

SECTION 27 - HOTELS, MOTELS, INNS, TOURIST HOMES, TOURIST CAMPS AND CABINS AND PRIVATE RESIDENCES AND COTTAGES RENTED TO TRANSIENTS**27-1 TAXABLE GROSS RECEIPTS****A. Retailers**

All persons engaged in the business of operating hotels, motels, inns, tourist homes, tourist camps, and similar type businesses and all persons who rent private residences, condominiums or cottages to transients for consideration are deemed to be retailers and must register with the Department and collect and remit the tax herein required to be paid. The term **“persons who rent to transients,”** as used in this Bulletin, includes:

1. owners of private residences, cottages, apartments, condominiums, (time share and interval ownership properties as hereinafter described) and similar places; and
2. real estate agents, including **“real estate brokers”** as defined in G.S. 93A-2, who rent any such accommodations to transients on behalf of the owners.

When the rental agent is liable for the tax imposed, the owner is not liable. If the owner rents such accommodations to transients, the owner is liable for the tax and must register with this Department for sales and use tax purposes.

B. Tax Rate

Gross receipts derived from the rental of any room or rooms, lodgings or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin and any private residence, condominium (time share and interval ownership properties), cottage or any other place in which rooms, lodgings or accommodations are furnished to transients for a consideration are subject to the general rate of State tax and any applicable local sales or use tax, except as set forth in Paragraphs C. and D. of this Bulletin or as otherwise provided by the statute. Regarding fees or charges associated with accommodation rental, refer to Bulletin 27-5 of this Section.

C. Rental For 90 Continuous Days

Receipts derived from the rental of any room, lodging or accommodation to the same person for a period of 90 continuous days or more are not subject to the tax, and the tax collected from any person prior to the accumulation of such 90 continuous days of occupancy by said person shall be refunded to such person by the retailer collecting the same. A retailer actually making any such refund of tax which he has paid to the Department shall be entitled to claim credit for the tax so refunded on a subsequent return filed by him with the Department.

D. Occasional or Isolated Rental of a Private Residence or Cottage

Receipts derived from an occasional or isolated rental of a private residence or cottage by the owner for less than a total of 15 days in a calendar year are not subject to sales tax. The 14 days exclusion is applicable only to those private residences and cottages which are not made available for rental to transients. If the private residence or cottage is generally or routinely made available by the owner for rental to transients, the less than 15 days exclusions is not applicable to such rentals and all receipts therefrom are taxable without regard to the aforementioned period. When private residences and cottages are listed with real estate agents, including **“real estate brokers”** as defined in G.S. 93A-2, for rental to transients, such private residences and cottages are deemed to be generally available for rental to transients and the less than 15 days exclusion is not applicable to any receipts from such rentals to transients.

E. Time Share or Interval Ownership Property

Sales of time share or interval ownership property which can be transferred by estate, gift or devise pursuant to deeds or documents under which the owners have a fixed and continuing right to occupy such units during a specified period of time in the same manner as a person who owns or is buying a private residence or cottage are considered to be sales of real property not subject to sales or use tax. When owners of interval ownership and time share property do not occupy the property but rent it to transients or place the property in the hands of a rental agent, including “**real estate brokers**” as defined in G.S. 93A-2, for rental on their behalf to transients, such receipts are subject to sales tax and the less than 15 days exclusion is not applicable to any receipts from such rentals as explained in Paragraph D. of this Bulletin.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-264;
Issued: June 1, 1996;
Revised: January 15, 2009; June 1, 2002; October 15, 1998.

27-2 PURCHASES OF SUPPLIES, EQUIPMENT OR FIXTURES

Sales to hotels, motels, inns, tourist homes, tourist camps, and tourist cabins and other places in which rooms, lodgings or accommodations are furnished for a consideration, of any supplies, equipment, or fixtures including but not limited to linens, bathroom supplies, cleaning supplies and furniture are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;
Issued: June 1, 1996;
Revised: June 1, 2002.

27-3 PURCHASES OF FOOD

For information regarding purchases of foods used in providing complimentary meals or snacks, refer to Sales and Use Tax Technical Bulletin 19-10.

History Note: Authority G.S. 105-164.4; 105-164.5; 105-164.6; 105-164.28; 105-264;
Issued: June 1, 1996;
Revised: October 15, 1998; March 1, 1997.

27-4 GUARANTEED NO-SHOW FEES

- A.** Guaranteed no-show fees or charges made at the customary or agreed-upon room rate constitute taxable gross receipts provided the customer is entitled to the use of the room for the rental period and the room cannot be rented to another party. A rental has occurred notwithstanding that the customer may choose not to occupy the room. If, under the same circumstances, the amount of the fee is less than the customary room rental rate, the amount charged would constitute a penalty and would not be subject to the applicable sales tax.
- B.** If the party who reserved the room fails to cancel the reservation and the room is subsequently rented to another guest, any fee charged to the guest who originally reserved the room is considered a penalty and is not subject to the tax notwithstanding that the fee may be the customary room rental fee. A rental to the guest who originally reserved the room did not occur since the room was made available for rental to another party.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-264;
Issued: October 15, 1998.

