

# 26 Questions Commonly Asked of NCRMA Staff

## TAXES

**Q. Do I collect sales tax on an item before or after deducting a coupon or other store credit?**

A. The Department of Revenue has two different interpretations with regards to coupons. If the coupon is a retailer's coupon, the sales tax is charged on the net amount charged for the products after the amount of the coupons are deducted. If the coupon is a manufacturer's coupon the retailer must charge sales tax on the total amount of the items purchased and then deduct the amount of the manufacturer's coupon.

**Q. A customer purchased an item in my store and wants it shipped to her in another state. Do I charge sales tax on the purchase?**

A. No. If you deliver the merchandise by common carrier or by mail to a customer who lives outside North Carolina, the transaction is considered a sale in interstate commerce and is exempt from state sales tax.

**Q. When our customers purchase a certain amount of merchandise, we issue a store gift certificate for \$50 off their next purchase. Do I collect sales tax before or after deducting the \$50 off their next purchase?**

A. The North Carolina Department of Revenue states that since your store's gift certificate is considered the same as cash, you should collect sales tax on the full price of the merchandise then deduct the \$50 gift certificate.

**Q. When should I collect sales tax on gift certificates: at the time of the sale, or when the gift certificate is redeemed?**

A. Sales tax should be collected at the time a gift certificate is redeemed. Sales tax should be collected on the taxable price of the item sold, regardless of the method of payment (i.e., gift certificate, cash, check, credit card, or combination).

**Q. If the due date of a tax report comes on a Saturday, Sunday, or a legal holiday, is the due date extended?**

A. Yes; the report would be due on the next business day.

**Q. If I lease or rent personal property, which charges are subject to sales or use tax?**

A. The gross receipts derived from the lease or rental of tangible personal property are subject to tax. Gross receipts include all amounts paid to the lessor in connection with the lease or rental of the property without any deduction for any expense incident to the conduct of the business. Gross receipts include amounts paid for property tax, maintenance fees, delivery fees, etc.

**Q. Should I charge sales tax on fax services?**

A. No. Charges for sending and receiving copies of documents by fax equipment are not subject to sales or use tax. However, stores that provide these services are liable for paying any applicable state and county sales and or use tax on their purchases of the equipment, paper, or other supplies used in these transactions.

**Q. Is livestock feed exempt from sales tax?**

A. Feed purchased for use in the commercial production of animals or for animals held for commercial purposes, such as horses boarded at a stable, is exempt from sales or use tax. According to the NC Department of Revenue, the term "commercial" means "held or produced for income or profit." Retailers must determine at the time of a sale whether or not the feed is exempt. Customers who buy feed for animals held or produced for commercial purposes can provide retailers with a Feed Certificate (Form E-599F), which gives the merchant authority to exempt the sale. (If a feed certificate is not used, merchants must maintain other written evidence to support an exemption.) Only one certificate is necessary when the same customer makes frequent purchases of exempt feed from the same merchant. The Feed Certificate is available from the NC Department of Revenue (DOR) by calling (919) 715-0397 or contacting any of DOR's local offices.

**Q. Where can I get more information about North Carolina sales tax laws?**

A. Sales and Use Tax Administrative Rules, the Sales and Use Tax Technical Bulletins, State and Local Sales and Use Tax Laws, and various sales and use tax forms may be obtained by writing to: Taxpayer Assistance Section, Office Services Division, NC Department of Revenue, PO Box 25000, Raleigh, NC 27640-0001. Forms can also be ordered by calling (919) 715-0397.

The Department of Revenue maintains offices in the following cities (check your local phone book for listings):

Asheboro, Asheville, Burlington, Charlotte, Clinton, Concord, Durham, Elizabeth City, Fayetteville, Franklin, Gastonia, Goldsboro, Greensboro, Greenville, Henderson, Hendersonville, Hickory, High Point, Jacksonville, Kinston, Lenoir, Lexington, Lillington, Lumberton, Monroe, Morehead City, Murphy, Nags Head, New Bern, North Wilkesboro, Raleigh, Reidsville, Rockingham, Rocky Mount, Salisbury, Sanford, Shallotte, Shelby, Smithfield, Statesville, Waynesville, Whiteville, Wilmington, and Winston-Salem.

