



## Sales and Use Tax Division

### To Taxpayers:

This form includes an overview of many changes enacted by the 2016 Session of the General Assembly to the taxes administered by the Sales and Use Tax Division. The annual *Tax Law Changes* publication produced by the Department will be available on the Department's website, [www.dornnc.com](http://www.dornnc.com), and will contain detailed explanations of the 2016 legislative changes. To receive information by email including forthcoming information on many of the items contained herein, subscribe to the Department of Revenue Tax Updates Email List ("eAlerts") at <http://www.dornnc.com/electronic/taxupdates.html>. Legislative changes may supersede any information previously set forth in the Sales and Use Tax Administrative Rules, Technical Bulletins, Notices, Directives, Private Letter Rulings, or other information published by the Department relating to any subject matter of the legislation.

As of October 1, 2016, the total general State, local, and transit rates of sales and use tax applicable to the sales price of tangible personal property, certain digital products, and certain services is 6.75% in sixty-eight (68) counties; 7.00% in Alexander, Anson, Ashe, Buncombe, Cabarrus, Catawba, Cherokee, Cumberland, Davidson, Duplin, Edgecombe, Greene, Halifax, Harnett, Haywood, Hertford, Jackson, Lee, Martin, Montgomery, New Hanover, Onslow, Pitt, Randolph, Robeson, Rowan, Sampson, Surry, and Wilkes Counties; 7.25% in Mecklenburg County; and 7.50% in Durham and Orange Counties.

The combined general rate of tax applicable to the sales price of or the gross receipts derived from telecommunications service and ancillary service, video programming, piped natural gas, electricity, spirituous liquor, aviation gasoline and jet fuel continues to be 7.00% in all one hundred (100) counties.

### PART I: SALES TAX CHANGES

#### *Effective May 11, 2016*

**Tangible Personal Property Sold Below Cost with Conditional Contract** – N.C. Gen. Stat. § 105-164.12B(b) as amended changes the term "conditional service contract" to "conditional contract" so that the transactions in the statutory section are not confused with the defined term "service contract." This section clarifies the presumed sales price of the item when a portion of the conditional contract is taxable and a portion of it is not taxable. The general State, applicable local, and applicable transit sales and use taxes are due at the time of transfer by a seller of an item of tangible personal property on the percentage of the presumed sales price that is equal to the percentage of the service in the contract that is not subject to tax at the "combined general rate," if any part of the service in the contract is not taxable at the "combined general rate." For additional information on the application of sales and use tax to tangible personal property sold below cost with a conditional contract, refer to the [Important Notice: Tax Base for Tangible Personal Property Sold Below Cost with Conditional Contract](#) published on May 24, 2016 and available on the Department's website.

**Qualifying Datacenter** – N.C. Gen. Stat. § 105-164.3(33c) as amended replaces incorrect cross-references with the applicable wage, health insurance, and environmental impact standards. For additional information on the definition of a qualifying datacenter as amended, refer to the [Important Notice: Definition of Qualifying Datacenter Clarified](#) published on May 25, 2016 and available on the Department's website.

#### *Effective January 1, 2017, for sales occurring on or after such date*

**Retail Trade** – The definition of "retail trade" in N.C. Gen. Stat. § 105-164.3(34a) is repealed.

**Retailer** – The definition of "retailer" in N.C. Gen. Stat. § 105-164.3(35) as amended provides the term does not include a real property contractor. Additionally, as amended, the term "retailer" **includes a person whose only business activity is providing repair, maintenance, and installation services.**

**Storage** – N.C. Gen. Stat. § 105-164.3(44) as amended removes the statutory exclusions from the definition of "storage." Therefore, an item received by the purchaser or on behalf of the purchaser in the State is subject to sales and use tax

no matter the item is designated for ultimate use outside the State. Additionally, an item purchased from outside the State that is initially stored in the State for a period of time and subsequently taken, shipped, or distributed outside the State for use is subject to sales or use tax. Removal of the exceptions from the defined term repeals the storage and use tax exclusion. Prior to the effective date, additional information will be available on the Department's website regarding this amended definition and the application of sales and use tax.

