

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 07B .4201

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the Rule: Explain with particularity the authority to exempt sales to federal government from the sales and use tax?

Generally, to the Rule: Explain with particularity the authority to exempt sales to "instrumentalities" of the USG and private organizations such as the American Red Cross and officers' mess funds.

Line 7: Define "instrumentality" of a USG agency?

Line 9: Define "necessary"?

Line 9: Must the agency be "created" to provide a necessary function or must the agency actually provide the function?

Line 9 and 10: If the "qualifying United States Government agency" is immune from sale tax under federal law, why are these lines necessary?

Line 11: If it meets the Secretary's intention, change "entity" to "purchasing government entity".

Lines 17-22: It is unclear whether the Secretary is providing a list of USG agencies which meet the standards set in Paragraph (a) or whether a new standard is being established (directly under federal control and paid from the federal treasury) for "departments".

Line 19: The American Red Cross does not appear to be a government agency. Depending upon how you define "instrumentality" it is not a governmental anything.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

Line 19: By “United States hospitals” does the Secretary mean all hospitals in the United States, or owned by citizens and corporations of the United States, or owned by the federal government?

Line 19: To my understanding “federal land banks” are regulated but not owned by the federal government. Accordingly, they are not “agencies”. Depending upon how you define “instrumentality” it is not a governmental anything.

Line 23: Add an oxford comma after “Navy”.

Lines 25-26: Does the Coast Guard not authorize these as well? What about Space Force?

Line 23-25: Consider: “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 Department of Defense, Army, Navy, or Airforce: Army, Navy, and Airforce Activities Funds...”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

1 17 NCAC 07B .4201 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 .4200 - SALES TO THE UNITED STATES GOVERNMENT OR AGENCIES THEREOF**

5
6 **17 NCAC 07B .4201 IN GENERAL**

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

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

23 (c) Sales made to Army, Navy and Air Force Activities Funds, post exchanges, officers' mess funds,
24 noncommissioned officers funds and other voluntary unincorporated organizations of Army, Navy, Marine Corps, Air
25 Force, or Coast Guard personnel authorized by regulations issued by the Departments of Defense, Army, Navy or Air
26 Force are ~~likewise exempt from~~ not subject to sales and use tax.

27
28 *History Note: Authority G.S. 105-164.13; 105-262; 105-264;*
29 *Eff. February 1, 1976;*
30 *Amended Eff. August 1, 1988-1988;*
31 *Readopted Eff. January 1, 2024.*
32

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 07B .4202

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the Rule: Explain with particularity the authority to exempt sales to federal government from the sales and use tax?

Generally, to the Rule: Explain with particularity the authority to exempt sales to "instrumentalities" of the USG and private organizations such as the American Red Cross and officers' mess funds.

Page 1, Line 6, and Page 2, Lines 3-5: Define "qualifying agency" or make a reference to the definition which exists in another rule?

Page 1, Line 6: Define "instrumentality" of a USG agency?

Page 1, Line 7: If it meets the Secretary's intention, add "Form E-595E" after "Certificates of Exemption". If it does not meet with the Secretary's intention, to which Certificates of Exemption does the Secretary refer?

Page 1, Lines 5-12: For how long must the records be retained?

Page 1, Lines 22-24: Explain the Secretary's authority to tax a sale? If the Secretary is interpreting a statute, consider "pursuant to..."

Page 2, Line 3: "Other credit card programs" is unclear and ambiguous.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

1 17 NCAC 07B .4202 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 .4202 EXEMPT SALES TO THE UNITED STATES GOVERNMENT**

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

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

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

20 (2) ~~Purchase Cards: All Federal Government purchase cards are centrally billed. This means that all~~
21 ~~charges are billed directly to and paid directly by the Federal Government and are exempt from the~~
22 ~~general rate of State tax and any applicable local sales and use tax.~~ Individually billed charges are
23 billed to and paid by the federal employee who is then reimbursed by the United States Government.
24 Individually billed charges are subject to the applicable rates of sales and use tax.

