



Sales Tax Newsletter

News and developments

A publication of the Tax Administration Division

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Tax Commissioner

RATE CHANGE ON COAL AND NATURAL GAS EFFECTIVE JANUARY 1, 2008

The following sales and use tax rate changes will become effective January 1, 2008:

- Sales of coal used for heating purposes will be exempt from tax.
- The rate of tax on natural gas will be reduced from 2 percent to 1 percent.

The exemption and reduced rate were approved by the North Dakota Legislative assembly during the 2007 session as part of House Bill 1049. The bill will also exempt natural gas from sales and use taxes effective July 1, 2009.

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NEW OR AMENDED LOCAL TAXES

The Office of State Tax Commissioner administers all local sales, use and gross receipts taxes imposed in North Dakota. The following changes will become effective January 1, 2008. All transactions within the city limits of these cities subject to North Dakota sales, use and gross receipts taxes will also be subject to the city's sales, use and gross receipts tax except as noted below.

The city of **Richardton**, which originally imposed a sales tax in 1997, added a city use tax and increased the local tax rate from 1 to 2 percent. In addition, the ordinance increased the maximum tax (refund cap) from \$25.00 per transaction to \$100.00 per transaction and removed the exemption for new farm machinery. All other provisions of the ordinance remain the same effective January 1, 2008.

Imposition of the use tax requires retailers located outside the city limits of Richardton to collect Richardton local taxes on taxable items delivered into the city limits. In addition, individuals and companies that bring goods into Richardton for storage, use, or consumption will be required to remit Richardton's use tax to the Tax Commissioner if local tax has not already been paid.

The city of **New England** has increased its local sales, use and gross receipts tax from 1 to 2 percent. The ordinance also increased the maximum tax (refund cap) from \$25.00 per transaction to \$100.00 per transaction. All other provisions of the ordinance remain the same effective January 1, 2008.

Maximum tax refund caps allow purchasers to obtain a refund of local tax paid to the retailer in excess of the cap amount. When retailers collect the entire local tax on the selling price and the local tax exceeds the refund cap, purchasers may apply to the Tax Commissioner for the refund or credit of the excess amount. Retailers elect to collect the total tax amount or collect up to the cap amount, but must be consistent in the method they choose.



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NEW CITY LODGING AND RESTAURANT TAX

The city of **Wahpeton** has imposed a 1 percent city lodging and restaurant tax on lodging effective January 1, 2008. Prepared food and alcoholic beverages are not subject to the new tax.

For a complete listing of all local taxes imposed in North Dakota see our *Local Option Taxes by Location* guideline. The guideline is available on our web site or by mail upon request. 

SALES TO MONTANA RESIDENTS

Under certain conditions, residents of Montana are exempt from paying North Dakota sales tax on purchases of goods that are permanently removed from North Dakota. The Tax Commissioner's Office recently determined that a Montana "resident" eligible for exemption is limited to an individual. The exemption is not available to corporations, partnerships, and limited liability companies. Only individuals that qualify as residents of Montana for income tax purposes are eligible for the sales tax exemption as a Montana resident. Based on this revised interpretation of resident, retailers may not accept a *Certificate of Purchase* exemption certificate from anyone other than an individual beginning January 1, 2008.

Sales to Montana residents qualify for a sales tax exemption under the following conditions:

- The purchase is made (and paid for) by an individual who is a resident of Montana.
- The individual is in North Dakota for the express purpose of making a purchase and not as a tourist. Individuals do not qualify for exemption while in North Dakota to work or as a student.
- The purchase, excluding tax, is \$50 or more.
- The goods are permanently removed from North Dakota for use. Purchases of prepared food, on-sale alcoholic beverages, and lodging do not qualify for exemption.
- The individual making the purchase must sign a *Certificate of Purchase* form certifying he or she is a resident of Montana and that he or she is in North Dakota to make a purchase. All of the requested information on the certificate must be complete and retailers must retain the signed certificates on file to document all Montana exemptions claimed.

An updated version of the *Certificate of Purchase* form is provided on page 4 of this newsletter. Please make copies of this form as needed. Revised forms are also available on our website or by mail upon request. Please discard any unused certificate forms you may have on file. Retailers should verify Montana residency by examining the purchaser's Montana driver's license or other state issued identification card. 

