



Sales Tax Newsletter

News and developments

A publication of the Sales and Special Taxes Division

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Tax Commissioner

REDUCTION IN FARGO CITY SALES AND USE TAX

As a reminder, effective July 1, 2006, the City of Fargo will reduce its city sales and use tax rate by one-half percent (½%). This means effective July 1, 2006, the City of Fargo will impose a one percent (1%) city sales and use tax rate in place of the current one and one-half percent (1½%) sales and use tax rate.

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Retailers must collect the 1% city sales and use tax on all taxable sales occurring in the city of Fargo without regard to the local tax cap previously provided by the city ordinance. With the reduction in Fargo city sales and use tax on July 1, 2006, the local tax cap is also reduced from \$37.50 per purchase to \$25.00 per purchase. Any person who pays local tax in excess of a local tax cap will continue to be eligible for refund from the State Tax Commissioner for the difference between the amount of city sales and use taxes paid and the amount that would have been due by application of the local tax cap. ☺

CLAIM FOR REFUND OF CITY OR COUNTY SALES TAX

Since October 1, 2005, city sales tax “caps” no longer apply when retailers collect city and county sales and use tax on sales transactions. Retailers instead collect the full amount of the city or county sales and use tax on all sales transactions within their taxing jurisdictions. However, the customer may apply to the State 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 copies of all invoices to the State Tax Commissioner.

The form is also available from the Tax Department’s web site at www.nd.gov/tax, click on **Sales and Use**, then click on **Forms**; or may be obtained by contacting the Sales & Withholding Tax Section at 701.328.3470 or e-mail at salestax@nd.gov.



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If the business is self-reporting state and city sales and use taxes, the business would only be required to report the city tax up to the amount of the sales tax cap.

The *Claim for Refund of City or County Sales and Use Tax Transmittal* previously provided instructions to purchasers of tangible personal property and taxable service that original invoices must accompany this refund claim in order to receive a refund of city or county sales and use tax paid in excess of the local tax cap. This requirement has been changed to allow purchasers to submit copies of their invoices in place of original invoices.

If copies are provided with the refund claim, they will not be returned to the purchaser unless specifically requested in writing at the time the refund claim is submitted. We will continue to process refund claims immediately upon receipt of the claim. The original invoices should be maintained by the purchaser for a period of three years from the date of purchase.

Credit Option for Businesses

An alternative is available for businesses, including construction contractors, holding an active North Dakota sales and use tax permit and purchasing tangible personal property or taxable services for their own use on which local sales and use tax was imposed. Instead of filing the *Claim for Refund of City or County Sales and Use Tax Transmittal* form, such businesses may deduct the amount of the city or county that would qualify for refund directly on their sales and use tax return. The amount of the city or county sales tax qualifying for refund may be deducted from the appropriate city tax account in Column C (*Total Local Option Tax*).

For example, ABC Company, a Bismarck business, purchases equipment for their own use. The total purchase price of the equipment is \$8,000. State sales tax on this purchase totaled \$400.00 ($\$8,000 \times 5\%$) and Bismarck city sales tax totaled \$80.00 ($\$8,000 \times 1\%$).

[Bismarck provides for a cap on local sales and use tax of \$25.00, which means that if a purchase occurring in the city of Bismarck results in a charge for city tax in excess of \$25.00, the purchaser is eligible for a refund for these city taxes in excess of \$25.00 for that purchase.]

- The 1% Bismarck city sales tax totals \$80.00.
- The eligible credit or refund is \$55 ($\$80 - \25).
- The business customer may apply the credit of \$55.00 on its sales tax return.

To claim the city tax credit on its sales tax return, ABC Company may deduct the \$55.00 credit from the local tax it would report for Bismarck in Column C of the local tax information. If the \$55 credit is more than the Bismarck city tax due, a negative value will be reported for Bismarck.

If the business did not pay sales tax at the time of purchase and is self-reporting state and city sales and use taxes, the business would only be required to report the city tax up to the amount of the sales tax cap.

Businesses not holding an active North Dakota sales and use tax permit will continue to use the *Claim for Refund of City or County Sales and Use Tax Transmittal* form to request this refund. 

RETURNED MERCHANDISE

Retailers are allowed to take a deduction from their taxable gross receipts for amounts representing refunds made to customers for returned merchandise. In doing so, the retailer must refund any sales tax collected from the customer when refunding the purchase price of returned merchandise.

No additional sales tax is due if a retailer exchanges or replaces taxable merchandise with identical or similar merchandise at no additional charge. The retailer's books and records must contain sufficient information to verify that a transaction is an even exchange. 

CHARITABLE ORGANIZATIONS

Generally, sales of tangible personal property made by charitable organizations are not subject to sales tax if ALL of the following conditions exist:

- The net proceeds are used for a specific educational, religious, or charitable purpose.
- The sales are not regular ongoing sales made in direct competition with retailers (i.e., sales of Christmas trees and fireworks are representative of regular ongoing sales in direct competition with retailers).
- The event takes place in a privately owned facility.
- If the event occurs in a publicly owned facility, the total sales from the event are less than \$5,000. If the total sales made by the charitable organization are \$5,000 or greater, all of the sales are subject to sales tax.

Most charitable groups do not have a sales or use tax permit, which means they cannot issue a resale certificate to their suppliers to avoid sales tax on the goods they purchase for resale in their fund raising events. In response to this concern, the charitable group should direct a letter to the Sales and Withholding Tax Section describing the fund raising activity, how the net proceeds will be used, and where the event will be held.

If the event is determined to be exempt from sales tax, a letter will be directed to the charitable organization that will provide authorization to purchase goods for resale without paying sales tax. A copy of this letter should be made available to the seller and retained by the seller to support the exempt sales transaction. If a copy of the letter is not provided or available to the seller, the sale of goods will generally be subject to sales tax. 

FREIGHT AND DELIVERY CHARGES

Freight, delivery, postage, shipping, handling, crating, packing, or other transportation charges billed with an item are always considered to be part of the selling price. If the item is taxable, those charges are also taxable; if the item being delivered is exempt from sales tax, then those charges are exempt.

A single delivery charge for the shipment of exempt property and taxable property may be allocated using a percentage that is based on:

- (1) The total sales price of the taxable item compared to the total sales price of all property in the shipment; or

No additional sales tax is due if a retailer exchanges or replaces taxable merchandise with identical or similar merchandise at no additional charge.

- (2) The total weight of the taxable property compared to the total weight of all property in the shipment.

The seller must collect sales tax on the percentage of the delivery charge allocated to the taxable property but does not have to collect tax on the percentage of the delivery charge allocated to the exempt property.

Freight, delivery, postage, shipping, or other transportation charges that are paid to a person other than the seller are exempt. 

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 Streamlined Sales and Use Tax information and updates on our web site (www.nd.gov/tax), click on **Sales and Use**, then click on **Streamlined Sales & Use** on the drop down list. The information includes up-to-date rate and boundary tables.
- If you have general sales tax questions, please call our Sales and Withholding 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@nd.gov**. 

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