



# Sales Tax Newsletter

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## NEW OR INCREASED LOCAL SALES TAXES

The Office of State Tax Commissioner administers all local sales and use taxes imposed in North Dakota. The following new or increased local taxes will become effective April 1, 2002.

The city of **Scranton** has imposed a 1 percent sales tax. The new Scranton tax will be reported on the local option tax schedule under location code 190. All transactions exempt from North Dakota sales tax will also be exempt from the Scranton local tax. In addition, Scranton will exempt sales of natural gas. The maximum amount of local tax that may be imposed on a single transaction is \$25. Each invoice is a transaction for purposes of the local tax. The city ordinance does not provide for retailer compensation. The Scranton tax does not apply to retailers located outside of the city limits and delivering goods into the city because the city ordinance imposes a city sales tax only and does not include an accompanying use tax.

The city of **Jamestown** has increased its local sales and use tax rate from 1 to 2 percent. The maximum tax per transaction (invoice) has also been increased from \$25 to \$50. No other provision of the city tax has changed.

The city of **Medora** has increased its local sales and use tax rate from 2 to 2½ percent. The city made no other changes to the local tax ordinance including the provision to limit the amount of tax that may be imposed to \$25 per item purchased.

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

## 2002 BORDER ISSUES WORKSHOPS

In cooperation with the Minnesota Department of Revenue and the South Dakota Department of Revenue, the Office of State Tax Commissioner will provide opportunities to business owners and employees to receive information for collecting and reporting state and local sales and use taxes.

### North Dakota/Minnesota Sales Tax Border Issues Workshop

Fargo	5/7/02	9:00a.m.-12:30p.m.
Grand Forks	5/8/02	9:00a.m.-12:30p.m.

(For more information or to register, please call toll-free at 1-800-888-6231.)

### North Dakota/South Dakota Sales Tax Border Issues Workshop

Watertown, SD	5/9/02	
Retail		9:00a.m.-12:00p.m.
Contractor		1:00p.m.-3:00p.m.

(For more information or to register, please call toll-free at 1-800-829-9188.) ☪

## EFFECTIVE JULY 1, 2002 SALES OF USED FARM MACHINERY AND FARM MACHINERY REPAIR PARTS WILL NO LONGER BE TAXABLE

Used farm machinery, new or used farm machinery repair parts and used irrigation equipment used exclusively for agricultural purposes are currently subject to a special sales tax rate of 1½%. New farm machinery and new irrigation equipment used exclusively for agricultural purposes are subject to the 3% sales tax rate.

Effective July 1, 2002, the sale of used farm machinery, new or used farm machinery repair parts and used irrigation equipment used exclusively for agricultural purposes will become exempt from sales tax. New farm machinery and new irrigation equipment will continue to be taxed at the 3% sales tax rate.

To qualify as USED, farm machinery or irrigation equipment must meet one of the following standards:

1. Has been subject to North Dakota sales tax on a previous sale;
2. Was originally purchased outside this state and previously owned by a farmer; or
3. Has been under lease or rental for three or more years.

Farm machinery or irrigation equipment not meeting at least one of these standards will be subject to the 3% tax rate.

### **Farm Machinery Repair Parts**

Farm machinery repair parts include any durable goods (except tires) used to repair a qualifying farm machine. Durable goods may include batteries, spark plugs, hoses, fuses, and electrical wires, but does not include fluids, gases, grease, lubricants, paints, and waxes. Furthermore, because farm repair parts must be for qualifying farm machines, they do not include items like tools, lumber, twine, fencing material or storage tanks.

When parts are sold over the counter (instead of installed) the intended use of the parts is not always clear. In these situations, the seller should use some discretion but should generally accept in good faith the customer's word as to what the part will be used for. When the purchaser intends to use the parts on qualifying farm machinery, 1½% tax (or the exemption after June 30) applies. If the parts are for non-farm machinery use, then 5% tax must be charged. 🌐

## **SALE TO AMERICAN INDIANS**

Purchases made off the reservation by enrolled members of an Indian reservation are always subject to sales tax if possession or delivery of the goods occurs off the reservation. This means retailers are required to collect sales tax on all sales occurring outside of an Indian reservation.

A retailer located outside the reservation may occasionally make deliveries to an Indian customer who is an enrolled tribal member living on an Indian reservation. The retailer may exempt these sales from North Dakota sales tax provided the merchandise is actually delivered by the retailer or by common carrier to an enrolled Indian customer residing within the boundaries of an Indian reservation. The retailer must maintain proof of such delivery. Retailers must collect sales tax on all sales to non-Indian customers and from individuals who are not enrolled members of the Indian reservation, regardless of where delivery occurs.

If a retailer agrees to deliver property to an enrolled tribal member residing on the Indian reservation, the retailer should notate the customer's tribal enrollment number on the sales invoice on all sales delivered to the Indian reservation. 🌐

## **SALE OF SAND, GRAVEL, AND DIRT**

### **Retail Sale**

When sand, gravel or dirt is sold to a customer and is simply stockpiled for the customer or loaded on the customer's truck, the sale is regarded as a sale at retail and subject to sales tax based on the total selling price, including any delivery charges unless sold to an exempt entity (i.e., state government, city, county, township). If the sale is for resale, the seller should obtain a completed Certificate of Resale for the seller's records.

If a contractor sells sand, gravel or dirt and truck-spreads the product, and completes no other activity in association with the delivery and spreading of the product, the sale will continue to be regarded as a retail sale. However, should the contractor provide additional follow-up activity to the spreading of the product, such as leveling or spreading the product with additional equipment, the sale is no longer regarded as a retail sale but instead is considered to be installed. (See Installations)

### **Installations**

If sand, gravel or dirt is installed into real property, which is accomplished by spreading the product beyond simply truck spreading, the contractor will be responsible for the payment of sales or use tax based on the purchase price of the product to the contractor.

**Dirt:** Dirt, which is severed from lands owned by the contractor and installed into real property by the contractor, is not subject to sales or use tax.

**Sand or gravel:** Sand or gravel, which is severed from lands owned by the contractor and installed into real property by the contractor, is subject to use tax based on a value of 8¢ per ton.

If the contractor purchases the sand, gravel or dirt from another person and then installs the sand, gravel or dirt into real property, the contractor is responsible for sales or use tax based on the purchase price. If the contractor pays a royalty to a landowner, the contractor will have the responsibility to pay the sales or use tax based on per ton or per yard value applied to the contractor based on the royalty agreement. 🌐

## **TIPS AND GRATUITIES**

Tips are generally reflective of monies separately paid to persons providing a service (i.e., server, waiter, waitress).

Tips are not taxable provided all of the following will apply:

1. Tips are separately stated on the bill.
2. No portion of the tip is retained by, or for the profit of the business.
3. Tips are given to the persons providing the service.

A tip must be included in the calculation of sales tax when the tip is not separately stated on the bill or where any portion of the tip is retained by the business.