



# Sales Tax Newsletter

News and developments

A publication of the Tax Administration Division

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Tax Commissioner

## SALES TAX NEWSLETTER EXCLUSIVELY ELECTRONIC

Future editions of the North Dakota *Sales Tax Newsletter* will be distributed exclusively in an electronic format. Those of you that file sales and use tax returns electronically with our WebFile system are already receiving electronic versions of the newsletter.

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To view our newsletters, just check our web site, or sign up for our on-line newsletter subscription service, which automatically notifies you each time a new edition is posted. You will find more than ten years of past newsletters posted to our web site and available for viewing at any time.

Newsletters regarding sales tax and other taxes administered by the Tax Commissioner are available through a free subscription service on the Commissioner’s web site. To register, go to [www.nd.gov/tax](http://www.nd.gov/tax) and select **Newsletter Subscription** near the top of the page on the blue bar. Then, just provide your e-mail address and select which newsletters you would like to receive. You will receive an e-mail to announce each time a new edition is available for review. We hope you will take advantage of this service and, more importantly, we hope you continue to read our sales tax newsletter to keep up to date on changes in the sales and use tax laws.

Although our newsletter will be in a different format for many of you, the publication will continue on the same quarterly schedule and will contain the same type of information as it has in the past. For those of you that rely on the sales tax newsletter to keep up to date on local option tax changes, you will find notice of all local tax changes posted on our web site at least sixty days before the change becomes effective. To view local tax changes, go to our web site and select **Sales and Use > Streamlined Sales & Use**. Rate changes and city boundary changes are both identified under the “Sales and Use Tax Information” heading. 

## NEW OR AMENDED LOCAL TAXES EFFECTIVE APRIL 1, 2012

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 April 1, 2012.

The city of **Forman** has increased its local sales, use and gross receipts tax from 1 to 1½ percent. No other changes were made to the ordinance.

The city of **Kindred** has imposed a city sales, use and gross receipts tax of 1½ percent. The local tax will be reported as local code 230 on *Schedule ST Local*, the local option schedule of the sales and use tax return. The city ordinance provides for a \$50 maximum tax amount (refund cap), but does not provide for retailer compensation.



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*The maximum tax amount (refund caps) allows purchasers to obtain a refund of the local tax paid to the retailer in excess of the cap amount.*

The city of **Wahpeton** has changed its local tax retailer compensation. The compensation rate remains at 3 percent of the tax due, but the compensation will be limited to \$37.50 for a monthly return or \$112.50 for a quarterly return. No other changes were made to the ordinance.

The city of **Williston** has increased its local sales, use and gross receipts tax from 1 to 2 percent. The maximum tax amount (refund cap) will remain at \$25.00 per transaction.

The maximum tax amount (refund caps) allows purchasers to obtain a refund of the 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 a refund of the excess amount. Retailers may elect to collect the total tax amount or collect up to the cap amount, but must be consistent in the method they choose.

For a complete listing of all local taxes imposed in North Dakota, see our *Local Option Taxes by Location* guideline available on our web site. 

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## **FARGO LOCAL TAX TO CHANGE EFFECTIVE JULY 1, 2012**

Effective **July 1, 2012**, the Fargo local sales tax rate will decrease from 2 percent to 1½ percent. In addition, the maximum tax amount (refund cap) will decrease from \$50 to \$37.50 per transaction. All remaining provisions of the local tax will remain the same. The decline in rate results from the expiration of an existing tax ordinance approved in 2009 by the Fargo electorate. 

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## **SPRING 2012 SALES TAX SEMINARS**

The Tax Commissioner's Office has scheduled two sales tax seminars for this spring with the Revenue Departments in Minnesota and South Dakota. The seminars will focus on the similarities and differences in each state's sales and use tax laws. There is no charge for the seminar, but please register if you plan to attend because space is limited and the sessions normally fill to capacity.

### **Minnesota/North Dakota Border Workshop, April 25, 2012**

- Registration begins at 8:30 a.m.
- Sales tax workshop 9:00 a.m. – 12:30 p.m.
- Located in the lower level meeting room of West Acres Shopping Mall, Fargo, ND
- To register, call the Minnesota Department of Revenue at 651.297.4213 or the North Dakota Tax Commissioner's Office at 701.328.3475

### **South Dakota/North Dakota Border Workshop, April 26, 2012**

- Registration begins at 8:30 a.m.
- Sales tax workshop 9:00 a.m. – 12:00 p.m.
- Contractor's Workshop 1:00 p.m. – 3:00 p.m.
- Located at the Lake Area Technical Institute, Watertown, SD
- To register, go to [www.state.sd.us/revenue](http://www.state.sd.us/revenue), call the South Dakota Department of Revenue at 800.829.9188, or call the North Dakota Tax Commissioner's Office at 701.328.3475. 

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## **COIN OPERATED AMUSEMENT EXEMPTION**

Effective July 1, 2012, the gross receipts from coin-operated amusement machines will no longer be subject to state or local sales taxes. Under current sales tax law, eighty percent of the gross receipts from coin-operated amusement machines are subject to state and applicable local sales taxes. However, the state legislature approved Senate Bill 2172 during the 2011 legislative session to repeal all sales taxes on coin-operated amusement for sales made after June 30, 2012.

