



# Sales Tax Newsletter

News and developments

A publication of the Sales and Special Tax Section

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## Tax Amnesty Program

The Office of State Tax Commissioner is offering a unique opportunity for businesses and individuals – residents and nonresidents – to pay back taxes owed to the State of North Dakota. The Tax Amnesty program was authorized this year by the North Dakota Legislature. Tax Amnesty is a limited, one-time opportunity to assist individuals and businesses in getting back on track with their tax liabilities. The Amnesty period begins on October 1, 2003 and ends January 31, 2004.

Tax Amnesty offers resident and non-resident businesses and individuals an opportunity to voluntarily come forward to clean the slate of past delinquencies and avoid future filing problems.

Tax Amnesty applies to all state taxes administered by the Office of State Tax Commissioner, such as Individual Income tax, Withholding tax, Corporation Income tax, and Sales and Use taxes. Taxpayers who have not filed returns, and those who have filed, but have not fully paid both qualify for Tax Amnesty. For a complete listing of taxes eligible for North Dakota Tax Amnesty, visit the Tax Department’s Web site at [www.ndtaxdepartment.com](http://www.ndtaxdepartment.com).

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Individuals and businesses that owe taxes to the state, should act early because once the Tax Amnesty program ends (January 31, 2004) all collection and enforcements activities will be enhanced. Taxpayers who have tax liabilities and fail to take advantage of the Tax Amnesty Program may become the focus of the department’s increased compliance enforcement action after the amnesty expires.

For information on North Dakota’s Tax Amnesty program, visit our Web site at [www.ndtaxdepartment.com](http://www.ndtaxdepartment.com) or call (701) 328-2770.


## 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 rates will become effective October 1, 2003:

The city of **Beulah** has imposed a 1 percent sales and use tax. The new tax will be reported on the local option schedule under location code 200. All transactions exempt from North Dakota sales tax will also be exempt from the Beulah local tax. In addition, Beulah will exempt sales of natural gas and the gross receipts from coin-operated amusement machines. 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 Beulah ordinance provides for retailer compensation of 3 percent of the tax due up to \$50 on a monthly return or \$150 on a quarterly return.



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The city of **Oakes** has increased its local sales and use tax from 1 to 1½ percent. The city made no other changes to the local tax ordinance including the provision to limit the local tax to \$25 per transaction. 

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## Sales/Use Tax Border Workshops

The Office of State Tax Commissioner is again participating in workshops with Minnesota and South Dakota to provide sales tax information to businesses operating in multiple states. These programs are free and include information on handling specific tax transactions and responsibility for collecting and reporting state and local sales and use taxes in each state.

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


Fargo, ND 11/18/2003                      9:00 a.m. – 12:30 p.m.  
(West Acres Shopping Center)

The Border Issue Workshop is presented by representatives from both the North Dakota Office of State Tax Commissioner and Minnesota Department of Revenue. For more information or to register for this free workshop, please call the Minnesota Department of Revenue at 1-651-297-4213, or contact our office at 701-328-3475.

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

Fargo, ND 10/23/2003                      Sales Tax 9:00 a.m. – Noon  
(West Acres Shopping Center)   Contractors' Tax 1:00 p.m. – 3:00 p.m.

The Border Issue Workshop is presented by representatives from both the North Dakota Office of State Tax Commissioner and South Dakota Department of Revenue. For more information or to register for this free workshop, please call South Dakota Department of Revenue toll-free at 1-800-829-9188 or go to [www.state.sd.us/drr2/seminar/borderissuesseminar.htm](http://www.state.sd.us/drr2/seminar/borderissuesseminar.htm), or you may contact our office at 701-328-3475. 

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## Farm Machinery and Attachments

The sale, lease or rental of new farm machinery and new farm machinery attachments are subject to the 3 percent state sales tax plus applicable local sales tax. The sale, lease or rental of used farm machinery, used farm machinery attachments, and all farm machinery repair parts (except tires) used exclusively for agricultural purposes is exempt from state and local sales tax.

