

## Auctioneer FAQs

An auctioneer or tag sale operator who meets the definition of retailer is liable for collecting and remitting sales tax on sales of items sourced to North Carolina unless the retailer has documentation to substantiate the transaction is exempt from sales and use tax. A retailer includes “[a]ny of the following persons:

- a. A person engaged in business of making sales at retail, offering to make sales at retail or soliciting sales at retail of items sourced to this State.
- ...
- c. A person engaged in business of making a remote sale, if one of the conditions listed in [N.C. Gen. Stat. §] 105-164.8(b) is met.
- ...
- e. A marketplace facilitator that is subject to the requirements of [N.C. Gen. Stat. §] 105-164.4J or a facilitator that is required to collect and remit the tax under . . . [Article 5 of Chapter 105 of the North Carolina General Statutes].”

**Effective February 1, 2020**, an auctioneer or tag sale operator who meets the definition of a marketplace facilitator is a retailer and is liable for collecting and remitting sales and use tax on taxable marketplace-facilitated sales pursuant to N.C. Gen. Stat. § 105-164.4J when the auctioneer or tag sale operator directly or indirectly and whether through one or more affiliates, does both of the following:

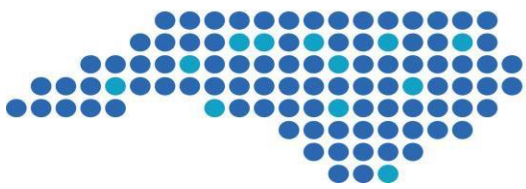
- a. Lists or otherwise makes available for sale a marketplace seller's items through a marketplace owned or operated by the marketplace facilitator, and
- b. Does one or more of the following:
  - 1. Collects the sales price or purchase price of a marketplace seller's items or otherwise processes payment.
  - 2. Makes payment processing services available to purchasers for the sale of a marketplace seller's items.

A marketplace facilitator that makes sales, including all marketplace-facilitated sales for all marketplace sellers, sourced to this State for the previous or current calendar year that meets the threshold of either (1) gross sales in excess of \$100,000 or (2) 200 or more separate transactions is a retailer and is required to collect and remit sales and use tax. Once this threshold has been met, an auctioneer or tag sale operator that meets the definition of a marketplace facilitator is liable for collecting and remitting sales and use tax on taxable marketplace-facilitated sales on a prospective basis. An auctioneer or tag sale operator that is a marketplace facilitator is not obligated to collect and remit sales and use tax on its marketplace facilitated sales made prior to meeting the threshold.

*A marketplace facilitator who has a physical presence in North Carolina that makes retail sales and marketplace-facilitated sales is not required to meet the gross sales in excess of \$100,000, or 200 or more separate transaction threshold before being liable to collect North Carolina sales and use tax on its retail sales.*

*Prior to February 1, 2020, an auctioneer or tag sale operator may have been considered a retailer who was required to collect and remit North Carolina sales and use tax on its retail sales. A person considered a retailer prior to February 1, 2020 continues to be a retailer. A retailer with a physical presence in North Carolina is not required to meet the gross sales in excess of \$100,000, or 200 or more separate transaction threshold before being liable to collect North Carolina sales and use tax on its retail sales. For example, a person who buys or physically acquires tangible personal property by consignment or otherwise that the person sells at retail on their own account must collect and remit the applicable North Carolina sales and use tax due on such retail sales. This includes a person who operates auction barns or similar places of business where the person regularly receives property on consignment or some other basis and sells such property. Such a person is not required to meet gross sales in excess of \$100,000, or 200 or more separate transaction threshold before being liable to collect North Carolina Sales and Use tax on such retail sales.*

**NOTE: To the extent the information contained in these FAQs conflicts with the information set out in Sales and Use Tax Bulletin 30-7B, Auctioneers and Auction Sales published on January 1, 2020, the information contained in these FAQs supersedes the previous guidance.**



**1. Is an auctioneer that only calls bids at an event required to collect and remit sales and use tax for the event?**

No. An auctioneer that only calls bids and does not conduct other activities at the event is not a marketplace facilitator. In this case, the auctioneer does not meet the definition of a marketplace facilitator because the auctioneer does not: (1) make payment processing services available to purchasers for the sale of a marketplace seller's items, (2) collect the sales price of a marketplace seller's items, or (3) otherwise process payments.

**2. Is an auctioneer or tag sale operator who meets the definition of marketplace facilitator liable for collecting and remitting North Carolina sales and use tax on sales of new or used household possessions, new or used equipment, and new or used tangible personal property at estate sales or auctions when such sales are sourced to North Carolina and conducted at the property owner's home?**

Yes. Effective February 1, 2020, a marketplace facilitator is liable for collecting and remitting North Carolina sales and use tax on such transactions unless the sale is exempt or the sale is supported by a properly completed Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption, or the required data elements. The fact that the sale is conducted at the property owner's home does not affect the person's tax obligations.

