



# Sales Tax Newsletter

News and developments

A publication of the Sales and Special Taxes Division

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## STATE LODGING GROSS RECEIPTS TAX ENDS

The 1 percent state lodging gross receipts tax imposed on rental of hotel, motel and tourist court accommodations ends after June 30, 2007. The tax was imposed from July 1, 2003 through June 30, 2007 to help promote the Lewis and Clark celebration.

The tax has been reported on the sales and use tax return under local code 600. Retailers should no longer charge the 1 percent lodging tax on sales made on or after July 1, 2007. Keep in mind the sale does not occur until the room is occupied. Regardless of when a room reservation is made, accommodations occupied on July 1 and later are not subject to the 1 percent tax. Charges for lodging facilities remain subject to North Dakota's 5 percent sales tax, local sales taxes, and local lodging taxes.

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## SALES TAX SEMINAR WITH SOUTH DAKOTA

The Tax Commissioner's Office is offering a sales tax seminar with the South Dakota Department of Revenue on September 18, 2007 in Fargo. The seminar will include

discussion on the similarities and differences in each state's law. Sales tax will be the topic from 8:30 am to 12:00 pm and South Dakota's contractor excise tax will be discussed from 1:00 to 3:00 p.m. Even though the seminar is free, we ask that you preregister because space is limited. To register, go to [www.state.sd.us/revenue](http://www.state.sd.us/revenue), call the South Dakota Department of Revenue at 800-829-9188, or call the North Dakota Office of State Tax Commissioner at 701-328-3475.

## NEW OR AMENDED LOCAL TAXES EFFECTIVE JULY 1

The Office of State Tax Commissioner administers all local sales, use and gross receipts taxes imposed in North Dakota. The following local tax changes become effective July 1, 2007. All transactions within the city limits of these cities subject to North Dakota sales, use and gross receipts taxes will also be subject to the city's sales, use and gross receipts tax.

The city of **Mapleton** has imposed a 1 percent city sales, use and gross receipts tax. The local tax will be reported as local code 218 on the local option schedule of the sales tax return. The city ordinance does not provide for permit holder compensation. The ordinance includes a maximum tax (refund cap) of \$25.00 per transaction.

The city of **Valley City** has increased its local sales, use and gross receipts tax rate from 1½ to 2 percent. The ordinance also increased the maximum tax (refund cap) from \$37.50 to \$50.00 per transaction. All other provisions of the ordinance remain the same effective July 1, 2007.



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Maximum tax amounts, also known as refund caps, allow purchasers to obtain a refund of the local tax paid to the retailer in excess of the cap amount. When retailers collect local tax on the full selling price and the tax paid exceeds the refund cap amount, purchasers may apply to the Tax Commissioner for a refund of the tax paid in excess of the cap.

The city of **Drayton** has imposed a 2% city lodging tax and a 1% city lodging and restaurant tax effective July 1, 2007. More information has been mailed to the restaurants and lodging facilities in Drayton explaining how to collect and report the tax.

For a complete listing of all local taxes imposed in North Dakota see our *Local Option Taxes by Location* guideline. The guideline is available on our web site or by mail upon request. 

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## **2007 LEGISLATIVE SESSION UPDATE**

The 2007 North Dakota Legislative Assembly approved a number of bills that impact sales and use taxes and motor vehicle excise tax. The following is a summary of these bills.

### ***Sales Tax Legislation:***

#### **HB1049 Tax on Coal and Natural Gas:**

Coal used for heating purposes will be exempt from sales and use tax beginning January 1, 2008. The sales and use tax rate on natural gas is reduced from 2 percent to 1 percent effective January 1, 2008 and natural gas is exempt from sales and use tax effective July 1, 2009.