Attachments are generally defined as items that are essential to the operation of the farm machinery and that contribute directly to the operation of the equipment. "Accessories," unlike attachments, are generally nonessential to the operation of the farm machinery and are subject to the 5 percent sales tax. With the continued changes in the types of products being made available for use as attachments and accessories, we have also found it necessary to update those items that have been previously identified as accessories but now are more correctly identified as attachments. Items that should be regarded as farm machinery attachments include:

- *Radar ground speed sensor*
- *GPS system*
- *Grain yield monitor*
- *Sprayer control*
- *Electronic wind monitor*
- *After market lighting*
- *Planter monitor system*

*The sale, lease or rental of new farm machinery and new farm machinery attachments are subject to the 3 percent state sales tax plus applicable local sales tax.*

Based on this recent determination, these items will be subject to the 3 percent state sales tax when sold as new farm machinery attachments intended exclusively for agricultural purposes, and exempt from sales tax if sold as used farm machinery attachments. 

*This means retailers may not absorb sales tax for a customer but instead must assess tax to their customers on all retail sales.*

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## Rental Charges

The hourly, daily, weekly, monthly or annual charge for the rental of tangible personal property is subject to sales tax. Additional charges that a customer is required to pay when renting taxable property is also subject to sales tax if the charge is mandatory or if the charge is for the delivery, set-up, or pick-up of the taxable property.

Optional charges for cleaning/maintenance, repair parts and labor, insurance, or damage waiver are not subject to sales tax.


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## Motor Vehicle Rentals

The 5% sales tax applies to the rental of any motor vehicle for fewer than thirty (30) days. In addition, a 3% sales tax surcharge applies on each motor vehicle rental contract for periods of fewer than thirty days provided the vehicle has a gross vehicle weight of ten thousand pounds or less. The surcharge must be computed on the total dollar amount for the rental, excluding taxes, fuel collections, collision damage waiver, supplemental liability protection, personal accident insurance, and personal effects coverage. 


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## City and County Sales Taxes

Do you have questions on whether a city or county imposes a local sales and use tax, or if they have special exemptions? A quick way of checking out the most current local sales and use tax information is by reviewing the *Local Option Taxes by Location* Guideline that can be found on our website at [www.state.nd.us/taxdpt](http://www.state.nd.us/taxdpt) or by requesting a copy of the guideline by contacting our office at (701) 328-3470. 

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## Retailers May Not “Absorb” Tax

The sales tax law provides that “No retailer shall advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this chapter shall be assumed or absorbed by the retailer or that it will not be considered as an element in the price to the consumer or if added, that any part thereof will be refunded.” This means retailers may not absorb sales tax for a customer but instead must assess tax to their customers on all retail sales. Because of this law, sales tax is not be included in the stated price of the product or service but should instead be added to the retail price and stated separately on the sales invoice. 

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## Contractors

A contractor and subcontractor are final users of materials installed into real property located in North Dakota and are responsible for the payment of sales or use tax on all materials and supplies used. A contractor or subcontractor can pass this tax expense on to the customer as part of the material cost or labor charge, but cannot itemize it separately as “sales tax” on the customer’s invoice or billing. The installation of materials into real property includes repairs, replacements, and other improvements to real property.

Sales tax should be paid by the contractor or subcontractor at the time the materials and supplies are purchased. However, if the vendor or supplier does not charge North Dakota sales tax at the time of purchase or the purchase is made from an out-of-state vendor that does not charge North Dakota tax, the contractor or subcontractor will be responsible for calculating the tax due amount on their sales and use tax return based on the value of the materials and supplies.

If the owner of materials being installed into real property is someone other than the contractor or subcontractor, the contractor or subcontractor installing the materials is responsible for the use tax on the value of the materials unless the owner of the materials has already paid sales or use tax on them. For example, a government agency may buy construction materials tax free, and then hire a contractor to install the untaxed materials. In this case, the contractor is the final user of the materials and the contractor must work with the owner of the materials to determine its value and pay the appropriate use tax on the value. (Please note: A tax exempt organization may install materials into real property using its own employees without accruing a use tax liability.)


Materials purchased and delivered to a contractor or subcontractor in this state for use in an out-of-state contract are taxable, unless the materials are not subject to tax in the state where they will be installed. For example, a contractor removing materials from North Dakota for use in a Montana contract would be exempt from North Dakota sales and use tax as Montana does not have state sales or use tax.

Many North Dakota cities do apply local sales and use tax, which is often applied in a manner similar to the North Dakota sales and use tax laws. To obtain information regarding the application of sales and use taxes by a specific city, you may contact our Sales Tax Compliance Section. 

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## Taxpayer Assistance

If you have questions regarding sales tax or questions regarding 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:

- To call our office with general sales tax questions, you can call our Sales Tax Compliance Section at (701) 328-3470.
- If calling our office in regards to 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, 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](mailto:salestax@state.nd.us). 

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