



# NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER GUIDELINE - SALES TAX: BARS, LOUNGES AND TAVERNS

## ALCOHOLIC BEVERAGE SALES

All sales of beer, wine, mixed drinks and other alcoholic beverages are subject to North Dakota gross receipts tax whether these products are sold for consumption on or off the premises. The North Dakota gross receipts tax rate on alcoholic beverages is 7%, not the general sales tax rate of 5%.

Alcoholic beverage retailers may include tax in the posted price of all on-sale beverages and off-sale alcoholic beverages. When the posted price of on-sale or off-sale alcoholic beverages includes gross receipts tax, a sign should be posted advising patrons that the posted price includes gross receipts tax. Nonalcoholic off-sale beverages and other taxable goods will continue to be subject to sales tax and prices for these items should not include sales tax.

When tax is included in the selling price of merchandise, the tax should be deducted from the total sales receipts to arrive at the actual taxable sales amount. For alcoholic beverage sales, taxable sales are calculated as follows:

- a) 7% state gross receipts tax only      Taxable Sales = Gross Receipts ÷ 107% (1.07)
- b) 7% state gross receipts tax and city gross receipts tax      Taxable Sales = Gross Receipts ÷ [107% + city tax percent]

Example:

- 1% city gross receipts tax      Taxable Sales = Gross Receipts ÷ 108% (1.08)
- 1.5% city gross receipts tax      Taxable Sales = Gross Receipts ÷ 108.5% (1.085)
- 1.75% city gross receipts tax      Taxable Sales = Gross Receipts ÷ 108.75% (1.0875)
- 2% city gross receipts tax      Taxable Sales = Gross Receipts ÷ 109% (1.09)

For nonalcoholic merchandise sales, the tax should be deducted from the total sales receipts in the same manner as provided for in the section below on *Coin-Operated Vending Machines*.

## FOOD, CANDY, SOFT DRINKS, TOBACCO PRODUCTS AND SUNDRIES

Bar sales of snacks, lunches or meals remain subject to sales tax. Examples of these items include potato chips, peanuts, popcorn, pizza, sandwiches, hard boiled eggs, pretzels and similar snacks.

Sales of all candy, chewing gum and soft drinks, whether consumed on or off the premises of the seller, are taxable. Soft drinks include various fruit drinks if the amount of pure fruit juice in those fruit drinks does not equal or exceed 50% of the product. Sales of water is exempt, as well as sales of ice. Sales of exempt fruit drinks and bottled water are taxable if they are sold with a napkin.

Sales of cigarettes and tobacco products remain subject to North Dakota 5% sales tax, as are sundries such as nail clippers, handkerchiefs, pocket combs and similar items.

## COIN-OPERATED VENDING MACHINES

The total receipts from coin-operated vending machines are subject to sales tax. Receipts from cigarette vending machines are taxable as are the receipts from soft drink vending machines, candy or gum vending machines or other vending machines which dispense merchandise. The only exception is for those vending machines which dispense peanuts, gum balls or other products for 15 cents or less.

Sales tax is included in the total receipts from coin-operated vending machines and must be deducted before calculating total receipts subject to sales tax (taxable sales). Taxable sales from coin-operated vending machines are calculated as follows:

- a) 5% state sales tax only Taxable Sales = Total Receipts ÷ 105% (1.05)
- b) 5% state sales tax and city sales tax Taxable Sales = Total Receipts ÷ [105% + city tax percent]

Example: 1% city sales tax	Taxable Sales = Total Receipts ÷ 106% (1.06)
1.5% city sales tax	Taxable Sales = Total Receipts ÷ 106.5% (1.065)
1.75% city sales tax	Taxable Sales = Total Receipts ÷ 106.75% (1.0675)
2% city sales tax	Taxable Sales = Gross Receipts ÷ 107% (1.07)
2.5% city sales tax	Taxable Sales = Gross Receipts ÷ 107.5% (1.075)

The owner of the coin-operated vending machine is the one responsible for sales tax on receipts from the machine. Sales tax should be subtracted from total receipts by the machine owner before calculating the percentage of receipts which go to the location owner.

## COIN-OPERATED AMUSEMENT DEVICE SALES

Effective July 1, 2012, the gross receipts from coin-operated amusement machines will be exempt from all North Dakota and local sales taxes.

Receipts from amusement, entertainment or admission charges are subject to North Dakota sales tax. Receipts from cover charges, dance tickets or charges for billiards and card games are also subject to sales tax.

## GIVEAWAYS

If a bar, lounge, or tavern owner removes inventory from stock and uses it personally, the owner becomes liable for payment of North Dakota use tax on the cost of these items. If a bar, lounge, or tavern owner provides free drinks to members of teams which are sponsored by the establishment, or provides free drinks on a *good will* basis to customers, or if the owner allows employees to consume merchandise at no charge, the cost of such give away merchandise is subject to gross receipts tax.

Advertising items such as pens, calendars, ashtrays, shot glasses and similar items are taxable. If these items are purchased from a supplier who holds a North Dakota sales and use tax permit, North Dakota sales tax should be paid directly to the supplier. If these items are purchased from a supplier who does not charge North Dakota sales or use tax, the purchaser should include the cost of such purchases on the *Items Subject to Use Tax* line of the North Dakota sales and use tax return and remit the use tax on those items directly to the Office of State Tax Commissioner.

## PURCHASES SUBJECT TO USE TAX

All bar, lounge and tavern owners are required to pay sales or use tax on purchases of equipment and supplies for their own use. If these items are purchased from a supplier who holds a North Dakota sales and use tax permit, tax should be paid directly to the supplier. If these items are purchased without paying any tax, the purchaser should include the cost of such purchases on the *Items Subject to Use Tax* line of the North Dakota sales and use tax return and remit use tax on those items directly to the Office of State Tax Commissioner.