**3. Is an auctioneer or tag sale operator who meets the definition of marketplace facilitator liable for collecting and remitting North Carolina sales and use tax on sales of farm machinery and equipment at estate sales or auctions when such sales are sourced to North Carolina and conducted at the property owners' farm?**

Yes. Effective February 1, 2020, a marketplace facilitator is liable for collecting and remitting North Carolina sales and use tax on such transactions, unless the sale is exempt, or the sale is supported by a properly completed Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption, or the required data elements. It makes no difference whether the farmer is going out of business, simply selling farm machinery and equipment, or that the sale is held at the property owner's farm.

**4. Is an auctioneer or tag sale operator who meets the definition of marketplace facilitator liable for collecting and remitting North Carolina sales and use tax on sales of used fixtures, used equipment, or inventory for a person going out of business when such sales are sourced to North Carolina?**

Yes. See response to question 3 above.

**5. Is an auctioneer who is licensed to sell real estate and who meets the definition of marketplace facilitator liable for collecting and remitting North Carolina sales and use tax on sales of real estate in North Carolina?**

No.

**6. Is an auctioneer or tag sale operator who meets the definition of marketplace facilitator liable for collecting and remitting North Carolina sales and use tax on sales of motor vehicles in North Carolina?**

No. Retail sales of motor vehicles are exempt from sales and use tax and subject to the 3% highway use tax imposed under Article 5A of Chapter 105 of the North Carolina General Statutes with certain exceptions. The highway use tax is administered by the Division of Motor Vehicles and must be paid to the Commissioner of Motor Vehicles when applying for a certificate of title.

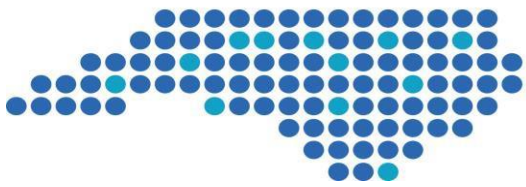
**7. Where can I find a list of exempt sales?**

[A list of general sales and use tax exemptions](https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-164.13.html)<sup>1</sup> can be found in N.C. Gen. Stat. § 105-164.13, available on the North Carolina General Assembly website.

[A list of sales and use tax exemptions for farmers](https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-164.13E.html)<sup>2</sup> can be found in N.C. Gen. Stat. § 105-164.13E, available on the North Carolina General Assembly website.

<sup>1</sup> [https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_105/GS\\_105-164.13.html](https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-164.13.html)

<sup>2</sup> [https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_105/GS\\_105-164.13E.html](https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-164.13E.html)



**8. What information should be included on a properly completed Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption?**

If the purchaser provides a [Form E-595E](#)<sup>3</sup>, the certificate must be signed by the purchaser and state the purchaser's name, address, certificate of registration number, reason for exemption, and type of business. A certificate of registration number may include, but is not limited to the following: a resale number, qualifying farmer exemption certificate number, conditional farmer exemption certificate number, and a commercial logger exemption certificate number.

**9. How do auctioneers, tag sale operators, retailers, and other marketplace facilitators register for North Carolina sales and use tax?**

Auctioneers, tag sale operators, retailers, and other marketplace facilitators can register directly with the Department by [using the Department's online business registration portal](#)<sup>4</sup> or by [submitting a completed Form NC-BR](#)<sup>5</sup>, Business Registration Application for Income Tax Withholding, Sales and Use Tax, and Other Taxes and Service Charge. There is no fee to apply for a certificate of registration in North Carolina. General questions about business registrations may be directed to 1-877-252-3052.

**10. How often are auctioneers, tag sale operators, marketplace facilitators and retailers required to file sales and use tax returns?**

Auctioneers, tag sale operators, marketplace facilitators and retailers are required to file a Sales and Use Tax Return on a quarterly, monthly, or monthly with prepayment basis depending on the retailer's total monthly sales and use tax liability. For more detailed information, review the [Department's file and pay options](#)<sup>6</sup>.

**11. I am an auctioneer or tag sale operator located in North Carolina that sells products for delivery into other states. Am I required to collect and remit sales and use tax for other states?**

Each state's tax laws are different. A North Carolina retailer that sells products for delivery into another state may be required to collect and remit that state's sales tax to that state. You should contact each state to determine that state's requirements for registering, collecting, and remitting sales tax in that state. To obtain state website and contact information for other states, visit the [Streamlined Sales Tax Governing Board, Inc. website](#)<sup>7</sup>.