FILING REQUIREMENTS FOR STREAMLINED SALES TAX REGISTRANTS

Retailers that have voluntarily registered through the Streamlined Sales Tax (SST) central registration system to collect member states' sales and use taxes have a unique set of return filing requirements. SST registrants that have voluntarily registered to collect tax in North Dakota and that have not contracted with a Certified Service Provider, must file an annual sales tax return at the end of each calendar year and each time they have collected \$1,000 of state and local tax. The annual return for the period ending December 31 includes the time period since the last return was filed.

Voluntary SST registrants that have not contracted with a Certified Service Provider must file the December 31, 2007 sales tax return even if no sales were made in North Dakota or if no tax was collected during the reporting period. All retailers registered to file by WebFile will receive an e-mail reminder about the return due date. All other retailers will receive the North Dakota sales and use tax return in the mail. The due date of the return is January 31, 2008. 

Under certain conditions, residents of Montana are exempt from paying North Dakota sales tax on purchases of goods that are permanently removed from North Dakota.

SALE OF MEALS TO EMPLOYEES

The gross receipts from sales of prepared food by employers to employees are subject to sales tax. Employers are liable to collect sales tax on taxable food sales whether or not the employer's main business activity is the sale of prepared food.

Prepared food is defined as 1) food sold in a heated state or heated by the seller, 2) two or more food ingredients mixed or combined by the seller for sale as a single item, or 3) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cuts, napkins or straws. 

PURCHASES OVER THE INTERNET ARE SUBJECT TO TAX

Businesses and individuals that purchase goods for storage, use, or consumption in North Dakota are subject to sales or use tax. Out-of-state retailers that have a physical presence in North Dakota must collect sales or use tax on goods delivered into the state unless there is a specific exemption in the sales and use tax laws that applies to the purchaser or the product. Examples of a physical presence within the state are retail locations; employees, agents or delivery vehicles entering into the state; or contractors working within North Dakota on behalf of the retailer.

When a retailer does not collect sales tax from the purchaser, the purchaser is responsible to pay use tax on the purchase price of the goods. The purchaser is liable for use tax regardless of the medium on which the transaction occurred. Purchases made by mail, phone, Internet, or by any other method are all subject to use tax if the retailer did not collect the applicable state and local tax at the time of sale.

Use tax is also due from a purchaser that obtains goods in a location and transports the goods to another location for storage, use, or consumption where the rate is higher than where purchased. In this situation, use tax due is the difference between the rate of tax paid to the seller and the rate of tax imposed at the point of storage, use, or consumption.

For example, Purchaser A buys goods for \$1,000 in a state where the sales tax rate is 4 percent. Purchaser A pays \$40 of sales tax to the retailer where the purchase is made. Purchaser A then transports the goods to Bismarck, which has a combined tax rate of 6 percent (5% North Dakota and 1% Bismarck). Purchaser A will owe 2 percent use tax totaling \$20 on the goods brought into Bismarck (1% North Dakota and 1% Bismarck). Purchaser A is required under the use tax law to report the purchase and remit the tax due to the Tax Commissioner. Purchasers that hold a sales tax permit will report the purchase on the "Items Subject to Use Tax" line of the North Dakota sales and use tax return. The local tax due is reported in the "Local Option Sales, Use & Gross Receipts Taxes" section of the return. 

TAXPAYER ASSISTANCE

If you have questions regarding sales tax or about correspondence received from our office, the following information will be helpful in ensuring that your call or visit to our office is completed in a speedy and efficient manner:

- For Streamlined Sales and Use Tax information and updates on our web site www.nd.gov/tax, click on **Sales and Use**, then click on **Streamlined Sales & Use** on the drop down list. The information includes up-to-date rate and boundary tables.
- If you have general sales tax questions, please call our Sales and Withholding Tax Compliance Section at 701.328.3470.
- If calling our office about correspondence you have received, please call the number that is listed on the correspondence, and have a copy of the correspondence available when you call.
- When calling our office, please note the name of the person assisting with your question in the event you will have any follow-up questions later.
- Instead of calling or visiting our office, you may also e-mail us at salestax@nd.gov. 

Business and individuals that purchase goods for storage, use, or consumption in North Dakota are subject to sales or use tax.



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