



Sales Tax Newsletter

News and developments

A publication of the Sales and Special Taxes Division

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Tax Commissioner

WEBFILE REMINDER

Sales tax filers may file sales tax returns using the Internet. This electronic filing method is identified as Sales Tax WebFile, and will provide you a paperless, safe and secure electronic system that allows a sales tax filer to file sales tax returns from your personal computer, 24 hours a day, 7 days a week. To register and take advantage of this convenient and efficient method for filing your sales tax returns, go to www.nd.gov/tax. Click on **Sales and Use**, then **Electronic Filing** in the drop-down list.

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If you have WebFile questions, send an e-mail to salestax@state.nd.us or call our office at 701-328-3470. ☎

TAX SEMINARS AND WORKSHOP INFORMATION

Border State “Sales Tax” Seminars

The Office of State Tax Commissioner will again participate with the Minnesota and South Dakota Departments of Revenue to present joint sales and use tax seminars. These seminars will include information on the similarities and differences in the states’ sales and use tax laws. You are invited to attend these seminars:

North Dakota/South Dakota Sales Tax Issue Workshop

Aberdeen SD 4/13/2006	8:30 a.m. – 12:00 p.m.	Sales Tax
	1:00 p.m. – 3:00 p.m.	Contractors Tax
(Meeting site: Federal Bldg., 115 4th Ave SE, Aberdeen, SD)		

Bismarck ND 5/23/2006	8:30 a.m. – 12:00 p.m.	Sales Tax
	1:00 p.m. – 3:00 p.m.	Contractors Tax
(Meeting site: Butler Center for Lifelong Learning, 505 S 7th St, Bismarck, ND)		

To register for these free workshops online, go to www.state.sd.us/revenue or call the South Dakota Department of Revenue toll free at 800-829-9188, or you may contact our office for information at 701-328-3475.

North Dakota/Minnesota Sales Tax Issue Workshop

Fargo ND 4/11/2006	1:00 p.m. – 4:30 pm
(Meeting site: West Acres Mall, Fargo, ND – basement meeting room)	



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To register for this free workshop, call the Minnesota Department of Revenue at 651-297-4213 or you may contact our office for information at 701-328-3475.

Greater North Dakota Chamber of Commerce Workshops

The Greater North Dakota Chamber of Commerce will be sponsoring Business Update Workshops across the state in May 2006. The State Tax Department will join the Department of Labor, Job Service North Dakota, and Workforce Safety & Insurance to present items of interest. For more information or to register, see www.ndchamber.com, or contact the North Dakota Chamber at 701-222-0929, or e-mail ndchamber@ndchamber.com. 

Sales or use tax is due and payable upon the purchase of such consumable supplies by repair persons, service persons, service centers, and body shops.

SHOP SUPPLIES

Repair persons, service centers, and body shops are retailers of repair parts billed to their customers and are responsible for charging sales tax on all itemized repair parts. Repair labor, separately stated, is exempt from sales tax. Repair persons, service centers, and body shops are consumers of tape, sandpaper, rags, cleaning supplies, tools, and related shop supplies used by them in the repair of tangible personal property. Sales or use tax is due and payable upon the purchase of such consumable supplies by repair persons, service persons, service centers, and body shops.

The repair person, service center, and body shop may charge the customer for consumable items by itemizing a *shop supplies* charge or shop materials charge. However, these items are not being sold to the customer in a retail transaction and tax should not be charged on the shop supplies or shop materials charge. The repair person, service center, or body shop should self-assess use tax on the cost of those consumable supplies if the repair person has not paid sales tax at the time of purchase. Use tax is self-assessed by reporting the cost of the untaxed consumable supplies on Line 3 of the sales tax return, entitled *Items Subject to Use Tax*.

Fabricators and Manufacturers

Tangible personal property that is used or consumed in the fabrication or manufacturing process but is not physically incorporated into the finished product for sale is subject to sales or use tax. 

