



NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER GUIDELINE - SALES TAX: EXEMPTIONS

North Dakota has sales and use tax exemptions for specific products and services, qualifying organizations, and exemptions based on specific conditions and incentives. These exemptions allow a person, organization, or business to purchase items without sales or use tax due. For purposes of this guideline, "sales tax" includes "sales and use tax."

PRODUCTS EXEMPT FROM SALES TAX

- A. Prescription Drugs:** The gross receipts from sales of drugs that are sold under a doctor's prescription for use by a person are exempt from sales tax. Medicine purchased without a prescription is subject to North Dakota sales tax. Medical marijuana does not qualify for this exemption and is subject to sales tax.
- B. Oxygen and Anesthesia Gases:** The gross receipts from sales of oxygen to any person for medical purposes, if sold under a doctor's prescription, are exempt from sales tax. Sales of anesthesia gases to hospitals, clinics, and similar institutions are also exempt because these gases are administered under the order of a doctor.
- C. Medical Devices, Equipment, and Supplies:** The gross receipts from sales of certain medical devices, equipment, and supplies are exempt from sales tax.
 - **Durable Medical Equipment** means equipment for home use, including repair and replacement parts. This does not include mobility-enhancing equipment. To qualify for the sales tax exemption, the equipment:
 1. Can withstand repeated use;
 2. Is primarily used to serve a medical purpose;
 3. Generally, is not useful to a person in the absence of illness or injury; and
 4. Is not worn on or in the body.
 - **Mobility-Enhancing Equipment** means equipment sold under a doctor's written prescription, including repair and replacement parts. This does not include durable medical equipment. To qualify for the sales tax exemption, the equipment:
 1. Is primarily used to provide or increase the ability to move from one place to another and is appropriate for use either at home or in a motor vehicle;
 2. Is not generally used by persons with normal mobility; and
 3. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.
 - **Prosthetic Device** means a replacement, corrective, or supportive device sold under a doctor's written prescription, including repair and replacement parts for such a device, worn on or in the body. To qualify for the sales tax exemption, the device must:
 1. Artificially replace a missing portion of the body;
 2. Prevent or correct a physical deformity or malfunction; or
 3. Support a weak or deformed portion of the body.

- Supplies for Diabetes, Ostomy Care, or Bladder Dysfunction

The following items qualify for the sales tax exemption:

1. Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.
2. Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction.
3. Sales of insulin in all its forms dispensed pursuant to the direction of a physician, all sales of glucose usable for treatment of insulin reactions, all sales of urine and blood testing kits and materials, and all sales of insulin measuring and injecting devices, including insulin syringes and hypodermic needles.

D. Commercial Fertilizer: The gross receipts from sales of commercial fertilizers when sold to a farmer, rancher, or commercial vegetable garden grower are exempt from sales tax. Sales of commercial fertilizer for lawns, landscaping, or gardens are subject to sales tax.

E. Livestock and Poultry Feed: The gross receipts from sales of feed for livestock or poultry and the sales of feed for draft or fur bearing animals are exempt from sales tax. The word "feed" includes generally recognized animal feeds, as well as drugs that are used as part of a feed ration for animal health purposes.

Dog food, cat food, bird seed, fish food, and other foods normally sold as pet foods are not livestock feed and are subject to sales tax.

F. Agricultural By-Products for Manufacture or Generation of Steam or Electricity: The gross receipts from sales of agricultural byproducts for use in the manufacture or generation of steam or electricity are exempt from sales tax.

G. Agrichemical Tank Cleaners and Foam Marker: The gross receipts of agrichemical tank cleaners and foam marker when sold to agricultural producers, commercial vegetable producers, or commercial applicators are exempt from sales tax.

H. Fungicides, Herbicides, and Insecticides: The gross receipts from sales of fungicides, seed treatments, inoculants, fumigants, herbicides, insecticides, and chemicals used to protect or preserve agricultural crops that are sold to commercial applicators, agricultural producers, or commercial vegetable producers are exempt from sales tax. This includes adjuvants necessary for the application of these chemicals.

I. Farm Machinery and Irrigation Repair Parts: The gross receipts from sales of new or used farm machinery repair parts and new or used irrigation parts intended for farm machinery or irrigation equipment used exclusively for agricultural purposes are exempt from sales tax. New farm machinery and new irrigation equipment used exclusively for agricultural purposes are subject to the 3% farm machinery gross receipts tax. Used farm machinery and used irrigation equipment used exclusively for agricultural purposes are exempt from the gross receipts tax. See the *Guideline - Farm Machinery and Farm Irrigation Equipment* for more information - www.tax.nd.gov/guidelines.

J. Seeds for Planting: The gross receipts from sales of seeds, roots, bulbs, and small plants to users or consumers for planting or transplanting commercial vegetable gardens or for agricultural purposes are exempt from sales tax. Sales of flower seeds, vegetable garden seeds, roots, bulbs, and small plants to a person for personal gardens are subject to sales tax.

K. Food and Food Products: The gross receipts from sales of food and food products for human consumption are exempt from sales tax. Examples of food and food products are eggs, bread, and milk.

