

17 NCAC 07B .4410 ASSIGNMENT OF LEASE

(a) Assignment of a Lease Contract and Creation of a Security Interest in the Leased Property. Where upon a recourse basis a lessor assigns a lease contract and gives a security interest in the leased property which is designated as such but retains title to such property, the lessor remains liable for collecting and remitting tax on the lease receipts notwithstanding that the lessor does not receive rental payments directly from the lessee. However, if the assignee enforces the security agreement and acquires title to the leased property, he becomes the lessor of such property and liable for collecting and remitting tax on the receipts from its lease or rental.

(b) Assignment of a Lease Contract Together With its Right, Title and Interest in the Leased Property For Security Purposes. Where for security purposes and upon a recourse basis, a lessor assigns a lease contract together with its right, title and interest in the leased property, but the property will revert to the lessor at the expiration of the lease, the lessor remains liable for the collecting and remitting tax on the lease receipts notwithstanding that the lessor does not receive rental payments directly from the lessee.

(c) Assignment of a Lease Contract and All Right, Title and Interest in the Leased Property. When a lessor assigns a lease contract together with all right, title and interest in the leased property, the assignment is not for security purposes and the assignor does not retain any ownership rights in the contract or the property. The assignee has no recourse against the assignor. The assignee must be registered for sales and use tax purposes with this state and is liable to collect and remit the tax on the remaining lease receipts. The assignor shall obtain a valid certificate of resale from the assignee bearing the assignee's North Carolina sales and use tax registration number.

*History Note: Authority G.S. 105-164.4; 105-262;
Eff. February 1, 1976;
Amended Eff. October 1, 1993; February 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.*