

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: North Carolina Department of Revenue

RULE CITATION: 17 NCAC 07B .1202, .1303, .1404, .1601, .1605, .1705, .2001, .2002, .2204, 4109, .4201, .4202, .4707, .4708, and .5001.

RECOMMENDATION DATE: October 16, 2023

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☒ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Pursuant to G.S. 105- 262, "The Secretary of Revenue may adopt rules needed to administer tax collected by the Secretary or to fulfil any other duty delegated to the Secretary."

*Pursuant to G.S. 105-264, the Secretary has the duty to interpret all laws administered by the Secretary. This statute also provides that, "When the Secretary interprets a law by adopting a rule or publishing a bulletin or directive on the law, the interpretation is a protection to the officers and taxpayers affected by the interpretation, and taxpayers are entitled to rely upon the interpretation."*¹

Pursuant to G.S. 150B(8a), a "rule" is defined as "Any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency..."

¹ AT THE SEPTEMBER RRC MEETING, THE REPRESENTATIVE OF THE SECRETARY AGREED THAT G.S. 105-264 DOES NOT GRANT THE SECRETARY ADDITIONAL RULEMAKING AUTHORITY.

Chapter 105, Article 5., Part 2. imposes a sales and use tax generally which is collected by the Secretary.

G.S. 105-164.13 sets forth exemptions to sales and use taxation. This statute may be interpreted by the Secretary.

The language employed by the Secretary in the rules gives the appearance that the Secretary is granting an exemption as opposed to interpreting a statute which grants the exemption. For example, the Secretary employs such declarative expressions as “shall be subject to”, “are not subject to” and “are exempt from” without reference to the statutory or case law exemptions. Neither G.S. 105-264 nor any other statute grants the Secretary the authority to create a tax exemption. While the Secretary includes the statute which creates the exemption in the History Note, there is no reference to the exemption statute in the language of the rule. Accordingly, it is unclear whether the Secretary’s intent is to interpret the exemption statute or create an exemption ultra vires.

Accordingly, staff recommends objection to the rule pursuant to G.S. 150B-21.9(a)(2) for the lack of clarity whether the Secretary is exemption or interpreting.

This could easily be remedied by the Secretary adding a prefatory clause such as , “Pursuant to G.S. 105-164.13 (___)... or United States v. New Mexico.

Assuming arguendo that the Commission finds the language to be clear and unambiguous that the Secretary is creating an exemption ultra vires, staff recommends objection pursuant to G.S. 150-29.9(a)(1) for lack of authority.

§ 150B-2. Definitions.

As used in this Chapter, the following definitions apply:

- (8a) Rule. - Any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
- a. Statements concerning only the internal management of an agency or group of agencies within the same principal office or department enumerated in G.S. 143A-11 or 143B-6, including policies and procedures manuals, if the statement does not directly or substantially affect the procedural or substantive rights or duties of a person not employed by the agency or group of agencies.
 - b. Budgets and budget policies and procedures issued by the Director of the Budget, by the head of a department, as defined by G.S. 143A-2 or G.S. 143B-3, or by an occupational licensing board, as defined by G.S. 93B-1.
 - c. Nonbinding interpretative statements within the delegated authority of an agency that merely define, interpret, or explain the meaning of a statute or rule.
 - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
 - e. Statements of agency policy made in the context of another proceeding, including:
 - 1. Declaratory rulings under G.S. 150B-4.
 - 2. Orders establishing or fixing rates or tariffs.
 - f. Requirements, communicated to the public by the use of signs or symbols, concerning the use of public roads, bridges, ferries, buildings, or facilities.
 - g. Statements that set forth criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections; in settling financial disputes or negotiating financial arrangements; or in the defense, prosecution, or settlement of cases.
 - h. Scientific, architectural, or engineering standards, forms, or procedures, including design criteria and construction standards used to construct or maintain highways, bridges, or ferries.

- i. Job classification standards, job qualifications, and salaries established for positions under the jurisdiction of the State Human Resources Commission.
- j. Establishment of the interest rate that applies to tax assessments under G.S. 105-241.21.
- k. The State Medical Facilities Plan, if the Plan has been prepared with public notice and hearing as provided in G.S. 131E-176(25), reviewed by the Commission for compliance with G.S. 131E-176(25), and approved by the Governor.
- l. Standards adopted by the State Chief Information Officer and applied to information technology as defined in G.S. 143B-1320.

§ 105-262. Rules.

(a) Authority. - The Secretary of Revenue may adopt rules needed to administer a tax collected by the Secretary or to fulfill another duty delegated to the Secretary. G.S. 150B-1 and Article 2A of Chapter 150B of the General Statutes set out the procedure for the adoption of rules by the Secretary.

(b) Repealed by Session Laws 2012-43, s. 1, effective June 20, 2012, and Session Laws 2012-79, s. 1.14(d), effective June 26, 2012.

(c) Fiscal Note. - The Secretary must ask the Office of State Budget and Management to prepare a fiscal note for a proposed new rule or a proposed change to a rule that has a substantial economic impact, as defined in G.S. 150B-21.4(b1). The Secretary shall not take final action on a proposed rule change that has a substantial economic impact until at least 60 days after the fiscal note has been prepared. (1939, c. 158, s. 931; 1955, c. 1350, s. 2; 1973, c. 476, s. 193; 1981, c. 859, s. 80; c. 1127, s. 53; 1991, c. 45, s. 28; c. 477, s. 7; 1995, c. 507, s. 27.8(p); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2007-491, s. 39; 2010-31, s. 31.10(f); 2012-43, s. 1; 2012-79, s. 1.14(d).)

§ 105-264. Effect of Secretary's interpretation of revenue laws.