**Certain Retail Sales by Certain Nonprofit Organizations** – N.C. Gen. Stat. § 105-164.13(34) is repealed. Sales of items by a nonprofit civic, charitable, educational, scientific, or literary organization when the net proceeds of the sales will be given or contributed to the State of North Carolina or to one or more of its agencies or instrumentalities, or to one or more nonprofit charitable organizations, one of whose purposes is to serve as a conduit through which such net proceeds will flow to the State or to one or more of its agencies or instrumentalities, are subject to the applicable rates of sales and use tax. Additional information will be available on the Department's website regarding the repeal of this exemption prior to the effective date.

**Certain Sales at School Sponsored Events Exempt** – N.C. Gen. Stat. § 105-164.13(26b) provides an exemption from sales and use tax for food, prepared food, soft drinks, candy, and other items of tangible personal property sold not for profit for or at an event that is sponsored by an elementary or secondary school when the net proceeds of the sales will be given or contributed to the school or to a nonprofit charitable organization, one of whose purposes is to serve as a conduit through which the net proceeds will flow to the school. For purposes of this exemption, the term "school" is an entity regulated under Chapter 115C of the North Carolina General Statutes. Additional information will be available on the Department's website regarding this exemption prior to the effective date.

## **REPAIR, MAINTENANCE, AND INSTALLATION SERVICES**

***Effective January 1, 2017, for sales occurring on or after such date***

**Repair, Maintenance, and Installation Services Definition** – The definition of the term "repair, maintenance, and installation services" in N.C. Gen. Stat. § 105-164.3 as amended applies to tangible personal property, a motor vehicle, digital property, and real property, except tangible personal property or digital property installed or applied by a real property contractor pursuant to a real property contract taxed in accordance with N.C. Gen. Stat. § 105-164.4H. The term "repair, maintenance, and installation services," includes the following activities:

- a. To keep or attempt to keep property or a motor vehicle in working order to avoid breakdown and prevent deterioration or repairs. Examples include to clean, wash, or polish property.
- b. To calibrate, refinish, restore, or attempt to calibrate, refinish, or restore property or a motor vehicle to proper working order or good condition. This activity may include replacing or putting together what is torn or broken.
- c. To troubleshoot, identify, or attempt to identify the source of a problem for the purpose of determining what is needed to restore property or a motor vehicle to proper working order or good condition.
- d. To install, apply, connect, adjust, or set into position tangible personal property, digital property, or a motor vehicle.
- e. To inspect or monitor property or a motor vehicle, but does not include security or similar monitoring services for real property.

The general State, applicable local, and applicable transit rates of sales and use tax generally apply to the sales price of or the gross receipts derived from "repair, maintenance, and installation services" sold at retail unless exempt by statute or established by records maintained by the retailer. Pursuant to N.C. Gen. Stat. § 105-164.4(16), the imposition of sales and use tax on the sales price of or the gross receipts derived from "repair, maintenance, and installation services" includes any tangible personal property or digital property that becomes a part of or is applied to a purchaser's property. Additional information will be available on the Department's website regarding the amended definition and the application of sales and use tax to "repair, maintenance, and installation services" on or before November 15, 2016.

### **Certain Repair, Maintenance, and Installation Services Exemptions**

N.C. Gen. Stat. § 105-164.13(61a) provides "the sales [price] of or the gross receipts derived from the following repair, maintenance, and installation services are exempt from tax:

- a. A fee or charge for an inspection required by law, regardless of whether the amount is paid to a public or private entity, provided the charge is separately stated on the invoice or other documentation provided to the purchaser at the time of the sale.
- b. Services performed for a person by a related member [as defined by N.C. Gen. Stat. § 105-130.7A].
- c. Services performed to resolve an issue that was part of a real property contract if the services are performed within six months of completion of the real property contract or, for new construction, within 12 months of the new structure being occupied for the first time.