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

31 (4) ~~Integrated Cards: Federal Government integrated cards include fleet, travel, purchase transactions~~
32 ~~or any combination thereof and offer the Federal Government a single card for all of its purchases.~~
33 ~~This card is in use only at the Department of the Interior. All fleet and purchase type transactions~~
34 ~~on an integrated card are centrally billed, and travel type transactions may be centrally billed or~~
35 ~~individually billed. Centrally billed charges are billed directly to and paid directly by the Federal~~
36 ~~Government and are exempt from the general rate of State tax and any applicable local sales and~~
37 ~~use tax. Individually billed charges are billed to and paid by the Federal employee and then~~

1 reimbursed by the Federal Government. These charges are subject to the general rate of State tax
2 and any applicable local sales and use tax.

3 (c) Other credit card programs implemented by qualifying agencies or instrumentalities of the United States
4 Government are exempt from sales and use tax when the charges are centrally billed and directly paid by the qualifying
5 agency or instrumentality.

6
7 *History Note: Authority G.S. 105-164.13; 105-262; 105-264; ~~Article 39~~; ~~Article 40~~; ~~Article 42~~; ~~Article 43~~; ~~Article~~
8 ~~44~~;*

9 *Eff. February 1, 1976;*

10 *Amended Eff. September 1, 2006; April 1, 1997; January 1, 1995; October 1, 1993; October 1,*
11 *1991; August 1, ~~1988-1988~~;*

12 *Readopted Eff. January 1, 2024.*

13

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 07B .4204

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

This page intentionally left blank.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

1 17 NCAC 07B .4204 is repealed pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4)
2 as follows:

3

4 **17 NCAC 07B .4204 GOVERNMENT AGRICULTURAL OFFICES**

5

6 *History Note: Authority G.S. 105-164.13; 105-262;*

7 *Eff. February 1, ~~1976~~1976;*

8 *Repealed Eff. January 1, 2024.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 07B .4411

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the Rule: This rule could be written with greater clarity and conciseness.

Line 5: Must there be a pending sale of the property? Should "is" be "would be"?

Line 5: "Maximum tax" is not a defined term. After "maximum tax", add "pursuant to G.S. 105-164.4 [for any other applicable statute]"

Lines 5-9: What does this language do that is not addressed in G.S. 105-164.6? Why is it reasonably necessary?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

1 17 NCAC 07B .4411 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 .4411 EXTENSION OF LEASES SUBJECT TO A MAXIMUM TAX**

5 When tangible personal property, the sale of which is subject to a maximum tax, is leased for a definite stipulated
6 period of time, the lease payments during the lease period are subject to the maximum tax. If the original lease contains
7 provisions for ~~extension-extension, whether by action or inaction, either by notification or by failure to notify the~~
8 ~~lessor of termination,~~ the extended term of the lease is part of the original lease and the maximum tax ~~would~~
9 ~~apply~~applies to the entire lease including any extension under the terms of the original lease. If, however, the original
10 lease does not contain provisions for extension at the option of the lessee, whether by action or ~~nonaction,inaction,~~
11 but a new lease agreement is subsequently entered ~~into-into, granting an extension or a new lease, there would be a~~the
12 maximum tax applies separately to the second lease which would and does not have the benefit of any sales tax
13 payments made by reason of the first lease with respect to the maximum tax-tax for the second lease.

14
15 *History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; 105-264;*
16 *Eff. February 1, ~~1976~~1976;*
17 *Readopted Eff. January 1, 2024.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 07B .4413

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Line 6: Does “upon completion of required payments” relate strictly to the “deferred payment plan” or does it include “security agreement”? If the latter, there should be a comma after “plan”.

Line 9: Strike “(1%)”. See the RRC style guide.

Line 11: It appears that the Secretary is differentiating a conditional sales contract from a lease/rental agreement and that this distinction is relevant to a statute. This would be an appropriate place to name the statute. After “rental” add “pursuant to G.S. 105-164.6 and is...”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

1 17 NCAC 07B .4413 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 .4413 CONDITIONAL SALES CONTRACT**

5 (a) A conditional sales contract is an agreement that requires the following:

- 6 (1) The transfer of title under a security agreement or deferred payment plan upon completion of the
7 required payments; or
8 (2) The transfer of title upon completion of required payments and payment of an option price that does
9 not exceed the greater of one hundred dollars (\$100.00) or one percent (1%) of the total required
10 payments.

