



# Sales Tax Newsletter

News and developments

A publication of the Sales and Special Taxes Division

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Tax Commissioner

## NEW LOCAL SALES, USE & GROSS RECEIPTS TAX

The city of **Gackle** has imposed a 1 percent local sales, use and gross receipts tax effective January 1, 2006. The local gross receipts taxes apply to the sale of alcoholic beverages, new farm machinery, and new irrigation equipment and are the equivalent of the state's gross receipts taxes. All sales within the city limits of Gackle that are subject to North Dakota's sales and use taxes, except for sales of natural gas, will also be subject to Gackle's sales and use taxes. No local tax will apply to sales of natural gas.

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The new city sales, use and gross receipts taxes will be reported on the local option schedule of the North Dakota sales and use tax return as local code 210. The city ordinance does not provide for retailer compensation. ☹

## REVISED SALES TAX RETURN

The Office of State Tax Commissioner is replacing its existing mainframe system with an updated computer system that will provide a more efficient system that will combine all tax types into an integrated system. The first tax type scheduled to use this new tax system will be sales and use tax, scheduled for completion in January 2006.

In conjunction with the development of this new tax system, we are also revising the sales and use tax return – Form ST. The most noticeable change is that the revised tax return will be shorter. We

will continue to provide detailed instructions with our Taxpayer Copy, which generally is provided with your tax return.

As an improvement, the revised tax return no longer requires you to itemize nontaxable or exempt sales. Instead, you will simply enter the total exempt sales on your return.

In regard to the reporting of local option taxes, no changes were made to the Local Option Taxes section, which will now be located on the front page of the tax return. As previously provided, should you have to report more than ten local taxes, you must continue to use the Schedule ST-Local in place of the Local Option Taxes section on the sales and use tax return.

**Please do not duplicate your local tax reporting in both places. Reporting local taxes on Form ST and on Schedule ST-Local will create an error and a notice of tax due to the reporting taxpayer.**



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The revised tax return should be available for use for use in reporting sales and purchases occurring after December 31, 2005. ●

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## **CITY TAX REFUNDS**

As a reminder, since October 1, 2005, city sales tax “caps” will no longer apply when you collect city and county sales and use tax on sales transactions. Retailers will instead collect the full amount of the city or county sales and use tax on all sales transactions within their taxing jurisdictions on or after October 1, 2005.

The customer may apply to the Tax Commissioner for a refund of local tax paid in excess of the cap for these sales transactions. To request the refund, your customer should complete and submit a *Claim for Refund of City or County Sales and Use Tax Transmittal* form along with the original invoices to the Tax Commissioner. ●

### **Refunds**

Upon receipt of the refund claim and original invoices, our office verifies amount of the refund claim by reviewing the calculation of the state and local option sales and use taxes. If there are questions involving the information or documentation submitted to our office, we will contact the customer and/or the retailer for further information.

When the refund request is approved, we mark the invoices with a notation to indicate that a refund been made, and identify the amount of the refund. We then return the invoices with the refund payment.

If the documentation is incomplete or the refund is denied, we will return the request and invoices to the taxpayer, with an explanation. ●

### **Returned Merchandise**

In the event a customer returns merchandise that was originally purchased on or after October 1, 2005, and was previously subjected to both state and local sales and use taxes, the refund to the customer should include the previously paid state and local taxes. However, in preparing this refund, you should require the original invoice to determine if the invoice contains a notation from the Tax Department that a refund has previously occurred. If so, the amount of the state and local tax refund to the customer would have to be adjusted for the amount of the identified tax refunded.

If you require additional clarification of a possible local tax refund by the Tax Commissioner, you may contact our office at 701-328-3389. ●

### **Time Limit on Refund Requests**


We do appreciate your assistance in providing information to your customers regarding the opportunity for a city tax refund on qualifying purchases, and would continue to ask that you continue assisting our office in this regard.

We occasionally receive a question on whether there is a time limit in which a customer must request this refund. The sales tax law provides that a customer can apply for a refund anytime within three years from the date of the purchase transaction. ●

***If the documentation is incomplete or the refund is denied, we will return the request and invoices to the taxpayer, with an explanation.***

## Business Credits


A business holding an active North Dakota sales and use tax permit and filing periodic sales and use tax returns with the Tax Department may deduct the amount of the local sale and use tax that would qualify for a city or county tax refund directly on its sales and use tax return. In doing so, there would not be a requirement to include a copy of the original invoice.