- d. Cleaning of real property, except where the service constitutes a part of the gross receipts derived from the rental of an accommodation subject to tax under [N.C. Gen. Stat. §] 105-164.4 or for a pool, fish tank, or other similar aquatic feature.
- e. Services on roads, driveways, parking lots, and sidewalks.
- f. Removal of waste, trash, debris, grease, snow, and other similar items from tangible personal property, including a motor vehicle, and real property, but does not include removal of waste from portable toilets.
- g. Home inspections related to the preparation for or the sale of real property.
- h. Landscaping service. [Defined by N.C. Gen. Stat. § 105-164.3(16e) as '[a] service to maintain or improve lawns, yards, or ornamental plants and trees. Examples include the installation of trees, shrubs, or flowers; tree trimming; lawn mowing; and the application of seed, mulch, pesticide, or fertilizer to a lawn or yard.']
- i. Alteration and repair of clothing, except where the service constitutes a part of the gross receipts derived from the rental of clothing subject to tax under [N.C. Gen. Stat. §] 105-164.4 or for alteration and repair of belts and shoes.
- j. Pest control service.
- k. Moving services.
- l. Self-service car washes.”

N.C. Gen. Stat. § 105-164.13E(a)(10) provides an exemption from sales and use tax for repair, maintenance, and installation services purchased by a qualifying farmer or a conditional farmer and for use by the farmer in farming operations. An item is used by a farmer for farming operations if it is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. Additional information will be available on the Department’s website regarding these exemptions on or before November 15, 2016.

## **REAL PROPERTY CONTRACTS, REAL PROPERTY CONTRACTORS, AND RETAILER-CONTRACTORS**

***Effective Retroactive to January 1, 2015***

**Erroneous Collection of Sales Tax Credit Against Use Tax Liability** – N.C. Gen. Stat. § 105-164.4H(c) as amended removes the language “the provisions of G.S. 105-164.11(a)(2) do not apply.” Erroneous collections of separately stated sales tax on an invoice or other documentation issued to a consumer at the time of the sale by a real property contractor or retailer-contractor can be credited against the use tax liability of a related transaction.

***Effective January 1, 2017, for sales occurring on or after such date***

**Real Property** – N.C. Gen. Stat. § 105-164.3(33d) defines the term “real property” for sales and use tax purposes as any one or more of the following: land, building or structure on land, permanent fixture on land, or a manufactured home or a modular home that is placed on a permanent foundation.

**Real Property Contractor** – The definition of the term “real property contractor” is re-codified as N.C. Gen. Stat. § 105-164.3(33f). The definition of the term as amended is “[a] person that contracts to perform a real property contract in accordance with [N.C. Gen. Stat. §] 105-164.4H. The term includes a general contractor, a subcontractor, or a builder for purposes of [N.C. Gen. Stat. §] 105-164.4H.”

**Real Property Contract** – N.C. Gen. Stat. § 105-164.3(33e) defines the term “real property contract” as “[a] contract between a real property contractor and another person to perform construction, reconstruction, or remodeling with respect to a capital improvement to real property.”

A real property contractor is the consumer of the tangible personal property, digital property, or taxable service that the real property contractor purchases, installs, or applies for others to fulfill a real property contract and that becomes part of real property or is used to fulfill the contract. Where a real property contractor purchases tangible personal property or digital property for storage, use, or consumption in this State, or a service sourced to this State, and the tax due to this State is not paid at the time of purchase, the provisions of N.C. Gen. Stat. § 105-164.6 apply.