11 (b) An agreement that meets the requirements of paragraph (a) of this Rule does not constitute a lease or rental and is
12 considered a conditional sales contract. Any applicable ~~statutory state and local~~ sales and use tax for a conditional
13 sales contract is due upon delivery of the ~~tangible personal property~~ item, as the term item is defined in G.S. 105-164.3,
14 to the purchaser.

15
16 *History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; 105-264;*
17 *Eff. February 1, 1976;*
18 *Amended Eff. August 1, 2009; October 1, ~~1993-1993;~~*
19 *Readopted Eff. January 1, 2024.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 07B .4510

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Line 15: "Sale for resale" is not a defined term in either the statute or in 17 NCAC 07B .0106. Define or delete.

Consider: "Independent cleaning solicitors shall comply with 17 NCAC 07B .0106 when purchasing laundry services, drycleaning services, or hat blocking services, for the purpose of resale."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

1 17 NCAC 07B .4510 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 .4510 INDEPENDENT CLEANING SOLICITORS**

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

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

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

23
24 *History Note: Authority G.S. 105-164.4; ~~105-164.5; 105-164.13; 105-262; 105-264; Chapter 105, Articles 39, 40,~~*
25 *~~42, 43, and 46; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;~~*
26 *Eff. February 1, 1976;*
27 *Amended Eff. August 1, 2009; October 1, ~~1993-1993;~~*
28 *Readopted Eff. January 1, 2024.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 07B .4707

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Staff is including the relevant portion of the statute for convenience.

G.S. 105-134.13(8) Sales to a manufacturer of tangible personal property that enters into or becomes an ingredient or component part of tangible personal property that is manufactured. This exemption does not apply to sales of electricity.

Generally, to the Rule: It appears that a more general rule defining “ingredient” or “component part” would be more efficient than having a rule addressing a specific industry; however the lack of efficacy is not objectionable.

Line 5: Is “commercial printer” defined?

Line 6: As written, the language implies that the Secretary is granting the exemption. The Secretary lacks authority to grant an exemption. However, the Secretary has authority to interpret a statute which grants the exemption. Please change the language to clarify the authority. Consider “Pursuant to G.S. 105-134.18(8)...”

Line 8: Given the language G.S. 105-134.13(8) concerning “an ingredient or component part” explain the Secretary’s authority to declare cleaning chemicals exempt. How do chemicals which clean machinery become “an ingredient” or a “component part” of that which a commercial printer manufactures?

Lines 9-11, Paragraph (b): Why is this paragraph reasonably necessary? Assuming the Secretary is interpreting G.S. 105-134.13(8), by what language in the statute could anyone conclude that “sanitation chemicals” would become “an ingredient or component part of” anything that a commercial printer might create or print and thus exempt them from tax?

Line 10: Define “sanitation purposes”?

Line 10: Define “applicable local and transit rates of sales and use tax”.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel
Date submitted to agency: October 9, 2023

1 17 NCAC 07B .4707 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 .4707 PRINTING CHEMICALS**

5 (a) Sales of the following chemicals to commercial printers or publishers which enter into or become an ingredient
6 or component part of printed matter which such purchasers sell are exempt from sales and use tax-tax:

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

8 (2) Chemicals used to clean printing machinery.

9 (b) Sales of chemicals not listed in paragraph (a), including ~~Chemicals-chemicals~~ used by commercial printers and
10 ~~publishers~~ for sanitation purposes-purposes, are subject to the applicable-statutory stategeneral State and applicable
11 local and transit rates of sales or and use tax.

12
13 *History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.28; 105-262; 105-264; Chapter 105, Articles 39, 40,*
14 *42, 43, and 46; Article 39; Article 40; Article 42; Article 43; Article 44;*
15 *Eff. February 1, 1976;*
16 *Amended Eff. April 1, 2006; October 1, 1993; October 1, 1991; July 5, ~~1980-1980~~;*
17 *Readopted Eff. January 1, 2024.*
18

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 07B .4708

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Staff is including the relevant portion of the statute for convenience.

G.S. 105-134.13(17) Sales which a state would be without power to tax under the limitations of the Constitution or laws of the United States or under the Constitution of this State.

Line 5: In Rule .4707 the Secretary uses the term "commercial printer" whereas here the Secretary uses "printer." What is the difference?

Line 8: Define "applicable local and transit rates of sales and use tax".