This exemption does not include “prepared food.” Prepared food means

1. Food sold in a heated state or heated by the seller,
2. Two or more food ingredients mixed or combined by the seller for sale as a single item, or
3. Food sold with eating utensils provided by the seller. Examples of eating utensils include plates, knives, forks, spoons, glasses, cups, napkins, or straws.

This exemption also does not include candy, chewing gum, and fruit drinks that contain 50% or less fruit juice. These items are subject to sales tax. Sales of food through coin-operated vending machines are subject to sales tax. Finally, this exemption does not include tobacco or alcoholic beverages.

All food or food products, including otherwise taxable soft drinks and candy purchased with food coupons issued by the United States Department of Agriculture are exempt from sales tax. Qualifying Department of Agriculture coupons, including food stamps and purchase vouchers issued by the Women, Infants and Children (WIC) Program are exempt from sales tax.

L. Bibles, Hymnals, Textbooks, and Prayerbooks: The gross receipts from sales of bibles, hymnals, textbooks, and prayerbooks when sold to a nonprofit religious organization and nonprofit groups within a church are exempt from sales tax. Purchases paid by clergy or other individuals do not qualify.

M. Carbon Dioxide: The gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas or secure geologic storage are exempt from sales tax.

N. Coal: Coal subject to coal severance tax and the initial sale of beneficiated coal are exempt from sales tax.

O. Electricity: The gross receipts from sales of electricity are exempt from sales tax.

P. Gasoline and Combustible Fuels: The gross receipts from sales of gasoline, heating fuel, diesel fuel, propane, kerosene, aviation fuel, jet fuel, and other similar combustible fuels subject to motor fuels tax or special fuels tax are exempt from sales tax.

Q. Liquified Natural Gas: The gross receipts from sales of liquified natural gas used for agricultural, industrial, or railroad purposes as defined in North Dakota Century Code (N.D.C.C.) § 57-43.2-01 are exempt from sales tax.

R. Potash: The gross receipts from sales of potash and byproducts specified under N.D.C.C. Ch. 57-65 are exempt from sales tax.

S. Water: The gross receipts from sales of water, including bottled water, are exempt from sales tax. However, sales of bottled water through coin-operated vending machines are subject to sales tax. Also, water sold as prepared food in a restaurant, bar, convenience store, or similar venue is subject to sales tax.

T. Magazine Subscriptions: The gross receipts from sales of magazine subscriptions are exempt from sales tax. Magazines sold at newsstands or over the counter are subject to sales tax.

U. Newspapers - Newsprint and Printers' ink: The gross receipts from sales of newspapers are exempt from sales tax. Newsprint and printers' ink used in the publication of a newspaper are exempt from sales tax when purchased by the newspaper publisher.

V. Coin-Operated Machines: The gross receipts from sales through coin-operated amusement or entertainment machines are exempt from sales tax.

W. Commemorative Memorial Coins: The gross receipts from sales of commemorative memorial coins as defined in N.D.C.C. § 37-18-15 are exempt from sales tax.

X. Money: The gross receipts from sales of money, including domestic or foreign legal tender coins, currency, and precious metal bullion that has been refined to a purity of not less than nine hundred ninety-nine parts per one thousand are exempt from sales tax.

Y. Digital Products: The gross receipts from sales of items transferred electronically, including specified digital products are exempt from sales tax. Transferred electronically means the purchaser received the product without tangible storage media. Examples of tangible storage media include USB flash drives, compact discs (CDs), and external hard disk drives.

1. Specified digital products means:
 - Digital Audio-Visual Works: A series of related images which impart an impression of motion when shown in succession, together with accompanying sounds, if any.
 - Digital Audio Works: Works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones.
 - Digital Books: Works that are generally recognized in the ordinary and usual sense as books.
2. This exemption does not apply to prewritten computer software.

Z. Flight Simulators: Gross receipts from sales of flight simulators or mechanical or electronic equipment for use in association with a flight simulator are exempt from sales tax.

AA. Used Manufactured Homes: The gross receipts from the sales of a used manufactured home are exempt from sales tax. A trade-in allowance for a used manufactured home traded in on a new manufactured home does not reduce the taxable price of the new manufactured home.

SERVICES EXEMPT FROM SALES TAX

A. Transportation and Delivery Services: The gross receipts from the sale, furnishing, or service of passenger transportation are exempt from sales tax. Public transportation companies providing passenger services by means of bus, train, taxi, and air transport are not required to collect and remit sales tax on these services.

Gross receipts of common carriers engaged in the business of transporting personal property are exempt from sales tax. "Common carriers" include truck lines, railroads, air freight, and moving vans. This exemption does not extend to freight and delivery charges that are associated with the sale of a product.

B. Hospital and Nursing Home Services: The gross receipts from the sale of services furnished to any patient or occupant of a hospital, infirmary, sanitarium, nursing home, or home for the aged to any patient or occupant are exempt from sales tax.

C. Repair Services: Repairing, altering, restoring, or cleaning tangible personal property that belongs to others is a service, and the receipts for providing that service are exempt from sales tax. Tangible personal property sold or used in connection with a repair is subject to sales or use tax.

