



Sales Tax Newsletter

News and developments

A publication of the Tax Administration Division

Cory Fong
Tax Commissioner

NEW ROCKFORD RATE INCREASE

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

Inside this issue:

- New Rockford Rate Increase 1
- Exemptions for Native Americans 1
- Sales Tax Seminars for Spring 2008..... 2
- Tax Exempt Entities 2
- File Your Sales Tax Return Electronically 3
- Avoid Common Errors When Filing Your Sales Tax Return..... 3
- Farm Machinery Gross Receipts Tax 4
- Taxpayer Assistance 4

The city of **New Rockford** has increased its local sales, use and gross receipts tax from 1 to 2 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 April 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 web site or by mail upon request. 

EXEMPTIONS FOR NATIVE AMERICANS

During the 2007 session, the North Dakota Legislature expanded the sales tax exemption available to Native Americans effective July 1, 2007. Prior to July, Native Americans were exempt from sales tax when they took possession on the reservation where the purchaser was an enrolled member. Beginning July 1, the exemption was expanded to include transactions where all the following occur:

- The purchaser is an enrolled member of any federally recognized Indian tribe
- The purchaser lives on any reservation located within North Dakota, and
- The purchaser takes possession of the goods on any reservation located within North Dakota.

Tribal governments are exempted from North Dakota sales tax in the same manner as individual enrolled members. Purchases by tribal governments are exempt from state and local sales taxes when the tribal government takes possession of the goods on any North Dakota reservation.

Most exempt entities or individuals present exemption certificates to claim a sales tax exemption. However, because the exemption available to Native Americans is limited to sales where the purchaser takes possession on a reservation, the Tax Commissioner’s Office does not issue exemption certificates to enrolled members or to tribal governments. Therefore, retailers making sales to Native Americans or tribal governments should not request exemption certificates from its customers.

To document a Native American sales tax exemption, retailers must request the customer’s enrollment number. Retailers that retain the delivery address, customer’s name, and customer’s enrollment number will have adequate records to support an exemption granted to an enrolled member. 



Office of
State Tax Commissioner
600 E Blvd Ave, Dept 127
Bismarck ND 58505-0599
701.328.3470
www.nd.gov/tax
salestax@nd.gov
www.nd.gov

SALES TAX SEMINARS FOR SPRING 2008

The Office of State Tax Commissioner will present three sales tax seminars this spring with Revenue Department officials from Minnesota and South Dakota. The seminars will focus on the similarities and differences in each state's sales and use tax laws. If you transact business in North Dakota and in one or both of these adjoining states, these seminars will help you understand and comply with the laws here and next door. There is no charge for the seminars, but please pre-register if you plan to attend because space is limited. The spring seminar schedule is as follows:

Minnesota/North Dakota Border Workshop, April 30, 2008:

- Registration begins at 8:30 a.m.
- Sales tax seminar 9:00 a.m. – 12:30 p.m.
- Located in the lower level meeting room of West Acres Shopping Mall, Fargo, ND

South Dakota/North Dakota Border Workshop, May 7, 2008:

- Registration begins at 8:00 a.m.
- Sales tax seminar 8:30 a.m. – 12:00 p.m.
- Contractor's workshop 1:00 p.m. – 3:00 p.m.
- Located at Northern State University Student Center, 1200 South Jay Street, Aberdeen, SD

South Dakota/North Dakota Border Workshop, May 29, 2008:

- Registration begins at 8:00 a.m.
- Sales tax seminar 8:30 a.m. – 12:00 p.m.
- Contractor's workshop 1:00 p.m. – 3:00 p.m.
- Located at the Bank of North Dakota, 1200 Memorial Highway, Bismarck, ND

For the past several years, the Tax Commissioner's Office has participated in a series of spring workshops sponsored by the North Dakota Chamber of Commerce. This year's seminars are planned for the fall. Watch for further announcements in later editions of this newsletter. 

TAX EXEMPT ENTITIES

Taxability of purchases: Most nonprofit organizations, including churches, are not exempt from paying sales tax on purchases. Many nonprofit organizations receive an exemption from the federal government that exempts them from federal and state income taxes. Some nonprofit organizations incorrectly presume this exemption also applies to sales tax. Entities that are exempt from paying North Dakota and local sales taxes are as follows:

- Schools, federal governments, state governments and their political subdivisions, federally chartered corporations
- Hospitals, nursing homes, intermediate care facilities, and emergency medical service providers - all licensed by the North Dakota Department of Health
- Voluntary health care associations recognized by the National Health Council
- Assisted living facilities licensed by the North Dakota Department of Human Services

Although churches do not have a complete sales tax exemption, certain purchases by nonprofit religious organizations are exempt from sales tax. The exempt items are Bibles, hymnals, textbooks, and prayer books. A nonprofit religious organization does not need a special exemption to purchase these items tax free.

The Office of State Tax Commissioner issues exempt organizations an exemption certificate to clearly identify each organization that is exempt from paying sales taxes. To purchase goods without paying sales tax, an exempt organization must provide the retailer with a copy of its North Dakota sales tax exemption certificate. The certificate contains the entity's name, address, and an exemption number that begins with E and is followed by four digits.

Some schools that are issued an exemption certificate may be affiliated with a church or other facility that does not qualify for the exemption. The exemption certificate may not be used for purchases for the church or facilities that are not part of the school.

