

Memorandum

To: OctoberTour Vendors

From: Historic Salisbury Foundation

Date: 6/22/15

This memorandum is to remind you of the enclosed North Carolina Department of Revenue Sales and Use Tax requirements for festivals.

Please take time to read the enclosed information to make sure you are in compliance with these requirements. We have also enclosed a link to the Business Registration Application for Income Tax Withholding, Sales and Use Tax, and Machinery and Equipment form for your convenience if needed (http://www.dornc.com/downloads/fillin/NCBR_webfill.pdf).

If you are selling or offering goods for sale at OctoberTour’s Bank Street you must fill the bottom portion of this memo and return to Historic Salisbury Foundation. As part of the North Carolina Department of Revenue’s requirements we must keep a registration list with the below information.

Name: _____

Permanent Address: _____

Sales & Use Tax Certificate Number: _____

Return to:

HSF
215 Depot Street or P.O. Box 4221
Salisbury, NC 28144 Salisbury, NC 28145

Specialty Markets, Flea Markets, Fairs, Festivals, Sporting Events, Entertainment Events, and Other Events Sales and Use Tax Information and Requirements

Updated February 28, 2014

A person engaged in business in this State and selling tangible personal property, and certain digital property at retail, or rendering a taxable service at specialty markets, flea markets, fairs, festivals, sporting events, entertainment events, and other events and functions must register with the North Carolina Department of Revenue and is required to collect and remit sales and use tax unless a specific exemption applies to the product sold. The general State rate of tax is 4.75% and the applicable local and transit rates of sales and use tax vary depending on the local jurisdiction where a sale is sourced. The sale of "food" at retail as defined in G.S. 105-164.3, is subject to the 2% rate of tax. The sale of prepared food is subject to general State rate of tax of 4.75% and the applicable local and transit rates of sales and use tax as applicable.

- [**Business Registration**](#)
- [**Exemption**](#)
- [**Reporting and Remitting Tax**](#)
- [**Responsibilities of the Specialty Market or Event Operator**](#)
- [**Responsibilities of the Flea Market Operator**](#)
- [**Presentation for Farmers Market Operators, Farmers and Retail Merchants**](#)
- [**Presentation for Agricultural Fairs**](#)
- [http://www.dornc.com/taxes/sales/specialty.html - fleamarket](http://www.dornc.com/taxes/sales/specialty.html)

Business Registration

N.C. Gen. Stat. §105-164.4(c) states, in part, "[b]efore a person may engage in business as a retailer . . . the person must obtain a certificate of registration from the Department" In order to obtain a Certificate of Registration, a person must complete Form NC-BR, Business Registration Application for Income Tax Withholding, Sales and Use Tax, and Machinery and Equipment Tax, available through online registration from the Department's website at <http://www.dornc.com/electronic/registration/index.html> or complete a web-fill version of the form at http://www.dornc.com/downloads/fillin/NCBR_webfill.pdf and mail it to the Department. No fee is required in order to apply for a Certificate of Registration. A person that makes sales at a specialty market or other event is required to conspicuously display a Certificate of Registration or display a confirmation from the Department showing application for a Certificate of Registration until the certificate is received from the Department.

A person that attends a single event or function in this State within a calendar year for the purposes of making sales at retail is required to register to obtain a Certificate of Registration. A person who engages in business for six or fewer consecutive months in this State each year may register as a seasonal filer and indicate the months in which the person engages in business. A person registered as a seasonal filer is not required to file a return for an off-season reporting period in which the person did not engage in business in this State.

A farmer that only sells farm products produced by the farmer is not required to obtain a Certificate of Registration. A farmer that purchases products for resale that are not produced by the farmer in the capacity of a producer is required to obtain a Certificate of Registration. See [**Sales and Use Tax Technical Bulletin Section 9**](#) for more information.

