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NORTH CAROLINA STATE UNIVERSITY

SALES AND USE TAX GUIDE

SALES AND USE TAX GUIDELINES AND PROCEDURES

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SALES AND USE TAX – GUIDELINES AND PROCEDURES

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GUIDELINES STATEMENT

North Carolina State University (NCSU), in accordance with State and local laws, must comply with North Carolina Statute 105-164 Article 5, “North Carolina Sales and Use Tax Act,” in the collection and remittance of sales tax on retail sales of tangible property.

As an instrumentality of the State, G.S. 105-164.13(52) specifically exempts the University from payment of retail sales and use tax on sales to the University.

PURPOSE OF GUIDELINES

The University is exempt from sales and use tax when purchasing items with a University issued check, electronic funds transfer, procurement card or any other University approved method of payment.

The University must collect sales and use tax on tangible personal property sold.

RESPONSIBILITIES

University Controller’s Office (UCO)-Is responsible for ensuring the accurate reporting and remittance of sales and use tax under the University’s North Carolina Department of Revenue (NCDOR) Tax Identification Number. Several departments on campus which must collect sales tax provide the Controller’s office the information necessary to do this.

Several departments have their own identification number with the NCDOR. In these instances, they are responsible for gross receipts, computation of both State and local sales and use tax and the remittance of sales and use tax under their specific identification number.

Any department that has questions arising about Sales and Use tax should contact [Dwayne Cook](#) or [Paige Bates](#) for guidance.

PRIMARY GUIDANCE

- [NC General Statute § 105-164 \(Article 5 Sales and Use Tax\)](#)
- [NC General Statute § 105-164.29A \(State Government exemption process\)](#)
- [NC General Statute § 105-164.13\(52\) \(State Government exemptions, exclusions, Retail Sales and Tax\)](#)
- [Senate Bill 100](#)
- [NCSU Sales and Use Tax](#)

WHO IS GOVERNED BY THIS GUIDELINE

University colleges and departments that sell personal tangible property, prepaid meal plans or admission charges to entertainment events are governed by this guideline.

DEFINITIONS

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| Admission charge | The gross receipts derived for the right to attend an entertainment activity. The term includes charges for the following: <ul style="list-style-type: none">• Single ticket• Multi-occasion ticket• Seasonal pass, and an annual pass• Membership fee that provides for admission• Cover charge• Surcharge; a convenience fee, a processing fee, a facility charge, a facilitation fee, or similar charge; or any other charges included in gross receipts derived from admission. |
| Amenity | A feature that increases the value of an entertainment activity by giving the person access to items that are not subject to sales tax and that are not available with the purchase of admission to the event without the feature. |
| Entertainment activity | An activity listed in this subdivision: <ol style="list-style-type: none">a) A live performance or other live event of any kind, the purpose of which is entertainmentb) A movie, motion picture, or film.c) A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction.d) A guided tour at any of the activities listed in subdivision c, of this subdivision |
| Facilitator | A person who accepts payment of an admission charge to an entertainment activity and who is not the operator of the venue where the entertainment activity occurs. |
| Gross Receipts | For the purpose of imposition of sales tax, has the same meaning as the term “sales price.” |
| Net taxable sales | The gross retail sales of the business of a retailer taxed under Article V after deducting exempt sales and nontaxable sales |
| Purchase price | The term has the same meaning as the term “sales price” when applied to an item subject to use tax |
| Sales Price | The total amount or consideration for which tangible personal property, digital property, or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money. |
| State Sales Tax | Retail sales of tangible personal property, meals, tickets and admissions to entertainment events are subject to state and local sales tax, unless specifically exempted by statute. |

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| State Use Tax | Purchases “consumed” in the operation of an organization are subject to both state and local use tax, unless specifically exempted by statute. |
| State Agency | A unit of the executive, legislative, or judicial branch of State government, such as a department, a commission, a board, a council, or The University of North Carolina. |
| Tangible Personal Property | Personal property that may be seen, weighed, measured, felt or touched or is in any other manner perceptible to the senses. The term includes electricity, water, gas, steam, and prewritten computer software. |
| Tax Exempt | North Carolina State University is considered a tax exempt organization in the eyes of the IRS and the state of North Carolina. This classification allows the University to be exempted from paying sales and use tax on the direct purchase of goods that are to be used by the University. |

OVERVIEW

Sales tax in North Carolina is considered a privilege tax on retailers' net taxable sales or gross receipts from retail sales of tangible personal property, or the lease/rental of such property. The tax is intended to be passed on to the purchaser of the taxable item and borne by the purchaser rather than the retailer. It is the responsibility of the retailer to act as the trustee and collect the tax on transactions and remit the tax to the state.