#### **HB1074 Special Events:**

Effective August 1, 2007, promoters of special events that have ten or more vendors participating at an event are required to provide the Tax Commissioner's Office with a list of all vendors that are making sales, providing displays, or otherwise engaging in promotional activities at the special event. The vendor list is to be provided within twenty days of the event. Special events are defined as an entertainment, amusement, recreation, or marketing event that occurs at a single location on a recurring or irregular basis. Examples of special events are: auto shows, boat shows, gun shows, sport shows, craft shows, flea markets, carnivals, bazaars, arts and craft shows, and trade shows. Special events do not include events that are organized for the exclusive benefit of a nonprofit organization and all of the net proceeds from the event sales go to the benefit of nonprofit organizations.

#### **HB1393 Sales to Native Americans**

Currently, Native Americans are exempt from paying sales tax on goods when the Native American customer takes possession of the property within the boundaries of the reservation where he or she is an enrolled member. Beginning July 1, 2007, Native American purchasers will be exempt from sales tax on goods delivered onto a North Dakota reservation if the purchaser is an enrolled member of any federally recognized Indian tribe and he or she resides within the boundaries of any reservation within the state.

#### **HB1450 Local Sales Tax Caps**

Prior to October 2005, most local sales taxes included a maximum tax provision (now also known as a refund cap). This was a maximum amount of tax that could apply to a single transaction. In October 2005, the caps were replaced with a refund program. Under the refund program, the retailer is required to collect tax on the entire sale without considering the caps. If the purchaser pays more than the maximum tax amount on a purchase, the purchaser may apply to the Tax Commissioner for a refund of any tax paid in excess of the cap. Beginning July 1, 2007, retailers may voluntarily collect up to the cap amount as a convenience to their customers so the purchasers do not need to apply for a refund. Retailers are not required to calculate caps and may continue to collect tax without regard to the caps. Retailers should be consistent in the method they choose to calculate local taxes.

***Special events are defined as an entertainment, amusement, recreation, or marketing event that occurs at a single location on a recurring or irregular basis.***

Example: Assume a customer makes a purchase of taxable goods in Bismarck totaling \$4,000. Bismarck imposes a 1 percent tax with a \$25 refund cap. The retailer may collect \$40 of Bismarck tax on the transaction (\$4,000 X .01 = \$40) or collect the \$25 maximum. If the retailer chooses to apply the 1 percent rate without considering the maximum, the purchaser may apply to the Tax Commissioner for a \$15 refund (\$40 paid less \$25 maximum). Retailers must remit to the Tax Commissioner all tax collected and maintain adequate records to document the tax collected and reported on their sales tax returns.

#### **HB1462 Sales Tax Exemption on Oil and Gas Facilities**

Effective July 1, 2007, purchases of tangible personal property used to compress, process, gather, or refine gas recovered from a gas well or used to build or expand a gas processing facility in North Dakota qualify for a sales tax exemption. Tangible personal property used to expand or construct an oil refinery that has a capacity of processing at least five thousand barrels of oil a day also qualifies for a sales tax exemption.

The owner of the oil or gas facility must apply to the Tax Commissioner for the exemption prior to making the purchase or, the purchaser must pay the tax due at the time of purchase and apply for a refund of the tax paid. Contractors that purchase materials for an exempt oil or gas facility must pay tax on all materials they use during construction. The facility owner may apply for a refund of the tax paid by contractors.

#### **SB2225 Sales Tax Exemption on Bingo**

Effective July 1, 2007, the sale or furnishing of bingo cards will no longer be subject to state or local sales taxes. Instead, the gross proceeds will be subject to a 3 percent gaming excise tax reportable and payable to the Attorney General's Office. Bingo sites that have no other sales subject to sales tax will no longer need a North Dakota sales and use tax permit. Bingo operators that no longer need a permit must file a final return for the period ending June 30, 2007. To file a final return, fill in the circle to indicate you are "Out of Business" and enter the "Last Day of Business" on the front of your sales tax return. If you wish to close your account but are not scheduled to file a return for the period ending June 30, please contact the Tax Commissioner's Office and request a final return.

