

§ 105-164.4F. Accommodation rentals.

(a) Repealed by Session Laws 2019-246, s. 4(e), effective February 1, 2020, and applicable to sales occurring on or after that date.

(b) Tax. – The gross receipts derived from the rental of an accommodation are taxed at the general rate set in G.S. 105-164.4. Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation made by an accommodation facilitator includes any charges or fees, by whatever name called, charged by the accommodation facilitator to the purchaser of the accommodation that are necessary to complete the rental. The tax is due and payable by the retailer in accordance with G.S. 105-164.16.

(b1) Retailer. – Except as otherwise provided in subsection (c) of this section, the retailer of the rental of an accommodation is one or more of the persons listed below that collects the payment, or a portion of the payment, for the rental of the accommodation. In the event the person who collects the payment cannot be determined or is a third party that is not listed in this subsection, and subsection (c) of this section does not apply, the provider of the accommodation shall be considered the retailer of the transaction. The retailer is liable for reporting and remitting the tax due on the portion of the gross receipts derived from the rental of the accommodation that the retailer collects. The retailer may be one or more of the following:

- (1) The provider of the accommodation.
- (2) An accommodation facilitator.

(c) Certain Accommodation Facilitator Transactions. – This subsection applies only to an accommodation facilitator that is operated by or on behalf of a hotel or a hotel corporation, that facilitates the rental of hotel accommodations solely for the hotel or the hotel corporation's owned or managed hotels and franchisees, and that collects payment, or a portion of the payment, for the rental of an accommodation. An accommodation facilitator subject to this subsection is not considered the retailer of the rental of the accommodation. The accommodation facilitator must send the retailer the tax due on the sales price, or the portion of the sales price, the accommodation facilitator collected no later than 10 days after the end of each calendar month. An accommodation facilitator that does not send the retailer the tax due on the sales price, or the portion of the sales price the accommodation facilitator collected, is liable for the amount of tax the accommodation facilitator fails to send. An accommodation facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from an accommodation facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from an accommodation facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from an accommodation facilitator.

(c1) Accommodation Facilitator Report. – An accommodation facilitator must file with the Secretary an annual report by March 31 of each year for the prior calendar year for accommodation rentals it makes. The annual report must be provided in electronic format and include the property owner's name, the property owner's mailing address, the physical location of the accommodation, and gross receipts information for the rentals. The report may only be used by the Secretary, and any person receiving the report, pursuant to G.S. 105-259, for tax compliance purposes.

(d) Repealed by Session Laws 2019-246, s. 4(e), effective February 1, 2020, and applicable to sales occurring on or after that date.

(e) Exemptions. – The tax imposed by this section does not apply to the following:

- (1) A private residence, cottage, or similar accommodation that is rented for fewer than 15 days in a calendar year unless the rental of the accommodation is made by an accommodation facilitator.

- (2) An accommodation supplied to the same person for a period of 90 or more continuous days.
- (3) An accommodation arranged or provided to a person by a school, camp, or similar entity where a tuition or fee is charged to the person for enrollment in the school, camp, or similar entity. (2014-3, s. 8.1(b); 2019-246, s. 4(e).)