

Part 2. Taxes Levied.

§ 105-164.4. Tax imposed on retailers.

(a) **(Effective until October 1, 2008 – see notes)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-quarter percent (4.25%).

(a) **(Effective October 1, 2008 until October 1, 2009 – see notes)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-half percent (4.5%).

(a) **(Effective October 1, 2009 – see notes)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

- (1) The general rate of tax applies to the sales price of each item or article of tangible personal property that is sold at retail and is not subject to tax under another subdivision in this section.
- (1a) The rate of two percent (2%) applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser. The maximum tax is three hundred dollars (\$300.00) per article. Each section of a manufactured home that is transported separately to the site where it is to be erected is a separate article.
- (1b) The rate of three percent (3%) applies to the sales price of each aircraft or boat sold at retail, including all accessories attached to the item when it is delivered to the purchaser. The maximum tax is one thousand five hundred dollars (\$1,500) per article.
- (1c),(1d) and (1e) Repealed by Session Laws 2005-276, s. 33.4(b), effective January 1, 2006.
- (1f) The rate of two and eighty-three-hundredths percent (2.83%) applies to the sales price of electricity that is measured by a separate meter or another separate device and sold to a commercial laundry or to a pressing and dry-cleaning establishment for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.
 - a. Repealed by Session Laws 2007-397, s. 10(b), effective October 1, 2007, and applicable to sales occurring on or after that date.

- b. Repealed by Session Laws 2006-66, s. 24.19(a), effective July 1, 2007, and applicable to sales made on or after that date.
- c. Repealed by Session Laws 2007-397, s. 10(b), effective October 1, 2007, and applicable to sales occurring on or after that date.
- (1g) Repealed by Session Laws 2004-110, s. 6.1, effective October 1, 2004, and applicable to sales of electricity made on or after that date.
- (1h) **(Expires for sales made on or after October 1, 2007)** The rate of seventeen-hundredths percent (0.17%) applies to the sales price of electricity sold to an aluminum smelting facility for use in connection with the operation of that facility and measured by a separate meter or measuring device.
- (1i) Repealed by Session Laws 2007-397, s. 10(a), effective October 1, 2007, and applicable to sales occurring on or after that date.
- (1j) **(Effective until July 1, 2008 – see notes)** The rate of one and eight-tenths percent (1.8%) applies to the sales price of electricity described in this subdivision and measured by a separate meter or another separate device:
 - a. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants.
 - b. Sales of electricity to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes.
- (1j) **(Effective July 1, 2008 until July 1, 2009 – see notes)** The rate of one and four-tenths percent (1.4%) applies to the sales price of electricity described in this subdivision and measured by a separate meter or another separate device:
 - a. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants.
 - b. Sales of electricity to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes.
- (1j) **(Effective July 1, 2009 until July 1, 2010 – see notes)** The rate of eight-tenths percent (.8%) applies to the sales price of electricity described in this subdivision and measured by a separate meter or another separate device:
 - a. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants.

b. Sales of electricity to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes.

(2) The applicable percentage rate applies to the gross receipts derived from the lease or rental of tangible personal property by a person who is engaged in the business of leasing or renting tangible personal property, or is a retailer and leases or rents property of the type sold by the retailer. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a sale of the property that is leased or rented. A person who leases or rents property shall also collect the tax imposed by this section on the separate retail sale of the property.

(3) Operators of hotels, motels, tourist homes, tourist camps, and similar type businesses and persons who rent private residences and cottages to transients are considered retailers under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from the rental of any rooms, lodgings, or accommodations furnished to transients for a consideration. This tax does not apply to any private residence or cottage that is rented for less than 15 days in a calendar year or to any room, lodging, or accommodation supplied to the same person for a period of 90 or more continuous days.

As used in this subdivision, the term "persons who rent to transients" means (i) owners of private residences and cottages who rent to transients and (ii) rental agents, including "real estate brokers" as defined in G.S. 93A-2, who rent private residences and cottages to transients on behalf of the owners. If a rental agent is liable for the tax imposed by this subdivision, the owner is not liable.

(4) Every person engaged in the business of operating a dry cleaning, pressing, or hat-blocking establishment, a laundry, or any similar business, engaged in the business of renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental business for any of these businesses, is considered a retailer under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. The tax imposed by this subdivision does not apply to receipts derived from coin, token, or card-operated washing machines, extractors, and dryers. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a

retailer that pays the tax on the total gross receipts derived from the services.