(a) Interpretation. - It is the duty of the Secretary to interpret all laws administered by the Secretary. The Secretary's interpretation of these laws shall be consistent with the applicable rules. An interpretation by the Secretary is prima facie correct. When the Secretary interprets a law by adopting a rule or publishing a bulletin or directive on the law, the interpretation is a protection to the officers and taxpayers affected by the interpretation, and taxpayers are entitled to rely upon the interpretation. If the Secretary changes an interpretation, a taxpayer who relied on it before it was changed is not liable for any penalty or additional assessment on any tax that accrued before the interpretation was changed and was not paid by reason of reliance upon the interpretation.

(b) Advice. - If a taxpayer requests specific advice from the Department and receives erroneous advice in response, the taxpayer is not liable for any penalty or additional assessment attributable to the erroneous advice furnished by the Department to the extent that the following conditions are all satisfied:

- (1) The advice was reasonably relied upon by the taxpayer.
- (2) The penalty or additional assessment did not result from the taxpayer's failure to provide adequate or accurate information.
- (3) The Department provided the advice in writing or the Department's records establish that the Department provided erroneous verbal advice.

(c) Revised Interpretations. - This section does not prevent the Secretary from changing an interpretation, and it does not prevent a change in an interpretation from applying on and after the effective date of the change. An interpretation that revises a prior interpretation by expanding the scope of a tax or otherwise increasing the amount of tax due may not become effective sooner than the following:

- (1) For a tax that is payable on a monthly or quarterly basis, the first day of a month that is at least 90 days after the date the revised interpretation is issued.
- (2) For a tax that is payable on an annual basis, the first day of a tax year that begins after the date the revised interpretation is issued.

(d) Fee. - The Secretary may charge a fee for providing a written determination at the request of a taxpayer. The fee is a receipt of the Department and must be applied to the costs of providing the written determination. The proceeds of the fee must be credited to a special account within the Department and do not revert but remain in the special account until spent by the Department for the costs of providing the written determination. The Secretary may adopt a tiered fee structure based on the taxpayer's income or gross receipts, the relative complexity of the advice requested, or the tax schedule for which advice is requested. The fee shall not be less than one hundred dollars (\$100.00) or more than five thousand dollars (\$5,000). The fee may be waived by the Secretary. The term "written determination" has the same meaning as defined in G.S. 105-264.2. (1939, c. 158, s. 933; 1955, c. 1350, s. 4; 1957, c. 1340, s. 14; 1973, c.

476, s. 193; 1991, c. 45, s. 29; 1993, c. 532, s. 9; 1998-98, s. 21; 2008-107, s. 28.16(e); 2010-31, s. 31.7A(a); 2011-390, s. 6; 2016-103, s. 6.)

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Seth M. Ascher and William W. Peaslee
Commission Counsel

Chapter 105, Article 5., Part 2. imposes a sales and use tax generally which is collected by the Secretary.

G.S. 105-164.13 sets forth exemptions to sales and use taxation. This statute may be interpreted by the Secretary.

Each of the above captioned rules state, in part, that certain sales are subject to “applicable local and transit rates of sales and use tax,” “applicable rates of sales and use tax,” or otherwise use the word “applicable” without further definition. As written, it is unclear to which “applicable” rates of tax the Secretary is referring. This can be resolved by referencing the statute or statutes which provide for the taxation at issue.

Staff recommends objection pursuant to G.S. 150B-21.9(a)(2) for ambiguity.

Further, some rules state that certain sales are subject to applicable local and transit rates of sales and use tax “unless exempt by statute.” If the sales are exempt from taxation by statute, the Secretary has no authority to subject them to taxation as declared by this rule.

Staff recommends objection pursuant to G.S. 150B-21.9(a)(1) for lack of authority.

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476, s. 193; 1991, c. 45, s. 29; 1993, c. 532, s. 9; 1998-98, s. 21; 2008-107, s. 28.16(e); 2010-31, s. 31.7A(a); 2011-390, s. 6; 2016-103, s. 6.)

1 17 NCAC 07B .1202 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice
2 pursuant to G.S. 150B-1(D)(4) as follows:
3

4 **17 NCAC 07B .1202 SUPPLIES AND EQUIPMENT FOR AN ACCOMMODATION**

5 ~~Sales to hotels, motels, inns, tourist camps, and tourist cabins and other places in which rooms, lodgings or~~
6 ~~accommodations are furnished for a consideration;~~ A hotel, motel, inn, tourist camp, tourist cabin, or other
7 accommodation provider making purchases of any supplies, equipment, or fixtures including linens, but not limited
8 ~~to beds, bedding, bathroom supplies, cleaning supplies, and furniture are subject to~~ shall pay the applicable
9 ~~statutory state~~ general State, and applicable local and transit rates of sales or use tax. Local tax rates by county,
10 including any transit tax can be found on the Department's website at www.ncdor.gov.
11

12 *History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; 105-264; [Chapter 105, Articles 39, 40,*
13 *42, 43, and 46;] Article 39; Article 40; Article 42; Article 43; 105-467; 105-468; 105-469; 105-*
14 *483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;*
15 *Article 44; Article 46;*
16 *Eff. February 1, 1976;*
17 *Amended Eff. May 1, 2009; October 1, 1993; October 1, ~~1991~~ 1991;*
18 *Readopted Eff. January 1, 2024.*
19

17 NCAC 07B .1303 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4) as follows:

17 NCAC 07B .1303 ~~DELIVERIES~~ GIFTS TO DONEES

(a) A donee is a person to whom the buyer of tangible personal property gives the property that receives an item, as the term item is defined in G.S. 105-164.3, from a purchaser without charge. Retailers making sales of items sourced to this State shall collect and remit the applicable rates of tax due on the sales price of the item, even if the item is given away by the purchaser to a donee or delivered directly to a donee.

(b) The purchaser of items used or consumed in this State is liable for the applicable rates of tax due on the purchase price of the items, even if the items are given away by the purchaser to a donee or delivered directly to a donee, unless the tax is paid to the retailer at the time of purchase. When a North Carolina retailer sells tangible personal property to a buyer and the retailer, at the direction of the buyer, delivers the property to the buyer's donee instead of to the buyer, the sale by the retailer is subject to applicable statutory State and local sales tax only if the delivery to the donee is made inside the State. If the delivery to the donee is made outside the State, no State or local sales or use tax applies.

