



Sales and Use Tax Division
North Carolina Department of Revenue
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IMPORTANT NOTICE: SALE OR RENEWAL OF A SERVICE CONTRACT FOR TANGIBLE PERSONAL PROPERTY CHANGES

Note: The sale or renewal of a motor vehicle service contract on or after March 1, 2016 is exempt from sales or use tax. The application of the sales and use tax laws to the sale or renewal of a motor vehicle service contract on or after March 1, 2016 will be addressed in more detail in a separate publication issued by the Department.

Effective March 1, 2016, the sales price of or the gross receipts derived from the sale or the renewal of a service contract sold at retail on or after March 1, 2016, is subject to the general 4.75% State, applicable local, and applicable transit rates of sales and use tax, **regardless of whether the tangible personal property covered in the service contract becomes a part of or is affixed to real property.** N.C. Gen. Stat. § 105-164.3(38b), as amended for the sale or renewal of a service contract on or after March 1, 2016, defines “**service contract**” as “[a] contract where the obligor under the contract agrees to maintain or repair tangible personal property, regardless of whether the property becomes a part of or is affixed to real property, or a motor vehicle. Examples of a service contract include a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract.”

Prior to March 1, 2016, N.C. Gen. Stat. § 105-164.4I(c) provides that sales and use tax does not apply to the sales price of or the gross receipts derived from a service contract for tangible personal property that is or will become a part of real property unless the service contract is sold by the obligor or by a third party or facilitator on behalf of the obligor at the same time as the item of tangible personal property covered in the service contract.

Service Contract Examples for Tangible Personal Property Attached to or Part of Real Property

Example 1 – Service Contract - Tangible Personal Property Attached to Real Property

On March 1, 2016, an HVAC company engaged in business in North Carolina sells a service contract with a sales price of \$500.00 for an air compressor to a homeowner for a home in North Carolina. The company should collect and remit the general 4.75% State, applicable local (2.00% or 2.25%), and applicable transit (0.50%) rates of sales and use tax on the sales price of \$500.00. Although the company performs a real property contract for the installation of the HVAC system, the company is a retailer of service contracts on March 1, 2016 due to the change in the sales and use tax laws.

Example 2 – Service Contract - Tangible Personal Property That Becomes Part of Real Property

A retailer engaged in business in North Carolina sells and installs a subzero refrigerator on April 1, 2016 in a customer's North Carolina home. At the time of the sales transaction, the customer elects to purchase a two year extended warranty. The sale of the extended warranty by the retailer to the customer is a taxable service contract. The retailer should collect the general 4.75% State, applicable local (2.00% or 2.25%), and applicable transit (0.50%) rates of sales and use tax on the sales price of the extended warranty.

Example 3 – Renewal of Service Contract - Tangible Personal Property Attached to Real Property
On March 1, 2015, a North Carolina retailer sold and installed a generator for a homeowner at his North Carolina home. In addition, on March 3, 2015, the homeowner purchased a service contract with an annual renewal option. The retailer did not collect sales tax on the sales price of the service contract sold on March 3, 2015 because the sale of the service contract was not subject to sales or use tax at such time. The homeowner elects to renew the service contract on March 3, 2016. The retailer should collect and remit the general 4.75% State, applicable local (2.00% or 2.25%), and applicable transit (0.50%) rates of sales and use tax on the March 3, 2016 billing for the service contract renewal.

Exemption for Certain Purchases - Service Contract for Tangible Personal Property

For sales occurring on or after March 1, 2016 or for gross receipts derived from repair, maintenance, and installation services provided on or after that date, N.C. Gen. Stat. § 105-164.13(62) is amended and exempts the sale at retail and the use, storage, or consumption in this State of “[a]n item or repair, maintenance, and installation services used to maintain or repair tangible personal property pursuant to a service contract taxable under [Article 5 of Chapter 105 of the N.C. General Statutes] if the purchaser of the contract is not charged for the item or services. . . . For purposes of this exemption, the term ‘item’ does not include a tool, equipment, supply, or similar tangible personal property used to complete the maintenance or repair and that is not deemed to be a component or repair part of the tangible personal property for which a service contract is sold to a purchaser.”

