



# Sales Tax Newsletter

News and developments

A publication of the Tax Administration Division

Cory Fong  
Tax Commissioner

## AMENDED LOCAL TAXES

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 January 1, 2011.

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The city of **Hettinger** has increased its local sales, use and gross receipts tax from 1 to 1½ percent. In addition, the city ordinance raised the maximum tax amount (refund cap) from \$25 to \$37.50 per transaction.

The city of **Leonard** has increased its local sales, use and gross receipts tax from 1 to 2 percent. All other provisions of the ordinance remain the same.

The city of **Mapleton** has increased its local sales, use and gross receipts tax from 1 to 1½ percent. All other provisions of the ordinance remain the same.

The city of **Strasburg** has increased its local sales, use and gross receipts tax from 1 to 2 percent. In addition, the city ordinance eliminated the maximum tax provision; therefore, beginning January 1, the full amount of all taxable transactions will be subject to tax.

The maximum tax amount (refund cap) allows purchasers to obtain a refund of the local tax paid to the retailer in excess of the cap amount. When retailers collect the local tax on the entire selling price and the local tax exceeds the refund cap, purchasers may apply to the Tax Commissioner for a refund or credit 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, which is available on our website or by mail upon request. 

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## AGRICULTURAL LAND LEVELERS QUALIFY AS FARM MACHINERY

Farm machinery includes any mechanical unit used directly and principally for the purpose of producing agricultural products. This includes machinery used for the preparation, seeding or cultivation of soil for growing agricultural crops and for harvesting of agricultural products, and includes certain machinery for dairy farms and livestock ranches.

The Tax Commissioner recently reviewed its classification of land levelers and scrapers that are used to level and improve drainage on agricultural land. This equipment, which has become quite common in North Dakota, prepares the soil for planting and enhances the value of land used to produce agricultural crops. Because this equipment is used in soil preparation, the Tax Commissioner’s Office has determined land levelers and scrapers that are used solely for agricultural purposes qualify as farm machinery and are subject to the farm machinery gross receipts tax law.



Office of  
State Tax Commissioner  
600 E Blvd Ave, Dept 127  
Bismarck ND 58505-0599  
701.328.1246  
www.nd.gov/tax  
salestax@nd.gov  
www.nd.gov

**Contractors and retailers that sell and install equipment into real property must pay 5 percent use tax on the cost of all machinery and equipment installed.**

New farm machinery, new farm machinery attachments, and new irrigation equipment used exclusively for agricultural purposes are subject to a 3 percent farm machinery gross receipts tax. Used farm machinery, used attachments, and used irrigation equipment are exempt from all sales, use and gross receipts taxes.

For purposes of the gross receipts tax, “used” means farm machinery or irrigation equipment that:

- Was subject to sales, use, or gross receipts tax on a previous sale;
- Was originally purchased outside of North Dakota and owned by a farmer; or
- Has been under rental or lease for three years or more.

Attachments are defined as items that are essential to the operation of farm machinery and that contribute directly to the operation of the equipment. Examples of attachments are tractor mounted loaders, combine heads, and planter monitoring systems.

Machinery and equipment that are installed into real property do not qualify for the 3 percent farm machinery gross receipts tax rate. Installed means the item is somehow attached to the real property (bolted, nailed, screwed, etc.). Contractors and retailers that sell and install equipment into real property must pay 5 percent use tax on the cost of all machinery and equipment installed.

Some commonly installed items that are subject to 5 percent sales or use tax are automated livestock feeding systems, grain bins, grain dryers and fans. Portable systems that are not attached by retailers or contractors qualify for the 3 percent tax rate. Retailers that sell equipment that may be either installed or remain portable need to maintain sales records that disclose whether or not the items in question were installed.

Farm machinery repair parts and farm irrigation repair parts are exempt from sales, use, and gross receipts taxes. The repair parts exemption applies only when the parts are for farm machinery or farm irrigation equipment used exclusively for agricultural purposes.

Farm machinery and farm irrigation repair parts include any durable goods (except tires) used to repair a qualifying farm machine or farm irrigation equipment. Durable goods do not include fluids, gases, oils, greases, lubricants, paints and waxes.

Motor vehicles, including trailers and semi-trailers, required to be titled and licensed for use on the streets and highways of North Dakota do not qualify as farm machinery subject to the farm machinery gross receipts tax law. Licensed motor vehicles are subject to the 5 percent motor vehicle excise tax. All-terrain vehicles and trailers weighing more than 1500 pounds are also subject to motor vehicle excise tax.

Because licensed vehicles do not qualify as farm machinery, repair parts and attachments for licensed motor vehicles are subject to 5 percent sales tax. Examples of attachments subject to 5 percent tax are truck boxes, hydraulic lifts, tarps, and augers.

For more detailed information about farm machinery gross receipts tax, see our *Farm Machinery and Farm Irrigation Equipment* guideline. 

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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 website [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. 