(c) A retailer who, at the direction of a buyer, delivers property to the buyer's purchaser's donee at a point outside the State must have shall maintain acceptable proof of delivery in accordance with 17 NCAC 07B .1301.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4B; 105-164.6; 105-262; 105-264; ~~Chapter 105, Articles 39, 40, 42, 43, and 46;~~ Article 39; Article 40; Article 42; Article 43; Article 44; Eff. February 1, 1976; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Amended Eff. April 1, 2006; July 18, 2002; July 1, 1999; October 1, 1993; October 1, 1991; March 1, 1984; January 3, 1984; 1984; Readopted Eff. January 1, 2024.

17 NCAC 07B .1404 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4) as follows:

17 NCAC 07B .1404 MEDICAL ~~SUPPLIES~~ SUPPLIES, INSTRUMENTS, AND EQUIPMENT

Sales to physicians, dentists, hospitals, or other ~~users or~~ consumers of medical ~~supplies, instruments~~ medical instruments, medical equipment, and laboratory equipment used to diagnose, prevent, treat, or cure disease are subject to ~~applicable state~~ the general State, and applicable local and transit rates of sales ~~or and~~ use tax ~~tax~~, pursuant to G.S. 105-164.4, unless exempt by statute. Local tax rates by county, including any transit tax can be found on the Department's website at www.ncdor.gov. Sales of medical equipment and medical supplies are also subject to applicable state and local sales or use tax, unless their sale is exempt under G.S. 105-164.13(12)d. That statute exempts from tax durable medical equipment and related medical supplies that are covered under the Medicare or Medicaid program and are sold on either a certificate of medical necessity or a written prescription. Items listed below are subject to tax, unless their sale is exempt under G.S. 105-164.13(12)d. Items not included in the list may also be subject to tax. Examples of medical supplies, instruments, and equipment subject to ~~tax~~ sales and use tax include the following:

- (1) ~~Adhesive~~ adhesive tape;
- (2) ~~Alcohol~~ alcohol;
- (3) ~~Bandages~~ bandages;
- (4) ~~Battery~~ battery chargers;
- (5) ~~Bed~~ bed pans;
- (6) ~~Betadine~~ betadine solution;
- (7) ~~Blood~~ blood glucose monitors;
- (8) ~~Blood~~ blood glucose test/reagent strips;
- (9) ~~Blood~~ blood or urine control strips;
- ~~(10) breast pumps;~~
- (10) ~~(11)~~ Breathing breathing circuits;
- (11) ~~(12)~~ CO₂ carbon dioxide (CO₂) saturation monitors and accessories;
- ~~(13)~~ cold packs and hot packs;
- ~~(14)~~ collection bags;
- (12) ~~(15)~~ Cotton; cotton;
- (13) ~~(16)~~ Crutch crutch and cane holders;
- (14) ~~(17)~~ Cylinder cylinder tank carriers;
- ~~(18)~~ denture adhesive;
- (15) ~~(19)~~ Dial a dosedial-a-does insulin delivery devices;
- (16) ~~(20)~~ Dressings; dressings;
- (17) ~~(21)~~ Exam exam and surgical gloves;
- (18) ~~(22)~~ Gauze; gauze;
- ~~(23)~~ glucose for insulin reactions;

~~[(24)](23)~~ incontinence pads, sheets, and liners;
~~(19)~~—~~Knives;~~
~~(20)](25)](24)~~ I.V.intravenous (IV) hangers;
~~(21)~~—I.V. poles;
~~[(26)](25)~~ knives;
~~(22)](27)](26)~~ ~~Lancets;~~lancets;
~~[(28)](27)~~ lubricants;
~~(23)](29)](28)~~ ~~Microscopes;~~microscopes;
~~(24)](30)](29)~~ ~~Mouthpieces;~~mouthpieces;
~~(25)](31)](30)~~ ~~Needles;~~needles and syringes;
~~[(32)](31)~~ non-corrective eye lenses;
~~[(33)](32)~~ ostomy barrier wipes and powders;
~~[(34)](33)~~ ostomy cleansers, deodorants, and adhesive removers;
~~(26)](35)](34)~~ ~~Peak-peak~~ flow meters;
~~(27)](36)](35)~~ ~~Percussors;~~percussors;
~~(28)](37)](36)~~ ~~Pulse-pulse~~ oximeters;
~~(29)](38)](37)~~ ~~Rollabout~~ rollabout chairs;
~~[(39)](38)~~ soap;
~~(30)](40)](39)~~ ~~Seissors;~~scissors;
~~(31)](41)](40)~~ ~~Sterile~~ sterile water;
~~(32)~~—Surgical gloves;
~~(33)~~—Syringes;
~~[(42)](41)~~ tissues;
~~(34)](43)](42)~~ ~~Tracheal~~ tracheal suction catheters;
~~(35)](44)](43)~~ ~~Tracheostomy~~ tracheostomy care kits;
~~(36)](45)](44)~~ ~~Tracheostomy~~ tracheostomy cleaning brushes;
~~(37)](46)](45)~~ ~~Tracheostomy~~ tracheostomy masks and collars;
~~(38)](47)](46)~~ ~~Tubing;~~ tubing, sold by the linear foot or otherwise;
~~(39)](48)](47)~~ ~~Urinals;~~ urinals;
~~(40)](49)](48)~~ ~~Urine~~ urine test or reagent strips or ~~tablets; and~~ tablets; or
~~(41)](50)](49)~~ ~~X-ray~~ x-ray machines.

