

IMPORTANT NOTICE: EXEMPTION FOR INTERSTATE AIR AND GROUND COURIER

The following important information is addressed in this notice:

- Effective July 1, 2022, North Carolina provides an exemption from sales and use tax for sales of qualifying items to interstate air and ground couriers.
- New definitions that apply to the exemption.
- Who can make exempt purchases?
- What items qualify for the exemption?
- What causes a person to forfeit the exemption?
- How do you purchase exempt items?

Background

On July 11, 2022, Governor Cooper signed into law [Session Law 2022-74](#). The law creates an exemption from sales and use tax for sales of qualifying items to interstate air and ground couriers (“Exemption”). N.C. Gen. Stat. § 105-164.13(45e). The Exemption applies to purchases made on or after July 1, 2022.

The Exemption exempts from sales and use tax:

Sales to an interstate air and ground courier of materials handling equipment, automated conveyor systems, racking systems, and related parts and accessories for the storage or handling and movement of tangible personal property at its package sorting facility. A qualifying item listed in this subdivision purchased to fulfill a contract with an interstate air and ground courier is exempt to the same extent as if purchased directly by the interstate air and ground courier.

Definitions

Interstate Air and Ground Courier¹ - A person whose primary business is the furnishing of air and ground delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.

Package Sorting Facility² - A facility that satisfies both of the following conditions:

- a. The facility is used primarily for sorting and distributing letters and packages for an interstate air and ground courier.
- b. The Secretary of Commerce has certified that an investment of private funds of at least one hundred million dollars (\$100,000,000) has been or will be made in real and tangible

¹ N.C. Gen. Stat. 105-164.3(108).

² N.C. Gen. Stat. 105-164.3(166).

personal property for the facility within five years after the date on which the first property investment is made and that the facility will achieve an employment level of at least 400 within five years after the date the facility is placed into service and maintain that minimum level of employment throughout its operation.

Who is Eligible to Make Exempt Purchases?

An interstate air and ground courier (“Courier”) may use the Exemption to purchase qualifying items exempt from sales and use tax.

A contractor who has a contract with a Courier may use the Exemption to purchase certain qualifying items exempt from sales and use tax.

What Items Qualify for the Exemption?

The items that qualify for the Exemption depend on who purchases the item. The subsections below identify the qualifying items for each type of purchaser.

Importantly, a facility must be certified by the Department of Commerce before any items may be purchased for use at the facility using the Exemption.

Items Purchased by a Courier - An item purchased by a Courier must meet both of the following requirements to qualify for the Exemption:

- (a) The item will be used for one of the following purposes:
 - a. Storage of tangible personal property at the Courier’s package sorting facility.
 - b. Handling and movement of tangible personal property at the Courier’s package sorting facility.
- (b) The item is one of the following:
 - a. Materials handling equipment
 - b. Automated conveyor systems
 - c. Racking systems
 - d. Parts and accessories related to one of the types of items listed in a. through c.

Items Purchased by a Contractor - An item purchased by a contractor must meet all of the following requirements to qualify for the Exemption:

- (a) Purchased to fulfill a contract with a Courier
- (b) The item would be exempt if purchased by the Courier
- (c) The item will be used by a contractor for one of the following purposes:
 - a. Storage of tangible personal property at the Courier’s package sorting facility.
 - b. Handling and movement of tangible personal property at the Courier’s package sorting facility.
- (d) The item is one of the following:
 - a. Materials handling equipment
 - b. Automated conveyor systems
 - c. Racking systems
 - d. Parts and accessories related to one of the types of items listed in a. through c.

Forfeiture

The Exemption is forfeited if the Package Sorting Facility does not timely make, achieve, or maintain the required level of investment or employment level. The required investment level is an investment of private funds of at least \$100,000,000 in real and tangible personal property for the facility within five years after the date on which the first property investment is made. The required employment level is an employment level of at least 400 within five years after the date the facility is placed into service.

The purchases subject to forfeiture are as follows:

- If the level of investment for the facility is not timely made, the Exemption is forfeited on all purchases.
- If the facility does not timely achieve the minimum level of employment, the Exemption is forfeited on all purchases.
- If the facility does not maintain the minimum required level of employment once it is timely achieved, the Exemption is forfeited on all purchases occurring on or after the date the taxpayer fails to maintain the minimum employment level.

A person that forfeits an Exemption is liable for all past sales and use taxes avoided as a result of the forfeiture, computed at the applicable State and local rates from the date the taxes would otherwise have been due, plus interest at the rate established under N.C. Gen. Stat. § 105-241.21. Interest is computed from the date the sales or use tax would otherwise have been due. The past taxes and interest are due 30 days after the date of forfeiture. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of N.C. Gen. Stat. § 105-236.

How to Make Eligible Purchases

A person must provide a retailer a properly completed [Form E-595E, Streamlined Sales and Use Tax Certificate of Exemption](#) ("Form E-595E"), or the required data elements, to purchase an item exempt from sales and use tax. In addition, a person must maintain records that demonstrate the purchased item qualifies for the Exemption. The following subsections provide more specific instructions based on who purchases an item.

Items Purchased by a Courier - A Courier must provide the retailer a properly completed [Form E-595E](#), or the required data elements, to purchase a qualifying item exempt from sales and use tax. The required data elements are: the Courier's name, address, certificate of registration number, type of business, reason for exemption, and, if providing a paper certificate, signature. On Form E-595E, the Courier should select "other" as the reason for the exemption and list 105-164.13(45e) in the space provided for an explanation.

A courier that purchases an item exempt from tax must maintain records that substantiate the purchased item qualifies for the Exemption.

Items Purchased by a Contractor - A contractor that purchases a qualifying item exempt from sales and use tax must provide the retailer a properly completed [Form E-595E](#), or the required data elements. The Form E-595E, or required data elements, must include the following information:

- The contractor's name
- The contractor's address
- The contractor's type of business
- The reason for exemption that includes all of the following information (Note: For a paper Form E-595E, in Section 4 select "other" and provide the reason in the space provided):
 - The Courier's name
 - The Courier's certificate of registration number
 - The following statement: "105-164.13(45e)"
- If providing a paper Form E-595E, the contractor's signature.

A contractor that purchases an item exempt from tax must maintain records that substantiate the item was used to fulfill a contract with a Courier and that the item qualifies for the Exemption.

Assistance

If you have questions about this notice, you may call the Department at 1-877-252-3052 (8:00 am until 4:30 pm EST, Monday through Friday).

To the extent there is any change in the rate or amount of tax, change to a statute or regulation, or new case law subsequent to the date of this notice, the provisions in this important notice may be superseded or voided. To the extent that any provisions in any other notice, directive, bulletin, or published guidance regarding the subject of this notice and issued prior to the date of this notice conflict with this important notice, the provisions contained in this important notice supersede the previous guidance.