**Capital Improvement** – N.C. Gen. Stat. § 105-164.4H(e)(1) defines the term “capital improvement” as “[a]n addition or alteration to real property that is new construction, reconstruction, or remodeling of a building, structure, or fixture on land that becomes part of the real property or is permanently installed or applied to the real property so that removal would cause material damage to the property or article itself. The term includes an addition or an alteration to real property for or by a lessee or tenant, provided it is intended to become a permanent installation and title to it vests in the owner or lessor of the real property immediately upon installation. The term does not include the replacement of a fixture in or on a building or structure unless the replacement is part of a remodeling. The term

does not include a single repair, maintenance, or installation service. The term includes, but is not limited to, all of the following:

- a. Removal of items from real property, such as debris, construction materials, asbestos, or excavation activities, including the removal of items from a structure such as a dumpster.
- b. Performance of work that requires the issuance of a permit under the State Building Code, other than repair or replacement of electrical components, gas logs, water heater, and similar individual items that are not part of new construction, reconstruction, or remodeling.
- c. Installation of underground utilities, notwithstanding that charges for such are included in the gross receipts derived from services subject to the combined general rate under [N.C. Gen. Stat. §] 105-164.4.
- d. Installation of equipment or fixture that is attached to real property so that removal of the item would cause physical, functional, or economic damage to the property and that is capitalized under one or more of the following: the Code, Generally Accepted Accounting Principles, or International Financial Reporting Standards.
- e. Painting or wallpapering.
- f. Replacement or installation of a roofing, septic tank, plumbing, electrical, commercial refrigeration, irrigation, sprinkler, or other similar system.
- g. Replacement or installation of a heating, ventilation, and air conditioning unit or system.
- h. Replacement or installation of roads, driveways, parking lots, and sidewalks.
- i. Landscaping service.”

*New Construction* – N.C. Gen. Stat. § 105-164.4H(e)(2) defines the term “new construction” as “[c]onstruction of or site preparation for a permanent new building, structure, or fixture on land or an increase in the square footage of an existing building, structure, or fixture on land.”

*Reconstruction* – N.C. Gen. Stat. § 105-164.4H(e)(3) defines the term “reconstruction” as to “[r]ebuild or construct again a prior existing permanent building, structure, or fixture on land and may include a change in the square footage from the prior existing building, structure, or fixture on land.”

*Remodeling* – N.C. Gen. Stat. § 105-164.4H(e)(4) defines the term “remodeling” as “[t]he process of improving or updating a permanent building, structure, or fixture on land or major portions thereof. The term includes renovation.”

**Retailer-Contractor** – N.C. Gen. Stat. § 105-164.3(35a) as amended defines the term “retailer-contractor” as “[a] person that acts as a retailer when it makes a sale at retail and as a real property contractor when it performs a real property contract.” N.C. Gen. Stat. § 105-164.4H(b)(1) provides a retailer-contractor acts as a real property contractor “when it contracts to perform a real property contract. A retailer-contractor that purchases tangible personal property or digital property to be installed or applied to real property or a service to fulfill the contract may purchase those items exempt from tax under a certificate of exemption pursuant to [N.C. Gen. Stat. §] 105-164.28 provided the retailer-contractor also purchases inventory items or services from the seller for resale. When the property is withdrawn from inventory and installed or applied to real property, or when the service is deemed used, use tax must be accrued and paid on the retailer-contractor’s purchase price of the property. Property that the retailer-contractor withdraws from inventory for use that does not become part of real property is also subject to [sales and use tax].”

*Joint and Several Liability* – N.C. Gen. Stat. § 105-164.4H(b1) provides “[i]f a retailer-contractor subcontracts any part of the real property contract, tax is payable by the subcontractor on the subcontractor’s purchase of the tangible personal property or digital property that is installed or applied to real property or a service used to fulfill the contract. The retailer-contractor, the subcontractor, the owner of the real property, and the lessee of the real property, are jointly and severally liable for the tax. The liability of a retailer-contractor, a subcontractor, an owner, or lessee who did not purchase the property or service is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid.”

**Installation Charge Exemptions for Certain Purchases by a Real Property Contractor** – N.C. Gen. Stat. § 105-164.13(61c) provides an exemption from sales and use tax for “[i]nstallation charges that are a part of the sales price of tangible personal property purchased by a real property contractor to fulfill a real property contract for an item that is installed or applied to real property, provided the installation charges are separately stated and identified as such on the invoice or other documentation given to the real property contractor at the time of the sale.”