Line 9: As written, the language implies that the Secretary is granting the exemption. The Secretary lacks authority to grant an exemption. However, the Secretary has authority to interpret a statute which grants the exemption. Please change the language to clarify the authority. Consider "Pursuant to G.S. 105-134.18(17) and 18 USC 8...)

Consider: "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 notwithstanding the postage being printed or affixed to envelopes or postcards prior to sale, provided that the value is stated separately from other charges on the invoice or similar billing document and given to the purchaser at the time of sale."

Lines 12-13: If G.S. 105-134.13(17) is the authority for the rule, why is it not listed in the history note?

Lines 12-13: List all statutes individually.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

1 17 NCAC 07B .4708 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 .4708 POSTAGE CHARGES BY PRINTERS**

5 ~~When The amount a printer purchases charges its customers for postal cards or stamped envelopes and prints and sells~~
6 ~~them to customers for use, the printer is liable for collecting and remitting the applicable statutory state and local sales~~
7 ~~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~~
8 ~~and applicable local and transit rates of sales and use tax, except the face value of stamps or postage charges on the~~
9 ~~printed cards or envelopes are is exempt from tax when separately stated on the customer's invoice, invoice or similar~~
10 ~~billing document given to the customer at the time of the sale.~~

11

12 *History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; ~~105-264; Article 39; Article 40; Article~~*
13 *~~42; Article 43; Article 44; Chapter 105, Articles 39, 40, 42, 43, and 46;~~*

14 *Eff. February 1, 1976;*

15 *Amended Eff. April 1, 2006; October 1, 1993; October 1, 1991; July 5, ~~1980-1980;~~*

16 *Readopted Eff. January 1, 2024.*

17

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 07B .4716

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

This page intentionally left blank.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

1 17 NCAC 07B .4716 is repealed pursuant to G.S. 150B-21.3A(c)(2)g without notice pursuant to G.S. 150B-1(D)(4)
2 as follows:

3

4 **17 NCAC 07B .4716 TYPESETTING**

5

6 *History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article*
7 *43; Article 44;*

8 *Eff. February 1, 1976;*

9 *Amended Eff. April 1, 2006; October 1, 1993; October 1, 1991; October 1, ~~1990, 1990~~;*

10 *Repealed Eff. January 1, 2024.*

11

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Department of Revenue

RULE CITATION: 17 NCAC 07B .4801

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Line 7: How long does a person have to keep records?

Line 17: "Item" is defined as "Item. - Tangible personal property, digital property, or a service, unless the context requires otherwise." It is unclear what "items" a person is required to keep.

Line 18: "Stock" is an undefined term in Article 5 of Chapter 105. "Stock" as used in the rule is unclear and ambiguous.

Line 21: "Or other records" is unclear and ambiguous. What records is the person required to keep?

Lines 32-34: Why is this language necessary considering G.S. 105-165.20(a)?

Line 35-36: To what address must the letter be sent? Consider making a reference to 17 NCAC 01A .0101.

Lines 36-37: If a taxpayer is making an application to select a basis, does the taxpayer's selected basis on the application/letter continue unless and until denied? The language of the rule suggests so. I believe the Secretary intends this language to apply to taxpayers that already have an approved selected basis and wish to change it; however, that is not clear.

Lines 32-37, Paragraph (b): What criteria does the Secretary use in determining whether to grant a basis selection or permit a change in the basis?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 4, 2023

1 17 NCAC 07B .4801 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 .4800 - BASIS OF REPORTING**

5
6 **17 NCAC 07B .4801 VENDOR'S RECORDS REQUIRED TO BE KEPT**

7 (a) Persons making sales or purchases of an item, as the term item is defined in G.S. 105-164.3, shall keep records as
8 required in G.S. 105-164.22 that establish~~Every vendor must keep adequate and complete records as required by G.S.~~
9 ~~105-164.31 to determine the amount of the person's sales and use tax for which he may be liable.~~liability.

