines "[t]angible personal property" as "[p]ersonal property that may be seen, weighed, measured, felt, or touched or is in any other manner perceptible to the senses. The term includes electricity, water, gas, steam, and prewritten computer software."

Salesperson, Agent or Other Person May Collect and Remit Sales and Use

In order to accommodate a number of business practices and arrangements in the service contract industry, the Secretary will acknowledge and authorize any sales and use taxes collected and remitted by a salesperson, agent or other person as taxes properly collected and paid on behalf of the retailer. Such collections by the salesperson, agent or other person will not be deemed erroneous collections pursuant to N.C. Gen. Stat. § 105-164.11 by the Secretary. The salesperson, agent or other person that enters into or executes a "service contract" on behalf of a retailer should give notice to the retailer of its intent to collect the applicable sales and use taxes on such transactions.

As provided in SD-13-5, a retailer that enters into an agreement or contract or otherwise authorizes another person to sell or enter into a "service contract" sourced to this State on the retailer's behalf is engaged in business as a retailer in this State. Such retailer is liable for the 4.75% general State and applicable local and transit rates of sales and use tax on the sales price of a "service contract," notwithstanding that the salesperson, agent, or other person may receive payment, in full or in part, on behalf of the retailer from a purchaser. The retailer will be allowed credit by the Secretary upon examination or otherwise for any sales and use taxes collected on the sales price of a service contract by a salesperson, agent or other person provided the retailer can obtain an affidavit or other documentation that certifies the amount of sales and use taxes collected and remitted on the sales price of a service contract.

Assistance

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