



Sales Tax Newsletter

News and developments


A publication of the Sales and Special Tax Section

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Tax Commissioner

NECHE IMPOSES CITY SALES AND USE TAX

Effective January 1, 2004, the city of Neche will impose a 1 percent sales and use tax bringing the total number of local taxes in North Dakota to 100 cities and one county. The Office of State Tax Commissioner administers all local sales and use taxes within the state including the new Neche city tax. The Neche city tax will be reported on the local option tax schedule under location code 201.

All transactions exempt from North Dakota sales tax will also be exempt from the Neche city tax. In addition, Neche will exempt sales of natural gas and new farm machinery. The maximum amount of local tax that may be imposed on a single transaction is \$25. Each invoice is a transaction for purposes of the local tax maximum. The city ordinance does not provide for retailer compensation.

The Office of State Tax Commissioner has mailed additional information regarding the new tax to all retailers with a Neche address. For a complete listing of local taxes imposed in North Dakota, see the *Local Option Taxes By Location* guideline on our web site. The guideline is also available by mail upon request. 

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TAX AMNESTY DEADLINE IS JANUARY 31, 2004

The opportunity for North Dakota taxpayers to save money on taxes through the Tax Amnesty program will end Saturday, January 31, 2004.

The 2003 North Dakota Legislative Assembly passed, and Governor Hoeven signed into law, Senate Bill 2015 instructing the Office of State Tax Commissioner to offer a Tax Amnesty program. The program allows delinquent taxpayers and nonfilers a limited one-time opportunity to voluntarily file and pay overdue state taxes without legal action.

The Tax Amnesty program includes all state taxes and local option taxes administered by the Office of State Tax Commissioner. However, to participate in the Tax Amnesty program, you must apply prior to January 31, 2004.

For information on North Dakota's Tax Amnesty program, visit our Web site at www.ndtaxdepartment.com or call (701) 328-2770. 



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The GIS site has been developed as a convenient electronic resource for identifying local sales and use tax rates using a city or address lookup.

GEOGRAPHIC INFORMATION SYSTEM AVAILABLE

Have you experienced difficulty in determining if city sales tax will apply on a sales transaction? If your answer is yes, we would recommend that you check out the Geographic Information System (GIS) that is now available on the Department's Web site at www.ndtaxdepartment.com.

The GIS site has been developed as a convenient electronic resource for identifying local sales and use tax rates using a city or address lookup. To use the GIS site, you simply have to enter a particular city or an address to identify the applicable state and local sales rates that apply to that location.


To locate the GIS site on our Web site, click on **Sales and Use**, then click on **Local Tax Rate (GIS)**. If you have comments or suggestions about the GIS site, please e-mail us at salestax@state.nd.us. 

SALES TO MONTANA AND CANADIAN RESIDENTS

Montana Residents

Montana residents are exempt from state and local sales taxes provided (1) the Montana resident is in North Dakota specifically to make a purchase, (2) the property purchased will be taken outside of North Dakota immediately for use outside this state, (3) the sale includes \$50 or more of taxable goods, and (4) the Montana resident signs a Certificate of Purchase form for the seller. The *Certificate of Purchase* form can be obtained from the Department's web site at www.ndtaxdepartment.com.

Canadian Residents

Canadian residents are not exempt from state and local sales taxes on purchases occurring in North Dakota. However, Canadian residents may obtain a refund of sales taxes paid on goods they remove from North Dakota provided (1) the goods purchased are taken outside of North Dakota immediately for use outside this state, (2) each sale includes \$25 or more of taxable goods, and (3) the total refund request is for \$15 or more. The *Canadian Residents Request for Sales Tax Refund* form can be obtained from the Department's web site at www.ndtaxdepartment.com. 

STREAMLINED SALES TAX

During the 2003 Legislative Session, the Streamlined Sales Tax legislation passed that will provide the necessary changes to the North Dakota sales and use tax laws to allow North Dakota to enter into the Streamlined Sales Tax Agreement with other states. This agreement represents a combined effort of participating States and the business community to establish uniformity among the States' sales tax laws. The Agreement will remove the complexities experienced by businesses when dealing with different State's sales tax laws and will address concerns expressed by state and local governments regarding lost revenues from remote sales by mail order, telephone and the Internet.