N.C. Gen. Stat. § 105-164.13(61d) provides an exemption from sales and use tax for “[i]nstallation charges that are a part of the sales price of or gross receipts derived from repair, maintenance, and installation services or installation charges only purchased by a real property contractor to fulfill a real property contract, provided the installation charges are separately stated and identified as such on the invoice or other documentation given to the real property contractor at the time of the sale. The exemption also applies to installation charges by a retailer-contractor when performing a real property contract. The exemption includes any labor costs provided by the real property contractor, including employees’ wages, or labor purchased from a third party that would otherwise be included in the definition of ‘purchase price.’”

**Erroneous Collection of Sales Tax by a Real Property Contractor** – N.C. Gen. Stat. § 105-164.4H(c) provides “[a]n invoice or other documentation issued to a person by a real property contractor shall not separately state any amount for tax for a real property contract. Any amount for tax separately stated on an invoice or other documentation given to a person by a real property contractor is an erroneous collection and must be remitted to the Secretary.” See N.C. Gen. Stat. § 105-164.11 for additional information and circumstances.

Additional information for real property contracts, real property contractors, and retailer-contractors regarding sales and use taxes applicable to sales occurring on or after January 1, 2017 will be available on the Department’s website on or before November 15, 2016.

## **MIXED TRANSACTION CONTRACT**

***Effective January 1, 2017, for sales occurring on or after such date***

**Repair, Maintenance, and Installation Services Greater Than 10%** – N.C. Gen. Stat. § 105-164.4H(d) provides that if a contract includes both a real property contract for a capital improvement and repair, maintenance, and installation services and the price of the taxable repair, maintenance, and installation services included in the contract is equal to or greater than ten percent (10%) of the contract price, then sales and use tax applies to the taxable repair, maintenance, and installation services portion of the contract. The person must determine an allocated price for each taxable repair, maintenance, and installation service in the contract based on a reasonable allocation of revenue that is supported by the person’s business records kept in the ordinary course of business. Any purchase of tangible personal property, digital property, or services to fulfill the real property contract are taxed in accordance with N.C. Gen. Stat. § 105-164.4H.

**Repair, Maintenance, and Installation Services 10% or Less of Total** – If a contract includes both a real property contract for a capital improvement and repair, maintenance, and installation services and the price of the taxable repair, maintenance, and installation services included in the contract does not exceed ten percent (10%) of the contract price, then the repair, maintenance, and installation services portion of the contract, and the tangible personal property, digital property, or service used to perform that service, are taxable as a real property contract in accordance with N.C. Gen. Stat. § 105-164.4H.

Additional information will be available on the Department’s website regarding the application of sales and use taxes to mixed transaction contracts on or before November 15, 2016.

## **SERVICE CONTRACTS**

***Effective January 1, 2017, for sales occurring on or after such date***

**Service Contract Definition** – N.C. Gen. Stat. § 105-164.3(38b) as amended defines “service contract” as “[a] contract where the obligor under the contract agrees to maintain, monitor, inspect, or repair digital property or tangible personal property for a period of time or some other defined measure, regardless of whether the property becomes a part of or is applied to real property. The term does not include a single repair, maintenance, or installation service. The term includes a service contract for a pool, fish tank, or similar aquatic feature and a home warranty. Examples 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.”

**Service Contract Bundled Transaction** – N.C. Gen. Stat. § 105-164.4D(a)(6) provides that if the service contract bundled transaction includes a contract for two or more services, one of which is subject to sales and use tax and one of which is not subject to sales and use tax, the person must determine an allocated price for the taxable service portion of the contract in the bundle based on a reasonable allocation of revenue that is supported by the person’s business records kept in the ordinary course of business.

