

## Auctioneer FAQs

**Effective February 1, 2020**, an auctioneer who meets the definition of marketplace facilitator 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.

N.C. Gen. Stat. § 105-164.4J provides that 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 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.

### 1. [Is an auctioneer that only calls bids at an event required to collect and remit sales and use tax for the event?](#)

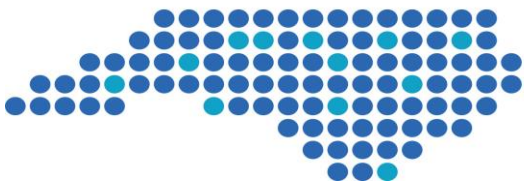
No. An auctioneer that only calls bids and does not conduct other activities at the event is not a marketplace facilitator. In this case, the auctioneer does not meet the definition of a marketplace facilitator because the auctioneer does not: (1) make payment processing services available to purchasers 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 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 auctioneer's tax obligations.

### 3. [Is an auctioneer 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 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 a 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 other new or used tangible personal property when such sales are sourced to North Carolina?

Yes. See response to question 2 above.

6. Is an auctioneer 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.

7. Is an auctioneer 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.

8. Where can I find a list of exempt sales?

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

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

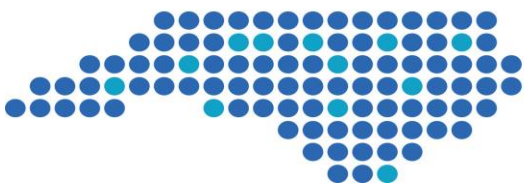
If the purchaser provides a [Form E-595E](#)<sup>3</sup>, the certificate must be signed by the purchaser and state the purchaser's name, address, certificate of registration number, reason for exemption, and type of business. A certificate of registration number may include, but is not limited to the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

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<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)

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



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

Auctioneers, tag sale operators, 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.

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

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>.

12. I am an auctioneer 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>.

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

No. The auctioneer 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 auctioneer 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 auctioneer does not keep acceptable proof of transportation, the auctioneer is liable for North Carolina sales tax on the transaction.

14. If an auctioneer who meets the definition of marketplace facilitator sells a computer at a North Carolina auction 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 auctioneer required to collect and remit North Carolina sales tax on the transaction?

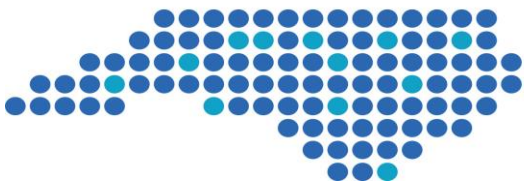
Yes. The auctioneer must collect and remit North Carolina sales tax on the transaction because the customer's representative receives the product in North Carolina.

<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>



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

No. The auctioneer is not required to collect and remit North Carolina sales tax on the transaction because the auctioneer delivers the sporting goods to its customer outside of the State using the auctioneer's truck. The auctioneer 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 does not keep acceptable proof of transportation, the auctioneer is liable for North Carolina sales tax on the transaction.

16. I am an auctioneer 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 merchandise by an auctioneer or tag sale operator in North Carolina where the auctioneer or tag sale operator delivers the merchandise 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 merchandise in North Carolina by a person that delivers 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>