The changes provided by the Streamlined Sales Tax legislation become effective January 1, 2006. 


FOOD AND FOOD SNACKS

Generally food and food products, including potato chips, pretzels, and nuts, sold for domestic home consumption are not subject to sales tax.

However, sales of snacks, lunches, or meals made by bars are always subject to sales tax, including the sales of potato chips, pretzels, nuts, hard boiled eggs, pizza, sandwiches, popcorn, and other similar snacks.


In addition, sales of food for immediate consumption by other businesses are subject to sales tax when the food is furnished or served at tables, or counters, or from trays, glasses, dishes, or where the retailer provides other eating utensils such as knives, forks, cups, napkins or straws with the meal. If potato chips, pretzels, or nuts are included as part of the advertised meal, the total charge for the meal is subject to sales tax.

Coin-Operated Vending Machines


The gross receipts from coin-operated vending machines are subject to sales tax. Receipts from cigarette vending machines are taxable, as are the receipts from soft drink vending machines, food snacks, candy, or gum vending machines or other machines that dispense merchandise. The only exception is for the vending machines which dispense products for 15 cents or less. 

...sales of food for immediate consumption by other businesses are subject to sales tax...

CIGARETTES

Sales of cigarettes and tobacco products are subject to North Dakota sales tax based on the full selling price. 

DONATIONS BY RETAILERS

A retailer donating tangible personal property to a nonprofit organization exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 502(c)(3)] is exempt from North Dakota use tax based on the value of the donation. 

EXEMPTION FOR MANUFACTURING MACHINERY

A sales tax exemption is available on machinery and equipment purchased by a new or expanding manufacturer located in North Dakota. In addition, agricultural commodity processors may also qualify for a sales tax exemption on building materials used to construct an agricultural commodity processing facility.


All exemptions on qualified manufacturing machinery, equipment, or building materials must be approved by the Office of State Tax Commissioner. No special application form is needed to request this sales tax exemption. However, all requests must be in writing and should contain the following information:

- Name, address, and sales tax permit number of the manufacturer.
- A statement that the manufacturer is new or expanding. If new, state the date manufacturing operation began. If the request is for an expansion, state how the

manufacturing operation is expanding. The sales tax law defines an expanding manufacturer as one that is increasing production volume, employment, or the type of products that can be manufactured.


- Identify the type of products produced at the facility.
- Name or description of the machinery and equipment, or (for ag processors only) building materials. For each item include: 1) name/description of machinery, equipment or building materials; 2) description of how the item is used in manufacturing process; and 3) cost of item (estimates are acceptable if the exact cost is unknown).

The Tax Commissioner's office will respond to the request in writing and state whether the machinery, equipment, or building materials qualify for the sales tax exemption. A copy of this letter should then be provided to the manufacturer's supplier to avoid paying tax at the time of purchase. It is important to note that only the manufacturer may be exempt on the payment of sales tax on qualifying machinery, equipment, and building materials. Contractors and vendors that supply and install machinery, equipment or building materials must pay tax on all the machinery, equipment, and materials installed. Installed means attached to real property by bolting, nailing, screwing, gluing, etc. The manufacturer may apply for a refund of the tax paid by the contractors and vendors installing or attaching machinery, equipment, or building materials to real property.

All requests for manufacturing exemptions or refunds of tax paid on exempt manufacturing machinery, equipment, or building materials should be directed to the Sales Tax Compliance Section. 

Taxpayer Assistance

If you have questions regarding sales tax or questions regarding 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:

- To call our office with general sales tax questions, you can call our Sales Tax Compliance Section at (701) 328-3470.
- If calling our office in regards to 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, 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@state.nd.us. 

This newsletter is available free of charge on our Web site at www.ndtaxdepartment.com or in hard copy. We offer an e-mail notification service to subscribers as soon as a new issue is placed on our Web site. To join the e-mail service, simply visit our Web site and click on "Newsletter Subscription" located in the top blue bar at the right side of our home page.



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