## Sample Tax Calendar

### January

- 2 - Employee Status determination date for withholding.
- 2 - Subchapter Corporation's election to have its earnings taxed to its shareholders for the current year may be filed at any time on or before March 17 (Form 2553).
- 15 - Final payment for last year's estimated tax due by individuals, unless return filed no later than January 31.
- 31 - Employer furnishes employee a statement (Form W-2) of amount withheld last year.
- 31 - Filing of quarterly return on which income tax withholding and FICA and payment of withheld taxes of timely deposits not made in full (Form 941).
- 31 - Annual statements to recipients of dividends, pensions, interest payments aggregating \$10 or more, salaries from which tax has not been withheld, and other payment of \$600 or more made in the course of a trade or business (1099 Series).
- 31 - Last day for individuals to file their 1995 personal income tax returns to avoid penalties for late payment of last installment due January 15.

### February

- 10 - Quarterly return of taxes withheld during quarter ended December 31 where timely deposits were made with depository; due January 31 if deposits not made timely.
- 10 - Filing of FUTA tax return if FUTA tax liability paid in full through timely deposits; due January 1 if not timely.
- 17 - Employees who claimed exemption from income tax withholding for 1995 on the Form W-4, must file a new Form W-4 by this date to continue the exemption for another year, otherwise the employer must withhold.
- 28 - Annual information returns of dividends, pensions,

interest payments, etc., made last year due to IRS (1096).

28 - Last day for filing copies of all Forms W-4 issued for the year and Form W-3, Transmittal of Wage and Tax Statements with the Social Security Administration.

28 - Return of corporate distributions during 1996 claimed to be non-taxable or partly non-taxable on Form 5452.

### March

- 17 - Last day to file claim for refund or credit for corporation income taxes paid for 1993 calendar year filed on time.
- 17 - Income Tax Return of corporation due for last calendar year. Corporations must pay the tax due when return is filed, but no later than 2½ months after the end of the tax year.
- 17 - Annual return of Electing Small Business Corporation starting its gross income, deductions, stockholders' distributions, etc., during the taxable year. Use Form 1120-S.

17 - Last day for payment of charitable contributions authorized in prior year by accrual-basis, calendar year corporate employer.

17 - Payment to employees' trust due for 1996 corporate employers, on the December date of return or extension.

### April

- 15 - Due date for estimated tax of corporations. Deposit 25% of estimated tax.
- 15 - Income tax and self employment tax returns by individuals due for last calendar year.
- 15 - Non-Corporate payments to employees' trust due for 1996.
- 15 - Partnership must file a return of income for preceding year (Form 1065).
- 15 - Declaration and payment of one quarter of current year's estimated tax by individuals.
- 15 - Last day for individuals to claim refund or credit for income tax paid with timely filed return for 1993.

**May**

1 - Deposit FUTA tax owed through March, if greater than \$100.

12- Quarterly return of taxes withheld by employers during quarter ended March 31 where timely deposits were made with depository (Form 941).

**June**

16 - Deposit of Second Installment of estimated tax by calendar year corporations.

16 - Payment of Second quarter of the current year's estimated tax by individuals.

30 - Last day of calendar year taxpayer or corporation to file application to change accounting method.

**July (no dates)**

**August**

1 - Pension plan administrator/sponsor file information return for plan year ended December 31. Form 5500.

1 - Deposit FUTA tax owed through June, if greater than \$100.

11 - Quarterly return of taxes withheld by employers during quarter ended June 30, where timely deposits were made with the depository.

**September**

15 - Deposit of third installment of current year's estimated tax by calendar year corporation.

15 - Payment of third quarter of individual current year's estimated tax.

**October**

31 - Deposit FUTA tax owed through September, greater than \$100.

**November**

10 - Quarterly return of taxes withheld by employers for quarter ended September 30, where timely deposits were made with depository.

**December**

1 - Last day for employee to submit new or amended withholding exemption certificate W-4 for next year.

15 - Deposit of the fourth installment of current year's estimated tax by calendar year corporation.