### **Service Contract Exemptions and Exclusions**

N.C. Gen. Stat. § 105-164.4I(b) as amended provides the tax imposed on a service contract does not apply to the sales price of or the gross receipts derived from a service contract applicable to an item exempt from sales and use tax. This exemption does not apply to water maintained under a service contract for a pool, fish tank, or similar aquatic feature.

N.C. Gen. Stat. § 105-164.13(62) as amended provides an exemption from sales and use tax for “[a]n item or repair, maintenance, and installation services used to maintain, monitor, inspect, or repair tangible personal property or digital property pursuant to a service contract taxable under [Article 5 (Sales and Use Tax) of the Revenue Act] 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 that is not deemed to be a component or repair part of the tangible personal property or digital property for which a service contract is sold to a purchaser.”

Additional information will be available on the Department’s website regarding the application of sales and use taxes to “service contracts” on or before November 15, 2016.

## MOTOR VEHICLE SERVICE CONTRACTS

**Effective January 1, 2017, for sales occurring on or after such date**

**Motor Vehicle Service Contract Definition and Exemption** – N.C. Gen. Stat. § 105-164.3(23a) defines the term “motor vehicle service contract,” in part, to be “[a] service contract sold by a motor vehicle dealer or by or on behalf of a motor vehicle service agreement company for a motor vehicle or for one or more components, systems, or accessories for a motor vehicle.”

N.C. Gen. Stat. § 105-164.4l(b)(6) provides an exemption from sales and use tax for the sales price or gross receipts derived from a motor vehicle service contract.

Additional information will be available on the Department’s website regarding the application of sales and use taxes to motor vehicle service contracts on or before November 15, 2016.

## PART II: MISCELLANEOUS SALES AND USE TAX EXEMPTIONS

**Effective Retroactive to January 1, 2016**

**Aviation Gasoline and Jet Fuel** – N.C. Gen. Stat. § 105-164.13(11b) as amended expands the exemption from sales and use tax to include the purchase of aviation gasoline and jet fuel by an interstate air business for use in a commercial aircraft in *foreign commerce* by a person whose primary business is scheduled passenger air transportation. For additional information, refer to the [Important Notice: Aviation Gasoline and Jet Fuel Exemption Expanded](#) published on May 24, 2016 and available on the Department’s website.

**Effective July 1, 2016**

**Boat, Aircraft, and Qualified Jet Engine** – N.C. Gen. Stat. § 105-164.27A(a3) provides a direct pay permit can be issued to authorize its holder to purchase tangible personal property, digital property, or repair, maintenance, and installation services for a boat, an aircraft, or a qualified jet engine without paying tax to the seller and authorizes the seller to not collect any tax on the item or services from the permit holder. A permit holder is allowed a use tax exemption on the sales price of or gross receipts that exceed twenty-five thousand dollars (\$25,000) on one or more of the following:

- (i) The installation charges that are a part of the sales price of tangible personal property or digital property purchased by the permit holder for a boat, an aircraft, or a qualified jet engine, **provided the installation charges are separately stated and identified as such** on the invoice or other documentation given to the permit holder at the time of the sale, and
- (ii) The sales price of or gross receipts derived from repair, maintenance, and installation services provided for a boat, an aircraft, or a qualified jet engine.

For additional information, refer to the [Important Notice: Direct Pay Permit and Use Tax Exemption for Certain Boat, Aircraft, and Qualified Jet Engine Charges and Services](#) published on July 15, 2016 and available on the Department’s website.

**Fuel, Piped Natural Gas, and Electricity Sold to Secondary Metals Recycler** – N.C. Gen. Stat. § 105-164.13(57a) provides an exemption from sales and use tax for “[f]uel, piped natural gas, and electricity sold to a secondary metals recycler for use in recycling at its facility at which the primary activity is recycling.”

**Effective July 11, 2016**

**Prepaid Meal Plan Packaging Items** – N.C. Gen. Stat. § 105-164.13(63) as amended provides an exemption from sales and use tax for packaging items (e.g., wrapping paper, plastic bags, cartons, paper cups, napkins, drinking straws) used for packaging, shipment, or delivery that are part of the sale and delivered with the food or prepared food provided to a person under a prepaid meal plan subject to sales and use tax under N.C. Gen. Stat. § 105-164.4(a)(12).