Coin-operated amusement machine operators will need to remove all coins from amusement machines at the end of business on June 30, 2012 to properly account for June gross receipts. Amusement machine operators that continue to make other taxable sales in North Dakota or that may have a use tax responsibility on purchases of untaxed machines or supplies will continue to need an active North Dakota sales and use tax permit. All active sales and use tax permit holders must file regularly scheduled sales tax returns even if they do not have taxable sales to report.

Senate Bill 2172 does not impact sales of tangible personal property made through vending machines. All gross receipts from sales of tangible personal property through vending machines remain subject to sales tax.

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## PLEASE USE CORRECT RETURN FORMAT

The North Dakota Legislature approved retailer compensation for all sales and use tax permit holders for periods beginning January 1, 2012 and later. As a result, we revised our sales and use tax return format slightly to calculate the compensation.

Please verify you are using the correct return format when you file current or amended sales tax returns. If you file electronically by WebFile or if you use the original preprinted forms supplied by our office, you will receive the correct format. However, if you are completing a fill-in form from our web site, please take a minute to verify you are using the correct form. Two fill-in forms are posted to our web site: one for periods through 2011 and a second for periods beginning on or after January 1, 2012.

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## 1099 FORMS REQUIRED TO BE FILED

Don't forget that if you issued a 1099 for the 2011 tax year, in addition to sending a copy to the IRS, you may be required to send a copy to the North Dakota Office of State Tax Commissioner.

North Dakota requires individuals and businesses that reside, own property, or carry on a trade or business in North Dakota to report certain payments if they are required to report those payments to the IRS. Those reportable payments include the following:

- Rents, royalties, crop insurance proceeds, taxable prizes and awards given to nonemployees, and payments for services performed by a nonemployee. (Form 1099-MISC)
- Gambling winnings. (Form W2-G)
- Unemployment benefits, taxable grants, and agricultural payments. (Form 1099-G)
- Proceeds from real estate transactions. (Form 1099-S)
- Proceeds from broker and barter exchange transactions. (Form 1099-B)

These forms are to be sent to the North Dakota Office of State Tax Commissioner at 600 East Boulevard Avenue, Department 127, Bismarck, ND 58505-0599. For additional information, please see the **Information Returns Guideline** on our web site at [www.nd.gov/tax](http://www.nd.gov/tax). If you have questions specific to the reporting of payments on 1099s, you may contact our office by email at [withhold@nd.gov](mailto:withhold@nd.gov) or by phone at (701) 328-1248.

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## SNOWMOBILE AND LOW-SPEED VEHICLES

Our office has been receiving questions regarding taxation of low-speed vehicles and snowmobiles. Sales of low-speed vehicles and snowmobiles are subject to titling, registration, and 5 percent motor vehicle excise tax. There is an exemption to the registration requirements for snowmobiles operated only on private lands owned or leased by the snowmobile owner. For low-speed vehicles, there is an exemption for those operated exclusively on private lands or used exclusively in organized racing events.

*All active sales and use tax permit holders must file regularly scheduled sales tax returns even if they do not have taxable sales to report.*

*Snowmobiles and low-speed vehicles generally do not qualify for the 3 percent agricultural rate.*

Snowmobiles and low-speed vehicles sold for use on private lands as indicated above are subject to 5 percent state sales tax and any applicable local sales taxes. As a result, these vehicles will be subject to either 5 percent motor vehicle excise tax or 5 percent state plus local sales tax. Snowmobiles and low-speed vehicles generally do not qualify for the 3 percent agricultural rate. Please inform customers that tax is due on these sales even if used on their own land.

If motor vehicle excise tax or sales tax is not collected from the purchaser of a low-speed vehicle or snowmobile, the dealer must enter the sale information on the Snowmobile/Off-highway Vehicle Sales Summary found on the Office of State Tax Commissioner's web site at [www.nd.gov/tax/salesanduse/forms/](http://www.nd.gov/tax/salesanduse/forms/). The summary is to be sent to the Tax Commissioner when the dealer's sales and use tax return is submitted for each period. 

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## CHEMICALS USED IN AGRICULTURAL PRODUCTION

It is spring time again in North Dakota and soon farmers will be in planting season. Please remember that House Bill 1424 approved during the 2011 legislative session created a sales tax exemption for agrichemical tank cleaners and foam markers used in agricultural production. Although most farm chemicals were already exempt, these two products were taxable until HB1424 became effective April 27, 2011.

Commercial fertilizer, herbicides, fungicides, insecticides, and fumigants are all exempt from sales tax when sold to a commercial applicator, farmer, or rancher and the product is used in commercial production of agricultural crops or vegetables or used to protect agricultural products in storage. In addition, adjuvants or additives required by the chemical label for application of a product warranty are exempt from sales tax. Purchases of fertilizer and other chemical products for home garden or lawn use are subject to tax.

For more information about exempt chemicals used in agricultural production, see our Feed, Seed, & Farm Chemicals guideline on the Tax Commissioner's website. 

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## 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 the most current information regarding new and amended local taxes and city boundary changes see our web site [www.nd.gov/tax](http://www.nd.gov/tax), click on Sales and Use, then click on Streamlined Sales and Use. Changes to local taxes and city boundary changes are posted at least sixty days before the change becomes effective.
- If you have general sales tax questions, please call our Sales and Special Taxes Compliance Section at 701.328.1246. Please note the name of the person assisting with your question in the event you have follow-up questions later.
- 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. 



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