History Note: *Authority G.S. 105-164.4; 105-164.6; 105.164.13; 105-262; 105-264; [Chapter 105, Articles 39, 40, 42, 43, and 46;] 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;*
Eff. February 1, 1976;
Amended Eff. July 1, 2000; August 1, 1998; October 1, 1993; October 1, 1991;

1 Readopted Eff. January 1, 2024.
2

17 NCAC 07B .1601 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4) as follows:

SECTION .1600 – SALES TO OR PURCHASES BY HOSPITALS; EDUCATIONAL; CHARITABLE OR RELIGIOUS INSTITUTIONS; ETCNONPROFIT ENTITIES: SALES BY NONPROFIT ENTITIES; AND REFUNDS THERETOTO NONPROFIT ENTITIES

17 NCAC 07B .1601 SALES TO OR PURCHASES BY NONPROFIT ENTITIES

(a) For purposes of this Rule, a nonprofit entity is an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and includes entities such as hospitals not operated for profit, educational institutions not operated for profit, churches, and civic groups such as chambers of commerce, fraternities, sororities, clubs, lodges, parent and teacher associations, scout councils, and similar organizations.

~~(a)(b) Sales to nonprofits. -- Sales To Nonprofits~~ Nonprofit entities are not exempt from paying sales and use tax. ~~Sales-Retail sales of taxable tangible personal property items, as the term item is defined in G.S. 105-164.3, to a nonprofit entity for use or consumption by that entity are subject to the applicable rates of sales or and use tax.~~ [tax,]tax, pursuant to G.S. 105-164.4, unless acquired by the nonprofit entity for the purpose of resale. A retailer is liable for collecting and remitting sales and use tax on a sale to a nonprofit entity, unless the nonprofit provides the retailer a Certificate of Exemption in accordance with 17 NCAC 07B .0106. Nonprofit entities include hospitals not operated for profit, educational institutions not operated for profit, churches, and civic groups such as chambers of commerce, fraternities, sororities, and scout clubs. Sales of building materials, supplies, fixtures, and equipment to contractors for use in the performance of contracts with a nonprofit entity are also subject to sales or use tax.

(c) Purchases by nonprofits:

(1) Purchases for Use or Consumption. -- Nonprofit entities are not exempt from paying sales and use tax. Purchases of taxable items by nonprofit entities for use or consumption are subject to the applicable rates of sales and use tax. Any nonprofit entity making taxable purchases from a seller that does not collect North Carolina sales and use tax is required to register with the Department and file returns in accordance with 17 NCAC 07B .0104, and pay the use tax due on such purchases. A nonprofit entity must pay sales tax charged on its purchases and is liable for use tax on its purchases when no sales tax is collected. A nonprofit entity that owes use tax must file a return in accordance with 17 NCAC 7B .0104.

(2) Purchases for Resale. -- Nonprofit entities that make purchases of items for the purpose of resale may purchase such items exempt from sales and use tax in accordance with 17 NCAC 07B .0106.

(c) Real property contracts with nonprofits:

(1) Retail sales of building materials, supplies, fixtures, and equipment to contractors or other persons for use in the performance of real property contracts with a nonprofit entity are subject to sales and use [tax,]tax, pursuant to G.S. 105-164.4H.

1 (2) Purchases of building materials, supplies, fixtures, and equipment by real property contractors or
2 other persons for use in the performance of real property contracts with a nonprofit entity are subject
3 to sale and use ~~[tax.]~~tax, pursuant to G.S. 105-164.4H.

4 ~~(b) Sales By Nonprofits. Sales by nonprofit entities are subject to sales or use tax unless a specific~~
5 ~~exemption applies to the sale. A nonprofit entity that makes taxable retail sales must register with the~~
6 ~~Department and file sales and use tax returns. A nonprofit entity that is registered with the Department may~~
7 ~~execute a Streamlined Sales Tax Agreement Certificate of Exemption, form E-595E. The certificate shall~~
8 ~~not be used for items the nonprofit entity intends to use or consume.~~

9
10 History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4H; 105-164.6; 105-164.13; 105-164.28; 105-
11 164.29; 105-262; 105-264; [Chapter 105, Articles 39, 40, 42, 43, and 46;] Article 39; Article 40;
12 Article 42; Article 43; Article 44; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-
13 509.1; 105-510.1; 105-511.3; 105-537; 105-538;
14 Eff. February 1, 1976;
15 Amended Eff. April 1, 2006; July 1, 2000; October 1, 1993; October 1, 1991; January 1, 1982; July
16 5, ~~1980~~1980;
17 Readopted Eff. January 1, 2024.
18

1 17 NCAC 07B .1605 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice
2 pursuant to G.S. 150B-1(D)(4) as follows:

3
4 **17 NCAC 07B .1605 ~~CLUBS; ASSOCIATIONS; ETC.~~SALES BY NONPROFIT ENTITIES**

5 ~~Clubs, lodges, parents and teachers associations, scout councils and similar organizations which~~Nonprofit entities as
6 ~~defined in 17 NCAC 07B .1601(a) that make regular retail sales of taxable tangible personal property must~~shall
7 register with the ~~Department of Revenue and pay the~~Department and file sales and use tax returns in accordance with
8 17 NCAC 07B .0104, and collect and remit the applicable sales tax on such sales except as provided by G.S.
9 105-164.13(34) and G.S. 105-164.13(35) due, unless specifically exempt by statute.

10
11 *History Note:* Authority G.S. 105-164.4; 105-164.8; 105-164.29; 105-262; 105-264; [Chapter 105, Articles 39,
12 40, 42, 43, and 46;] 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-
13 510.1; 105-511.3; 105-537; 105-538;

14 *Eff. February 1, 1976;*

15 *Amended Eff. January 1, 1982; July 5, ~~1980-1980;~~*

16 *Readopted Eff. January 1, 2024.*
17

1 17 NCAC 07B .1705 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice
2 pursuant to G.S. 150B-1(D)(4) as follows:

3
4 **17 NCAC 07B .1705 HOUSING AUTHORITIES**

5 Sales of ~~taxable tangible personal property~~ items, as the term item is defined in G.S. 105-164.3, to housing authorities
6 created and existing under Chapter 157 of the North Carolina General Statutes for use in carrying on their activities
7 are subject to the **applicable** statutory ~~state and local sales or use tax~~ rates of sales and use tax and such housing
8 authorities are not entitled to refunds under the provisions of G.S. 105-164.14.