31 - Employees with less than \$23,050 gross income – file earned income advance payment certificate with employer (Form W-5).

31- Subchapter-S Corporations S election to have its earnings taxed to its shareholders for next year may be filed anytime during 1996 or before March 15, 1997.

**NC CORPORATE, EXCISE & INSURANCE TAX**

*Courtesy of NC Department of Revenue*

**Q. Do I need to apply for a corporate identification number?**

A. No. For corporate income and franchise tax purposes, taxpayers are identified by their Federal Identification Number and the number assigned by the Secretary of State.

**Q. What is the Department's current position regarding Nexus in North Carolina: "Physical Presence" vs. "Economic Presence?"**

A. The Department's current position concerning Nexus is to administer the rule as amended November 2, 1992. Except for an amendment effective January 1, 1994, which removed ambiguous language in the first paragraph, North Carolina's Doing Business Rule, 17 NCAC 5C.0102, has not changed since November 2, 1992. In 1992, The Department clarified the language of the original rule pertaining to income producing property in this state. The original rule dated back to February 1, 1976. Originally, subdivision .0102(5) stated simply that "the owning, renting, or operating of business or income-producing property (real or personal) in North Carolina" would be considered to be doing business in this state. The 1992 revision includes more specific examples of the types of income producing property that create nexus. Those examples include: (i) realty; (ii) tangible personal property; (iii) trademarks, tradenames, franchise rights, computer programs, copyrights, patented processes, and licenses. Additionally, subsections addressing corporations with partnership and joint venture interests in this state and motor carrier operations were incorporated into the rule. The Tax Review Board upheld the Department's position on May 7, 2002. (See A&F Trademark, Inc. Decision number 381.)

**Q. For apportionment purposes, does North Carolina have a "throwback" rule?**

A. No. For corporations permitted to apportion income, only those sales made within North Carolina are required to be included in the numerator of the sales factor. How-

ever, sales of a corporation which is not required to file an income tax return in another state are considered to be this state.

**Q. Does North Carolina recognize a single member Limited Liability Company?**

A. Yes.

**Q. Do I need a North Carolina tax-exempt number for my non-profit corporation?**

A. No. The Department of Revenue will issue a tax-exempt letter with proof of your federal exemption.

**Q. What is the tax rate in North Carolina?**

A. The corporate income tax rate is 6.9%. The franchise tax rate is \$1.50 per \$1,000. The minimum franchise tax is \$35.00.

**Q. What is the basis for suspension?**

A. North Carolina General Statute 105-230 requires the Department of Revenue to notify the Secretary of State when a "corporation or a limited liability company fails to file any report or return or to pay any tax or fee required by the tax laws for 90 days after it is due." It further requires the Secretary of State to "suspend the articles of incorporation, articles of organization, or certificate of authority, as appropriate, of the corporation or limited liability company." All the powers and privileges of the corporation will cease upon the suspension.

**Q. My corporation has been suspended by the Department of Revenue. What do I need to do in order to be reinstated?**

A. You must file all returns for all tax schedules and pay all tax, penalty, and interest due and pay a \$25 reinstatement fee. Upon receipt, the corporation will be reinstated and the Department will notify the Secretary of State's office.

**Q. What should I do if I receive a Notice of Failure to File a corporate return?**

A. If a return was filed, send a copy of the return, canceled check with which payment was made, and a copy of the delinquent letter to the Corporate Audit Unit-Examination Division, Attn: Charles Craven, PO Box 871, Raleigh, NC 27602. If a return was not filed, send the return and payment for the tax, penalties, and interest to North Carolina Department of Revenue, PO Box 25000, and Raleigh, NC 27640-0710.

**Q. Does an inactive corporation or a corporation that has no assets have to file a return?**

A. A corporation that is inactive or has no assets is subject **annually** to a minimum franchise tax of \$35. A return must be filed for each year in which there was no activity and a \$35 payment must be made. Returns are required through the date of formal dissolution or withdrawal through the Office of the Secretary of State.

