



## NCDOR Communication

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### Understanding Sales Taxes On Agricultural Products

Sales taxes on sales of agricultural products are complex. With the definitions of food and prepared food, the original state of a product and the difference between wholesale and retail sales, it is very easy to misunderstand how sales tax applies to sales of agricultural products.

This quick reference guide is designed to help farmers, merchants and other retailers understand the sales tax obligations for specific kinds of sales of agricultural products. The types of sales are listed with their tax obligations, followed in some instances by the applicable tax law.

Note: the general state sales tax rate and applicable local sales tax is mentioned throughout this quick reference guide. That rate is subject to change and varies from county to county. Click [here](#) to find out about the rate in your county.

Note 2: this document refers to producers of farm products and retail merchants. This difference often means the difference in how sales are taxed. Click [here](#) and look at subsection E for more information on producers and retailers.

#### Meat

**Includes chicken, beef, lamb, veal, turkey, pork, rabbit**

- Live animals: exempt from tax when sold by the producer. [G.S 105-164.13(4b)].
- Cuts of meat (uncooked): subject to the 2 percent rate on food when sold by a producer or retail merchant.
- Processed meat (example, uncooked sausage patty): subject to the 2 percent rate on food when sold by a producer or retail merchant.
- Cooked/smoked meat: subject to general state rate and applicable local sales tax when cooked or smoked by a producer or retail merchant.

# NCDOR Communication

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Note: operators of slaughterhouses are in a different situation. If a slaughterhouse or other facility is simply hired by a producer to slaughter an animal and process the cuts of meat, the slaughterhouse is providing a service and does not have to charge sales tax. A slaughterhouse or other kind of processor that purchases live animals, then processes them and sells uncooked cuts of meat to an end user is considered a retailer. Sales in that situation are subject to the 2 percent rate on food. The difference is whether or not the slaughterhouse is providing a service to process the animal or if it is buying the animal(s) and selling the processed cuts of meat afterward to an end user.

## **Fish/Seafood**

- Fish “off the boat:” exempt from tax when sold by producer [G.S 105-164.13(7)].

### **Farm-Raised Fish**

- Live: exempt from tax when sold by producer [G.S 105-164.13(4b)].
- Whole on ice or frozen (uncooked): exempt from tax when sold by producer [G.S 105-164.13(4b)] or subject to the 2 percent rate on food when sold by a retail merchant.
- Processed (uncooked): subject to the 2 percent rate on food when sold by a producer or retail merchant.

### **Crawfish**

- Live: exempt from tax when sold by producer [G.S 105-164.13(4b)].
- Cooked: subject to general state rate and applicable local sales tax when cooked or smoked by a producer or retail merchant.

### **Shrimp/Prawns/Crab/Lobster**

- Live: exempt from tax when sold by producer [G.S 105-164.13(7)] or subject to 2 percent rate on food when sold by retail merchant.
- Fresh from the boat: exempt from tax when sold by producer [G.S 105-164.13(7)] or subject to 2 percent rate on food when sold by a retail merchant.
- Frozen (uncooked): exempt from tax when sold by producer [G.S 105-164.13(7)] or subject to 2 percent rate on food when sold by a retail merchant.
- Frozen with heads removed (uncooked): subject to the 2 percent rate on food when sold by the producer or a retail merchant.

# NCDOR Communication

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- Cooked: subject to general state rate and applicable local sales tax when cooked or smoked by a producer or retail merchant.

## **Farm Raised Clams/Oysters**

- Live or Fresh (uncooked): exempt from tax when sold by producer [G.S 105-164.13(4b)] or subject to 2 percent rate on food when sold by retail merchant.

## **Fruits/Vegetables**

Raw vegetables sold by a producer are exempt [G.S. 105-164.13(4b)]. Raw vegetables (including mixed vegetables) that are cut up and placed in bags to be sold are also exempt. If the producer adds anything to the vegetables such as seasoning, the vegetables are no longer exempt and are subject to the 2 percent rate on food. Raw vegetables in any scenario as described above sold by a retail merchant are taxable at the 2 percent rate on food.