#### **SB2298 Power Plant and Agricultural Commodity Processing Plant Exemptions**

The following three changes are authorized in SB2298 effective July 1, 2007:

- The sales tax exemption available on production equipment and other tangible personal property used to construct a plant that converts coal to electricity will be available for smaller plants. The size of the plant required to qualify for a sales tax exemption is reduced from one hundred twenty thousand kilowatts to fifty thousand kilowatts.
- A sales tax exemption will also be available on production equipment and other tangible personal property used to construct a new category of electrical generating power plants. The new category of plants is a plant that uses something other than coal or wind to generate electricity and that generates at least one hundred kilowatts or more of electricity for resale or for consumption in a business activity.
- Contractors that purchase and install materials and equipment into new and expanding power plants and agricultural commodity processing facilities that qualify for a sales tax exemption will no longer be required to pay sales or use tax on the property if the following occurs:
  - o The plant owner has obtained approval for the exemption from the Tax Commissioner's Office prior to construction, and
  - o The plant owner provides to the contractor a copy of the exemption approval letter issued by the Tax Commissioner before the contractor makes its purchases.

#### **SB2380 Streamlined Sales Tax**

The legislature approved all changes required for North Dakota to remain in compliance with the Streamlined Sales and Use Tax Agreement. The agreement is a cooperative effort of state and local governments in conjunction with the business community to make sales tax laws more simple and uniform and to utilize technology to help reduce the burden of collecting sales and use taxes. Law changes that are effective July 1, 2007 include:

- Requires the Tax Commissioner to use the same administrative provisions (reporting and paying requirements, correction of errors, refunds, interest, etc.) for local taxes as used for state sales and use taxes.

***Bingo sites that have no other sales subject to sales tax will no longer need a North Dakota sales and use tax permit.***

- Defines a bundled transaction as a transaction that includes two or more distinct and identifiable goods for one non-itemized price. More detailed information will be provided about bundled transaction in a future sales tax guideline.
- Defines Certified Automated System, as a software product certified by each Streamlined Sales Tax (SST) member state to accurately calculate state and local sales tax based on the type of product and the delivery address or zip code.
- Modifies the definition of gross receipts to identify when payments from a third party (for example, manufacturer's coupons) are part of the taxable sales price.
- Requires a doctor's written prescription to exempt the sale of prosthetic devices and mobility enhancing equipment.
- Further defines when food is considered prepared and subject to sales tax. The taxability of food products remains unchanged. Grocery food items remain exempt from sales tax. Prepared food, candy and soft drinks remain taxable. 

### ***Motor Vehicle Excise Tax Legislation:***

#### **HB1160 Exemption for Ambulances**

A motor vehicle originally manufactured as an ambulance and purchased on April 18, 2007 or later is exempt from motor vehicle excise tax when purchased by the operator of an emergency medical services operation licensed by the North Dakota Department of Health. Aircraft purchased April 18, 2007 or later by an operator of an emergency medical services operator licensed by the North Dakota Department of Health is also exempt from aircraft excise tax.

#### **HB1393 Motor Vehicle Sales to Native Americans**

Beginning July 1, 2007, a motor vehicle excise tax exemption is available for Native Americans that take delivery of a vehicle in North Dakota. To qualify for the exemption, the Native American must be an enrolled member of any federally recognized Indian tribe and must reside within the boundaries of any Indian reservation within North Dakota.

#### **HB1398 Vehicles Purchased by Disabled Veterans**

Effective July 1, 2007, the existing exemption that allows a disabled veteran to purchase a vehicle up to ten thousand pounds without payment of motor vehicle excise tax is expanded to include vehicles up to twenty-six thousand pounds. The exemption may apply to no more than two vehicles owned by a disabled veteran at any one time.

#### **SB2101 Exemption for North Dakota Lottery**

Effective August 1, 2007, vehicles purchased on behalf of the lottery and to be awarded as a prize are exempt from motor vehicle excise tax. The prize winner will be subject to tax at the time the vehicle is licensed and registered. 

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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 Streamlined Sales and Use Tax information and updates on our web site [www.nd.gov/tax](http://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](mailto:salestax@nd.gov). 



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