10 Records to establish a person's sales and use tax liability include the following:

- 11 (1) All cash and credit sales, including sales under any type of financing or installation plan.
- 12 (2) The amount of all items purchased and copies of all bills of lading, invoices, and purchase orders.
- 13 (3) Copies of all sales invoices furnished by wholesale merchants that shall show the name and address
14 of the purchaser, the date of purchase, the item or items purchased, and the purchase price of the
15 item.
- 16 (4) All deductions and exemptions claimed in sales and use tax returns for each transaction.
- 17 (5) All items used or consumed in the conduct of business.
- 18 (6) A true and complete inventory of the value of the stock on hand
- 19 (7) All exemption certificates, and records of all sales made to a person furnishing an exemption
20 certificate.
- 21 (8) All affidavits of capital improvement or other records that establish a transaction is a real property
22 contract.
- 23 (9) All affidavits certifying tax paid by the purchaser on an item that becomes a part of real property.
- 24 (10) Records of all sales made through a facilitator engaged in business in the State.
- 25 (11) All affidavits of export.
- 26 (12) All shipping records for items that are delivered.
- 27 (13) All agreements with facilitators.
- 28 (14) All bank account records.
- 29 (15) All point-of-sale records and cash register z-tapes.
- 30 (16) Any other document, report, form, or other similar record that establishes a person's sales and use
31 tax liability.

32 (b) Except for persons listed in G.S. 105-164.20(b),~~Vendors~~person's having both cash and credit sales may elect to
33 report their tax liability on either the cash or accrual basis of accounting provided their records are kept in such a
34 manner that they can determine their tax liability correctly on the basis used. If a taxpayer wishes to change from one
35 basis of reporting to another, he must~~the taxpayer shall~~apply to the Secretary of Revenue by written letter signed by
36 the taxpayer for permission to make such change. A taxpayer's selected basis continues in effect until the person
37 receives permission from the Secretary, or the Secretary's designee, to change the basis selected.

1
2
3
4
5
6

*History Note: Authority G.S. 105-164.20; 105-164.22; 105-262; 105-264;
Eff. February 1, 1976;
Amended Eff. October 1, ~~1993~~ 1993;
Readopted Eff. January 1, 2024.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Department of Revenue

RULE CITATION: 17 NCAC 07B .4802

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the Rule: The paragraph uses "person". This is an undefined term. Accordingly, the default is the common understanding of the term. As written, paragraph (a) is only applicable to individuals (humans). Is that the Secretary's intention?

Generally, to Paragraph (a): Each sentence appears to be a different concept. Consider making each sentence a separate paragraph.

Line 5: Consider adding "pursuant to Rule .4801" after "accrual basis".

Line 7: Which "person"? The person that elected to pay tax on an accrual basis?

Line 9: What "return"? A reference to a rule or statute requiring the return would resolve this ambiguity.

Line 15: Which "person"? The person that elected to pay tax on an accrual basis?

Line 16: Add "Pursuant to G.S. 105-164.13," prior to "Bad debts".

Line 19: "Person" should be "taxpayer" should it not? That would be consistent with the language used in the rest of paragraph (b).

Lines 35-36: Specify which statutes.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 4, 2023

1 17 NCAC 07B .4802 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 .4802 ACCRUAL BASIS**

5 (a) ~~When a vendor~~A person that elects to report and pay tax on the accrual ~~basis~~ basis, or is required to report on the
6 accrual basis pursuant to G.S. 105-164.20, ~~he must~~shall keep records ~~which that~~ disclose a separate accounting of
7 taxable and nontaxable sales. The ~~vendor must~~person shall pay tax on the total sales price of all taxable ~~tangible~~
8 ~~personal property~~ items, as the term item is defined in G.S. 105-164.3, sold during the ~~month~~ period covered by the
9 return, whether or not such sales are cash, credit, ~~installment~~ installment, or conditional ~~sales~~ sales, and whether or
10 not the ~~vendor~~ person retains the installment and conditional sales contracts or sells or assigns them to others and
11 without regard to any finance reserve withheld on finance paper sold or assigned to others. ~~Finance charges, service~~
12 ~~charges or interest~~ Interest, financing, and carrying charges from credit extended under conditional sales contracts
13 providing for deferred payment of the purchase price are not subject to tax if ~~such the~~ charges are separately stated on
14 the ~~invoices~~ invoice or similar billing document given to the ~~customers~~ purchaser at the time of sale and maintained
15 in the ~~vendor's person's~~ records of sales.

