



DIRECTIVE

Subject: Admission Charges
Tax: Sales and Use Tax
Law: N.C. Gen. Stat. § 105-164.4(a)(10)
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Effective January 1, 2014, N.C. Gen. Stat. § 105-164.4(a)(10) imposes a privilege tax on the retailer's net taxable sales or gross receipts to admission charges to an entertainment activity listed below at the 4.75% general State and applicable local and transit rates of sales and use tax.

- a. A live performance or other live event of any kind.
- b. A motion picture or film.
- c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions.

Offering any of the entertainment activities listed above is a service. An admission charge includes a charge for a single ticket, a multioccasion ticket, a seasonal pass, an annual pass, and a cover charge.

An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

For an amount charged for amenities in conjunction with an admission charge, the retailer is required to maintain documentation in its books and records to substantiate the amount of charges for amenities excluded from sales and use tax. Charges for amenities that may be excluded from sales and use tax can be determined based on separately stated charges for amenities on the invoice, bill of sale, or other document given to the purchaser at the time of the sale or based on an allocation in accordance with N.C. Gen. Stat. § 105-164.4D. Where a retailer does not maintain adequate documentation in its books and records to

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substantiate an amount charged for amenities, the entire amount received from a purchaser constitutes admission charges to such entertainment activity subject to sales and use tax.

Admission Charge – Sales Price

N.C. Gen. Stat. § 105-164.3(37) defines the term “[s]ales price” as “[t]he total amount or consideration for which tangible personal 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.

a. The term includes all of the following:

1. The retailer’s cost of the property sold.
2. The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense of the retailer.
3. Charges by the retailer for any services necessary to complete the sale.
4. Delivery charges.
5. Installation charges.
6. Repealed by Session Laws 2007-244, s. 1, effective October 1, 2007.
7. Credit for trade-in.
8. Discounts that are reimbursable by a third party and can be determined at the time of sale through any of the following:
 - I. Presentation by the consumer of a coupon or other documentation.
 - II. Identification of the consumer as a member of a group eligible for a discount.
 - III. The invoice the retailer gives the consumer.

b. The term does not include any of the following:

1. Discounts that are not reimbursable by a third party, are allowed by the retailer, and are taken by a consumer on a sale.
2. Interest, financing, and carrying charges from credit extended on the sale, if the amount is separately stated on the invoice, bill of sale, or a similar document given to the consumer.
3. Any taxes imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer.”

For purposes of administration of sales and use tax to admission charges to an entertainment activity subject to tax, the term “admission charges” has the same meaning as the term “sales price” except for the exclusion permitted for charges

applicable to amenities. Any charges made by the retailer in conjunction with admission charges to an entertainment activity subject to tax per N.C. Gen. Stat. § 105-164.4(a)(10) that are necessary to complete the sale, other than charges for amenities, are part of the sales price subject to sales and use tax. Such charges that are necessary to complete the sale may include charges such as convenience charges, credit card processing fees, and facility charges.

Tax Imposed on the Retailer

The privilege tax is imposed on the “retailer” of admission charges. N.C. Gen. Stat. § 105-164.3(35) defines the term “[r]etailer,” in part, as “[a] person engaged in the business of . . . [m]aking sales at retail, offering to make sales at retail, or soliciting sales at retail of . . . services for storage, use, or consumption in this State. When the Secretary finds it necessary for the efficient administration of [Sales and Use Tax] to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as ‘retailers’ for the purpose of [Sales and Use Tax]. . . .”

N.C. Gen. Stat. § 105-228.90(b)(5) defines, “[p]erson,” in part, as “[a]n individual, a fiduciary, a firm, an association, a partnership, a limited liability company, a corporation, a unit of government, or another group acting as a unit. The term includes an officer or employee of a corporation, a member, a manager, or an employee of a limited liability company, and a member or employee of a partnership who, as officer, employee, member, or manager, is under a duty to perform an act in meeting the requirements of Subchapter I, V, or VIII of [Chapter 105]. . . .”