For example: ABC Company, located in Bismarck, purchased two computers for its business office. The computers and software cost \$6,000 plus state sales tax of \$300 (5%) and Bismarck city sales tax of \$60 (1%). ABC Company may file a *Claim of City or County Sales and Use Tax Transmittal* form with a copy of the original invoice with the State Tax Commissioner for a refund, or may take a credit amount on ABC's sales tax return by reducing the Bismarck tax in the Local Option Tax schedule, Column C. In this example, ABC Company will include a credit amount totaling \$35, which is the difference between the amount of city sales tax paid (\$60) and the amount that would be due by the application of the cap provided by the city (\$25). 

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## FREIGHT CHARGES ARE TAXABLE

Since October 1, 2005, freight or delivery charges billed by the seller along with the sale of taxable items are taxable because they are part of the sales price. This includes other transportation charges that are part of the taxable sale and billed by the seller, such as shipping and handling charges, and fuel surcharges.

Delivery charges billed directly to the customer by a third party delivery service that are not making the sale of tangible personal property remain exempt from sales and use tax. 


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## INSTALLATION CONTRACTS ON INDIAN RESERVATION

A contractor installing materials into real property by erection of buildings or by other alternation, attachment, improvement or repair to real property is regarded as a final user or consumer. Purchases of materials and supplies by a final user or consumer are subject to sales or use tax on the cost of all materials and supplies installed or consumed.

The contractor's responsibility for sales or use tax includes materials installed within the boundaries of an Indian reservation. Generally, the purchase of materials by the contractor is subject to sales or use taxes. Furthermore, the payment of any reservation taxes does not exempt the materials from the state sales and use taxes. In these cases, both taxes are due. An exception may involve construction projects authorized and funded under Federal Public Law and completed for an Indian tribe.

To determine if a construction project being completed on an Indian reservation for an Indian tribe is exempt, a written request must be submitted by the Indian tribe to the Sales & Withholding Tax Section for review. A letter opinion will be issued on a case by case basis on each specific request received.

If no letter opinion has been issued to an Indian tribe or the project does not qualify for exemption, the contractor continues to have a responsibility for the sales or use tax based on the cost of the materials and supplies installed into real property or consumed. 


*Purchases of materials and supplies by a final user or consumer are subject to sales or use tax on the cost of all materials and supplies installed or consumed.*

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## FARM MACHINERY REPLACEMENT CREDIT

The farm machinery gross receipts tax law provides that the amount of insurance proceeds that a person received for a stolen or totally destroyed farm machine that was previously subject to a North Dakota gross receipts, sales, or use tax may be used as a trade-in credit against the taxable purchase price of replacement (new) farm machine.

A 2005 change in the law provides that if the cost of the new replacement farm machine is less than the amount of the insurance proceeds received by the purchaser that the unused trade-in credit amount may be applied against future farm machinery purchases. This credit is available for a period of three years from the date of the insurance payment as reflected by the notarized state of loss from the insurance company.


The farm machinery dealer is required to maintain on file the insurance company's notarized statement of loss, as provided by the purchaser, to support the trade-in credit amount. In those instances where the value of the purchased farm machinery is less than the available credit, the dealer must (1) notate on the statement of loss the amount of credit used, (2) make a copy of the updated statement of loss and retain a copy in the dealer's records, and (3) return the updated original notarized statement to the purchaser for future use. To update the original statement of loss, the dealer must record on the statement the transaction date, invoice number, dealer's name, and the amount of credit applied to the purchase transactions. To use the remaining credit balance, the purchaser must present the original updated notarized statement to each dealer when purchasing replacement farm machinery until the entire credit has been applied, provided this is completed within three years of the date of the notarized statement of loss. 

*The farm machinery dealer is required to maintain on file the insurance company's notarized statement of loss, as provided by the purchaser, to support the trade-in credit amount.*

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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:

- If you have general sales tax questions, please call our Sales 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@state.nd.us](mailto:salestax@state.nd.us)**. 

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