Purchases of an item or repair, maintenance, and installation services to maintain or repair tangible personal property pursuant to a service contract subject to tax under N.C. Gen. Stat. § 105-164.4(a)(11) should be purchased by the obligor, retailer or wholesale merchant exempt from sales and use tax by issuing a properly completed [Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption](#), to a seller. Alternatively, the data elements as required by N.C. Gen. Stat. § 105-164.28(a) to substantiate an exemption can be provided to a seller by the obligor, retailer or wholesale merchant.

Example

On March 1, 2016, a retailer engaged in business in North Carolina makes a retail sale of a service contract on a garage door installed in a customer’s home in North Carolina. The retailer collects sales tax on the sales price of the service contract. On March 31, 2016, the customer’s garage door requires service covered by the service contract. The obligor arranges for repair services and is charged \$250.00 for parts and installation by a garage door retailer. The obligor provides Form E-595E to the garage door retailer to purchase the parts and installation exempt from sales and use tax and does not charge the purchaser of the service contract for the parts and installation .

Other Service Contract Exemptions

N.C. Gen. Stat. § 105-164.4I(b) provides the sales price of or the gross receipts derived from the retail sale of a service contract applicable to any of the following are specifically exempt from sales or use tax:

- (1) Effective March 1, 2016, an item exempt from tax under Article 5 of Chapter 105 (Sales and Use Tax Act) **regardless of whether the tangible personal property covered in the service contract becomes a part of or is affixed to real property.** Effective until March 1, 2016, the sales price of a service contract for a motor vehicle is subject to sales or use tax.

Example

On March 2, 2016, a qualifying farmer renews a service contract for a piece of equipment that becomes a part of an enclosure used for feeding animals. The purchase of the service contract is

not subject to sales or use tax since the equipment covered in the service contract qualifies for exemption from sales and use tax when purchased by a qualifying farmer for such use per N.C. Gen. Stat. § 105-164.13E(a)(8)b. The qualifying farmer should issue a properly completed Form E-595E or provide the required data elements to the seller as the seller's authority to exempt the sale of the service contract from sales or use tax.

- (2) A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement, regardless of whether the tangible personal property covered in the service contract becomes a part of or is affixed to real property. This exemption applies to the sale or renewal of a service contract on or after January 1, 2014.
- (3) A transmission, an engine, rear-end gears, and any other item purchased by a professional motorsports racing team or a related member of a team for which the team may receive a sales tax refund under N.C. Gen. Stat. § 105-164.14A(a)(5). This exemption applies to the sale or renewal of a service contract on or after January 1, 2014 and expires January 1, 2020.
- (4) An item subject to tax under Article 5F of Chapter 105 of the N.C. General Statutes.

Example

On April 14, 2016, a manufacturer purchases a service contract for a conveyor motor for a conveyor system used in the production process and the system is attached to real property. The purchase of the service contract for the conveyor motor covered in the contract is exempt from sales or use tax and is not subject to the certain machinery and equipment tax. The manufacturer should issue a properly completed Form E-595E or provide the required data elements to the seller as the seller's authority to exempt the sale of the service contract from sales or use tax.

- (5) A qualified aircraft or a qualified jet engine. This exemption applies to the sale or renewal of a service contract on or after October 1, 2015.

Exception

N.C. Gen. Stat. § 105-164.4I(c) continues to provide that sales and use tax does not apply to the sales price of or the gross receipts derived from a service contract or renewal of a service contract sold at retail for a security or similar monitoring contract for real property before or after March 1, 2016.

Other Information

See the [Important Notice: Service Contracts](#), issued September 26, 2014 by the Department, for additional information regarding the application of the sales and use tax laws to service contracts and, specifically, for assistance regarding the following: retailer, facilitator, obligor, sourcing of tax, basis of reporting tax, and the refund of tax for certain cancellations.

Assistance

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

To the extent that there is any change in statute or regulation, or new case law subsequent to the date of this notice, the provisions in this important notice may be superseded or voided. To the extent that any provisions in any other notice, directive, technical bulletin, or published guidance regarding sales and use tax issued prior to the date of this notice conflicts with this important notice, the provisions contained in this important notice supersede.