A person that operates an entertainment venue that offers an entertainment activity subject to the tax imposed by N.C. Gen. Stat. § 105-164.4(a)(10) is regarded by the Secretary as the retailer. The retailer that operates an entertainment venue is liable for the 4.75% general State and applicable local and transit rates of sales tax on the admission charges, notwithstanding that a ticket agent or person, other than a ticket reseller, sells admission tickets to the entertainment activity in addition to the retailer that operates the entertainment venue. Where the terms of an agreement provide that a person other than the operator of an entertainment venue is liable for the sales and use tax on the admission charges to the entertainment activity subject to tax per N.C. Gen. Stat. § 105-164.4(a)(10), the person that operates the entertainment venue is not liable for the tax.

Initial Sale of Tickets to a Live Event Other Than by Ticket Resellers

For admission charges to a **live event** that occurs on or after January 1, 2014, the 4.75% general State and applicable local and transit rates of sales and use tax apply to admission charges to the event, provided the **initial sale** of a ticket occurs on or after January 1, 2014. Gross receipts received on or after January 1, 2014, for admission charges to a **live event** offered on or after January 1, 2014 for which the **initial sale** of a ticket to the live event occurs before January 1, 2014, other than gross receipts received by a ticket reseller, are taxable under G.S. 105-37.1, as applicable.

Example:

A retailer sold some season tickets to its concert series performances scheduled for December 2013 through November 2014 in October 2013. Some concert performances are to be held before January 1, 2014 and others are to be held after January 1, 2014. Single concert tickets can also be purchased at the box office on the date of each concert performance. Because the retailer made an initial sale of season tickets for the concert series performances prior to January 1, 2014, all of the admission charges the retailer receives for both the season tickets and single ticket sales for concert performances in the series are subject to the privilege tax imposed in N. C. Gen. Stat. § 105-37.1, as applicable.

Ticket Resellers

When an admission ticket to an entertainment activity subject to sales and use tax per N.C. Gen. Stat. § 105-164.4(a)(10) is resold by a ticket reseller engaged in business in the State reselling tickets on or after January 1, 2014, including tickets to a live event, and the admission charge is printed on the face of the ticket, the ticket reseller should not collect the 4.75% general State and applicable local and transit rates of sales and use tax on the face price of the ticket. The ticket reseller must collect and remit the 4.75% general State and applicable local and transit rates of sales and use tax on any additional amount or fee the ticket reseller may charge the purchaser.

When an admission ticket to an entertainment activity subject to sales and use tax per N.C. Gen. Stat. § 105-164.4(a)(10) is resold by a ticket reseller engaged in business in the State reselling tickets on or after January 1, 2014 and the price of the admission ticket paid by the ticket reseller is not printed on the face of the ticket, the 4.75% general State and applicable local and transit rates of sales and use tax apply to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

A ticket reseller must be able to document in its books and records the amount paid for a ticket for such amount to be exempt from the 4.75% general State and applicable local and transit rates of sales and use tax for tickets resold on or after January 1, 2014 by the ticket reseller.

Consignment Sales

N. C. Gen. Stat. § 105-164.3(36) defines the word “[s]ale or selling,” in part, as “the performance for consideration of a service. The transfer or performance may be conditional or in any manner or by any means.” Generally, in a consignment transaction, the consignee or retailer is authorized to transfer possession, and title passes from the consignor through the consignee to the purchaser. Where admission tickets to an entertainment activity subject to sales and use tax under the provisions of N.C. Gen. Stat. § 105-164.4(a)(10) transfer pursuant to a consignment or similar agreement to the consignee/retailer, the consignee/retailer is liable for the 4.75% general State and applicable local and transit rates of sales and use tax on or after January 1, 2014, except for those tickets to a live event subject to the privilege tax imposed in N. C. Gen. Stat. § 105-37.1, as applicable.