**Q. If a corporation is dissolved or withdraws from doing business in this State, is a return required?**

A. If a corporation is dissolved or formally withdraws via the Office of the Secretary of State, no franchise tax is required with the income return filed for the year in which the application is filed or with any subsequent income returns that may be required in connection with winding up the affairs of the corporation. A final return is required within 75 days after the close of business.

**Q. What if my corporation is in bankruptcy?**

A. Corporations in bankruptcy are not required to pay pre-petition tax, penalty, and interest; however, returns must still be filed. Corporations in bankruptcy are required to file post-petition returns and pay the tax, penalty, and interest due.

**Q. Where and when do I file my corporation's annual report required by the Secretary of State?**

A. The annual report, Form CD 479, should be attached to the corporate tax return and filed with the Department of Revenue. The annual fee is \$20 and is paid with the income and franchise tax liability.

**SALES AND USE TAX**

**Q. How can I get a sales and use tax number?**

A. Submit a completed Form AS/RP1. A wholesale merchant or retailer must obtain a Merchants Certificate of Registration which bears the assigned sales and use tax Account ID number. A blank Form AS/RP1 can be obtained online or by mail under the Tax Forms and Publications Section. The form can also be obtained by contacting a local office of the Department.

**Q. How long does it take to get a sales tax number?**

A. Two to three weeks. If you need the number immediately, you can contact one of our local offices.

**Q. What is the cost for a sales tax number?**

A. There is no fee for a Merchants Certificate of Registration.

**Q. Am I required to file a return if my business makes no sales or purchases?**

A. A retailer who does not make any sales during a reporting period must file a return for that period and indicate 0.00 on the "Total Due" line. Similarly, a business that does not make any taxable purchases during a reporting period must file a return for that period and indicate 0.00 on the "Total Due" line.

**Q. If I have a seasonal business, can I file just for those months that I operate?**

A. A retailer who engages in business for six or fewer consecutive months in each year may register as a seasonal filer and indicate the months in which the retailer engages in business. A retailer who is registered as a seasonal filer is not required to file a return for an off-season reporting period in which the retailer did not engage in business.

**Q. Are wholesale merchants required to file a return?**

A. A person who engages exclusively in the business of making wholesale sales is not required to file a return. A person who, on two or more occasions within a twelve-month period, either makes taxable sales to users, consumers, or nonregistered merchants or makes purchases subject to use tax is not engaged exclusively in the business of making wholesale sales and must begin filing sales and use tax returns. A wholesale merchant who is not required to file a sales and use tax return and who, on only one occasion within a twelve-month period, either makes taxable sales to users, consumers, or nonregistered merchants or makes purchases subject to use tax must file a return for that month only and pay the tax due within 15 days after the end of the month in which the sale or purchase was made.

**Q. Do I have to re-register for a new number if I move?**

A. No. A change of address form included with the coupon book of report forms should be completed and submitted.

**Q. If I am presently registered as a proprietorship or partnership, what do I need to do if I incorporate?**

A. The corporation must apply for a new Account ID number.

**Q. If I purchase an existing business, may I use the sales tax number of the previous owner?**

A. No. A new owner must obtain his own Account ID number.

**Q. How do I cancel or inactivate a tax number?**

A. Complete and submit the out of business notification form included with the coupon book of report forms.

**Q. Can a certificate of registration be cancelled for inactivity?**

A. Yes. A certificate of registration issued to a retailer who makes taxable sales becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales. Annually the Department reviews sales and use tax accounts and cancels the sales and use tax registration numbers of those accounts that have filed returns showing no sales for the past 18 months. If your account is cancelled for this purpose, you will be notified by mail and given an opportunity to reactivate your account.

**Q. When are monthly and quarterly sales and use tax returns due?**

A. Retailers who collect less than \$100 of sales tax per month must file and remit their sales tax report on a quarterly basis with this report being due on or before the last day of month following the quarter which would be the last day of January, April, July and October. Retailers who collect between \$100 and \$15,000 of sales tax per month must file a monthly return on or before the 20<sup>th</sup> of the month following the end of the month. Retailers who consistently collect more than \$15,000 in sales tax a month must file on a monthly basis as well as provided above but must also make a prepayment estimate for the next month. The prepayment estimate is at least 65% of any of the following:

1. amount of tax due for the current month
2. the amount of tax due for the same month in the preceding year, or
3. the average monthly amount of tax due in the preceding calendar year.

