

§ 105-164.4D. Bundled transactions.

(a) Tax Application. – Tax applies to the sales price of a bundled transaction unless one of the following applies:

- (1) Fifty percent (50%) test. – All of the items in the bundle are tangible personal property, the bundle includes one or more of the exempt items listed in this subdivision, and the price of the taxable items in the bundle does not exceed fifty percent (50%) of the price of the bundle:
 - a. Food exempt under G.S. 105-164.13B.
 - b. A drug exempt under G.S. 105-164.13(13).
 - c. Medical devices, equipment, or supplies exempt under G.S. 105-164.13(12).
- (2) Allocation. – The bundle includes a service, and the retailer determines an allocated price for each item in the bundle based on a reasonable allocation of revenue that is supported by the retailer's business records kept in the ordinary course of business. In this circumstance, tax applies to the allocated price of each taxable item in the bundle.
- (3) Ten percent (10%) test. – The price of the taxable items in the bundle does not exceed ten percent (10%) of the price of the bundle, and no other subdivision in this subsection applies.
- (4) Prepaid meal plan. – The bundle includes a prepaid meal plan and a dollar value that declines with use. In this circumstance, tax applies to the allocated price of the prepaid meal plan. The tax applies to items purchased with the dollar value that declines with use as the dollar value is presented for payment.
- (5) Tuition, room, and meals. – The bundle includes tuition, room, and meals offered by an institution of higher education. In this circumstance, tax applies to the allocated price of the meals. The institution determines the allocated price for meals based on a reasonable allocation of revenue that is supported by the institution's business records kept in the ordinary course of business.
- (6) Repealed by Session Laws 2017-204, s. 2.5(a). For effective date and applicability, see editor's note.

(b) Determining Threshold. – A retailer of a bundled transaction subject to this section may use either the retailer's purchase price or the retailer's sales price to determine if the transaction meets the fifty percent (50%) test or the ten percent (10%) test set out in subdivisions (a)(1) and (a)(3) of this section. A retailer may not use a combination of purchase price and sales price to make this determination. If a bundled transaction subject to subdivision (a)(3) of this section includes a service contract, the retailer must use the full term of the contract in determining whether the transaction meets the threshold set in the subdivision. (2006-151, ss. 4, 5; 2007-244, s. 2; 2014-3, s. 4.1(d); 2016-5, s. 3.7(a); 2016-94, s. 38.5(f); 2017-204, s. 2.5(a); 2019-169, s. 3.3(b).)