9
10 *History Note:* Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; 105-264; [Chapter 105, Articles 39, 40,
11 42, 43, and 46;] Article 39; Article 40; Article 42; Article 43; Article 44; Article 46; 105-467; 105-
12 468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;
13 Eff. February 1, 1976;
14 Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; August 1, 1988; March 1, 1984; 1984;
15 Readopted Eff. January 1, 2024.

1 17 NCAC 07B .2001 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice
2 pursuant to G.S. 150B-1(D)(4) as follows:

3
4 **SECTION .2000 - SALES AND GIFTS BY EMPLOYERS TO EMPLOYEES ~~OR OTHER USERS~~**

5
6 **17 NCAC 07B .2001 SALES TO EMPLOYEES**

7 ~~Sales of tangible personal property by any employer, manufacturer, processor, wholesaler, distributor or jobber to his~~
8 ~~employees or others for use or consumption are subject to the applicable statutory state and local sales or use tax,~~
9 ~~unless specifically exempt, notwithstanding that such sales are infrequent or comprise only a small fraction of the~~
10 ~~vendor's total business, and every employer, manufacturer, processor, wholesaler, distributor or jobber making such~~
11 ~~sales must register with the department and collect and remit the tax due thereon. The fact that any such vendor only~~
12 ~~makes sales to his employees shall not relieve him of this requirement.~~

13 (a) An employer engaged in business in this State shall collect and remit the sales and use tax due on the retail sale of
14 an item, as the term item is defined in G.S. 105-164.3, to an employee. The tax due shall be computed at the applicable
15 State, local, and transit rates of [tax]tax, pursuant to G.S. 105-164.4, on the sales price of the item. Local tax rates by
16 county, including any transit tax can be found on the Department's website at www.ncdor.gov. An employer required
17 to collect sales or use tax shall register with the Department in accordance with 17 NCAC 07B .0104. The fact that an
18 employer's sales are infrequent, comprise only a small fraction of the total business, or are to employees only, shall
19 not relieve an employer of these requirements.

20 (b) Employees shall pay the sales or use tax due on the purchase of an item from their employer. The tax due shall be
21 computed at the [applicable] State, local, and transit rates of tax on the sales price or purchase price of the item. Local
22 tax rates by county, including any transit tax can be found on the Department's website at www.ncdor.gov.

23
24 *History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; 105-264; [Chapter 105, Articles 39, 40,*
25 *42, 43, and 46;] Article 39; Article 40; Article 42; Article 43; Article 44; 105-467; 105-468; 105-*
26 *469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;*

27 *Eff. February 1, 1976;*

28 *Amended Eff. April 1, 2006; October 1, 1993; October 1, 1991;*

29 *Readopted Eff. January 1, 2024.*

1 17 NCAC 07B .2002 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice
2 pursuant to G.S. 150B-1(D)(4) as follows:

3
4 **17 NCAC 07B .2002 GIFTS AND WAGES TO EMPLOYEESAN EMPLOYEE OR OTHER PERSON**

5 Gifts of tangible personal property by any employer, manufacturer, processor, wholesaler, distributor or jobber to his
6 employees or other persons are subject to the applicable statutory state and local sales or use tax, unless the donor paid
7 sales or use tax on the sales or purchase price of the donated property at the time he acquired the same. The tax due
8 by reason of any such gift shall be paid by the donor and shall be computed on the donor's cost price of the property
9 donated, irrespective of whether fabricated, produced, manufactured or processed by the donor, or acquired elsewhere.
10 An employer shall pay the sales or use tax due on the purchase of an item, as the term item is defined in G.S. 105-
11 164.3, that is provided to an employee or other person as a gift or as compensation. The tax due shall be computed at
12 the applicable State, local, and transit rates of sales and use [tax]tax, pursuant to G.S. 105-164.4, on the sales price or
13 purchase price of the item given away, irrespective of whether the item is fabricated, produced, manufactured, or
14 processed by the employer, or acquired elsewhere. Local tax rates by county, including any transit tax can be found
15 on the Department's website at www.ncdor.gov.

16
17 *History Note:* *Authority G.S. 105-164.3; 105-164.4; 105-164.4B; 105-164.6; 105-262; 105-264; [Chapter 105,*
18 *Articles 39, 40, 42, 43, and 46;]Article 39; Article 40; Article 42; Article 43; Article 44; 105-467;*
19 *105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-*
20 *538;*
21 *Eff. February 1, 1976;*
22 *Amended Eff. April 1, 2006; October 1, 1993; October 1, ~~1991~~1991;*
23 *Readopted Eff. January 1, 2024.*
24

1 17 NCAC 07B .2204 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice
2 pursuant to G.S. 150B-1(D)(4) as follows:

3
4 **17 NCAC 07B .2204 ~~MEALS SALES OF FOOD ON TRAINS: PLANES;~~ TRAINS, PLANES, ETC.**

5 ~~Sales-Retail sales of food and prepared foods-food or meals~~ by railroads, ~~Pullman cars, steamships, airlines~~ships,
6 ~~airlines,~~ or other transportation ~~company diners, companies~~ while within this ~~state,~~State, are subject to the applicable
7 ~~statutory state and local~~rates of sales ~~or and~~ use tax.

8
9 *History Note:* *Authority G.S. 105-164.4; 105-262; ~~105-264; Article 39; Article 40; Article 42; Article 43; Article~~*
10 *~~44; Article 46;~~[Chapter 105, Articles 39, 40, 42, 43, and 46;] 105-467; 105-468; 105-469; 105-*
11 *483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;*
12 *Eff. February 1, 1976;*
13 *Amended Eff. May 1, 2009; October 1, 1993; October 1, ~~1991, 1991;~~*
14 *Readopted Eff. January 1, 2024.*

1 17 NCAC 07B .4109 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice
2 pursuant to G.S. 150B-1(D)(4) as follows:

3
4 **17 NCAC 07B .4109 BLUEPRINTS SOLD TO ARCHITECTS**

5 Sales of blueprints, photographs and other ~~tangible personal property~~ items, as the term item is defined in G.S. 105-
6 164.3, to an architectural or engineering firm for use or consumption and not for resale are subject to the general State,
7 and applicable statutory state and local and transit rates of sales or and use tax. Local tax rates by county, including
8 any transit tax can be found on the Department's website at www.ncdor.gov.