Taxability of sales: The sales tax law also exempts certain sales activity associated with charitable, educational, or religious activities. Fund raising type sales are exempt from tax under the following conditions:

- The net proceeds from the sales are used for charitable, educational or religious purposes
- The sales are not regular on-going sales, and
- The gross sales made by a vendor for an event that takes place in a publicly owned facility are less than \$5,000. Examples of publicly owned facilities are city civic centers, public schools, public parks and city streets. A vendor that makes more than \$5,000 of sales at an event held in a publicly owned facility will always be required to collect sales tax on all of the sales for that event. 

FILE YOUR SALES TAX RETURN ELECTRONICALLY

If you haven't registered to file your sales tax returns electronically, please check out our WebFile. WebFile is our free, secure, on-line service that allows you to file your returns over the Internet. There are so many advantages to WebFile – here are just a few:

- View previously filed returns for the past three years on-line, including those you filed on paper. Returns may be viewed or printed at any time.
- Pay your return electronically by ACH debit, ACH credit, or credit card. If you pay by ACH debit or credit card, you may submit your return early and delay the payment until the return due date.
- File returns twenty-four hours a day, seven days a week.
- Calculate your return with ease. All calculations are completed automatically by WebFile.
- Save time, paper and postage.
- Upload your return into WebFile from an XML file if you want to avoid keying the data.
- Receive an e-mail reminder notice a month before each return due date.
- Avoid delays and late fees. Returns are filed on time if submitted through WebFile by midnight of the due date.

For more information or to register for WebFile, go to our web site, click on *Sales and Use* and then *Electronic Filing*. If you have questions regarding the use of this safe and secure method of filing your tax returns, please call our office at 701.328.3470 or e-mail us at salestax@nd.gov. 

AVOID COMMON ERRORS WHEN FILING YOUR SALES TAX RETURN

WebFile is the best way to avoid simple return errors and guarantee delivery by the due date. However, if you choose to file by paper, we recommend you use the preprinted form our office mails to you approximately one month before each due date.

The following list identifies some tips to help you avoid the most common return filing errors and eliminate the potential penalties associated with processing delays from those errors.

- Please use blue or black ink when you complete your returns. All paper returns are scanned and read electronically. Pencil and red ink do not transfer well.
- Make sure you deliver your returns to the US Postal service prior to the final postal service collection time. Returns picked up and postmarked after the due date are subject to late filing penalties.
- Use the most current version of the sales tax return. Period specific preprinted forms are mailed to each retailer that files paper forms. Using the preprinted form helps to eliminate processing delays and provides us with adequate information to document that your return has been received and processed. No forms are needed if you elect to file on WebFile.
 - o If you use an approved software package to prepare your return, make sure the information in the return heading is correct: account number, period ending date, due date of return, company name, and valid mailing address.
 - o Company federal identification numbers (FEIN) and social security numbers do not properly identify your sales tax account and are not interchangeable with your account number.

WebFile is the best way to avoid simple return errors and guarantee delivery by the due date.

- Use Line 3 of the return to report purchases subject to use tax - not taxable sales.
- Remember to sign the return and provide a contact name and phone number 

FARM MACHINERY GROSS RECEIPTS TAX

New farm machinery, new farm machinery attachments, and new irrigation equipment used exclusively for agricultural purposes are subject to a 3 percent farm machinery gross receipts tax. Used farm machinery, used attachments, and used irrigation equipment are exempt from all sales, use and gross receipts taxes.

For purposes of the gross receipts tax, used means the farm machinery or irrigation equipment:

- Was subject to sales, use, or gross receipts tax on a previous sale;
- Was originally purchased outside of North Dakota and owned by a farmer; or
- Has been under rental or lease for three years or more.

Attachments are defined as items that are essential to the operation of farm machinery and that contribute directly to the operation of the equipment. Examples of attachments are tractor mounted loaders, combine heads, and planter monitoring systems.

Machinery and equipment that are installed into real property do not qualify for the 3 percent farm machinery gross receipts tax rate. Installed means the item is somehow attached to the real property (bolted, nailed, screwed, etc.). Contractors and retailers that sell and install equipment into real property must pay 5 percent use tax on the cost of all machinery and equipment installed.

Some commonly installed items that are subject to 5 percent sales or use tax are automated livestock feeding systems, grain bins, grain dryers and fans. Portable systems that are not attached by retailers or contractors qualify for the 3 percent tax rate. Retailers that sell equipment that may be either installed or remain portable need to maintain sales records that disclose whether or not the items in question were installed.

Farm machinery repair parts are exempt from sales, use, and gross receipts taxes. The repair parts exemption applies only when the parts are for farm machinery used exclusively for agricultural purposes. Farm machinery repair parts include any durable goods (except tires) used to repair a qualifying farm machine. Durable goods do not include fluids, gases, oils, greases, lubricants, paints and waxes. Repair parts for irrigation systems do not qualify for the 3 percent gross receipts tax rate or the exemption. Instead, these parts are subject to sales or use tax at the 5 percent rate.

For more detailed information, see our *Farm Machinery and Farm Irrigation Equipment* guideline, which is available on our web site or by mail upon request. 

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 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. 

Machinery and equipment that is installed into real property does not qualify for the 3 percent farm machinery gross receipts tax rate.



Office of
State Tax Commissioner
600 E Blvd Ave, Dept 127
Bismarck ND 58505-0599
701.328.3470
www.nd.gov/tax
salestax@nd.gov
www.nd.gov