



# NC Sales Tax (Advanced)



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# Objectives

- Taxable Sales
- Bundled Transactions
- Exemptions
- RMI
- Service Contracts



# Sales and Use in General

- Sales Tax
  - “Privilege Tax”
- Use Tax
  - Storage, use, or consumption
  - Samples



# Taxable Sales

- Tangible personal property
- Digital property
- Software
- Taxable services



# Tangible Personal Property

- Can be seen, weighed, measured, felt, or touched.  
Includes:
  - water,
  - gas,
  - steam,
  - electricity, and
  - prewritten computer software



# Digital Goods

- Audio work
- Audio visual work
- Book, magazine, newspaper, report, etc.
- Photograph
- Greeting card



# Software

- Canned or Custom
- Not taxable
  - Custom
  - Enterprise server operating system
  - Sold to cable, telecom, or video programming services and used for cable, ISP, telecom., or video programming
  - SaaS, ASP



# Taxable Services

- Laundry and dry-cleaning
- Telecommunications
- Fabrication labor
- Non-separately stated charges
- Repair, maintenance, & installation
- Service contracts





# Leases and Rentals

- Purchases for resale
- Intervening use
- Lease with operator



# Accommodations - NC

- Short term rental to transients is taxable
  - Includes rental of private residence
  - 15 and 90 day rules
  - Use of broker
- Local occupancy tax – up to 6%
- Facilitator fees
- Cannot purchase supplies for resale
  - Linens



# Bundled

- 50% Test – Exempt food; drug; medical devices, equipment, or supplies
  - 50%+ of food – 2%
  - 50%+ of medical - Exempt
- Allocation – Only if includes a service
  - Service contract exceptions
- 10% test – Not taxable if taxable items do not exceed 10%



# Exemptions

- Resale
- Manufacturers (Mill Machinery and Equipment)
- Government

(note that this presentation does not cover all of the exemptions available)



# Exemptions - Resale Exemption

- Sellers responsibility
  - Collect certificate
  - Verify purchase is typical
- Buyers responsibility
- Finished goods
- Raw materials



# Exemptions - Manufacturers

- Three principle activities of Manufacturers
  - Distribution
  - Administration
  - Production



# Exemptions - Manufacturers

- Production
  - Processing and refining
  - Conditioning, treating
  - Assembling
  - Movement through process
  - Movement into storage or shipping areas
  - R&D
  - QC



# Exemptions - Manufacturers

- What is mill machinery?
  - Used in production 50% or more
- ~~1% and \$80 max per article of mill machinery~~
  - ~~Self assessed – 500J~~
  - ~~Not clear what an article is~~ **Expired 7/1/2018!!**
- Sales of mill machinery and equipment
- Sales of mill machinery and equipment to contractors
- Printers are manufactures





# Sales to Government Entities

- US Government or any of its agencies or instrumentalities, including:
  - Federal credit unions
  - Farm credit banks and federal land banks
- North Carolina state agencies – exempt
- Local NC governments – taxable



# Nonprofit, Charitable & Religious

- Purchases – taxable
- Sales – taxable with some exceptions
  - Short-term annual fund raisers
    - Delivered in 60 days from order
  - Church food sales
- Refunds



# RMI

- Definition of RMI
- Excluded and exempt
- Capital improvements
- Waivers



# Tax Application

- RMI Job

Tax collection from customer	Yes
Tax due on materials	No

- Capital Improvement Job

Tax collection from customer	No
Tax due on materials	Yes



# RMI Definition - §105-164.3(33i)

- TPP, motor vehicle, ***digital property, real property*** (other than real property contract)
  - Keep or attempt to keep in working order
  - Calibrate, refinish, restore or attempt to
  - Troubleshoot source of problem with purpose of fixing
  - Install, apply, connect, adjust, set in to place
  - ***Inspect or monitor*** (excludes real property)