**Effective October 1, 2016**

**Certain Recycled Products for Use in Wastewater Dispersal System** – N.C. Gen. Stat. § 105-164.13(68) provides an exemption from sales and use tax for “[s]ales of products that are made of more than seventy-five percent (75%) by weight of recycled materials when the products are sold for use in an accepted wastewater dispersal system as defined in [N.C. Gen. Stat. §] 130A-343(a)(1).” For additional information, refer to the [Important Notice: Exemption for Certain Products Made of Recycled Materials](#) published on September 15, 2016 and available on the Department’s website.

**Effective January 1, 2017, for sales occurring on or after such date**

**Storage Fees for a Motor Vehicle** – N.C. Gen. Stat. § 105-164.13(66) provides an exemption from sales and use tax for the sales price of or the gross receipts derived from storage of a motor vehicle, *provided the charge is separately stated on the invoice or other documentation provided to the purchaser at the time of the sale.* Additional information will be available on the Department’s website regarding this exemption on or before November 15, 2016.

**Towing Services** – N.C. Gen. Stat. § 105-164.13(67) provides an exemption from sales and use tax for the sales price of or the gross receipts derived from towing service, *provided the charge is separately stated on the invoice or other documentation provided to the purchaser at the time of the sale.* Additional information will be available on the Department’s website regarding this exemption on or before November 15, 2016.

**Effective January 1, 2017**

**Fuel, Electricity, and Piped Natural Gas Sold to a Manufacturer** – N.C. Gen. Stat. § 105-164.13(57) as amended clarifies that fuel and piped natural gas is exempt from sales and use tax when it is sold to a manufacturer for use in a manufacturing process within a manufacturing facility. Fuel and piped natural gas are subject to the applicable rate of sales and use tax if it is used *solely* for comfort heating at a manufacturing facility where there is no use of fuel or piped natural gas in a manufacturing process.

## **PART III: MISCELLANEOUS**

**Effective May 11, 2016**

**Statute of Limitations for Responsible Persons** – N.C. Gen. Stat. § 105-242.2(e) as amended provides “the period of limitations for assessing a responsible person for unpaid taxes under this section expires the later of (i) one year after the expiration of the period of limitations for assessing the business entity or (ii) one year after a tax becomes collectible from the business entity under [N.C. Gen. Stat. §] 105-241.22(3), (4), (5), or (6).” For additional information regarding the changes for the statute of limitations for responsible persons, refer to the [Important Notice: Responsible Person Liability Statute of Limitations Amended](#) published on May 23, 2016 and available on the Department’s website.

**Effective July 1, 2016**

**White Goods Disposal Tax** – N.C. Gen. Stat. § 105-187.21 as amended provides that the white goods disposal tax applies to both in-state and out-of-state purchases of white goods for storage, use, or consumption in this State. For additional information on the application of the white goods disposal tax relative to this change, refer to the [Important Notice: White Goods Disposal Tax](#) published on June 8, 2016 and available on the Department’s website.

**Park Model RV** – N.C. Gen. Stat. § 105-187.1(4) defines the term “Park Model RV” as “[a] vehicle that meets all of the following conditions:

- a. Is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use.
- b. Is certified by the manufacturer as complying with ANSI A119.5.
- c. Is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.”

A park model RV is classified as a motor vehicle, the sale of which is exempt from sales and use tax pursuant to N.C. Gen. Stat. § 105-164.13(32). The retail sale of a park model RV is subject to the highway use tax at the rate of three percent (3.00%) with a maximum tax of two thousand dollars (\$2,000) and is payable to the North Carolina Division of Motor Vehicles. Any highway use tax collected on a retail sale of a park model RV for which a certificate of title is issued should not be remitted to the North Carolina Department of Revenue. For additional information on the application of sales and use tax to a park model RV, refer to the [Important Notice: Park Model RV Is Exempt from Sales and Use Tax](#) published on June 10, 2016 and available on the Department’s website.

