

Animal Auctioneer FAQs

An auctioneer 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 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 directly or indirectly and whether through one or more affiliates, does both of the following:

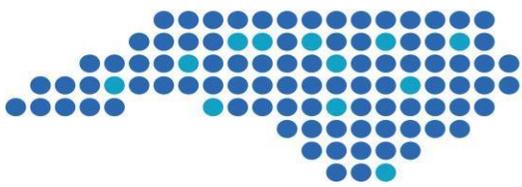
- a. Lists or otherwise makes available for sale a marketplace seller's items through a marketplace owned or operated by the marketplace facilitator, and
- b. Does one or more of the following:
 - 1. Collects the sales price or purchase price of a marketplace seller's items or otherwise processes payment.
 - 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 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 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 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 animal auctioneer that only calls bids at an event required to collect and remit sales and use tax for the event?

No. An animal auctioneer that only calls bids and does not conduct other activities at the event is not a marketplace facilitator and 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 animal auctioneer who meets the definition of marketplace facilitator liable for collecting and remitting North Carolina sales and use tax on sales of animals at estate sales or auctions when such sales are sourced to North Carolina?

Yes, 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 farm does not affect the person's tax obligations.

3. What are the most common exemptions an animal auctioneer may encounter when accepting a Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption, or the required data elements?

Animal feedlots that purchase animals for resale should present a properly completed Form E-595E or the required data elements to the animal auctioneer to substantiate the exempt transaction. An animal feedlot is considered a wholesale merchant when they purchase animals for resale and is required to register for a North Carolina Sales and Use Tax ID number and mark Form NC-BR, Business Application for Income Tax Withholding, Sales and Use Tax, and Other Taxes and Service Charge, as wholesale only.

Food processors who purchase animals that are subsequently transported to food processing plants should present a properly completed Form E-595E or the required data elements to the animal auctioneer to substantiate the exempt transaction. Food processors purchasing animals which become an ingredient or component part of tangible personal property manufactured for sale should enter N.C. Gen. Stat. § 105-164.13(8) on Line L under the Reason for Exemption section of Form E-595E to substantiate the purchases are exempt from sales tax.

Qualifying or conditional farmers who purchase animals used in the production of livestock as described in N.C. Gen. Stat. § 105-164.13E should present a properly completed Form E-595E or the required data elements to the animal auctioneer to substantiate the exempt transaction. Only the following animals can be purchased exempt: baby chicks, poults, cattle, sheep, goats, swine, horses, or mules. Any other animal sold to a qualifying or conditional farmer is taxable unless exempt pursuant to another exemption.

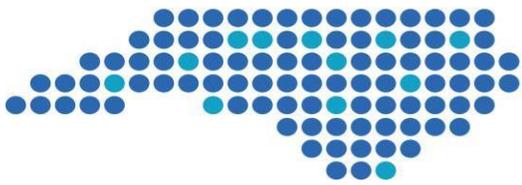
4. Where can I find a list of exempt sales? (Please note that these lists of exemptions do not include the exemptions from the 2020 Session of the North Carolina General Assembly.)

[A list of general sales and use tax exemptions](#)¹ 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](#)² can be found in N.C. Gen. Stat. § 105-164.13E, available on the North Carolina General Assembly website.

¹ https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-164.13.html

² https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-164.13E.html



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

If a purchaser provides a [Form E-595E](#)³, 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, or conditional farmer exemption certificate number.

6. How do animal auctioneers, retailers, and other marketplace facilitators register for North Carolina sales and use tax?

Auctioneers, retailers, and other marketplace facilitators can register directly with the Department by [using the Department's online business registration portal](#)⁴ or by [submitting a completed Form NC-BR](#)⁵, 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 North Carolina Sales and Use Tax ID number. General questions about business registrations may be directed to 1-877-252-3052.

7. How often are auctioneers, marketplace facilitators, and retailers required to file sales and use tax returns?

Auctioneers, 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](#)⁶.

8. I am an animal auctioneer located in North Carolina that sells animals or other items 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 website and contact information for other states, visit the [Streamlined Sales Tax Governing Board, Inc. website](#)⁷.

9. If an animal auctioneer who meets the definition of marketplace facilitator sells a queen honeybee at a North Carolina auction and the animal auctioneer ships the queen honeybee to a buyer out-of-state using the United States Postal Service, is the animal auctioneer required to collect and remit North Carolina sales tax on the transaction?

No. The animal auctioneer is not required to collect and remit North Carolina sales tax on the sale because the animal auctioneer uses the United States Postal Service to ship the queen honeybee 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.

10. If an animal auctioneer who meets the definition of marketplace facilitator sells a donkey at a North Carolina auction to an out-of-state company and the out-of-state company sends a contractor to pick up the donkey in North Carolina, is the animal auctioneer required to collect and remit North Carolina sales tax on the transaction?

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

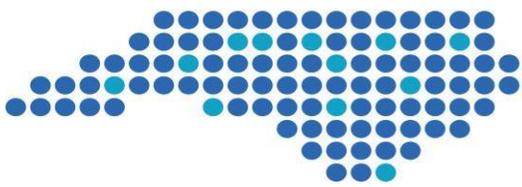
³ <https://www.ncdor.gov/documents/form-e-595e-streamlined-sales-and-use-tax-agreement-certificate-exemption>

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

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

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

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



11. If an animal auctioneer who meets the definition of marketplace facilitator sells an alpaca at a North Carolina auction, and the animal auctioneer delivers the alpaca to the customer out-of-state using its own truck and trailer, is the animal auctioneer required to collect and remit North Carolina sales tax on the transaction?

No. The animal auctioneer is not required to collect and remit North Carolina sales tax on the transaction because the animal auctioneer delivers the alpaca to its customer outside of the state using its own truck. The animal auctioneer must maintain acceptable proof of transportation out of the State in its records. In this example, a copy of the invoice and a signed trip sheet would be acceptable proof of transportation. If the animal auctioneer does not keep acceptable proof of transportation, the person is liable for North Carolina sales tax on the transaction.

12. Does North Carolina provide any liability relief if an animal auctioneer has not been collecting and remitting North Carolina sales and use tax due?

Yes, the North Carolina Secretary of Revenue (Secretary) may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes the following findings: The taxpayer is an auctioneer licensed under Chapter 85B of the General Statutes, and the assessment is for sales tax that the taxpayer failed to collect for the sale of livestock at auction. The Secretary must determine that the taxpayer has made a good-faith effort to comply with the tax laws, including being registered as a retailer on or before July 1, 2020. This applies to assessments for any tax due for a reporting period ending prior to July 1, 2020. This does not apply if the person received specific written advice from the Secretary for the transactions at issue for the laws in effect for the applicable period or for tax collected and not remitted to the Department.

General Rules Related to Shipping

Sales of items by an auctioneer 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 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.
