



E-589J

Affidavit to Exempt from Sales and Use Tax Certain Qualifying Purchases or Charges On or After March 1, 2016

This affidavit is to be executed to obtain certain qualifying purchases or charges exempt from sales and use tax on or after March 1, 2016 and is only for use for a purchase in connection with a lump-sum or unit-price contract entered into, awarded, or entered into or awarded pursuant to a bid made prior to March 1, 2016 ("Qualifying Contract"). N.C. Gen. Stat. § 105-164.15A provides, in part, the effective date of a tax change for tangible personal property or services "applies to amounts received for items provided on or after the effective date, except amounts received for items provided under a lump-sum or unit-price contract entered into or awarded before the effective date or entered into or awarded pursuant to a bid made before the effective date."

The affidavit may be issued by a person, who meets the definition of a "real property contractor" or a "retailer-contractor" prior to March 1, 2016, to obtain the following qualifying items or charges without payment of sales or use tax on or after March 1, 2016 to fulfill a Qualifying Contract. Check the corresponding box to indicate the purpose for issuance of this affidavit. More than one purpose may apply.

Box 1. Installation charges that comprise part of the sales price of tangible personal property without payment of sales or use tax provided the retailer can separately identify the installation charges on the invoice or similar document given to the purchaser at the time of the sale.

Box 2. Repair, maintenance, and installation services subject to tax effective March 1, 2016 without payment of sales or use tax. The seller of the repair, maintenance, and installation services is liable for the sales or use tax on the purchase price of any tangible personal property used to provide the repair, maintenance, and installation services. Where tangible property becomes a part of a building or other structure in the State and the purchaser is a contractor or subcontractor, the contractor, the subcontractor, and the owner of the building are jointly and severally liable for the tax. The liability of a contractor, a subcontractor, or an owner who did not purchase the property is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid. Where tangible personal property does not become a part of a building or other structure, the retailer is liable for sales and use tax due on the purchase price of tangible personal property used to provide the repair, maintenance, and installation services.

Box 3. Obtain tangible personal property or services without payment of sales tax on the sales price from a person who is a retailer in retail trade on or after March 1, 2016, who was a "real property contractor" or a "retailer-contractor" by definition prior to March 1, 2016. In such instance, the retailer may treat the transaction to fulfill a Qualifying Contract as a real property contract, and the contractor, subcontractor, and the owner are jointly and severally liable for the sales or use tax.

This is to certify that _____, entered into a lump-sum or unit-price contract with _____ on, _____ or pursuant to a firm bid made on _____. This affidavit is submitted to _____.

It is understood and agreed that a person will retain the original or duplicate original of said lump-sum or unit-price contract on file for examination by an authorized agent of the Secretary of Revenue of North Carolina with respect to the sales and use tax liability of the aforesaid real property contractor or retailer-contractor, retailer or a subcontractor of a real property contractor, retailer-contractor, or retailer.

Person

By: _____
Authorized Agent Title Telephone Number Date

Instructions

1. For the purpose of this affidavit, a “person” may include a real property contractor, retailer-contractor, retailer, or a subcontractor of a real property contractor, retailer-contractor, or retailer.
2. Sales and use tax laws effective until March 1, 2016 are applicable to transactions and charges on or after March 1, 2016 to fulfill a lump-sum or unit-price contract entered into, awarded, or entered into or awarded pursuant to a bid made prior to March 1, 2016, (“Qualifying Contract”), for purposes of this affidavit.
3. When a retailer receives an affidavit provided by a purchaser who checks Box 1, the retailer should not honor an affidavit provided by a purchaser where the retailer is unable to separately identify the installation charges on the invoice or similar document given to the purchaser at the time of the sale. Additionally, when a retailer receives an affidavit provided by a purchaser who checks Box 3, the retailer should not honor an affidavit provided by the purchaser where the retailer is unable to accommodate the request to properly determine the retailer’s tax liability under the laws in effect prior to March 1, 2016.
4. This affidavit must be fully completed by a person who makes a qualifying purchase or charge. If a person subcontracts any portion of the Qualifying Contract, the subcontractor must complete this affidavit and provide it to the seller in order to make a purchase or certain charges exempt from sales and use tax for use to fulfill a Qualifying Contract. The affidavit must be submitted by such real property contractor or retailer-contractor, (subcontractor, if applicable) of the real property contractor, to a retailer as evidence of the Qualifying Contract; otherwise the sales and use tax laws in effect on or after March 1, 2016 apply to a purchase or charge, no matter that such is to fulfill a Qualifying Contract.
5. When a retailer or retailer-contractor, as a contractor or subcontractor for a Qualifying Contract, withdraws tangible personal property from inventory and installs or affixes to real property to fulfill a Qualifying Contract, use tax must be accrued and paid on the retailer-contractor’s purchase price of the tangible personal property, unless an exemption for tangible personal property in effect prior to March 1, 2016 applies to the Qualifying Contract.
6. Purchase orders, invoices, shipping orders, delivery tickets, or any other pertinent records of a person will be subject to examination as evidence of such facts.
7. Under the provisions of N.C. Gen. Stat. § 105-236(7), any person who willfully attempts, or who aids or abets any person to attempt in any manner to evade or defeat any tax imposed by law, or the payment of the tax, is guilty of a Class H felony. For misuse of an exemption certificate, the Secretary must assess against the purchaser a penalty of \$250.00.