



## DIRECTIVE

**Subject:** Modified Utility Vehicles  
**Tax:** Sales and Use Tax; Highway Use Tax  
**Law:** N.C. Gen. Stat. §§ 20-4.01(27)g2., 105-164.3, 105-164.4, 105-164.6, 105-187.1, and 105-187.2  
**Issued By:** Sales and Use Tax Division  
**Date:** November 30, 2021  
**Number:** SD-21-1

This directive provides the interpretation of the Secretary of Revenue regarding the tax imposed on sales of modified utility vehicles in North Carolina.

The following important information is addressed in this directive:

- Sales and use tax is due on the sales price of a modified utility vehicle.
- Highway use tax is not due on a modified utility vehicle.

### **Background**

Generally, North Carolina imposes sales tax on the sales price of tangible personal property. North Carolina imposes a complimentary use tax on the purchase price of tangible personal property subject to the sales tax.

Sales of motor vehicles, as defined in N.C. Gen. Stat. § 105-164.3(149), are exempt from the sales and use tax. Instead, North Carolina imposes a highway use tax on the retail value of a motor vehicle unless an exemption or alternate highway use tax applies to the transaction.

The Department of Revenue has received questions about whether a modified utility vehicle is subject to sales and use tax or highway use tax.

### **Definitions**

Session Law 2021-33 modified the definition of modified utility vehicle for purposes of Chapter 20 of the North Carolina General Statutes. The current definition is as follows:

**Modified utility vehicle.** - A motor vehicle that (i) is manufactured or upfitted by a licensed manufacturer, dealer, or person or business otherwise engaged in vehicle manufacturing or modification for off-road use with equipment required by G.S. 20-121.1(2a), except a vehicle identification number, and (ii) has four wheels, an overall length of 110 inches or greater, an overall width of 58 inches or greater, an overall height of 60 inches or greater, a maximum speed capability of 40 miles per hour or greater, and does not require an operator or passenger

to straddle a seat. "Modified utility vehicle" does not include an all-terrain vehicle, golf cart, or utility vehicle, as defined in this section, or a riding lawn mower. N.C. Gen. Stat. § 20-4.01(27)g2.

For sales and use tax and highway use tax purposes, North Carolina provides the following definitions:

**Motor vehicle.** - A vehicle that is designed primarily for use upon the highways and is either self-propelled or propelled by a self-propelled vehicle but does not include:

- a. A moped.
- b. Special mobile equipment.
- c. A tow dolly that is exempt from motor vehicle title and registration requirements under G.S. 20-51(10) or (11).
- d. A farm tractor or other implement of husbandry.
- e. A manufactured home, a mobile office, or a mobile classroom.
- f. Road construction or road maintenance machinery or equipment. N.C. Gen. Stat. § 105-164.3(149).

**Tangible personal property.** - Personal property that may be seen, weighed, measured, felt, or touched or is in any other manner perceptible to the senses. The term includes electricity, water, gas, steam, and prewritten computer software. N.C. Gen. Stat. § 105-164.3(261).

## **Taxability of Modified Utility Vehicles**

### **Sales and Use Tax**

Generally, the sale of a modified utility vehicle is subject to sales and use tax because it is not a motor vehicle for purposes of sales and use tax. A modified utility vehicle is manufactured or upfitted for "off-road use" but may be operated on highways in limited circumstances. As a result, a modified utility vehicle is not a motor vehicle for sales and use tax purposes because it is not designed *primarily* for use upon the highways.

### **Highway Use Tax**

The highway use tax does not apply to the retail value of a modified utility vehicle because a modified utility vehicle is not a motor vehicle as defined in N.C. Gen. Stat. § 105-164.3(149). As discussed above, a modified utility vehicle is not a motor vehicle for highway use tax purposes because it is not designed *primarily* for use upon the highways.

### **Retailers Must Collect Sales and Use Tax**

A retailer engaged in business in the State must collect and remit the applicable rates of sales or use tax on the sales price of a modified utility vehicle unless the sale is exempt from tax. The State rate of tax imposed on the sales price of a modified utility vehicle is currently 4.75%. You can find the applicable county and transit rates of sales and use tax on the Department's [website](#).

*Example: Jane's Motor Machines is located in Pitt County. Jane's Motor Machines sells modified utility vehicles and other equipment. A customer of Jane's Motor Machines picks up a modified utility vehicle at the store in Pitt County and intends to register the modified utility vehicle with the N.C. Division of Motor Vehicles. Jane's Motor Machines should collect and remit the general State rate (4.75%) and local rate of sales tax for Pitt County (2.25%) on the sales price of the modified utility vehicle. Jane's Motor Machines should not charge the highway use tax on the sale because it is not a motor vehicle for sales and use tax purposes.*

You can find more information for retailers on the Department's website at [www.ncdor.gov](http://www.ncdor.gov).

### **Consumers' Use Tax Obligation**

If the tax due on the sales price of a modified utility vehicle is not paid at the time of purchase, a consumer must pay use tax on the purchase price of a modified utility vehicle purchased for storage, use or consumption in the State. The State rate of use tax imposed on the purchase price of a modified utility vehicle is currently 4.75%. You can find the applicable county and transit rates of use tax on the Department's [website](#).

*Example: Sam purchases a modified utility vehicle from Mike's Motor Machines located in Virginia. Sam does not pay sales or use tax to Mike's Motor Machines. Sam immediately brings the modified utility vehicle to North Carolina to store and use at his home in Wake County. Sam owes the general State rate (4.75%), local rate for Wake County (2.00%) and transit rate for Wake County (0.50%) of use tax. If Sam files a North Carolina Individual Income Tax Return, he should report the use tax on the consumer use tax line and pay the tax with the return. If Sam does not file a North Carolina Individual Income Tax Return, he must report the use tax on Form E-554, Consumer Use Tax Return, and pay the tax with the return.*

You can find more information on consumer use tax on the Department's website at [www.ncdor.gov](http://www.ncdor.gov).

### **Assistance**

If you have questions about this directive, you may call the Department at 1-877-252-3052 (8:00 am until 4:30 pm EST, Monday through Friday).

*To the extent there is any change in the rate or amount of tax, change to a statute or regulation, or new case law subsequent to the date of this directive, the provisions in this directive may be superseded or voided. To the extent that any provisions in any other notice, directive, bulletin, or published guidance regarding the subject of this directive and issued prior to the date of this directive conflict with this directive, the provisions contained in this directive supersede the previous guidance.*