9
10 *History Note:* Authority G.S. 105-164.4; 105-164.6; 105-262; 105-264; ~~Article 39; Article 40; Article 42; Article~~
11 ~~43; Article 44;~~ [Chapter 105, Articles 39, 40, 42, 43, and 46;] 105-467; 105-468; 105-469; 105-
12 ~~483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;~~
13 Eff. February 1, 1976;
14 Amended Eff. September 1, 2006; October 1, 1993; October 1, ~~1991~~; 1991;
15 Readopted Eff. January 1, 2024.

17 NCAC 07B .4201 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4) as follows:

SECTION .4200 - SALES TO THE UNITED STATES GOVERNMENT OR AGENCIES THEREOF

17 NCAC 07B .4201 IN GENERAL

(a) Sales made directly to the United States Government, or any qualifying agency or instrumentality thereof, are not subject to the sales ~~or~~ and use tax. Qualifying United States Government agencies, ~~and instrumentalities~~ are divisions of the federal ~~government~~ government. Qualifying United States instrumentalities are non-governmental agencies that act independently and whose obligations are backed by the federal government, whose enabling legislation or charter is ~~created~~ to provide a necessary public service and are immune from sales and use tax under federal law. In order for a transaction to be a sale to the United States Government, ~~the government or~~ qualifying agency or instrumentality thereof, the entity involved ~~must make the~~ shall purchase of the property, obtain title to the property ~~before or at the time it is delivered, and pay the item directly to from the vendor the purchase price of such property or use a government bankcard to pay the vendor the purchase price of such property.~~ retailer and make payment directly to the retailer with its own funds. For example, meals and lodging billed to and paid for by the federal government are not subject to sales and use tax, however meals and lodging billed to and paid for by a federal employee who is subsequently reimbursed by the federal government are subject to sales and use tax.

(b) ~~Nontaxable federal~~ Qualifying Examples of qualifying United States Government agencies and instrumentalities thereof that are not subject to sales and use tax include the ~~United States Postal Service, Departments of Defense, Army, Navy and Air Force,~~ United States Armed Forces, United States federally operated hospitals, American Red Cross, federal reserve Federal Reserve banks, federal land banks, federal housing projects, federal housing authorities, United States Postal Service, or any other department ~~or departments~~ of the federal government whose activities are directly under federal control and whose purchases are paid for from the federal treasury.

(c) Sales made to the following organizations shall not be subject to sales and use tax provided that the organization is authorized by the regulations of the Departments of Defense or a branch of the United States Armed Forces: [Army, Navy and Air Force] United States Armed Forces Activities Funds, post exchanges, officers' mess funds, noncommissioned officers funds and other voluntary unincorporated organizations of [Army, Navy, Marine Corps, Air Force, or Coast Guard personnel] United States Armed Forces personnel. [authorized by regulations issued by the Departments of Defense, Army, Navy or Air Force are likewise exempt from not subject to sales and use tax.]

*History Note: Authority G.S. 105-164.13; 105-262; 105-264;
Eff. February 1, 1976;
Amended Eff. August 1, 1988-1988;
Readopted Eff. January 1, 2024.*

17 NCAC 07B .4202 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4) as follows:

17 NCAC 07B .4202 EXEMPT SALES TO THE UNITED STATES GOVERNMENT

(a) ~~Purchase Requisitions: Retailer Records. -- A vendor making~~retailer that makes sales directly to the United States Government, or ~~any a~~ qualifying agency or instrumentality thereof, ~~that issues purchase requisitions or affidavits must obtain and keep~~shall retain copies of such ~~any~~ Certificates of Exemption, **Form E-595E**, purchase requisitions or ~~affidavits~~ ~~affidavits~~, signed by the purchasing officer stating that such sales are being made directly to the United States Government or an agency or instrumentality thereof or other information provided to substantiate the exemption from sales and use tax. Copies of such ~~purchase requisitions or affidavits must~~the documentation be retained by the vendor in his files for three years following the date of sale and must be available for inspection by the Secretary of Revenue or ~~her~~the Secretary's agents upon request. **Records shall be kept in accordance with G.S. 105-241.6 and G.S. 105-241.8.**

Qualifying United States Government agencies and instrumentalities are divisions of the federal government and non-governmental agencies that act independently and whose obligations are backed by the federal government, whose enabling legislation or charter is to provide a necessary public service and are immune from sales and use tax under federal law.

(b) United States Government Credit Card Program – ~~GSA Smartpay: Smartpay.~~ -- Under the program, credit cards may be centrally billed or individually billed. ~~Card designs may be viewed on the following Internet website: <http://www.gsa-smartpay.org/gsa-howidentify.html>.~~

(1) ~~Fleet Cards: All Federal Government fleet cards are centrally billed. This means that all charges are billed directly to and paid directly by the Federal Government and are exempt from the general rate of State tax and any applicable local sales and use tax. Centrally billed charges are billed directly to and paid directly by the United States Government and are exempt from sales and use tax.~~

(2) ~~Purchase Cards: All Federal Government purchase cards are centrally billed. This means that all charges are billed directly to and paid directly by the Federal Government and are exempt from the general rate of State tax and any applicable local sales and use tax. Individually billed charges are billed to and paid by the federal employee who is then reimbursed by the United States Government. Individually billed charges are subject to the applicable rates of sales and use~~ **[tax.]tax, pursuant to G.S. 105-164.4.**

(3) ~~Travel Cards: Federal Government travel cards may be centrally billed or individually billed. Individually billed charges are billed to and paid by the Federal employee who is then reimbursed by the Federal Government. These charges are subject to the general rate of State tax and any applicable local sales and use tax. Centrally billed charges are billed directly to and paid directly by the Federal Government and are exempt from to the general rate of State tax and any applicable local sales and use tax.~~