Specific Exemptions for Admission Charges

Effective January 1, 2014, N.C. Gen. Stat. § 105-164.13(60) exempts from sales and use tax the sale at retail and the use, storage, or consumption in this State of “[a]dmission charges to any of the following entertainment activities:

- a. An event that is held at an elementary school or secondary school and is sponsored by the school.
- b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.
- c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of [Chapter 105] and uses the entire proceeds of the activity exclusively for the entity’s nonprofit purposes. This exemption applies to the first two activities sponsored by the entity during a calendar year.
- d. A youth athletic contest sponsored by a nonprofit entity that is exempt from tax under Article 4 of [Chapter 105]. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age at the time of enrollment.
- e. A State attraction. A State attraction is a physical place supported with State funds that offers cultural, educational, historical, or recreational opportunities. The term ‘State funds’ has the same meaning as defined in G.S. 143C-1-1.”

N.C. Gen. Stat. § 143C-1-1 defines “[S]tate funds” as “[a]ny moneys including federal funds deposited in the State treasury except moneys deposited in a trust fund or agency fund as described in G.S. 143C-1-3.” For purposes of the exemption from sales and use tax for admission charges to a State attraction, an entity identified in the Appropriations Act of 2013, S.L. 2013-360, to receive a grant-in-aid through the Grassroots Science Program is considered a State attraction. An admission charge to a sporting event sponsored by an institution

of higher education is not an admission charge to a State attraction and is not exempt from sales and use tax, no matter that the institution may receive an appropriation from the General Assembly.

Report No. 2012-01 (February 2012) published by the Program Evaluation Division of the North Carolina General Assembly identifies some sites that qualify as State attractions for purposes of the exemption for which admission charges to a State attraction are exempt from the 4.75% general State and applicable local and transit rates of sales and use tax on or after January 1, 2014. The report includes sites administered by the Department of Cultural Resources and the Department of Environment and Natural Resources. The report does not contain an all inclusive list of State attractions.

A person that receives a North Carolina Arts Council grant is not a State attraction as a result of receipt of such grant. An admission charge received on or after January 1, 2014 by such grantee for admission to an entertainment activity subject to tax per N.C. Gen. Stat. § 105-164.4(a)(10) offered by or on behalf of such grantee is subject to the 4.75% general State and applicable local and transit rates of tax unless another exemption applies to such activity or unless an initial sale of a ticket occurred prior to January 1, 2014 for an event scheduled to occur on or after January 1, 2014.

For the purposes of this exemption, the event location of an entertainment activity sponsored by a school is the elementary school or secondary school location where the event is held, or the location of the real property used by the school for the event pursuant to an agreement whereby the school has total control and use of the real property and such transaction does not constitute a catered event offered by a hotel or similar retailer where a banquet room along with food is sold to the school by such retailer.

Other Statutory Exemptions That May Apply to Admission Charges

Cherokee Indian Reservation

N.C. Gen. Stat. § 105-164.13(25) exempts from sales and use tax “[s]ales by merchants on the Cherokee Indian Reservation when such merchants are authorized to do business on the Reservation and are paying the tribal gross receipts levy to the Tribal Council.” Admission charges to an entertainment activity subject to tax per N.C. Gen. Stat. § 105-164.4(a)(10) and offered on the Cherokee Indian Reservation are exempt from sales and use tax on or after January 1, 2014, provided the retailer that offers the entertainment activity is authorized to do business on the Reservation and pays the tribal gross receipts levy to the Tribal Council.

Proceeds Given to the State

N.C. Gen. Stat. § 105-164.13(34) exempts from sales and use tax “[s]ales of items by a nonprofit civic, charitable, educational, scientific or literary

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organization when the net proceeds of the sales will be given or contributed to the State of North Carolina or to one or more of its agencies or instrumentalities, or to one or more nonprofit charitable organizations, one of whose purposes is to serve as a conduit through which such net proceeds will flow to the State or to one or more of its agencies or instrumentalities.” Admission charges to an entertainment activity sold by a nonprofit entity described in N.C. Gen. Stat. § 105-164.13(34) are exempt from sales and use tax on or after January 1, 2014, provided the net proceeds of the sales are distributed as required per statute.

Certain Fundraising Activities

N.C. Gen. Stat. § 105-164.13(35) exempts from sales and use tax “[s]ales by a nonprofit civic, charitable, educational, scientific, literary, or fraternal organization when all of the following conditions are met:

- a. The sales are conducted only upon an annual basis for the purpose of raising funds for the organization’s activities.
- b. The proceeds of the sale are actually used for the organization’s activities.
- c. The products sold are delivered to the purchaser within 60 days after the first solicitation of any sale made during the organization’s annual sales period.”