16 (b) Bad Debts. -- ~~Bad debts that meet the requirements of G.S. 105-164.13(15) may~~ If, in reporting on the accrual
17 basis, ~~accounts of purchasers representing taxable sales on which the tax has been paid are found to be worthless and~~
18 ~~actually charged off for income tax purposes, the amount charged off representing taxable sales may at corresponding~~
19 ~~periods~~ be deducted from gross ~~sales~~ taxable sales, during corresponding periods, ~~provided if the vendor person~~
20 maintains records disclosing separately ~~that portion~~ the amount of bad ~~accounts~~ debts representing taxable sales and
21 ~~that portion~~ the amount representing nontaxable sales. ~~Accounts charged off as bad debts must be added to gross sales~~
22 ~~if afterwards collected.~~A taxpayer shall make the deduction for sales and use tax purposes within three (3) years of
23 ~~charging off an account for income tax purposes. A taxpayer who is not required to file income tax returns may deduct~~
24 ~~a bad debt on a return filed for the period in which the bad debt is charged off in its books and records as uncollectible~~
25 ~~and would otherwise be eligible for a bad debt deduction for income tax purposes if the taxpayer were required to file~~
26 ~~income tax returns. In this instance, the taxpayer shall make the deduction for sales and use tax purposes within three~~
27 ~~(3) years of the date the account is recognized and finally expensed as a bad debt in its books and records. A taxpayer~~
28 ~~that does not deduct a bad debt within the time allowed shall not make any deduction for the bad debt. If a deduction~~
29 ~~is taken for a bad debt and the debt is subsequently collected, in whole or in part, the tax on the amount of debt~~
30 ~~collected must be paid and reported on the sales and use tax return filed for the period in which the collection occurs.~~
31 ~~For purposes of reporting collection of the bad debt subsequent to having charged off and deducted such bad debt, any~~
32 ~~payments on the debt shall be applied first proportionally to the taxable price of the item and sales tax thereon, and~~
33 ~~secondly to interest, services charges, and any other charges.~~

34
35 *History Note: Authority G.S. 105-164.3; 105-164.13; 105-164.20; 105-164.22; 105.262; 105-264; Chapter 105,*
36 *Articles 39, 40, 42, 43, and 46;*
37 *Eff. February 1, 1976-1976;*
38 *Readopted Eff. January 1, 2024.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Department of Revenue

RULE CITATION: 17 NCAC 07B .4803

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the Rule: The paragraph uses "person". This is an undefined term. Accordingly, the default is the common understanding of the term. As written, paragraph (a) is only applicable to individuals (humans). Is that the Secretary's intention?

Generally, to Paragraph (a): Each sentence appears to be a different concept. Consider making each sentence a separate paragraph.

Line 6: Consider adding "pursuant to Rule .4801" after "cash basis".

Line 8: Which "person"? The person that elected to pay tax on a cash basis?

Line 10: What "return"? A reference to a rule or statute requiring the return would resolve this ambiguity.

Lines 14-25: These lines are not formatted correctly.

Lines 14-25: Why are subparagraphs (1) and (2) and not paragraphs?

Line 17: Which "person's"?

Lines 33-34: Specify which statutes.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 4, 2023

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel
Date submitted to agency: October 4, 2023

1 17 NCAC 07B .4803 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 .4803 CASH BASIS**

5 (a) ~~When a vendor having both taxable and nontaxable sales elects to report and pay tax on the cash basis, the vendor~~
6 ~~must~~ A person making taxable and nontaxable sales that elects to report and pay tax on the cash basis, and is not
7 required to report on the accrual basis pursuant to G.S. 105-164.20, shall keep records which that disclose a separate
8 accounting of taxable and nontaxable sales and receipts on sales. ~~Such vendor must~~The person shall pay tax on the
9 total sales price of all taxable ~~tangible personal property~~ items, as the term item is defined in G.S. 105-164.3, sold for
10 cash during the ~~month~~ period covered by the ~~return~~ return. Sales upon which tax is due include cash, credit, installment,
11 or conditional sales, and on that any portion of the sales price collected or constructively received during such
12 month the return period. on taxable tangible personal property sold on credit, installment or other deferred payment
13 sales contracts without any arbitrary allocation for finance charges, service charges or interest charges.