- (4a) The rate of three percent (3%) applies to the gross receipts derived from sales of electricity, other than sales of electricity subject to tax under another subdivision in this section. A person who sells electricity is considered a retailer under this Article.
- (4b) A person who sells tangible personal property at a specialty market, other than the person's own household personal property, is considered a retailer under this Article. A tax at the general rate of tax is levied on the sales price of each article sold by the retailer at the specialty market. The term "specialty market" has the same meaning as defined in G.S. 66-250.
- (4c) The combined general rate applies to the gross receipts derived from providing telecommunications service and ancillary service. A person who provides telecommunications service or ancillary service is considered a retailer under this Article. These services are taxed in accordance with G.S. 105-164.4C.
- (4d) The sale or recharge of prepaid telephone calling service is taxable at the general rate of tax. The tax applies regardless of whether tangible personal property, such as a card or a telephone, is transferred. The tax applies to a service that is sold in conjunction with prepaid wireless calling service. Prepaid telephone calling service is taxable at the point of sale instead of at the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid telephone calling service taxed under this subdivision is not subject to tax as a telecommunications service.
- (5) Repealed by Session Laws 1998-212, s. 29A.1(a), effective May 1, 1999.
- (6) The combined general rate applies to the gross receipts derived from providing video programming to a subscriber in this State. A cable service provider, a direct-to-home satellite service provider, and any other person engaged in the business of providing video programming is considered a retailer under this Article.
- (6a) The general rate applies to the gross receipts derived from providing satellite digital audio radio service. For services received by a mobile or portable station, the service is sourced to the subscriber's business or home address. A person engaged in the business of providing satellite digital audio radio service is a retailer under this Article.
- (7) The combined general rate applies to the sales price of spirituous liquor other than mixed beverages. As used in this subdivision,

the terms "spirituous liquor" and "mixed beverage" have the meanings provided in G.S. 18B-101.

- (8) The rate of two and one-half percent (2.5%) applies to the sales price of each modular home sold at retail, including all accessories attached to the modular home when it is delivered to the purchaser. The sale of a modular home to a modular homebuilder is considered a retail sale. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home.

(b) The tax levied in this section shall be collected from the retailer and paid by him at the time and in the manner as hereinafter provided. Provided, however, that any person engaging or continuing in business as a retailer shall pay the tax required on the net taxable sales of such business at the rates specified when proper books are kept showing separately the gross proceeds of taxable and nontaxable sales of tangible personal property in such form as may be accurately and conveniently checked by the Secretary or his duly authorized agent. If such records are not kept separately the tax shall be paid as a retailer on the gross sales of business and the exemptions and exclusions provided by this Article shall not be allowed. The tax levied in this section is in addition to all other taxes whether levied in the form of excise, license or privilege or other taxes.

(c) Certificate of Registration. – Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration from the Department in accordance with G.S. 105-164.29. (1957, c. 1340, s. 5; 1959, c. 1259, s. 5; 1961, c. 826, s. 2; 1963, c. 1169, ss. 3, 11; 1967, c. 1110, s. 6; c. 1116; 1969, c. 1075, s. 5; 1971, c. 887, s. 1; 1973, c. 476, s. 193; c. 1287, s. 8; 1975, c. 752; 1977, c. 903; 1977, 2nd Sess., c. 1218; 1979, c. 17, s. 1; c. 22; c. 48, s. 1; c. 527, s. 1; c. 801, s. 73; 1981, c. 984, ss. 1, 2; 1981 (Reg. Sess., 1982), cc. 1207, 1273; 1983, c. 510; c. 713, ss. 89, 93; c. 805, ss. 1, 2; 1983 (Reg. Sess., 1984), c. 1065, ss. 1, 2, 4; c. 1097, ss. 6, 13; 1985, c. 704; 1985 (Reg. Sess., 1986), c. 925; c. 1005; 1987, c. 557, ss. 4, 5; c. 800, ss. 2, 3; c. 854, s. 1; 1987 (Reg. Sess., 1988), c. 1044, s. 4; 1989, c. 692, ss. 3.1, 3.3, 8.4(8); c. 770, s. 74.4; 1989 (Reg. Sess., 1990), c. 813, ss. 14, 15; 1991, c. 598, s. 5; c. 689, s. 311; c. 690, s. 1; 1993, c. 372, s. 1; c. 484, s. 2; 1995, c. 17, s. 6; c. 477, s. 1; 1996, 2nd Ex. Sess., c. 13, ss. 1.1, 9.1, 9.2; 1997-475, s. 1.1; 1998-22, s. 5; 1998-55, ss. 8, 14; 1998-98, ss. 13.2, 48(a), (b); 1998-121, ss. 3, 5; 1998-197, s. 1; 1998-212, s. 29A.1(a); 1999-337, ss. 29, 30; 1999-360, s. 3(a), (b); 1999-438, s. 1; 2000-140, s. 67(a); 2001-424, ss. 34.13(a), 34.17(a), 34.23(b), 34.25(a); 2001-430, ss. 3, 4, 5; 2001-476, ss. 17(b)-(d), (f); 2001-487, ss. 67(b), 122(a)-(c); 2002-16, s. 4; 2003-284, s. 38.1; 2003-400, s. 15; 2004-110, ss. 6.1, 6.2, 6.3; 2005-144, s. 9.1;

2005-276, ss. 33.1, 33.4(a), 33.4(b); 2006-33, ss. 2, 11; 2006-66, ss. 24.1(a), (b), (c), 24.19(a), (b); 2006-151, s. 3; 2007-145, s. 9(a); 2007-323, ss. 31.2(a), (b), 31.16.3(h), 31.16.4(g); 2007-397, ss. 10(a)-(f).)