



Guideline

Sales Tax Special Events

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Tax Commissioner

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What Is Considered A Special Event?

Special events are defined as entertainment, amusement, recreation or marketing events that occur at a single location on a reoccurring or irregular basis.

These events include, but are not limited to: auto shows, gun shows, sport shows, concerts, carnivals, flea markets and trade shows.

Are Special Events Subject To Tax?

Generally admissions to amusement or entertainment events are taxable. Admissions to selling events (gun shows, flea markets, etc.) and state, county or local fairs, if the fair is controlled by the fair board, are exempt from tax.

The sales of tangible personal property and prepared food items are also subject to tax.

Who Must Have A Sales and Use Tax Permit?

Every person or business that makes sales, takes orders or is in direct competition with other retailers is required to file a sales and use tax application with the Tax Commissioner.

Sales made on an occasional or irregular basis by individuals who are not engaged in the business of making retail sales are considered casual sales and are exempt from the collection of sales tax. Individuals who sell their own personal property once or twice a year at a rummage sale are making a casual sale. Individuals who purchase items to resell at rummage sales or a flea market, are not making a casual sale and need to apply for a sales and use tax permit.

Food vendors who sell prepared food items for immediate consumption need to apply for a sales and use tax permit. Prepared food items include items sold in a heated state or heated by the seller, food made from two or more ingredients mixed together, or food sold with eating utensils, such as plates, cutlery, napkins, glasses or straws. Bakery items, such as bread, rolls, muffins, cookies and bars, are not taxable unless sold with eating utensils or sold in a heated state. Farmer's market vendors who sell only fresh produce to be cooked or consumed at a later date do not need to apply for a sales and use tax permit. Produce vendors selling tangible personal property other than produce may have a sales tax collection responsibility and should contact our office for more information.

A Sales/Use Tax Permit application can be obtained from the Tax Commissioner's web site at www.nd.gov/tax/salesanduse/forms/. There is no fee to obtain a permit.

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Are Sales Made by Nonprofit Organizations Taxable?

Under certain conditions, gross receipts from sales made by nonprofit organizations may be exempt from sales tax. The conditions for this exemption are:

1. If net proceeds from the sale are used for charitable, educational or religious purposes;
2. If sales are not on a regular, on-going basis; and
3. If the sales are made in a privately owned facility, or
4. If the event is held in a publicly owned facility and the gross receipts are less than \$5,000 per event.

If the gross receipts from an event held in a publicly owned facility are greater than \$5,000, sales tax must be remitted to the Tax Commissioner on the entire amount of the sales made. For example, if your sales were \$5,885 tax is due on the full amount of \$5,885 and not on \$885. Gross receipts of \$5,000 are per event and not per season or per year. If the organization participates in a street fair and a craft show held in a city auditorium or civic center, our office will consider this as participating in two events.

What Tax Rate Do I Charge for Sales at Special Events?

The state sales tax rate is 5 percent. In addition to the state rate, the local option tax also must be collected if the sale is held within the borders of a city and county that has imposed a local option tax. A list of cities and counties that have imposed a local option tax is available on our web site under Sales Tax Guidelines, Local Option Taxes by Location or by contacting our office. If the sales tax is not stated separately, a sign should be posted indicating that tax is included in all prices.

How Do I Know What My Total Sales are if My Receipts Include the Sales Tax?

If your gross receipts include the sales tax collected, you must remove the tax before completing your sales and use tax return. To remove the 5 percent state tax, you divide your receipts by 1.05 to get the taxable sales that you will report on line 1 of the Special Event Sales Tax return. If you collected a combined state and city/county tax, you must divide the gross receipts by 1 plus the rate of tax. For example if the combined state and local tax collected is:

Tax Rate	Divide Gross Receipts by:	Tax Rate	Divide Gross Receipts by:
5 percent	1.05	6¼ percent	1.0625
5¼ percent	1.0525	6½ percent	1.065
5½ percent	1.055	6¾ percent	1.0675
6 percent	1.06	7 percent	1.07

How Do I Report My Sales and Pay the State and Local Option Taxes?

Vendors who hold an active North Dakota sales tax permit will receive return forms to file based on the filing frequency assigned at the time of registration. A return must be completed even if there is no sales tax to report.

What are My Responsibilities as an Organizer of Special Events?

The 2007 legislative session passed House Bill 1074 requiring event organizers to submit a list of participants, for events with 10 or more vendors, to the Tax Commissioner on approved forms. Events with less than 10 vendors who received a request for information from our office can provide a list of participants or a letter stating the event had less than 10 vendors. Forms can be downloaded from our web site, www.nd.gov/tax/salesanduse/forms or by calling 701.328.1246. These forms must be submitted no later than 20 days after the event was held.

Additional Information

Additional information can be found on our website www.nd.gov/tax/salesanduse/specialevents or by calling the Sales Tax Compliance Section at 701.328.1246 or e-mailing salestax@nd.gov.