**Effective January 1, 2017, for sales occurring on or after such date**

**Motor Vehicle Lease Receipts Tax and Service Contracts on Rented or Leased Motor Vehicles** – N.C. Gen. Stat. § 105-187.5 as amended provides, in part, that the charge for a service contract “must be separately stated on documentation given to the purchaser at the time the lease or rental agreement goes into effect, or on the monthly billing statement or other documentation given to the purchaser. When a lease or rental contract is sold to another retailer, the seller of the lease or rental contract should provide to the purchaser of the lease or rental contract the documentation showing that the service contract and applicable sales taxes were separately stated at the time the lease or rental went into effect and the new retailer must retain the information to support an allocation for tax computed on the gross receipts subject to highway use tax.” Additional information will be available on the Department’s website regarding service contracts on rented or leased motor vehicles on or before November 15, 2016.

## **PART IV: CERTAIN MACHINERY AND EQUIPMENT TAX**

**Effective Retroactive to July 1, 2013**

**A Company Located at a Ports Facility** – N.C. Gen. Stat. § 105-187.51B(a)(5) as amended expands the exemption and applies retroactively to purchases made on or after July 1, 2013 of machinery, equipment, parts, accessories, or attachments used to maintain, repair, replace, upgrade, improve, or otherwise modify machinery and equipment used by a company located at a ports facility for waterborne commerce when the machinery and equipment is used at the facility to unload or to facilitate the unloading or processing of bulk cargo to make it suitable for delivery to and use by manufacturing facilities. A privilege tax of one percent (1.00%) of the purchase price with a maximum tax of eighty dollars (\$80.00) per article applies to such purchases. For additional information, refer to the [Important Notice: Certain Purchases for Use at a Ports Facility](#) published on July 15, 2016 and available on the Department’s website.

**Effective July 1, 2016**

**Certain Metal Recyclers** – N.C. Gen. Stat. §105-187.51B(a)(6) as amended imposes the one percent (1%) privilege tax with an \$80.00 maximum tax per article on the purchase price of certain purchases that meet statutory requirements by a person, other than a major recycling facility, that gathers and obtains ferrous metals, nonferrous metals, and items that have served their original economic purpose and converts them by processes, including sorting, cutting, classifying, cleaning, baling, wrapping, shredding, or shearing into a new or different product for sale consisting of prepared grades. For additional information, refer to the [Important Notice: Certain Metal Recyclers](#) published August 11, 2016 and available on the Department’s website.

**Precious Metal Extraction Companies** – N.C. Gen. Stat. § 105-187.51B(a)(7) as amended imposes the one percent (1%) privilege tax with an \$80.00 maximum tax per article on the purchase price of certain purchases that meet certain statutory requirements by “[a] company primarily engaged at the establishment in processing tangible personal property for the purpose of extracting precious metals, as defined in [N.C. Gen. Stat. §] 66-406, to determine the value for potential purchase.” For additional information, refer to the [Important Notice: Precious Metal Extraction Companies](#) published on July 25, 2016 and available on the Department’s website.

**Certain Metal Work Fabrication Companies** – N.C. Gen. Stat. § 105-187.51B(a)(8) as amended imposes the one percent (1%) privilege tax with an \$80.00 maximum tax per article on the purchase price of certain purchases that meet certain statutory requirements by “[a] company (i) that is engaged in the fabrication of metal work, (ii) that has annual gross receipts, including the gross receipts of all related persons as defined in [N.C. Gen. Stat. §] 105-163.010, from the fabrication of metal work of at least eight million dollars (\$8,000,000), and (iii) that purchases equipment, or an attachment or repair part for equipment.” For additional information, refer to the [Important Notice: Certain Metal Work Fabrication Companies](#) published on July 25, 2016 and available on the Department’s website.