For purposes of this exemption, a qualifying organization may have more than one “annual” sale in a twelve-month period if the sales are conducted with respect to different fundraising activities and purposes. Each fundraising sale must conclude prior to the start of another fundraising sales activity. The proceeds from one fundraising sale may be used for general operating expenses; however, all other fundraising sales must be for specific projects, committees, or purposes, and the proceeds therefrom must be used for the designated purpose. The specific purpose or intended use of the funds by the organization must be designated prior to the start date of the fundraising sales activity. The organization must receive all admission charges designated for a specific fundraising purpose within 60 days prior to the date of the entertainment activity for such admission charges to be exempt from sales and use tax per N.C. Gen. Stat. § 105-164.13(35).

Admission charges to an entertainment activity subject to tax per N.C. Gen. Stat. § 105-164.4(a)(10) received on or after January 1, 2014 by a qualifying nonprofit organization that meets all of the above criteria are exempt from the 4.75% general State and applicable local and transit rates of sales and use tax.

Membership Fees

The portion of a membership fee or membership card attributable to an admission charge to an entertainment activity subject to tax per N.C. Gen. Stat. § 105-164.4(a)(10) is subject to the 4.75% general State and applicable local and transit rates of sales and use tax if the membership is purchased on or after January 1, 2014.

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Example:

An individual pays a \$40.00 annual membership fee to a garden operated by a nonprofit entity on January 2, 2014. Of the annual membership fee, \$8.00 is attributable to a single admission to the garden (amount other attendees must pay for admission to the garden) and \$10.00 is attributable to two tickets to concerts valued at \$5.00 each. The amount of the \$40.00 annual membership fee subject to the 4.75% general State and applicable local and transit rates of sales and use tax as admissions charges is \$18.00 which consists of price of a single admission to the garden and the two concert tickets.

Tax Rates

The general State, local and transit sales and use rates of tax applicable to the sales price of admission charges are 6.75% in seventy-four (74) counties; 7.00% in Alexander, Buncombe, Cabarrus, Catawba, Cumberland, Duplin, Edgecombe, Greene, Halifax, Haywood, Hertford, Lee, Martin, Montgomery, New Hanover, Onslow, Pitt, Randolph, Robeson, Rowan, Sampson, Surry, and Wilkes Counties; 7.25% in Mecklenburg County; and 7.50% in Durham and Orange Counties.

N.C. Gen. Stat. § 105-164.7 provides that “[t]he [sales and use] tax must be stated and charged separately on the invoices or other documents of the retailer given to the purchaser at the time of the sale except for . . . [w]here a retailer displays a statement indicating the sales price includes the tax.” For purposes of sales and use tax due on admission charges, the sales tax will be considered to be included in the amount of the admission charges, provided a retailer displays a statement on its website, at the box office, printed on the tangible ticket, or otherwise available to a purchaser. Where a retailer does not display a statement indicating that admission charges include the “sales and use tax” or a similar statement, the retailer is liable for tax on admission charges without an allowance for sales tax included in the charges.

Sourcing of Admission Charges for Local and Transit Tax Purposes

N.C. Gen. Stat. § 105-164.4B(a)(1) provides “[w]hen a purchaser receives a product at a business location of the seller, the sale is sourced to that business location.” For purposes of sourcing admission charges, such charges are sourced to the business location where the event is offered and where the purchaser gains admission to the entertainment activity. A retailer that offers entertainment activities in more than one county that are subject to tax per N.C. Gen. Stat. § 105-164.4(a)(10) must collect local and transit sales and use tax for each county where an entertainment activity is held and admission is gained. Such retailer is required to report the applicable rate of tax for each local county, either through the online file and pay option on the Department’s website or by completing and filing Form E-500, Sales and Use Tax Return, in conjunction with Form E-536, Schedule of County Sales and Use Taxes.

