



# Sales Tax Newsletter

News and developments

A publication of the Tax Administration Division

Cory Fong  
Tax Commissioner

## 2011 LEGISLATIVE SESSION UPDATE

The following are highlights of sales tax legislation approved by the 2011 Legislative Assembly and signed into law by Governor Jack Dalrymple.

### Inside this issue:

- 2011 Legislative Session Update ..... 1
- Amended Local Taxes Effective July 1, 2011 ..... 2
- Fall 2011 Sales Tax Seminars..... 2

### **HB1334 Limited Sales Tax Exemption on Sales Made by 501(c)(7) Organizations**

In general, all admissions and similar charges to a place of amusement, entertainment or athletic event, including club memberships that provide access to amusement, entertainment or athletic events, are subject to sales tax. Effective July 1, 2011, nonprofit social and recreation clubs will be exempt from collecting sales tax on memberships, admissions, and entrance fees if (1) the nonprofit social and recreation club is organized under Internal Revenue Code

501(c)(7), and (2) the organization has no paid employees and is operated solely by volunteer officers and staff.

### **HB1391 Taxation of One-Way Paging Services**

HB1391 contains the changes necessary 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. The only amendment in HB1391 that changes the taxability of a sale in North Dakota relates to paging services. Effective July 1, 2011, one-way paging services provided in North Dakota are subject to sales tax. Prior to July 1, only two-way services were taxable.

### **HB1424 Farm Chemical Exemption and Retailer Compensation**

HB1424 contains two separate changes in the sales tax law. First, the bill exempts from sales tax agricultural tank cleaners and foam markers used in the spraying of agricultural crops. The exemption was declared an emergency measure and became effective April 27, 2011 when the governor signed the bill into law. Secondly, the bill expands the retailer compensation provided to sales tax permit holders for collecting sales tax and filing returns. Currently, retailers that report more than \$333,000 of taxable sales and purchases in the previous calendar year are eligible to receive compensation of 1½ percent of the state tax remitted up to \$85 on each return. Effective for tax periods beginning January 1, 2012, all sales and use tax permit holders will receive 1½ percent compensation up to \$93.75 on each return.

### **SB2034 Exemption for Equipment to Sell Green Diesel**

Effective July 1, 2011, purchases of equipment by licensed special fuel dealers used to sell green diesel are exempt from sales tax. Green diesel is a fuel produced from nonfossil renewable resources, including agricultural or silvicultural plants, animal fats, residue, and waste generated from the production, processing, and marketing of agricultural products, silvicultural products, and other renewable resources, which meet applicable American society for testing and materials specifications.

### **SB2171 Exemption for Telecommunications Infrastructure**

The sales tax exemption for tangible personal property used to construct or expand a telecommunications service infrastructure in North Dakota, which was scheduled to end June 30, 2011, has been extended through December 31, 2012.

### **SB2172 Sales Tax Exemption on Receipts from Coin-Operated Amusement Machines**

Effective July 1, 2012, the gross receipts from coin-operated amusement machines will be exempt from all North Dakota and local sales taxes.



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

For a complete listing of all local sales and use taxes in North Dakota, see our *Local Option Taxes by Location* guideline.

### **SB2202 Exemptions for Construction or Expansion of Oil Refineries and Gas Gathering, Compressing and Processing Facilities**

Current sales tax law provides a sales and use tax exemption for materials used to construct or expand an oil refinery or a system used to gather, compress, process, or refine gas produced from North Dakota wells. Under the current law, contractors must pay tax on all materials they purchase and install in exempt projects and the facility owner must apply for a refund of tax paid by the contractor. Effective July 1, 2011, contractors are no longer required to pay sales or use tax on materials installed into exempt projects if the following occurs:

- The Tax Commissioner has approved the sales tax exemption for the oil refinery or gas facility project.
- 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.

### **SB2292 Sales Proceeds used for Educational, Religious, or Charitable Purposes**

The current sales tax law provides a sales tax exemption for sales when the net proceeds of the sales are used for an educational, religious, or charitable purpose. This exemption is most commonly used by a nonprofit organization making fundraising sales to support its educational, religious or charitable purpose. The exemption is not available to an individual or organization that conducts retail sales on a regular basis from a temporary or permanent location. Before July 1, 2011, fundraising sales made by an individual or organization in a publically owned facility were taxable if sales for the event exceeded \$5,000. Effective July 1, 2011, the first \$10,000 of fundraising sales made by a seller in a publically owned facility will be exempt from tax and only sales in excess of \$10,000 will be subject to tax.

### **SB2336 Exemption on Machinery and Equipment Used to Produce Coal from a New Mine**

Effective July 1, 2011, purchases of machinery and equipment used to produce coal from a new mine will qualify for a sales tax exemption as follows:

- The new mine or mine area must be permitted by the North Dakota Public Service Commission under North Dakota Century Code Chapter 38-14.1 after December 31, 2010.
- The mine operator must apply to the Tax Commissioner for a refund of the tax paid. The exemption and refund for each permitted mine area is limited to five million dollars.
- Purchase of replacement equipment or machinery will qualify for the exemption only if the capitalized investment in the new mine exceeds twenty million dollars. Repair and replacement parts for existing equipment and machinery do not qualify.

---

## **AMENDED LOCAL TAXES EFFECTIVE JULY 1**

The cities of Maddock (local code 193) and Minnewaukan (local code 214) have both increased their local sales and use tax rate from 1½ to 2 percent effective July 1, 2011. All other provisions of the local ordinances remain the same. For a complete listing of all local sales and use taxes in North Dakota, see our *Local Option Taxes by Location* guideline.

---

## **FALL 2011 SALES TAX SEMINARS**

The Tax Commissioner's Office has scheduled two sales tax seminars for this fall with the Revenue Departments in Minnesota and South Dakota. The seminars will focus on the similarities and differences in each state's sales and use tax laws. There is no charge for the seminar, but please register if you plan to attend because space is limited. Both seminars will be held at the West Acres Shopping Mall (lower level meeting room) in Fargo, North Dakota.

The **South Dakota/North Dakota** workshop will be held September 15, 2011. Registration begins at 8:30 a.m. The sales tax workshop runs from 9:00 a.m. to 12:00 p.m. and the contractor workshop begins at 1:00 p.m. and ends at 3:30 p.m. To register, call the South Dakota Department of Revenue at 800.829.9188 or the North Dakota Tax Commissioner's Office at 701.328.3475.

The **Minnesota/North Dakota** workshop will be held October 18, 2011. Registration begins at 8:30 a.m. The sales tax workshop runs from 9:00 a.m. to 12:30 p.m. To register, call the Minnesota Department of Revenue at 651.297.4213 or the North Dakota Tax Commissioner's Office at 701.328.3475.



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