D. Furnishing Steam: The gross receipts from furnishing steam used to process agricultural products are exempt from sales tax.

ORGANIZATIONS OR INSTITUTIONS EXEMPT FROM SALES TAX

Certain organizations qualify for a sales tax exemption on their purchases. Exempt organizations may include governmental units, schools, and qualifying health care providers. See the *Guideline - Exempt Organizations* for more information - www.tax.nd.gov/guidelines.

CONDITIONAL EXEMPTIONS

A. Motor Vehicles: The gross receipts from sales of a motor vehicle to be used on the streets and highways of North Dakota are exempt from sales tax provided that the vehicle has been subjected to the motor vehicle excise tax.

B. Rental of Hotel and Motel Accommodations: The gross receipts for hotel, motel, and tourist court accommodations occupied by the same person or persons for residential housing for periods of 30 or more consecutive days are exempt from sales tax.

C. Rental of Manufactured Homes: The gross receipts from leasing or renting manufactured homes for residential purposes are exempt from sales tax. Leases or rentals of manufactured homes that are used for offices or purposes other than residential housing are subject to sales or use tax.

D. Film Rental: The gross receipts from leasing or renting a film to a movie theater are exempt from sales tax, provided the tickets or admissions to the movie showing are subject to sales tax.

E. Casual Sales: Sales made by individuals who do not make regular and recurring sales are exempt from sales tax. Examples include household, estate, and farm auctions and garage sales. To qualify, an auction must disclose the owner of the goods on all promotional materials.

F. Sales for Processing or Resale: Tangible personal property sold for processing or resale is exempt from sales tax. A certificate of processing or a certificate of resale is required to purchase tax free.

- The exemption for processing applies only when the property will become an integral ingredient or component part of other tangible personal property to be sold at retail, by means of fabrication, compounding, manufacturing, producing, packaging, or germination.
- The gross receipts from the sales of tangible personal property for the purpose of **resale** by the purchaser are exempt from sales tax. The seller should maintain a valid certificate of resale or certificate of exemption from the purchaser that is buying for resale.

G. Sales to Residents of Montana: Residents of the state of Montana are exempt from North Dakota sales tax on purchases made in North Dakota provided all the following conditions are met:

- Purchases must equal or exceed \$50.
- The resident of Montana must be in North Dakota for the express purpose of making a purchase and not as a tourist or temporary resident.
- The property purchased must be removed from North Dakota for use exclusively outside the state.
- The purchaser must provide to the North Dakota seller a Certificate of Purchase – Exempt Sales to a Person from Montana (Form 21854) containing sufficient facts establishing the exempt status of the sale. These certificates are available at www.tax.nd.gov/salesanduse.

H. Sales to Native Americans: In general, the State may not impose a sales tax on sales made within the boundaries of any reservation in North Dakota to an individual who resides within the boundaries of any reservation in North Dakota and who is an enrolled member of a federally recognized Indian tribe. Any seller whose place of business is outside the boundaries of a reservation, but who makes deliveries onto a reservation to an enrolled member living within the boundaries of a reservation, may exempt those sales provided that the seller maintains adequate records supporting the exempt status of each sale. Native Americans are subject to sales or use tax in North Dakota when taking possession of goods or using goods outside of a reservation.

I. Admission Receipts: The gross receipts from admissions to entertainment, amusement, or athletic events held by a charitable, religious, or educational organization are exempt from sales tax if the net receipts are used entirely for education, religious, or charitable purposes.

If an event is held in a privately owned facility, all gross receipts from the event are exempt from sales tax. If the event is held in a publicly owned facility and the gross receipts from the event are over \$10,000, the first \$10,000 of gross receipts is exempt from sales tax. Gross receipts over \$10,000 are subject to sales tax, **unless** the charitable, religious, or educational organization pays fair market rent for using the publicly owned facility.

If the event activity involves regular and recurring retail sales, sales that compete with other sellers, online sales, or sales from a seasonal location, the gross receipts are subject to sales tax.

- J. Finance Leasing Agreements:** The gross receipts from leasing or renting of any tangible personal property under a finance leasing agreement are exempt from sales tax if North Dakota sales or use tax has been paid on the purchase price.
- K. Recreational Travel Trailers:** The gross receipts from sales of recreational travel trailers not exceeding eight feet in width or 32 feet in length designed to be used principally as temporary vacation dwellings are exempt from sales tax. This exemption applies only if the sale is made to a resident of another state that imposes an excise tax when the recreational travel trailer is registered.
- L. Nonprofit Music or Dramatic Arts Organizations:** The gross receipts from admissions charged for public performances by a nonprofit music or dramatic arts organization are exempt from sales tax. To qualify, the organization must be organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis. Examples of qualifying organizations include a community theater group or local symphony or orchestra.

INCENTIVE EXEMPTIONS

Refer to the Tax Incentives for Businesses for additional information - www.tax.nd.gov/publications.

CONTACT INFORMATION

If you have questions, please contact the Sales Tax Compliance Section at salestax@nd.gov or **701-328-1246**.

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