1 (4) ~~Integrated Cards: Federal Government integrated cards include fleet, travel, purchase transactions~~
2 ~~or any combination thereof and offer the Federal Government a single card for all of its purchases.~~
3 ~~This card is in use only at the Department of the Interior. All fleet and purchase type transactions~~
4 ~~on an integrated card are centrally billed, and travel type transactions may be centrally billed or~~
5 ~~individually billed. Centrally billed charges are billed directly to and paid directly by the Federal~~
6 ~~Government and are exempt from the general rate of State tax and any applicable local sales and~~
7 ~~use tax. Individually billed charges are billed to and paid by the Federal employee and then~~
8 ~~reimbursed by the Federal Government. These charges are subject to the general rate of State tax~~
9 ~~and any applicable local sales and use tax.~~

10 (c) [Other]Non-GSA Smartpay credit card programs implemented by qualifying agencies or instrumentalities of the
11 United States Government are exempt from sales and use tax when the charges are centrally billed and directly paid
12 by the qualifying agency or instrumentality.

13
14 History Note: Authority G.S. 105-164.4; 105-164.13; 105-262; 105-264; Article 39; Article 40; Article 42; Article
15 43; Article 44;
16 Eff. February 1, 1976;
17 Amended Eff. September 1, 2006; April 1, 1997; January 1, 1995; October 1, 1993; October 1,
18 1991; August 1, 1988-1988;
19 Readopted Eff. January 1, 2024.

17 NCAC 07B .4510 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4) as follows:

17 NCAC 07B .4510 INDEPENDENT CLEANING SOLICITORS

(a) Independent Cleaning Solicitors. -- For purposes of this Rule, an independent cleaning solicitor is a person engaged in the business of soliciting laundry, dry cleaning, or hat blocking services to customers but engages another business to perform the laundering, dry cleaning, or hat blocking.

(b) Sales by Independent Cleaning Solicitors. -- An independent ~~operator cleaning solicitor that owns his truck and solicits business but engages a laundry, dry cleaning, or hat blocking firm or similar type business to perform the laundering, cleaning, or other service~~ is liable for collecting and remitting the general State, and applicable statutory state and local and transit rates of sales or and use tax on his-their gross receipts-receipts derived from laundry, dry cleaning, or hat blocking services it solicits.

(c) Purchases by Independent Cleaning Solicitors. -- The purchase of laundry, dry cleaning, or hat blocking services by an independent cleaning solicitor to sell to its customers from a company that performs the laundering, cleaning, or other service is a [sale for resale.]wholesale sale. [The independent]Independent cleaning [solicitor]solicitors shall comply with 17 NCAC 07B .0106 when [making such a purchase.]purchasing laundry, dry cleaning, or hat blocking services, for the purpose of resale. If the solicitor is not registered with the Department of Revenue for remitting the tax on his gross receipts, the firm performing the laundering, cleaning or similar type services shall collect and remit the tax on the total charge for the services performed for the independent operator without any deduction of any allowance to the solicitor. The firm performing the service shall secure from the solicitor a Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E, which shall be accepted as evidence that the solicitor is registered for payment of the tax and as authority for not charging tax on the gross receipts from the service performed for the solicitor.

History Note: Authority G.S. 105-164.4; ~~105-164.5; 105-164.13; 105-262; 105-264; [Chapter 105, Articles 39, 40, 42, 43, and 46;]Article 39; Article 40; Article 42; Article 43; Article 44; Article 46; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;~~

Eff. February 1, 1976;

Amended Eff. August 1, 2009; October 1, ~~1993-1993;~~

Readopted Eff. January 1, 2024.

17 NCAC 07B .4707 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4) as follows:

17 NCAC 07B .4707 PRINTING CHEMICALS

(a) Pursuant to G.S. 105-164.13, sales of the following chemicals to commercial printers or publishers which enter into or become an ingredient or component part of printed matter which such purchasers sell are exempt from sales and use tax:

(1) Chemicals that enter into or become an ingredient or component part of printed material for resale.

(2) Chemicals used to clean printing machinery.

(b) Sales of chemicals not listed in paragraph (a), including chemicals used by commercial printers and publishers for sanitation, cleaning, disinfecting, or sanitizing purposes, are subject to the applicable statutory state general State and applicable local and transit rates of sales or and use tax. Local tax rates by county, including any transit tax can be found on the Department's website at www.ncdor.gov.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-164.28; 105-262; 105-264; Chapter 105, Articles 39, 40, 42, 43, and 46; Article 39; Article 40; Article 42; Article 43; Article 44; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. April 1, 2006; October 1, 1993; October 1, 1991; July 5, 1980; 1980;

Readopted Eff. January 1, 2024.

17 NCAC 07B .4708 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4) as follows:

17 NCAC 07B .4708 POSTAGE CHARGES BY PRINTERS

~~When The amount a commercial printer purchases charges its customers for postal cards or stamped envelopes and prints and sells them to customers for use, the printer is liable for collecting and remitting the applicable statutory state and local sales or use tax on the charge to the customer; that are printed and sold for use by the customer is subject to the general State and applicable local and transit rates of sales and use [tax,]tax. Local tax rates by county, including any transit tax can be found on the Department's website at www.ncdor.gov. [except the face value of stamps or postage charges on the printed cards or envelopes are is exempt from tax when separately stated on the customer's invoice.invoice or similar billing document given to the customer at the time of the sale.] Pursuant to G.S. 105-134.13(17) and 18 USC 8, the face value of United State Postal Service postage sold by commercial printers is exempt from sale and use tax even if the postage is printed or affixed to envelopes or postcards prior to sale, provided that the value of the postage is stated separately from other charges on the invoice or similar billing document and given to the purchaser at the time of sale.~~

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; Article 39; Article 40; Article 42; Article 43; Article 44; [Chapter 105, Articles 39, 40, 42, 43, and 46;]-105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;
Eff. February 1, 1976;
Amended Eff. April 1, 2006; October 1, 1993; October 1, 1991; July 5, 1980-1980;
Readopted Eff. January 1, 2024.

