



# Sales Tax Newsletter

News and developments

A publication of the Tax Administration Division

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## NEW OR AMENDED LOCAL TAXES

The Office of State Tax Commissioner administers all local sales, use and gross receipts taxes imposed in North Dakota. The following local tax changes will become effective July 1, 2008. 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 taxes.

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The city of **Glenburn** has imposed a 1 percent sales, use and gross receipts tax. The local tax will be reported as local code 219 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 per transaction.

The city of **Cooperstown** has increased its local sales, use and gross receipts tax rate from 1 to 1½ percent. The ordinance also increased the maximum tax (refund cap) from \$25.00 per transaction to \$50.00 per transaction. All other provisions of the ordinance remain the same effective July 1, 2008.

The city of **Drake** has increased its local sales, use and gross receipts tax rate from 1 to 2 percent. All other provisions of the ordinance remain the same effective July 1, 2008.

The maximum tax amount (Refund Caps) allows purchasers to obtain a refund of the local tax paid to the retailer in excess of the cap amount. When retailers collect the entire local tax on the 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. The guideline is available on our website or by mail upon request. 

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## FUEL SURCHARGES

Freight, delivery, and other transportation charges are part of the selling price of a sales transaction. If a sale is taxable, all freight, delivery, and other transportation charges invoiced by the seller are taxable. If the product being delivered is exempt from sales tax, the freight, delivery, and other transportation charges are also exempt.

In times of rising fuel prices, it is common practice for transportation companies to add fuel surcharges to the shipping charges to help recover the increase in fuel costs. Fuel surcharges separately stated by the seller are also part of the selling price and taxed in the same manner as all other freight, delivery, and transportation charges. 



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*North Dakota sales tax law defines a sale to include "any transfer of title or possession, exchange or barter. . . . for consideration."*

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## **BARTER TRANSACTIONS**

North Dakota sales tax law defines a sale to include "any transfer of title or possession, exchange or barter. . . . for consideration." The two parties in the barter transaction function as both a buyer and seller, and each may have a responsibility for collecting sales tax depending on the goods or services exchanged.

For example, assume a clothing retailer and an accountant enter into an agreement where the retailer provides the accountant with clothing worth \$300 in exchange for accounting services. Accounting services are not subject to sales tax, but sales of clothing are taxable in North Dakota. In this example, the clothing retailer is required to charge sales tax to the accountant on the \$300 sale of clothing and must report the sale and remit the tax on its sales and use tax return. 

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## **SALES TAX NOTES**

### **Construction Contractors**

Contractors are liable to pay sales or use tax on the cost of materials purchased and installed under contract regardless of who owns the materials after the installation is complete. In addition, when a contractor or subcontractor installs materials owned by another party, the contractor or subcontractor is responsible for the payment of use tax on the cost of those materials unless the owner had previously paid sales or use tax on the material cost. The contractor's liability for tax exists even if the owner of the materials is a government agency, hospital, school, or other tax exempt entity.

### **Auctions**

Tangible personal property purchased at auction is subject to sales or use tax if the property is another retailer's resale inventory or if the auctioneer sells tangible personal property for an unknown or undisclosed person. Sales of property owned by disclosed persons who are not retailers, such as household or farm auctions, are casual sales and are not subject to sales or use tax.

### **Articles Made to Order**

The total charge by a seller for the materials and labor necessary to fabricate articles of tangible personal property is subject to sales tax. For example, a carpenter constructing a desk is responsible for billing the customer sales tax on both the material and labor charges invoiced to the customer.

### **Sales in Interstate Commerce**

Sales of tangible personal property that require delivery by the seller to a location outside North Dakota are not subject to North Dakota sales tax.

### **Pet Food**

All pet foods, including wormers and tonics, are subject to sales tax.

### **Vending Machines**

The total receipts from coin-operated vending machines are subject to sales tax including all food and bottled water products. 

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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). 