14 (1) Interest, Finance charges, service charges and interest charges for financing, and carrying charges from credit
15 extended under conditional sales contracts providing for deferred payment of the purchase price are not subject to the
16 tax if such charges are separately stated on the ~~invoices~~ invoice or similar billing document given to the ~~customers~~
17 purchaser at the time of sale and in the vendor's records of sales and collections, maintained in the person's records of
18 sales.

19 (2) A person that sells or assigns the finance paper on If, on conditional, installment installment, or other deferred
20 payment sales, sales the vendor sells or assigns the finance paper, he is deemed to have received the full balance of the
21 consideration for the sale of ~~tangible personal property~~ an item and is liable for remittingshall remit tax on the total
22 sales price of such property the item at the close of the month during which period when the finance paper was assigned
23 or sold including any finance reserve withheld on the finance paper. ~~If such vendor sells his accounts receivable he~~
24 is liable for payment of tax on the outstanding taxable balance of such accounts at the time they are sold
25 notwithstanding that the accounts may be sold at a discount to the purchaser.

26 (b) ~~When persons~~ A person filing their sales and use tax reports returns on the cash basis of accounting ~~sell that sells~~
27 their accounts receivable, receivable shall remit they are liable for payment of sales tax on their taxable accounts
28 receivable balance outstanding at the time they sell such accounts the accounts even though the accounts may be sold
29 at a discount to the purchaser. ~~When a corporation is formed to succeed a proprietorship or partnership and the~~
30 accounts receivable are sold to the corporation, the proprietorship or partnership is liable for remitting the sales tax
31 due on its outstanding taxable accounts receivable balance at the time the accounts are sold.

32
33 *History Note: Authority G.S. 105-164.3; 105-164.20; 105-164.22; 105-262; 105-264; Chapter 105, Articles 39,*
34 *40, 42, 43, and 46;*

35 *Eff. February 1, 1976-1976;*

36 *Readopted Eff. January 1, 2024.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 07B .5001

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Lines 9-11: Explain why it is reasonably necessary to have language interpreting corrective eye glasses as qualifying as a "prosthetic device" given the clear language of G.S. 105-164.3(191).

Lines 11, 13, 15, 23, and 26: Explain with particularity the authority to issue exemptions. If the Secretary is interpreting a statute, this should be made clear. Consider "Pursuant to..."

Lines 15-26: This is a different concept. Consider making it a different paragraph.

Lines 18, 30, and 32: Define "applicable local and transit rates of sales and use tax".

Line 19-21: Explain why this subparagraph is reasonably necessary given the clear language of G.S. 105-164.4 and the absence of any exemption.

Lines 23-24: Explain why it is reasonably necessary to have language interpreting contact lens as qualifying as a "prosthetic device" given the clear language of G.S. 105-164.3(191).

Lines 31-33: Explain why this subparagraph is reasonably necessary given the clear language of G.S. 105-164.4 and the absence of any exemption.

Lines 27-28: This is a different concept. Consider making it a different paragraph.

Lines 35-37: If G.S. 105-134.13(12) is the authority for the rule as stated in the September 6, 2023 email, why is it not listed in the history note?

Lines 35-37: List all statutes individually.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

1 17 NCAC 07B .5001 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 .5000 - ~~EYEGLASSES~~ EYEGLASSES, CONTACT LENSES, AND OTHER OPHTHALMIC**
5 **OPTICAL AIDS AND SUPPLIES; SUPPLIES ~~OCULISTS; OPTOMETRISTS AND OPTICIANS~~**

6
7 **17 NCAC 07B .5001 PRESCRIPTION EYEGLASSES AND CONTACT LENSES**

8 **(a) Eyeglasses:**

9 (1) Corrective Eyeglasses. -- Sales of corrective eyeglasses for human use, ~~ground on prescription of~~
10 physicians, oculists or optometrists, including frames as an integral part thereof, are not subject to
11 the tax exempt from sales and use tax as prosthetic devices. When eyeglass cases, lens wipes, and
12 lens solution are given to the purchaser as part of the sale and included in the sales price of corrective
13 eyeglasses for human use, they are also exempt from sales and use tax. Corrective eyeglasses,
14 whether prescription eyeglasses or reading glasses, are not required to be sold on prescription in
15 order to be exempt from sales and use tax. A person who sells corrective eyeglasses shall keep sales
16 records that clearly separate it sales of corrective eyeglasses from sales of other items. Failure of a
17 person to keep records that establish a sale is exempt from sales and use tax subjects the person to
18 liability for the general State, and applicable local and transit rates of sales and use tax on the sale.

