



# Guideline

## Sales Tax Exempt Organizations

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### Exempt Organizations

The Office of State Tax Commissioner issues sales tax exemption certificates, containing exemption numbers, to organizations which are exempt from the payment of North Dakota sales tax. Retailers making sales to exempt organizations should request a copy of the exemption certificate, and retain the copy in the retailer's files to support the exempt sales.

Exempt organizations may include governmental units, schools, nursing homes, hospitals, intermediate and basic care facilities, and voluntary health associations.

#### 1. Government Units

Sales, rentals, and/or leases of tangible personal property to the United States government, state government, its departments and institutions, and political subdivisions are exempt from sales tax.

Contractors performing a contract for the United States government, state government, its departments and institutions, or political subdivisions in North Dakota are *not exempt* from payment of sales or use tax on materials and supplies used or consumed in carrying out such contracts. In these cases, the contractor is required to file returns and pay sales and use tax just as required for contracts with private parties.

#### 3. Native American Tribal Governments

Gross receipts from all sales otherwise taxable to an Indian tribe are exempt from sales tax. An Indian tribe means a tribal government agency, instrumentality, or political subdivision that performs essential government functions.

#### 3. Schools

Public Schools are considered instrumentalities of state government and as such are entirely exempt from North Dakota sales and use tax on all purchases made by them. For sales to public schools to be exempt, the sales must be paid by a school district check or warrant.

Private or parochial schools are exempt from sales tax when purchasing items to be used exclusively in the operation of their school. These items include textbooks, yearbooks, school supplies and items purchased by the school for use in classrooms, gymnasiums, athletic fields and offices. It also includes items such as office supplies, school equipment, school supplies furnished but not sold to students, utility services, janitorial supplies, building maintenance supplies, and ground maintenance supplies associated with the operation of the school.

#### 4. Nursing Homes, Hospitals, Intermediate/Basic Care, Assisted Living Facilities, Emergency Medical Services Provider and Voluntary Health Associations

Sales to nursing homes, hospitals, intermediate/basic care, assisted living facilities licensed by the North Dakota Health Department and emergency medical service providers licensed by the North Dakota Human Services are exempt from sales tax.

Sales to "voluntary health associations," which are recognized by the Internal Revenue Service, the National Health Council, the State Tax Commissioner, and the North Dakota Secretary of State as a nonprofit organization, are exempt from sales tax.

### Organizational Exemptions for Sales Activity

In addition to exemptions provided for certain goods and services, North Dakota sales tax law also provides that some otherwise taxable activities are exempt from tax when conducted by qualifying organizations. Pursuant to North Dakota Century Code § 57-39.2-04(4), the following are exempt from sales tax (1) the gross receipts from sales of tickets, or admissions to state, county, district, and local fairs, (2) the gross receipts from educational, religious, or charitable activities, *unless the activities are held in a publicly owned facility*, where the entire amount of net receipts is expended for educational, religious, or charitable purposes, (3) the gross receipts derived by any public school district if the receipts are expended in accordance with N.D.C.C. § 15-29-13.

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However, the law also states that these exemptions do not apply to regular retail sales that are in direct competition with retailers. "Regular retail sales" include all recurring, regularly scheduled, or ongoing retail sales made in the ordinary course of business other than those made on an isolated or occasional basis. "Direct competition" means activity wholly or substantially similar to existing sales, taxable goods, or services competing for the same customer market. As indicated, the exemption for sales by public schools and associated school groups applies only when the income is spent as provided by N.D.C.C. § 15-29-13 which requires extracurricular income to be deposited in a special fund. Expenditures from this fund may only be made by warrant checks signed by the president and clerk of the school board. Extracurricular sales income which is not administered by the school board is subject to tax, as is all sales activity which occurs outside the school in other publicly owned facilities as this is considered to be in direct competition with other retailers.

Under these provisions, nonprofit groups which operate ongoing businesses in direct competition with other retailers, such as thrift stores or restaurants, must always collect and remit sales tax regardless of the use of the net sales receipt. In addition, groups which operate on a more limited basis at craft shows, street fairs, county fairs, etc. are also subject to sales tax whenever these events occur in publicly owned facilities such as civic centers, public schools, government fairgrounds, state capital grounds, etc.

Pursuant to N.D.C.C. § 57-39.2-04(40), an exemption is provided for the gross receipts from sales of tickets or admissions to, or sales made at, an annual church supper or bazaar held in a publicly owned facility. For purposes of this subsection, annual means occurring not more than once in any calendar year.

Organizations which make regular retail sales must hold a North Dakota sales and use tax permit and collect and remit applicable tax on a regular basis. Organizations operating on a limited basis in publicly owned facilities need not hold a tax permit but should contact this office prior to making taxable sales and obtain a "one time remittance" tax return. This return should be filed and the tax paid within 15 days of the organization's taxable activity.

## Organizational Exemptions for Purchase Activity

North Dakota sales and use tax law does not exempt purchases made by nonprofit organizations. Instead, the law details specific organizations which are exempt from sales and use tax. Examples of taxable and nontaxable organizations are shown below:

### Nontaxable

Federal, state, and local government units  
 Schools (public and private)  
 Hospitals, nursing homes, intermediate/basic care facilities licensed by Dept. of Health  
 Nonprofit voluntary health groups (recognized by National Health Council)  
 State and local fairs  
 Nonprofit meal delivery groups, but only on items which pass to the final consumer of the meal, including containers, packages, and wrapper.

### Taxable

Churches and church groups  
 Service clubs  
 Social clubs  
 Veterans groups  
 Trusts  
 Recreation groups  
 Youth groups  
 Labor organizations  
 Fraternities and sororities  
 Professional associations  
 Private, for profit schools

Note: Sales to nonprofit charitable, educational, and religious organizations are generally not exempt from sales tax on purchases of tangible personal property. Many nonprofit organizations may be exempt from federal and state income taxes, however, this exemption does not include an exemption from sales tax.

## Exemption Certificate Registration and Use

Those groups that are exempt from North Dakota sales and use tax should contact the Office of State Tax Commissioner to obtain an "Exemption Certificate." This certificate should be presented to the supplier when a retail purchase is made and serves to exempt the purchase from sales tax. Only groups possessing this certificate may buy goods without the imposition of sales or use tax. In the absence of this certificate, the retailer is obligated to charge sales tax. Exemption certificates are available upon application to the Office of State Tax Commissioner.