North Carolina State University is considered the retailer in several areas and must charge sales tax on tangible personal property when these items are sold, remitting the tax to the State when due. Departments that sale tangible personal property to non-State agencies must collect tax and remit to the North Carolina Department of Revenue using form E-500.

In 2003, North Carolina's Legislature passed Senate Bill 100 that exempted the University from paying sales tax on tangible personal property. This bill was enacted to promote efficiency in State Government by allowing for an exemption rather than a refund. General Statute § 105-164.13 states that the University is exempt as long as all of the following conditions are met:

- a) The items are purchased by a State Agency.
- b) The items are purchased pursuant to a valid purchase order issued by the State agency that contains the exemption number of the agency and a description of the property purchased, or the items purchased are paid for with a State-issued check, electronic deposit, credit card, procurement card, or credit account for the State agency.
- c) For all purchases other than by an agency-issued purchase order, the agency must provide to or have on file with the retailer the agency's exemption number.

SALES TAX

A. Sales Tax Collections

North Carolina Statute 105-164.4 requires NCSU to collect sales taxes on all sales of tangible personal property, meals and tickets/admission to entertainment events.

Some examples of these types of sales include the following:

- Sales of food and drinks to students, faculty, staff and visitors/guests
- Sales of textbooks and other publications
- Sales of NCSU mementos, including clothing
- Sales of surplus property (To non-state agencies)
- Sales of miscellaneous items (cookbooks, pictures, etc.)
- Rental of equipment (To non-State agencies)
- Merchandise/goods sold through auction (live or silent)
- Sales of tickets or admission to entertainment events
- Sales of meals served to students in dining rooms of regularly operated educational institutions.

A few items are exempt from the collection of sales tax. These exemptions include:

- Gift certificates
- Prescription drugs

B. Sales of Tickets/Admission to Entertainment Events

- 1) Effective January 1, 2014, S.L. 2013-316 changed the taxation of live events and movies from a 3% gross receipts privilege tax to a State and local sales tax on admission to entertainment events (4.75% plus applicable local taxes). Examples of these events include:
 - a) Sporting events;
 - b) Live performances of any kind;
 - c) Motion pictures or films;
 - d) Museum, cultural site, garden, exhibit, show, or guided tour;
 - e) Fundraising events;
 - f) Lectures (if sold to the public). If the lecture is open to students only, the event is considered educational and is not subject to sales tax.
 - g) Meals sold by ticket
- 2) Amenities, such as parking, included in the ticket/admission price are not subject to sales tax.
- 3) Sales tax must either be shown separately on the ticket/receipt or included in the ticket price. If the sales tax is included in the total ticket price, a statement must be included on the ticket or receipt such as "Sales tax included in ticket price."
- 4) Handling fees or convenience fees are also subject to sales tax.
- 5) Sources of the local sales tax revenue are derived from where the admission to the entertainment event is held.
- 6) House Bill 1050 aims to provide clarity to some of the issues arising out of the recent changes to N.C.'s tax laws. Among these are what transactions are *exceptions* and not subject to tax in relation to admissions.
 - a) Amounts paid to participate in sporting events (example: participation in a 5k race, golf green fees and gym memberships)
 - b) Participation in arts classes or other educational activities
 - c) Political contributions
 - d) Charge for lifetime seat rights, lease, or rental of a suite box for an entertainment activity, provided that the charge is separately stated on invoice.
 - e) Amount paid solely for transportation.
- 7) In addition to clearing up exceptions to the admissions charge law, House Bill 1050, clarified the *exemptions* derived from admission charges to entertainment events. The following are specifically exempt from the tax imposed:

- a) Portion of membership charge that is deductible as a charitable contribution under Section 170 of I.R.S. Code
 - b) A donation that is deductible under Section 170 of I.R.S. Code
 - c) Charges for an amenity.
 - d) An event sponsored by an elementary or secondary school.
 - e) An event sponsored by a nonprofit is exempt from sales tax if all of the following conditions are met:
 - i) The entire proceeds of the event are used exclusively for the entity's nonprofit purpose
 - ii) The entity does not compensate members or individuals
 - iii) The entity does not compensate any person for participating in the event, performing in the event, placing in the event, or producing the event.
- 8) House Bill 1050 repeals the following exemptions, thus subjecting the gross receipts derived from an admission charge to that of a sales tax event, as of January 1, 2015.
 - a) An agricultural affair
 - b) Up to two activities a year sponsored by a nonprofit
 - c) A State attraction
 - 9) House Bill 1050 clarifies that the long-standing exemptions applicable to tangible personal property sold by *nonprofit entities* do not apply to gross receipts derived from an admission charge to an entertainment activity.
 - 10) The new legislation states that gross receipts derived from admission to an entertainment event purchased on or after January 1, 2015, will be taxable under the sales tax statutes, regardless of the date of sale of tickets.
 - 11) Section 5.1(e) of House Bill 1050 states that the University's sales and use tax exemption to tangible personal property does not apply to gross receipts derived from an admission charge for an entertainment event.