### **Examples**

- Farmer selling fruits or vegetables grown on his/her farm, regardless of where the sales take place (sold from the farm, at a farmer's market, etc.): exempt from tax because they are sold by the producer [G.S 105-164.13(4b)].
- Farmer selling a combination of fruits or vegetables grown on his/her farm and another farmer's fruits or vegetables which were bought to be resold: those fruits or vegetables that are produced by the farmer are exempt from tax; however, those fruits or vegetables bought for resale are subject to 2 percent rate on food.

Note this difference: this means the farmer would have to sell his or her own fruits and vegetables without charging sales tax, but would have to charge sales tax on the fruits and vegetables grown by another farmer.

## **Processed Food Products (pickles, salsas, chutneys, jellies, jams, cakes etc.)**

Jams, jellies, relishes, sauces, cakes, pies, and other similar items made and sold by farmers or any other preparers are subject to the general rate of state tax and any applicable local sales tax. This is based on the definition of prepared food as defined in G.S. 105-164.3(28). It does not matter if the farmer or preparer uses ingredients they grow themselves.

Note this difference: these same items purchased by retail merchants and resold are subject to the 2 percent rate on food.

# NCDOR Communication

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## Winery

- Wine: subject to general state rate and applicable local sales tax when sold by a producer or retail merchant.
- Gift shop sales: subject to general state rate and applicable local sales tax unless the item is exempt.

## Eggs

- Eggs: exempt from tax when sold by producer [G.S 105-164.13(4b)].

Note this difference: eggs are subject to the 2 percent rate on food when sold by a retail merchant.

## Milk

- Sales of pasteurized milk from the dairy farm: exempt from tax when sold by producer [G.S 105-164.13(4b)].

Note this difference: sales of milk are subject to the 2 percent rate on food when sold by a retail merchant.

- Sales of butter or cheese made from milk from the farm: subject to the 2 percent rate on food when sold by a producer or retail merchant.

## Non-Food Farm Products

- Nursery Plants: exempt from tax when sold by producer [G.S 105-164.13(4b)]. In order to qualify for the exemption the producer must keep the plant for at least one growing season. A growing season differs depending on the type of plant being sold. Nursery plants sold by a retail merchant are subject to the general rate of state tax and any applicable local sales tax.
- Cotton: exempt from tax when sold by producer [G.S 105-164.13(4b)]. Subject to general state rate and applicable local sales tax when sold by a retail merchant.
- Tobacco: exempt from tax when sold by producer [G.S 105-164.13(4b)]. Subject to general state rate and applicable local sales tax when sold by a retail merchant.
- Loose Cut Flowers: exempt from tax when sold by producer [G.S 105-164.13(4b)]. Subject to general state rate and applicable local sales tax when sold

# NCDOR Communication

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by a retail merchant. The flowers may be wrapped in tissue or similar covering and not affect the taxability of the flowers.

If the producer creates a flower arrangement, the flowers are no longer in their original state and the arrangement is subject to the general rate of state tax and any applicable local sales tax.

Any flowers sold loose or as part of an arrangement sold by a retail merchant are subject to the general rate of state tax and any applicable local sales tax.

## Understanding Wholesale And Retail Sales

Any of the previously mentioned agricultural sales that are subject to sales taxes may be exempt if the sales are wholesale and the seller has the proper documentation. To qualify for this exemption, the seller must have a fully completed [E-595E Streamlined Sales and Use Tax Agreement Certificate of Exemption](#) on file from the buyer that reflects a sale for resale.

For example, if a farmer raises hogs and sells ham and sausage from those hogs to a grocery store, those sales would be exempt from the 2 percent tax on food as long as the farmer has a fully completed [E-595E](#) from the grocery store.

## Questions, Or To Get More Information

Please call the Taxpayer Assistance and Collections Center at 1-877-252-3052 if you have any questions about this issue.