

Changes to NC Sales and Use Tax effective March 1, 2016

Notice: This is for your information only. The majority of the changes reflected in this notice will not impact departmental budgets. It will only change how suppliers charge sales tax on some service related invoices.

Summary of Changes to North Carolina Sales and Use Tax Regulations:

The changes to the NC Sales and Use Tax law state that installation charges (labor) **in connection with a retail sale** in NC will be subject to sales and use tax effective March 1, 2016. Previously, such charges, when stated separately from the materials, were exempt from sales tax. This exemption has been repealed as of March 1, 2016.

One key component of this tax law change is to make the **distinction between** a vendor being considered a **retailer** (in which case installation charges are subject to sales and use tax) versus a **real property contractor** (labor charges from real property contractors are not subject to sales tax).

In order to be considered a **retailer** for purposes of this tax law change, the **majority of supplier's revenue** has to come **from the sale of tangible personal property, digital property, and/or rendering services incidental to the retail sale of such items** (taxable services include certain maintenance contracts in connection with a retail sale and the sale of extended warranties). This means that the vendor may do some installation but their primary business is selling taxable tangible items and services.

Example 1: Real Estate purchases 5 dishwashers and 3 refrigerators from a vendor who comes out to install these items at various WFU properties. The invoice from the vendor states the price of the appliances and the labor for installation separately. The vendor has a showroom where consumers can purchase appliances with or without installation. The labor in this case is subject to sales tax because installation is considered part of the retail sale price of the items purchased. The company who sold and installed them is mainly in the business of selling appliances and service contracts and is thus considered a retailer.

Example 2: Real Estate purchases the same appliances from Store A and hires a handy man who is not in the business of selling anything (strictly does installation) to install them at the various properties. The installation service performed by the handy man would not be subject to sales tax.

Based on the definitions and specific examples stated in the directive from the NC Dept. of Revenue, construction companies who are not in the business of retailing any tangible items and whose source of revenue does not mainly come from the sale of tangible items and taxable services at retail, would be considered a **real property contractor** and thus **their labor charges would not be subject to sales and use tax**. Some common examples of businesses that would fall into this category are as follows:

- Construction Companies
- Painting Contractors (unless they maintain a retail location where they sell painting supplies to the public)

- Landscaping Companies (unless they maintain a retail location where they sell landscaping supplies, plants, mulch, etc. to the public)
- Cleaning Companies (question submitted to the NC Dept. of Revenue for clarification)

Examples of stores, centers, and dealers potentially **providing taxable real property related services** are:

- Building material dealers
- Electronic and household appliance stores
- Floor covering stores
- Hardware stores
- Home centers
- Lawn and garden equipment and supply stores
- Nursery, garden, and farm supply stores
- Paint and wallpaper stores
- Window treatment stores

In addition to real property related installation charges, the following are also subject to sales and use tax effective March 1 due to the repeal of specific exemptions:

Category	Directive
Installation and Repair Charges	Relating to a retail sale of automotive parts. Repair and installation charges related to an automobile, when sold by a retailer (car dealership or auto parts store)
Rental or Lease of Tangible Personal Property	Installation charges that are a part of a rental or lease of tangible personal property
Modular Home, Manufactured Home, Boat, or Airplane	Installation charges that are a part of the sales price sold at retail (certain maximum amounts apply)
Telecommunication Services, Video Programming Services, Piped Natural Gas, Electricity	The rate for these types of goods and services and related installation charges is 7%
Install New Tires	Installation of new tires by a retailer is subject to the regular sales tax, as well as additional taxes applicable such as scrap tire disposal tax
Recapping or Retreading Tires	Charges for retail sales and services are applicable
Shoe Repair and Shoe Polishing	These services are applicable to tax unless a person who only provides shoe polishing services is performing the service. That person is not subject to sales tax
Watch, Clock, and Jewelry Repair and Cleaning	If the cleaning service is not provided by a retailer, it is exempt from sales tax

Engraving Charges	If sold by a retailer at the time the item to be engraved is sold Engraving charges of an item that was previously owned by the consumer are not subject to sales tax
Laminating Charges	Services are subject to tax
Recharging Fire Extinguishers	Services are subject to tax
Reupholstering Charges	Services are subject to tax
Prescription Drugs	Effective April 1, 2016
Alteration Services	Services are subject to tax

For installation, repair, and maintenance charges subject to sales and use tax under the revised tax law effective March 1, 2016, the effective start date will depend on the type of billing/contract as outlined below:

- For non-periodic billing: start with billing dated on or after March 1, 2016
- For monthly or other periodic billing: start with the first periodic billing dated on or after March 1, 2016
- Installation charges in connection with retail purchases made by a contractor or subcontractor to fulfill a lump-sum or unit-price contract entered into or awarded based on a bid made prior to March 1, 2016. Such contractors must provide certain documentation to their suppliers to affirm that such purchases are exempt from sales and use tax on installation charges due to the timing of an existing contract

As with any new regulations, not all circumstances are covered in the directives. We are working with the NC Dept. of Revenue to get clarification on some specific circumstances listed below:

- Are cleaning services considered a taxable maintenance contract?
- Are vehicle repair/maintenance charges performed by a repair shop, which is not in the business of retailing any tangible goods, subject to sales and use tax?
- When purchasing office furniture and the vendor charges both a delivery and set up fee, but does not “install” anything, are the delivery and set up fees subject to sales tax?
- If we purchase a tangible item and hire a separate contractor to install the item, would the labor the contractor charges be subject to sales tax because it is in connection with a tangible good or would it be exempt because the contractor we hired only does repair and installation works and is not retailing any good or taxable service contracts?
- Are services in connection with catering charges, specifically relating to servers or bartenders subject to sales tax?