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Example:

A retailer sells an admission ticket to a movie on January 15, 2014 to a purchaser at the retailer's box office located in Guilford County. The admission charge is sourced to Guilford County, the business location of the retailer and the location where the purchaser gains admission to the movie. The retailer should collect and remit the 4.75% general State and the 2.00% Guilford County rates of tax on the admission charge.

Example:

A purchaser receives an admission charge via an online transaction for a NHL Hockey game to be held in Wake County in November 2014. The initial sales of admission charges to that game occur on October 1, 2014. The purchaser resides in Durham County and requests that the admission ticket be mailed to the purchaser's residence in Durham County. The admission charge is sourced to Wake County, the location where the event is to be held and where the purchaser may gain admission to the event. The retailer should collect and remit the 4.75% general State and 2.00% Wake County rates of sales and use tax on the admission charge.

Example:

An entertainment venue located in North Carolina receives payment for an admission charge via an online transaction for a concert that will be held in Mecklenburg County, North Carolina in May 2014. The initial sales of admission charges to the concert occur in January 2014. The purchaser resides in South Carolina and requests that the admission ticket be left at the "will call" window in Mecklenburg County, North Carolina. The operator of the entertainment venue, as retailer, is liable for the 4.75% general State, 2.00% Mecklenburg County, and 0.50% Mecklenburg Transit rates of sales and use tax on the admission charge.

Example:

A ticket agent located outside of North Carolina enters into an agreement with an entertainment venue in North Carolina on February 1, 2014 to sell admission tickets to a ballet performance on behalf of the entertainment venue located in New Hanover County, North Carolina. The initial sales of tickets to the performance are made on January 15, 2014. The entertainment venue that offers the ballet performance is liable for the 4.75% general State and 2.25% New Hanover County local sales and use tax on the face price of the admission ticket for the ballet performance, including any admission charges for tickets sold by the ticket agent on behalf of the entertainment venue.

Example:

A ticket reseller in South Carolina that is not engaged in business in North Carolina for sales and use tax purposes is not required to collect North Carolina sales or use tax on the resale of a ticket to a purchaser in North Carolina. The purchaser should remit the 4.75% general State and applicable local and transit

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rates of use tax on the admission charge on his North Carolina Individual Income Tax Return. If the face amount of the admission ticket is on the ticket, the purchaser is only required to remit use tax on the difference the purchaser paid for the ticket and the face amount of the ticket.

Charges that Generally Do Not Constitute Admission Charges

Admission charges to an entertainment activity subject to tax under N.C. Gen. Stat. § 105-164.4(a)(10) **do not** generally include the following:

- a. Registration fee to participate in a sporting activity.
- b. Tuition or fee for a class or other learning activity that includes instruction.
- c. A registration fee for an educational seminar or workshop.
- d. Registration to attend summer camp.
- e. Fees to bowl, skate, swim, or play miniature golf.
- f. Fees paid to fish from a pier and not to observe persons fishing.
- g. Golf greens fees or driving range fees.
- h. A fee to ride a means of transportation where the purpose is for the transportation.
- i. Boat tour, carriage ride, and similar activities where the fee paid does not include admission to an attraction.
- j. The retail sale of prepared food as defined in G.S. 105-164.3(28) subject to sales and use tax at the 4.75% general State and applicable local and transit rates of sales and use tax.
- k. Admission tickets given away for free that do not constitute bartered transactions.

Registration

A retailer, or person regarded by the Secretary as a retailer, required to collect the 4.75% general State and applicable local and transit rates of sales and use tax on admission charges to an entertainment activity listed in N.C. Gen. Stat. § 105-164.4(a)(10) on or after January 1, 2014 who is not currently registered to collect and remit the 4.75% general State and applicable local and transit rates of sales and use tax, must complete Form NC-BR, Business Registration Application for Income Tax Withholding, Sales and Use Tax, and Machinery and Equipment Tax, to obtain a Certificate of Registration. Both an online business registration portal and a web-fill version of Form NC-BR are available at the Department's website, www.dornc.com. There is no fee associated with registering for sales and use tax to obtain a Certificate of Registration.

Assistance

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