**12. If an auctioneer or tag sale operator who meets the definition of marketplace facilitator sells a piece of jewelry at a North Carolina auction or tag sale and the person ships the jewelry to a buyer's home out-of-State using the United States Postal Service is the person required to collect and remit North Carolina sales tax on the transaction?**

No. The auctioneer or tag sale operator is not required to collect and remit North Carolina sales tax on the sale because the auctioneer uses the United States Postal Service to ship the jewelry to the customer outside of the State. The person must maintain acceptable proof of transportation out of the State in its records. In this case, a copy of the invoice and postal service receipt is acceptable proof of transportation. If the person does not keep acceptable proof of transportation, the person is liable for North Carolina sales tax on the transaction.

**13. If an auctioneer or tag sale operator who meets the definition of marketplace facilitator sells a computer at a North Carolina auction or tag sale to an out-of-State company and the out-of-State company sends a contractor to pick up the computer in North Carolina is the person required to collect and remit North Carolina sales tax on the transaction?**

Yes. The auctioneer or tag sale operator must collect and remit North Carolina sales tax due on the transaction because the customer's representative receives the product in North Carolina.

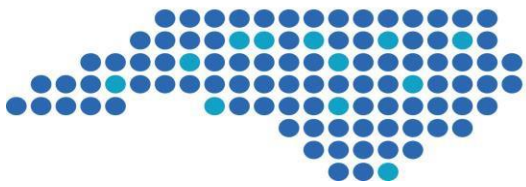
<sup>3</sup> <https://www.ncdor.gov/documents/form-e-595e-streamlined-sales-and-use-tax-agreement-certificate-exemption>

<sup>4</sup> <https://www.ncdor.gov/taxes-forms/business-registration/online-business-registration>

<sup>5</sup> <https://www.ncdor.gov/documents/form-nc-br-business-registration-application-income-tax-withholding-sales-and-use-tax-and-other>

<sup>6</sup> <https://www.ncdor.gov/taxes-forms/sales-and-use-tax/filing-requirements>

<sup>7</sup> <https://www.streamlinedsalestax.org/contacts/state-contact-information>



**14. If an auctioneer or tag sale operator who meets the definition of marketplace facilitator sells sporting goods at a North Carolina auction or tag sale and the person delivers the sporting goods to the customer out-of-State using the auctioneer or tag sale operator's truck is the auctioneer or tag sale operator required to collect and remit North Carolina sales tax on the transaction?**

No. The auctioneer or tag sale operator is not required to collect and remit North Carolina sales tax on the transaction because the person delivers the sporting goods to its customer outside of the State using the person's truck. The person must maintain acceptable proof of transportation out of the State in its records. In this case, a copy of the invoice and a signed trip sheet is acceptable proof of transportation. If the auctioneer or tag sale operator does not keep acceptable proof of transportation, the person is liable for North Carolina sales tax on the transaction.

**15. I am an auctioneer or tag sale operator located in North Carolina and a purchaser presented me with [Form E-599C, Purchaser's Affidavit of Export](#)<sup>8</sup>. Can I accept this in lieu of a Form E-595E, Streamlined Sales and Use Tax Certificate of Exemption?**

Yes, you may accept a properly completed affidavit. A purchaser may use the affidavit if the tangible personal property is purchased solely for the purpose of export to a foreign country for exclusive use or consumption in that or another foreign country either in the direct performance of a professional service or the operation of a trade or business, all of which purposes are actually consummated and such property is exported within 90 days of purchase. This affidavit is not valid in connection with purchases acquired for personal use or consumption, including gifts. You must maintain a copy of the affidavit in your records. If you do not maintain a copy, you are liable for North Carolina sales tax on the transaction. For more detailed information, review [SUTB 51 Interstate and Foreign Transactions](#)<sup>9</sup>.

### General Rules Related to Shipping

Sales of items by an auctioneer or tag sale operator in North Carolina where the person delivers the items to the purchaser outside this State or that delivers the property to a common carrier or to the United States Postal Service for delivery to the purchaser at a point outside this State are not subject to North Carolina sales or use tax if the auctioneer or tag sale operator maintains acceptable proof of delivery outside the State.

Acceptable proof of transportation and delivery to a point outside the State is any of the following:

1. A waybill or bill of lading made out to the seller's order calling for delivery.
2. An insurance or registry receipt issued by the United States Postal Service, or a postal service receipt.
3. A trip sheet that is signed by the seller's delivery agent and shows the signature and address of the person who received the delivered goods outside the State.

Sales of items in North Carolina by a person that delivers the items to a purchaser or the purchaser's agent in this State are subject to North Carolina sales and use tax notwithstanding that the purchaser or the purchaser's agent may subsequently transport, or employ someone else to transport the item out of this State.

### Assistance

If you have questions pertaining to these FAQs, contact Ed Strickland with the Sales and Use Tax Division at (919) 814-1082.

<sup>8</sup> <https://www.ncdor.gov/documents/form-e-599c-purchasers-affidavit-export>

<sup>9</sup> <https://www.ncdor.gov/documents/sales-and-use-tax-bulletins>