19 (2) Non-Corrective Eyeglasses. -- Sales of non-corrective eyeglasses for human use are subject to the
20 general State, and applicable local and transit rates of sales and use tax unless specifically exempt
21 by statute.

22 **(b) Contact Lenses:**

23 (1) Corrective Contact Lenses. -- Sales of corrective contact lenses for human use are exempt from sales
24 and use tax as prosthetic devices. When carrying cases, patient instruction booklets, patient care
25 kits, aseptors, salt tablets, lens solution, and squeeze bottles are given to the purchaser as part of the
26 sale and included in the sales price of corrective contact lenses for human use, they are also exempt
27 from sales and use tax. A person who sells corrective contact lenses shall keep sales records that
28 clearly separate its sales of corrective contact lenses from sales of other items. Failure of a person
29 to keep records that establish a sale is exempt from sales and use tax subjects the person to liability
30 for the general State, and applicable local and transit rates of sales and use tax on the sale.

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

34
35 *History Note:* *Authority G.S. 105-164.3; 105-164.4; 105-164.4D; 105-164.13; 105-164.22; 105-262; 105-*
36 *164.264; Chapter 105, Articles 39, 40, 42, 43, and 46;*
37 *Eff. February 1, 1976-1976;*

1
2

Readopted Eff. January 1, 2024.



REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Revenue

RULE CITATION: 17 NCAC 07B .5004

DEADLINE FOR RECEIPT: October 13, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the Rule: Explain why this rule is reasonably necessary? Is it not G.S. 105-164.4 clear that the sale of these items are taxed and they are not prosthetic devices pursuant G.S. 105-164.13(12)a and G.S. 105-164.3(191)?

Lines 10, 18, 21, and 23: Explain the Secretary's authority to subject any sales to a tax. If this is an interpretation of a statute, add a reference to the taxation statute. Consider "Pursuant to..."

Lines 10-11, 18, and 24: Define "applicable local and transit rates of sales and use tax".

Lines 26-27: Should not G.S. 105-164.13 be listed?

Lines 26-27: List all statutes individually.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 9, 2023

1 17 NCAC 07B .5004 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 .5004 TAXABLE OPTICAL SUPPLIES**

5 (a) Supplies for Corrective Eyeglasses - All sales to users or Sales to consumers of eyeglass frames not for use in
6 connection with eyeglasses ground on prescription, sunglasses not ground on prescription, solutions for cleaning
7 eyeglasses, telescopes, binoculars, opera glasses, and similar items, by whomsoever made, eyeglass cleaning cloths or
8 wipes, eyeglass cases, eyeglass chains or cords, and similar corrective eyeglass supplies when such sales are made
9 separate and apart from a corrective eyeglass sale or when they are sold with corrective eyeglasses, but billed separate
10 and apart from the corrective eyeglasses, are subject to the applicable statutory state and local sales or use tax, general
11 State, and applicable local and transit rates of sales and use tax. In addition, the retail sale of nose pads, temples and
12 any other repair parts for eyeglass frames are subject to the tax without regard to whether the repair parts are sold to
13 be used on frames with prescription lens. All persons, including opticians, optometrists, and oculists, making such
14 sales shall register as retail merchants and collect and remit the tax due thereon.

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

20 (c) Supplies for Non-Corrective Eyeglasses or Contact Lenses - Sales to consumers of optical supplies for non-
21 corrective eyeglasses or contact lenses are subject to the general State, and applicable local and transit rates of sales
22 and use tax.

23 (d) Other Optical Items - Sales to consumers of telescopes, binoculars, opera glasses, and similar items are subject to
24 the general State, and applicable local and transit rates of sales and use tax.

25
26 *History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; 105-264; ~~Article 39; Article 40; Article 42; Article~~*
27 *43; Article 44; Article 46; Chapter 105, Articles 39, 40, 42, 43, and 46;*
28 *Eff. February 1, 1976;*
29 *Amended Eff. October 1, 2009; October 1, 1993; October 1, ~~1991~~1991;*
30 *Readopted Eff. January 1, 2024.*