Exemption

Per N.C. Gen. Stat. § 105-164.13, the sale at retail of certain tangible personal property, digital property, and services is exempt from sales and use tax. For example, retail sales of products of the farm, forest, mines and waters in their original or unmanufactured state by producers in their capacity as producers are exempt from tax pursuant to N.C. Gen. Stat. § 105-164.13. A person, other than a farmer, who only sells items exempt from sales and use tax is still required to register to obtain a Certificate of Registration. Such person will be required to file a return reflecting \$0.00 in tax due for the filing period. A person who is

making sales of his own household personal property is not required to apply for a Certificate of Registration.

Reporting and Remitting Tax

The Department provides [Form E-505AC](#), a publication for newly registered taxpayers, [blank sales and use tax forms and instructions](#), and [sales and use tax rate charts](#) at the time the Certificate of Registration is mailed to the person. A preprinted sales and use tax coupon booklet should subsequently be provided for use to report and pay sales and use tax except for taxpayers consistently liable for at least twenty thousand dollars (\$20,000) a month and therefore required to file and pay sales and use taxes electronically. A person that does not receive sales and use tax returns from the Department is not relieved of the liability to collect, report, and pay sales and use tax. **Failure to apply for and obtain a Certificate of Registration may result in onsite collection of sales and use taxes by Department of Revenue Personnel at an event.**

Responsibilities of the Specialty Market or Event Operator

Effective August 23, 2013, N. C. Gen. Stat. § 66-255 states, in part, "[a] specialty market operator or operator of an event where space is provided to a vendor must maintain a daily registration list of all specialty market or other vendors selling or offering goods for sale at the specialty market or other event. The registration list must clearly and legibly show each vendor's name, permanent address, and certificate of registration number. The specialty market operator or other event operator must require each vendor to exhibit a valid certificate of registration for visual inspection by the specialty market operator or other event operator at the time of registration except as noted below, and must require each vendor to keep the certificate of registration conspicuously and prominently displayed, so as to be visible for inspection by patrons of the vendor at the places or locations at which the goods are offered for sale . . . For purposes of the registration list, the exemptions in G.S. 66-256 do not apply." A person that only sells products of the farm produced by the person must provide a written statement attesting that the items were produced by the person or provide the qualifying farmer or conditional farmer exemption number issued to the person, as a farmer, by the Department to the specialty market operator or operator of an event. The certified statement or the qualifying farmer or conditional farmer exemption number obtained by the specialty market operator or operator of an event is required to be kept in conjunction with the daily registration list. Each daily registration list must be maintained by the specialty market operator or other event operator for no less than two years and must at any time be made available upon request to any duly authorized agent of the Department of Revenue. N.C. Gen. Stat. § 66-250(5) defines a specialty market operator as "[a] person, other than the State or unit of local government, who rents space, at a location other than a permanent retail store, to others for the purpose of selling goods at retail or offering goods for sale at retail." N.C. Gen. Stat. § 66-250(4) defines a specialty market as "[a] location, other than a permanent retail store, where space is rented to others for the purpose of selling goods at retail or offering goods for sale at retail."

Responsibilities of the Flea Market Operator

A flea market operator must maintain a daily registration list of all persons selling or offering goods for sale at the flea market. The registration list must clearly and legibly show each person's name, permanent address, and certificate of registration number. The flea market operator must require each person to exhibit a valid Certificate of Registration for visual inspection by the flea market operator at the time of registration, and must require each person to keep the Certificate of Registration conspicuously and prominently displayed, so as to be visible for inspection by patrons of the person at the places or locations at which the goods are offered for sale. If a person is only selling his own household personal property and provides a certified statement attesting to that fact to the flea market operator, then a Certificate of Registration is not required. The certified statement from the person is to be kept in conjunction with the daily registration list. The flea market operator is to require this person to exhibit the certified statement verifying the sale of household personal property at the time of registration, and must require each vendor to keep the certified statement conspicuously and prominently displayed, so as to be visible for inspection by patrons of the vendor at the places or locations at which the goods are offered for sale.