Frequently Asked Questions on Admissions

Are registration fees for educational or participatory activities subject to sales tax?

Registration fees are not considered admission charges to live events and thus not subject to sales and use tax but rather are classified as fees required to participate in the event. Some examples would be:

- Participation in 5k races or other sporting events
- Participation in arts classes or other educational activities where instruction is provided
- Participation in a dance event
- Registration for a summer camp
- Conferences or trainings for educational purposes
- Rides that are for transportation purposes

However, fees paid by spectators to watch a 5k race or a dance event (regardless of whether dance participants are or are not required to pay registration fees or dance lesson fees to participate) would be subject to sales tax as of January 1, 2014.

Is North Carolina State University required to collect sales and use tax on admission charges when other State institutions, 501(c)(3) nonprofits, local government units, or public schools attend the University's events?

Yes, House Bill 1050 clarifies in §105-164.13(34) that “this exemption does not apply to gross receipts derived from an admission charge to an entertainment activity.”

Are fundraising events that include entertainment activities included in this?

Yes, if there are tickets sold to a fundraising event that includes live entertainment then the gross receipts from sale of tickets are not exempt from this tax per House Bill 1050, (§105-164.13(35)).

C. Out of State Sales

1. North Carolina sales tax should not be charged on any NCSU sales made to customers who take delivery outside the State of North Carolina.
2. If a department sells items while physically present in another state (example: selling continuing education material at a convention), the department should contact the University Controller's Office prior to the event to determine whether the sales will be subject to sales tax. If a sales tax liability is incurred, departments should work with the UCO to ensure that all accounting and reporting requirements are met.

D. Accounting for tax collected

1. **Retail sales/tangible personal property/merchandise**, subject to North Carolina sales taxes, should be recorded to the individual departments' project and account. In most cases, this is a revenue account where money was receipted for tangible personal property or an admissions charge. If using the University's NC DOR sales tax number then they will alert [Paige Bates](#) by no later than the 8th of the following month so there is adequate time to analyze, prepare and remit the sales tax collected to the State. Paige will move the tax withholding to the University liability project/account for Sales Tax Payable and remit payment to the NC DOR.
2. **Sales of Tickets**, subject to North Carolina sales taxes, follow the same as that of tangible personal property above.
3. **Calculation of Sales tax**-Use the following formula to determine sales tax from gross sales when in Wake County:
$$\text{Gross sales (including sales tax)} / 1.0675 = \text{Net Sales}$$
$$\text{Net Sales} \times .0675 = \text{Sales Tax}$$
4. Collect sales tax whenever you sell tangible personal property or charge admission fees. The state sales tax rate is 4.75%. Currently, the county tax rate is 2.00% for 75 counties and 25 counties have

a 2.25% rate. In addition, Durham, Mecklenburg, and Orange counties have a .50% transit tax. Visit <http://www.dornc.com/taxes/sales/taxrates.html> for rates in all 100 counties. Check this link frequently as rates may change.

- Use the Wake County rate for the core University business and events
- NCSU, through the Cooperative Extension program, operates in all 100 counties and the Cherokee Reservation. County Cooperative Extension Agencies must remit local taxes based of county rates there. See [link](#) for current list of county rates.
- For sales of tickets/admissions to entertainment events, the county the event is held in is considered the county for which sales tax should be collected and the applicable county tax rate applies. The University Controller’s Office can also assist in determining the correct county tax rate (or see [link](#) to the NC DOR list of most current applicable local taxes).

USE TAX ON PURCHASES MADE

A. Purchases authorized by NCSU University

1. A NCSU Purchase Order directs the vendor to the [Materials Management Webpage](#) for relevant sales or use tax information. Vendors should not assess sales tax on any NCSU purchase. Under [Senate Bill 100 §105-164.13\(51\)](#) NCSU is exempt from use tax on tangible personal property.
2. **Departments making purchases without a Purchase Order** should provide vendors (excluding hotels, restaurants, and food caterers) a copy of the University’s NCDOR Sales Tax Exemption number found [here](#). This number fulfills the requirements of [Senate Bill 100 §105-164.13\(51\)\(c\)](#)

REPORTING REQUIREMENTS

1. The University Controller’s Office remits any North Carolina sales/use taxes due by remitting a prepayment by the 20th of the following month using NCDOR Form E-500.
2. Departments remitting sales and use tax through the UCO must have information to [Paige Bates](#) by the 8th of the following month of business to allow adequate time in preparing sales tax forms and payments.