# Exempt from RMI

- RMI of exempt property
- Resale of RMI services
- RMI purchased by a contractor as part of fulfilling capital improvement contract



# Exemptions

- Real property contract – Capital Improvement
- Vehicle safety and emissions
- Performed by related member
- Cleaning real property - mold
- Services on roads, driveways, parking lots, sidewalks
- Removal of waste (not portable toilet septage)
  - Asbestos
- Alteration and repair of clothing
- Pest control – application
- Moving service



# Exemptions

- Self and limited-service car wash
- Landscaping
- Real property monitoring service
- Real property contract follow up – w/in 6 months
- RMI of certain aircraft
- Funeral-related services
- Services performed on animals
- Monitoring of real property (security, fire)
- Providing operator for wastewater system





# Capital Improvement Includes

- New construction,
- Reconstruction, or
- Remodeling



# Remodeling

- ***Multiple services*** performed by one or more persons to restore, improve, alter, or update real property
- Does not include a single RMI service
- Does not include a transaction where the true purpose is a RMI service no matter that another RMI service is performed that is incidental



# Capital Improvements Includes

- Permit required by *state building code* except replacing electrical components, gas logs, water heater, and similar
- Installation of utilities on utility land
- Painting or wallpapering
- Entire systems of roofing, septic tank, plumbing, electrical, commercial refrigeration, irrigation, sprinkler system, or other similar
- HVAC unit or system



# Capital Improvements Includes

- Replace or install roads, driveways, parking lots, sidewalks, patios, decks
- Landscaping
- Fixture attached to real property and that is capitalized for IRC, GAAP, IFRS
- Certain services to resolve real property contract 6 months old/12
- Addition or alteration to real property that is permanently affixed or installed & is not RMI – Huh???



# Retailer/Contractor

- A person that acts as a retailer for TPP and RMI sales and a real property contractor when it performs real property contracts
- Determining if you are a retailer or a contractor
- Tax paid on RMI materials
  - Credit allowed
  - Reduce taxable receipts



# E-589CI

- Shifts burden
- Single use
- Blanket use
- New form at each level
- Alternative documentation



# Waiver of Tax

- Retailer is not liable for under collection if made a good faith effort to comply for 3/1/2016 - 12/31/2016
  - What is good faith?
  - When will the waiver be granted?
- Secretary can compromise for 3/1/2016 – 1/1/2023 if:
  - Best interests of the state and
  - Good faith effort
- SB 628, 3/1/2016 – 12/31/2018 Grace period
  - Much Broader waiver
  - Department will take no action



# Service Contract

- Obligor under the contract agrees to maintain, monitor, inspect, clean, restore, or repair TPP for a period of time or some other defined measure.
- Regardless if becomes a part of real property
- Excludes single RMI service.
- Includes pool maintenance contract and a home warranty.





# Service Contracts

- Monitor – To watch, keep track of or check usually for a special purpose
- Maintain – To keep in an existing state
- Inspect – To view closely in critical appraisal
- Defined measure



# Service Contract Exemptions

- Motor vehicle services
- Performed by related member
- Cleaning real property
- Services on roads, driveways, parking lots, etc.
- Removal of waste (not portable toilet septage)
- Alteration or repair of clothing
- Pest control - application
- Moving service



# Service Contract Exemptions

- Self and limited-service car wash
- Utilities work on utility land or right of way
- Qualified aircraft or qualified jet engines
- Funeral services
- Service
- Real property monitoring service
- Providing operator for wastewater system
- Other industry specific exemptions



# Mixed Service Contract

- 2 services
- Real property 10% test
- Allocation
- Reasonable
- Supportable



# Motor Vehicle Service Contracts

- Exempt
- Primarily for use upon the highways and is self-propelled or pulled by another vehicle. Excludes:
  - Mopeds
  - Special mobile equipment.
  - Unregistered tow dolly
  - Farm tractors
  - Manufactured home, mobile building
  - Road construction equipment



# Thank You!



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