FUEL SURCHARGES

Freight, delivery, and other transportation charges are considered part of the selling price. If the sale is taxable, the freight, delivery, and other transportation charges that are part of the sale and billed by the seller are also taxable. If the product being delivered is exempt from sales tax, then the freight, delivery, and other transportation charges are also exempt.

Fuel surcharges, separately stated by the seller, would represent a delivery or transportation charge that would be considered as part of the sale. If the goods are regarded as taxable, the fuel surcharge applied to the sale would also be considered as part of the taxable sale and subject to sales tax. 

SALES OF MEDICAL EQUIPMENT

The sales and use tax law provides an exemption for prosthetic devices, durable medical equipment, and mobility-enhancing equipment.

“Prosthetic device” means a replacement, corrective, or supportive device worn on or in the body to artificially replace a missing portion of the body, prevent or correct a physical deformity or malfunction, or support a weak or deformed portion of the body.

“Durable medical equipment” means equipment, not including mobility-enhancing equipment, for home use which can withstand repeated use, is primarily used to serve a medical purpose, is not useful to a person in the absence of illness or injury, and is not worn in or on the body.

“Mobility-enhancing equipment” means equipment, not including durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle and is not generally used by persons with normal mobility.

If you have question regarding medical equipment, send an e-mail to salestax@state.nd.us or call our office at 701-328-3470. 

RETURNED MERCHANDISE

When taxable merchandise is sold and returned to the seller by a customer who receives full credit or an entire refund of the purchase price, the seller shall refund or give credit to the customer for the amount of tax previously paid or charged. If only a portion of the purchase price is credited or refunded to the customer, the amount of the tax to be credited or refunded to the customer shall be computed based upon the amount of the purchase price to be credited or refunded exclusive of the tax.

Restocking Charge

A restocking charge is a fee charged by the seller to a customer when the customer cancels a sale and returns the merchandise, usually to cover the time and expense of returning the merchandise to the seller’s resale inventory. Restocking charges are not taxable nor do they reduce the sales tax refunded to the customer. This means the seller should not deduct the restocking charge from the sales price of the merchandise and calculate the sales tax credit or refund to the customer based on the net amount. 

PENALTY & INTEREST

Sales tax permit holders who fail to file sales and use tax returns or pay their sales tax within the time allowed by law will be assessed penalty and interest charges.

Late Tax Return

If the sales and use tax return is not filed by the due date of the return, the penalty is 5% of the state tax or \$5.00, whichever is greater. For each additional month or fraction of a month the return is late, an additional penalty of 5% of the state tax is due up to a

Restocking charges are not taxable nor do they reduce the sales tax refunded to the customer.

maximum of 25%. Interest of 1% per month or fraction of a month will also apply after the first month the return is late until the return is filed.

Late Tax Payment

If the sales and use tax return has been filed timely but without payment, the penalty is 5% of the state tax due or \$5.00, whichever is greater for the first month or fraction of a month the payment is late. Interest of 1% per month or fraction of a month will also apply after the first month the return is late until payment of tax is paid in full.

Local Taxes

Penalty and interest is calculated separately, including the minimum penalty, for each local tax reported on the sales & use tax return. 

Interest of 1% per month or fraction of a month will also apply after the first month the return is late until payment of tax is paid in full.

FREQUENT QUESTIONS

Are garden seeds and plants taxable?

Yes, the retail sales of garden seeds, plants, bulbs, and fertilizer for a personal garden or lawn are subject to sales tax.

Are sales to churches taxable?

Yes, the sale of tangible personal property to churches is taxable, except for sales of Bibles, hymnals, textbooks, and prayerbooks.

Are cover charges for amusement or entertainment taxable?

Yes, cover charges for amusement to taverns, lounges, bars, or other places of amusement, entertainment, or recreation are subject to sales tax. 

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 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@state.nd.us**. 

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