On October 1, 2011, these thresholds increase from \$10,000 to \$15,000.

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**Q. If the due date of a tax return comes on a Saturday, a Sunday, or a legal holiday, is the due date extended?**

A. Yes. When the date on which a return is required to be filed falls on either a Saturday, Sunday, or legal holiday, the return is due on the next business day.

**Q. Is there a penalty if my return is late and no tax is owed?**

A. No. Penalty and interest is not due but the return must be filed.

**Q. Is there a penalty for late-filing of tax returns?**

A. Yes. If tax is due, both a failure to file penalty of 5% per

month or fraction thereof with a maximum of 25% (minimum \$5.00 State and \$5.00 county) and a failure to pay penalty of 10% (minimum \$5.00 State and \$5.00 county) will be due. Interest is due on the amount of tax due from the date the tax was due until it is paid.

**Q. How do I get sales tax forms?**

A. A coupon book of preprinted forms is automatically forwarded upon issuance of a new Account ID number and replacement books are issued annually to registered taxpayers. A blank sales and use tax report form can be obtained on-line or by mail under the Tax Forms and Publications Section. Forms can also be obtained by contacting a local office of the Department.

**Q. How do I file if I have not received my tax number or forms?**

A. You should furnish the information in letter form with the notation "Number Applied For" and include remittance of the tax due. A blank sales and use tax report form can be obtained on-line or by mail under the Tax Forms and Publications Section. Forms can also be obtained by contacting a local office of the Department.

**Q. Where do I send my tax return?**

A. North Carolina Department of Revenue, PO Box 25000, Raleigh, NC 27640-0700.

**Q. Do flea market vendors need to be registered?**

A. Yes. Flea market vendors must obtain a Merchants Certificate of Registration and it must be posted at their location.

**Q. What is use tax?**

A. The use tax is a tax due on purchases made outside of North Carolina for storage, use, or consumption in North Carolina. The use tax is paid to the N. C. Department of Revenue by the purchaser when the North Carolina tax has not been collected by the seller. Use tax is not a new tax. It was first enacted in 1939.

**Q. What items are subject to use tax?**

A. All purchases of tangible personal property that would be subject to the sales tax if purchased in North Carolina are subject to the use tax. Some examples include: books, cassettes, compact discs, computers, electronic equipment, clothing, jewelry, canned software, sporting goods, audio and video tapes, appliances, and furniture and other home furnishings, whether purchased by mail order, catalog, shopping networks, or on the internet.

**Q. Why doesn't the out-of-state retailer collect the tax?**

A. If the retailer is located out-of-state and does not have a physical location or other type of physical representation in the state, the state cannot require the retailer to collect North Carolina's tax. However, some out-of-state retailers voluntarily collect the North Carolina tax as a convenience to their customers.

**Q. Why do we have to start paying use tax now?**

A. The use tax has been in existence since 1939. The Department has been including information about use tax owed to North Carolina in the instructions of the Individual Income Tax Form Booklet since 1990. The Use Tax Report, Form E-554, was included in the booklet from 1991 until the 1999 General Assembly passed legislation requiring individuals to pay the use tax on their income tax returns. Businesses must register and file Form E-500, Sales and Use Tax Return, to report and remit use tax due on items purchased for use in their businesses.

**Q. How did the Department determine the amount of use tax due in the Use Tax Table on page 7 of the Individual Income Tax Instructions?**

A. The Department compared the information used in other states and made adjustments for the combined North Carolina state and local rates of tax.

**Q. I rarely make purchases from out-of-state vendors. Do I still have to pay the amount of use tax shown in the Use Tax Table?**

A. If you believe the estimate from the table is too high for your out-of-state purchases, you may estimate what you think you owe.

**Q. If the calculated amount of use tax due is higher than the use tax due when using the Use Tax Table, which amount do I pay?**

A. You should only use the Use Tax Table if you do not know the amount of purchases subject to use tax; therefore, you pay the calculated amount of tax.

