



STATE OF NORTH DAKOTA  
**OFFICE OF STATE TAX COMMISSIONER**  
Cory Fong, Commissioner

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## Memorandum

**To:** Manufactured Home Dealers  
**From:** Sales and Special Taxes Compliance Section  
**Date:** June 6, 2013  
**Subject:** Application of Sales Tax to Manufactured Homes Sold with Installation

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Senate Bill 2090, which was approved by the 2013 North Dakota Legislative Assembly, modifies the way sales tax applies to the sale of manufactured homes that are sold with installation as part of the sale.

The following three primary changes were made in the sales tax law regarding manufactured homes effective July 1, 2013:

1. All references to “mobile” home in the sales and use tax statutes were changed to “manufactured” home, which is a more customary term in the housing industry today.
2. “Installation” of a manufactured home is defined as any method established under North Dakota Century Code § 54-21.3-08, which is the manufactured home installation program administered by the Community Services Division of the Commerce Department. The program has adopted federal installation standards developed by the Department of Housing and Urban Development.
3. Manufactured homes sold with installation (whether installed by the seller or installed by the seller’s subcontractor) as defined above are construction contracts rather than retail sales. The dealer selling a home with installation is required to pay sales or use tax on its cost of the home. The dealer will not collect sales tax on the selling price of the home, but will instead recover the expense of the tax paid by incorporating it into the total contract price of the sale.

North Dakota Century Code § 41-09-02 defines manufactured home for sales and use tax purposes. A manufactured home is defined as follows:

...a structure, transportable in one or more sections, that in the traveling mode, is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-condition, and electrical systems contained therein...

Effective July 1, 2013, all manufactured homes sold with installation will be treated as a construction contract and will not be a retail sale of tangible personal property. As a result, dealers that sell manufactured homes with installation will be the final user of the manufactured home and will be required to pay sales or use tax on its purchase price of the home. The taxable purchase price includes delivery costs and any other fees charged by the manufacturer or other supplier to the dealer. The manufactured home dealer may not charge the customer sales tax on the selling price of the home by itemizing a separate line item for sales tax on the sales invoice. The sales or use tax paid by the dealer is a cost of doing business and may be recovered by increasing the selling price of the manufactured home. Because the dealer will pay tax on its cost and build the tax into the total selling price rather than charging sales tax on the full selling price of the manufactured home, the overall cost to the customer will be lower.

If a dealer sells a manufactured home without installation, the transaction is a retail sale and the dealer must collect sales tax from the purchaser on the full selling price of the home. The selling price includes delivery charges the dealer invoices to the customer.

In many cases, a dealer will not know if the manufactured homes it is purchasing for resale will be sold with or without installation, so dealers may choose to purchase all homes for resale by issuing a properly completed resale certificate or contractor's certificate to the manufacturer or other supplier. If purchased tax free, the dealer will self-accrue and pay use tax on homes sold to consumers with installation. If a dealer knows it will be selling a home with installation, the dealer may elect to pay the tax to its supplier if the supplier is registered to collect North Dakota sales and use taxes.

All sales of manufactured homes (installed or not installed) should be reported on line 1 "Total Sales" of the North Dakota sales and use tax return. Manufactured homes sold with installation should be reported on line 2, "Nontaxable Sales." When a dealer must pay tax on its purchase price of a manufactured home, the taxable purchase price should be reported on line 3, "Items Subject to Use Tax."

When a dealer sells a home with installation in North Dakota, the point of taxation is where the dealer takes possession of the manufactured home. If the dealer takes possession in a city or county that imposes local tax on manufactured homes, local use tax may also be due on the purchase price of the manufactured home. If the manufactured home is subsequently installed at a location other than where the dealer took possession and a higher rate of local tax applies at the installation location, additional use tax may be due to the jurisdiction where the home was installed. Special rules apply to the application of local sales and use taxes. See the *Local Option Taxes by Location* guideline for the correct application and rate of local sales and use taxes.

Whenever a dealer sells a manufactured home and delivers it outside of North Dakota, the point of taxation is at the out-of-state delivery point and no North Dakota tax will be due. Tax will be applied to the sale according to the other state's sales and use tax laws.

### **Example Transactions**

The following examples demonstrate the correct application of sales or use tax on manufactured home transactions.

**Example 1:** Dealer A purchases a manufactured home from Manufacturer M, who delivers the home to Dealer A's business in City X, ND. Dealer A purchased the home for resale without payment of tax and pays manufacturer M \$62,000 plus \$3,000 for delivery. Dealer A sells the home to Joe Buyer for \$90,000 and the sales contract with Joe Buyer requires Dealer A to install the manufactured home at a lot leased by Joe in City Y. Because Dealer A has sold the home with installation, Dealer A must report and pay \$1,950 [3% X (\$62,000 + \$3,000)] of North Dakota use tax on Dealer A's sales and use tax return. No sales tax is charged to Joe Buyer.

Assume the local tax in City X is 1 percent with a maximum tax of \$25 and the local tax in City Y is 1½ percent with a maximum tax of \$37.50. Dealer A would also owe \$25 of local use tax to City X and an additional use tax of \$12.50 to City Y.

**Example 2:** Assume the same facts as Example 1 except Joe Buyer requires Dealer A to deliver and install the manufactured home in City Z, Minnesota. No North Dakota sales or use tax is due on this transaction. The sale is subject to Minnesota sales or use tax laws.

**Example 3:** Assume the same facts as Example 1 except the selling price is \$80,000 and the contract with Joe Buyer requires Dealer A to deliver to City Y but does not include installation. Because the transaction does not include installation, this is a retail sale of tangible personal property and Dealer A must itemize tax on the sales invoice and collect state sales tax of \$2,400 (\$80,000 X 3%) and City Y tax of \$37.50 from Joe Buyer.

If you have any questions regarding the application of sales or use tax on sales of manufactured homes, please contact the sales tax compliance section at 701.328.1246 or email [salestax@nd.gov](mailto:salestax@nd.gov) for additional information.