27-5 FEES OR CHARGES ASSOCIATED WITH ACCOMMODATION RENTALS**A. A. Charges Subject to Sales and Use Tax as Part of Gross Receipts From Accommodation Rentals**

Charges for certain items of tangible personal property, services, or amenities furnished by a hotel or similar business are considered to be part of the rental of the accommodation and are subject to sales and use tax under G.S. 105-164.4(a)(3). Examples of items that are taxable as part of the accommodation rental include:

1. Credit card fees;
2. Damage fees;
3. Early/late departure fees;
4. Extra person charges;
5. In-room safe rentals;
6. Inspection fees;
7. Linen fees;
8. Maid/cleaning fees;
9. "Peace of mind" fees (similar to insurance but provided by hotel or rental agency rather than third-party carrier);
10. Pet fees (incurred by guests who have pets traveling with them);
11. Reservation fees (also referred to as a handling, processing, or administrative fee);
12. Security deposits;
13. Smoking fees;
14. Transfer fees (for changing to a different room or unit or a different date);
15. Tentative reservation fees (for priority reservation the following year);
16. Charges for cribs and roll-away beds; and
17. Charges for microwave ovens and refrigerators.

B. B. Charges Subject to Sales and Use Tax as Rentals of Tangible Personal Property

Charges for rentals of taxable tangible personal property, which are considered separate from the charges for the actual room or accommodation rental are subject to tax under G.S. 105-164.4(a)(2). Examples of items that are considered rentals of tangible personal property include:

1. Video tapes, DVDs, and related video equipment;
2. Beach equipment such as chairs, toys, and umbrellas;
3. Recreational equipment such as skis, surf boards, and snorkeling equipment; and
4. Audio visual equipment.

C. Charges Not Subject to Sales and Use Tax

Certain charges made by hotels and similar type business are considered neither part of the room rental nor rentals of tangible personal property. Such charges are exempt from sales and use tax provided the charges are separately stated. Examples include:

1. banquet room rental and related facility or service fees (unless the rental is in connection with a catered event);
2. cancellation fees;
3. Internet services;
4. laundry services (provided by an outside laundry/dry-cleaning establishment);
5. returned check charges;
6. telephone calls (unless a set fee is charged to all transients regardless of whether calls are made); and

7. trip insurance provided by a third party.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-264;
Issued: January 15, 2009.

27-6 SPECIFIC TRANSACTIONS

A. Vacation Packages

1. **Effective January 1, 2007**, resorts, hotels, and others that provide taxable accommodations to transients and “**bundle**” such accommodations with nontaxable services, such as golf course greens fees, spa treatments, other similar services, and do not separately charge for such services may allocate their charges and charge sales tax on the taxable portion of the bundle as follows:

- a. If the service provider offers all the services in the bundle on an unbundled basis, tax is due on the unbundled price of the taxable service less the discount resulting from bundling. The discount for a service as the result of bundling is the proportionate price decrease of the service, determined on the basis of the total unbundled price of all the services in the bundle compared to the bundled price of the service.
- b. If the service provider does not offer one or more of the services in the bundle on an unbundled basis, tax is due on the taxable service based on a reasonable allocation of revenue to that service. If the service provider maintains an account of revenue from a taxable service (such as a guest folio), the service provider’s allocation of revenue is to that service

Note: The “**bundled services**” statute contains no provisions to exempt any portion of the charges for services, such as those referenced above, when bundled with a sale of taxable tangible personal property (i.e., meals).

2. **Effective October 1, 2007**, the bundled transaction statute was rewritten to include provision for a retailer to allocate sales revenues from the sale of a bundled transaction that includes taxable and nontaxable tangible personal property and/or services. Therefore, **effective October 1, 2007**, resorts, hotels, and other businesses that provide taxable accommodations to transients and “**bundle**” such accommodations with nontaxable services, such as golf course greens fees, spa treatments, etc., and taxable tangible personal property, such as meals, and do not separately charge for such services and personal property, may allocate the portion of revenues attributed to taxable accommodations rentals and personal property and collect and remit tax on the tax or the taxable portion. For additional information regarding bundled transactions, refer to Sales and Use Tax Technical Bulletin 34-25.

B. Pay-Per-View Movies

Effective January 1, 2007, pay-per-view movies are considered video programming and are subject to the combined general rate of tax under G.S. 105-164.4(6). The video programming service provider is liable for collecting the tax, but, depending on the terms of the contract, a hotel may act as agent for the provider and collect the tax from the guest. For additional information regarding video programming, refer to Sales and Use Tax Technical Bulletin 20-1.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4D; 105-264;
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