**Q. If I enter "0" on the use tax line or do not enter an amount, will I receive a bill or be audited?**

A. You will not receive a bill if you do not enter an amount or if you indicate that no use tax is due. However, your income tax return must be signed verifying that the information on the return is correct. If the Department discovers that you owe use tax on out-of-state purchases, you will be assessed tax plus penalties and interest. In addition, your records could be audited.

**Q. If I make purchases of tangible personal property while in another state, do I owe North Carolina use tax on these purchases?**

A. If the items are purchased for storage, use, or consumption in North Carolina, they are subject to the North Carolina use tax whether the purchases are delivered to you in another state or shipped to you in North Carolina. If you paid another state's sales or use tax on the out-of-state purchases, that amount may be credited against the North Carolina use tax due. You may not claim a credit for sales tax or value-added tax paid to another country.

**Q. If I purchase tangible personal property from an out-of-state retailer, are the shipping and handling charges subject to the North Carolina use tax?**

A. All shipping and handling, transportation, and delivery charges that are in any way connected with the taxable sales tangible personal property are subject to the North Carolina use tax.

**Q. Didn't the Internet Tax Freedom Act (ITFA) ban taxes on sales over the Internet?**

A. The Act prohibited new taxes on internet access fees and multiple or discriminatory taxes. North Carolina does not tax the access fee. In addition, the use tax is not a multiple or discriminatory tax since it applies to all vendors (mail order, internet, out-of-state, home shopping) and taxes goods purchased outside the state in the same manner as goods purchased in the state.

**NC INDIVIDUAL INCOME TAX RETURN**

*Courtesy of NC Department of Revenue*

**Q. When, where and how do I file my North Carolina income tax return?**

A. If your gross income is equal or more than the amount set by the state for your filing status, you must file a North Carolina income tax return. Individual income tax returns are due April 15. If you file for an extension, your return is due October 15.

**Q. Where do I send my return?**

A. If you are due a refund, send your return to: NC Department of Revenue, PO Box R, Raleigh, NC 27634-0001. If you are not due a refund, send your return to: NC Department of Revenue, PO Box 25000, Raleigh, NC 27640-0001.

**Q. How do I get credit for child care or dependent care expenses?**

A. If you claim an income tax credit for child care or

dependent care expenses on your federal return, you can claim similar credits on your North Carolina return too. To determine your credit, complete Part II on state form D-400TC. Total expenses can't exceed more than \$2,400 for one dependent or \$4,800 for two or more dependents. (Child support payments don't qualify.)

**Q. How do I know if North Carolina considers me a non-resident or part-year resident? How do I file?**

A. You're a non-resident if a) you live in North Carolina and earn income within the state for a temporary period of time and b) you are a permanent resident of another state or c) you live outside the state, but receive income from sources in North Carolina.

You're a part-year resident if a) you moved into the state and became a resident during the tax year or b) you moved out of North Carolina and became a resident of another state. If you are a non-resident or part-year resident of the state, you can't use the D400-EZ form. Fill out lines 42 - 46 on form D-400 to determine how much of your income is subject to North Carolina taxes. You must attach a copy of your federal return to your D400.

**Q. I filled out my return wrong -- what should I do?**

A. If you made a mistake on your original North Carolina income tax return, you should file an amended return – Form D400X. If you file the form between January and August, it will be processed in September. If you file it between September and December, it will be take 10-12 weeks to be processed.

**Q. What's my filing status?**

A. Be sure to claim the same filing status on your North Carolina return that you claimed on your federal return. To determine your status, include your: salaries, wages, tips, professional fees, and other income received for personal services and taxable interest and dividends. Don't include social security benefits in your gross income total.

**Q. Can I use the EZ form?**

A. You can use the North Carolina form D400-EZ if you meet all the following requirements: a) you are a full-year resident; b) your income is less than \$50,000; c) you didn't itemize on your federal return; d) you didn't pay estimated taxes; e) your only tax credit(s) is the credit for children, child care, or charitable contributions; and f) your only adjustment is the personal exemption/standard deduction adjustment.

**Q. What if I don't meet all of these requirements?**

A. If you don't meet all of these requirements, you must use North Carolina form D-400.