



# Sales Tax Newsletter

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## 2001 LEGISLATIVE UPDATE

This *Sales Tax Newsletter* explains some of the new tax laws passed by the 2001 North Dakota Legislature. A copy of the bill may be obtained by accessing the State of North Dakota web site for the Legislative Branch (<http://www.state.nd.us/lr/>). If you have any questions or require more information, contact our office.

### House Bill 1052 Used Farm Machinery

Provides for the continuation of the 1½% sales tax on sales of used farm machinery, farm machinery repair parts and used irrigation equipment through June 30, 2002. Effective July 1, 2002, the sale of used farm machinery, farm machinery repair parts and used irrigation equipment will become exempt from sales tax.

### House Bill 1201 Motor Vehicle Leases

Creates a new section of the motor vehicle tax law that changes the way tax will be collected on motor vehicles leases. Effective July 1, 2001, the 5% motor vehicle excise tax will be collected by the leasing company from the lessee and paid to the Department of Transportation's Motor Vehicle Division at the time the motor vehicle is titled for use in this state. Tax is calculated and collected on the total consideration or amount due for the entire period of the lease. The tax is due at the inception of the lease.

This change affects only motor vehicles having an actual weight of ten thousand pounds [4535.92 kilograms] or less, and leases that cover a period of one year or more. When additional charges are made after the inception of the lease (i.e., mileage charge, excess wear charge, damage or repair charge, or option to renew), the 5% motor vehicle excise tax must be computed and collected by the leasing company at the time the charge is made. This additional tax

collection will be reported separately on a special *motor vehicle excise tax return* that is filed directly with the State Tax Commissioner.

### House Bill 1221 Wind-Powered Electrical Generating Facility

Provides for a sales tax exemption on or after July 1, 2001 on building materials, production equipment and other tangible personal property used in the construction of a wind-powered electrical generating facility between July 2001 and January 2011. To qualify for the exemption, the wind-powered electrical generating facility must have at least one single electrical energy generation unit with a nameplate capacity of one hundred kilowatts. To receive the exemption, the operator must receive a letter of exemption from the Tax Commissioner prior to the purchase of the materials and equipment.

### House Bill 1392 Non-Profit Organizations

Expands the current sales tax exemption on sales made by nonprofit organizations. Current law exempts sales of tangible personal property or admissions to places of amusement from sales tax if 1) the net proceeds from the sales are used for charitable, educational or religious purposes, 2) the sales are not regular on-going sales and, 3) the sales are **not** made in a publicly owned facility. Effective July 1, 2001, HB1392 expands the existing exemption to also include sales made in a publicly owned facility **if the gross receipts from the event are \$5,000 or less**. If the gross receipts from an event held in a publicly owned facility are greater than \$5,000, the total gross receipts remain subject to sales tax.

### Senate Bill 2051 Motorboats

Creates a responsibility when registering a motorboat with the North Dakota Game & Fish Department on or after August 1, 2001 for an applicant to present proof of payment of sales or use tax on all applications, except

motorboat license renewals. Proof shall generally consist of an invoice from the seller identifying the payment of sales tax or a receipt from the Tax Commissioner indicating that the sales taxes have been paid on the motorboat. If the motorboat transaction involves two private parties, the applicant will have to provide a receipt signed by the seller showing the seller's name and address.

### **Senate Bill 2053 Wholesaler Alcohol Taxes**

Effective July 1, 2001, the administrative responsibilities for the tax on liquor and beer imposed on all alcoholic beverage wholesalers and microbrew pubs doing business in North Dakota will be transferred to the State Tax Commissioner.

### **Senate Bill 2060 Penalty Change**

Amends the penalty charges that apply to a taxpayer failing to file a timely tax return for sales/use tax or income tax withholding. Penalty will be calculated at a rate of 5% or \$5.00, whichever is greater, for the first month delinquent or late. An additional 5% or \$5.00 is added for the second month, third month, fourth month and fifth month; for a possible penalty charge totaling 25% or \$25.00 resulting from the taxpayer's failure to file a timely tax return. This penalty application, which becomes effective August 1, 2001, replaces the penalty determination based upon the delinquency history of the filer.

### **Senate Bill 2181 Motor Vehicle Rental for Less than 30 Days**

Creates a new section to the sales tax law that requires the collection of a 3% sales tax surcharge on each motor vehicle rental contract for a period of fewer than thirty days on a vehicle having a gross vehicle weight of ten thousand pounds [4535.92 kilograms] or less. The 3% sales tax surcharge on motor vehicle rentals is reportable to that Tax Commissioner on February 15 of each year.

All motor vehicles intended for rental purposes for periods less than thirty days continue to be subject to the North Dakota 5% motor vehicle excise tax, which is due and payable by the rental company at the time the motor vehicle is titled and licensed with the Department of Transportation's Motor Vehicle Division or one of its branch offices. When remitting the 3% sales tax surcharge, the rental company is allowed to deduct the total amount of 5% motor vehicle excise taxes paid on rental vehicles during the calendar year from the 3% sales tax surcharge collections made during the same calendar year.

Senate Bill 2181 also requires the imposition of the North Dakota 5% sales tax effective July 1, 2001 on the gross receipts from the rental of any motor vehicle for fewer than thirty (30) days. City and county sales taxes do not apply to the motor vehicle rental charges.

### **Senate Bill 2299 Sale of Coal**

Provides for the continued application of sales tax on the sale of coal mined in this state and used for heating buildings. The coal legislation repealed the sales tax on out-of-state coal, reduced the 75-cents coal severance tax to 37½ cents per ton, and increased the coal conversion tax by a comparable amount.

### **Senate Bill 2354 Computer and Telecommunications Equipment**

Provides for a sales tax exemption on sales of computer and telecommunications equipment on or after July 1, 2001 that is an integral part of a new primary sector business or represents a physical or economic expansion of a primary sector business. Purchases of replacement computer and telecommunications equipment by a qualifying primary sector business remains subject to sales tax. "Primary sector businesses" means an individual, corporation, limited liability company, partnership, or association that through the employment of knowledge or labor adds value to a product, process, or service which results in the creation of new wealth and which has been certified by the North Dakota Department of Economic Development & Finance. To receive information regarding the certification of a primary sector business, you may contact the Department of Economic Development & Finance at 701-328-5300. ☛

## **PLEASE VERIFY YOUR MAILING ADDRESS**

**T**he Tax Commissioner's Office relies on the U.S. Mail to deliver tax returns and other important notices regarding your North Dakota sales and use tax permit. Please take a minute to review your next sales tax return and verify that our office has your current address. The review is especially important if your address has changed from a rural route to a 911 emergency address or if you direct your sales tax related mail to a specific individual. Address corrections may be noted on your next sales tax return or provided in a separate written notice directed to Sales Tax Compliance. Thank you! ☛

## **ELECTRONICALLY DELIVERED SOFTWARE AND PRODUCTS**

**T**he sale, license, or lease of canned (prewritten) computer software is specifically subject to sales tax. Canned software that is delivered to a customer in North Dakota electronically or via CD-ROM, diskette, or on other media is taxable (*Reference N.D. Admin. Code 81-04.1-03-11*).

When delivered electronically, sales of the pictures, music, videos, subscription to information or research products, or other electronic products are not taxable. ☛