17 NCAC 07B .5001 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4) as follows:

**SECTION .5000 - ~~EYEGLASSES~~ EYEGLASSES, CONTACT LENSES, AND OTHER OPHTHALMIC
OPTICAL AIDS AND SUPPLIES: SUPPLIES OCULISTS: OPTOMETRISTS AND OPTICIANS**

17 NCAC 07B .5001 PRESCRIPTION EYEGLASSES AND CONTACT LENSES

(a) Eyeglasses:

(1) Corrective Eyeglasses. -- Sales of corrective eyeglasses for human use, ~~ground on prescription of physicians, oculists or optometrists,~~ including frames as an integral part thereof, are ~~not subject to the tax,~~ exempt from sales and use tax as prosthetic ~~devices.~~ devices pursuant to G.S. 105-164.13(12). When eyeglass cases, lens wipes, and lens solution are given to the purchaser as part of the sale and included in the sales price of corrective eyeglasses for human use, they are also exempt under G.S. 105-164.13(12) from sales and use tax.

Corrective eyeglasses, whether prescription eyeglasses or reading glasses, are not required to be sold on prescription in order ~~to be exempt~~ for the exemption from sales and use ~~tax.~~ to apply.

A person who sells corrective eyeglasses shall keep sales records that clearly separate it sales of corrective eyeglasses from sales of other items. Failure of a person to keep records that establish a sale is exempt from sales and use tax subjects the person to liability for [the general State, and applicable local and transit rates of] sales and use tax on the sale.

(2) Non-Corrective Eyeglasses. -- Sales of non-corrective eyeglasses for human use are subject to the general State, and applicable local and transit rates of sales and use tax unless specifically exempt by statute. Local tax rates by county, including any transit tax can be found on the Department's website at www.ncdor.gov.

(b) Contact Lenses:

(1) Corrective Contact Lenses. -- Sales of corrective contact lenses for human use are exempt from sales and use tax as prosthetic ~~devices.~~ devices pursuant to G.S. 105-164.13(12). When carrying cases, patient instruction booklets, patient care kits, aseptors, salt tablets, lens solution, and squeeze bottles are given to the purchaser as part of the sale and included in the sales price of corrective contact lenses for human use, they are also exempt under G.S. 105-164.13(12) from sales and use tax.

A person who sells corrective contact lenses shall keep sales records that clearly separate its sales of corrective contact lenses from sales of other items. Failure of a person to keep records that establish a sale is exempt from sales and use tax subjects the person to liability for [the general State, and applicable local and transit rates of] sales and use tax on the sale.

(2) Non-Corrective Contact Lenses. - Sales of non-corrective contact lenses for human use are subject to the general State, and applicable local and transit rates of sales and use tax unless specifically

1 exempt by statute. Local tax rates by county, including any transit tax can be found on the
2 Department's website at www.ncdor.gov.

3
4 *History Note:* *Authority* *G.S. 105-164.3; 105-164.4; 105-164.4D; 105-164.13; 105-164.22; 105-262; 105-*
5 *164.264; [Chapter 105, Articles 39, 40, 42, 43, and 46;] 105-467; 105-468; 105-469; 105-483;*
6 *105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;*
7 *Eff. February 1, ~~1976~~1976;*
8 *Readopted Eff. January 1, 2024.*
9

17 NCAC 07B .5004 is readopted with substantive changes pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4) as follows:

17 NCAC 07B .5004 TAXABLE OPTICAL SUPPLIES

(a) Supplies for Corrective Eyeglasses - All sales to users or Sales to consumers of eyeglass frames not for use in connection with eyeglasses ground on prescription, sunglasses not ground on prescription, solutions for cleaning eyeglasses, telescopes, binoculars, opera glasses, and similar items, by whomsoever made, eyeglass cleaning cloths or wipes, eyeglass cases, eyeglass chains or cords, and similar corrective eyeglass supplies when such sales are made separate and apart from a corrective eyeglass sale or when they are sold with corrective eyeglasses, but billed separate and apart from the corrective eyeglasses, are subject to the applicable statutory state and local sales or use tax, general State, and applicable local and transit rates of sales and use [tax.]tax, pursuant to G.S. 105-164.4. In addition, the

retail sale of nose pads, temples and any other repair parts for eyeglass frames are subject to the tax without regard to whether the repair parts are sold to be used on frames with prescription lens. All persons, including opticians, optometrists, and oculists, making such sales shall register as retail merchants and collect and remit the tax due thereon.

(b) Supplies for Corrective Contact Lenses - Sales to consumers of aseptors, salt tablets, squeeze bottles, carrying cases, patient instruction booklets, patient care kits, and similar corrective contact lens supplies when such sales are made separate and apart from a corrective contact lens sale or when they are sold with corrective contact lenses, but billed separate and apart from the corrective contact lenses, are subject to the general State, and applicable local and transit rates of sales and use [tax.]tax, pursuant to G.S. 105-164.4.

(c) Supplies for Non-Corrective Eyeglasses or Contact Lenses - Sales to consumers of optical supplies for non-corrective eyeglasses or contact lenses are subject to the general State, and applicable local and transit rates of sales and use [tax.]tax, pursuant to G.S. 105-164.4.

(d) Other Optical Items - Sales to consumers of telescopes, binoculars, opera glasses, and similar items are subject to the general State, and applicable local and transit rates of sales and use [tax.]tax, pursuant to G.S. 105-164.4.

(e) Local tax rates by county, including any transit tax can be found on the Department's website at www.ncdor.gov.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46; [Chapter 105, Articles 39, 40, 42, 43, and 46;] 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Eff. February 1, 1976;
Amended Eff. October 1, 2009; October 1, 1993; October 1, ~~1991~~1991;
Readopted Eff. January 1, 2024.