



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

Photographers are recognized as retailers of tangible personal property for sales and use tax purposes. Sales may include:

- (1) sales of photographs and portraits
- (2) sales of prints, transparencies or processed negatives
- (3) sales of CDs, digital tapes, discs or other digital media containing photographic images
- (4) sales of positive images from a customer's original print, negative or transparency
- (5) sales of tangible personal property such as film, batteries, frames, cameras and other photographic equipment and supplies
- (6) sales of recording weddings, anniversaries, birthdays and other special events on video tapes or other movie films

Retouching, tinting, and coloring of photographs belonging to others are not subject to sales tax. However, the developing and printing of pictures, which may include charges for tinting or coloring is subject to sales tax on the total selling price.

Photographers' sitting charges for portraits, which are separately stated from any charges for developing and printing photographs, are exempt from sales tax. In situations where the photo session is part of a package, a photographer will not be permitted to deduct more than 30 percent of the total selling price as a nontaxable sitting charge. A sitting charge, where no photograph is sold, is not a sale of tangible personal property and is not taxable.

Itemized labor charges for commercial, aerial or business publicity photographs are not taxable.

SCHOOL PHOTOGRAPHS

Many professional photographers contract to photograph school children and make those photographs available for sale to the children or their parents. The school generally acts as a collection agency for the photographer and receives a commission or a discounted price for doing so. In these cases, the professional photographer is considered to be selling the photographs directly to the school and there will be no sales tax on such transactions. Since both public and private schools enjoy an exemption from sales tax, the photographer is not required to collect or remit sales tax on sales of school photographs to either a public or private school. To be exempt, the payment for the school photographs must come directly from the school and a copy of the school's sales tax exemption certificate must be obtained for your records.

If payment is received from an individual or group other than the school, the transaction is taxable.

SALES OUTSIDE NORTH DAKOTA

When a photographer or photofinisher delivers or ships tangible personal property to a point outside this state, the sale is not subject to North Dakota sales tax. If the customer takes delivery in North Dakota, the North Dakota sales tax is due regardless of the ultimate destination of the property.

PURCHASES BY PHOTOGRAPHERS

Purchases for Resale

A photographer may use a *Certificate of Resale* to purchase products that will be resold, or for materials that become ingredients or component parts of those products. Sales for resale may include slide mounts, chemicals that become a component part of the finished product sold, mounting and matting materials, mounting sprays, matboards, mounting tape, mounting board, frames and framing materials, spray coatings, photographic paper and digital storage media that will be resold rather than used in the photographer's business (diskettes, removable cartridge disks, CDs, optical disks).

Sales of materials used in the process of making the photographs, such as cameras, camera cases, lens, lens cases, special lighting equipment, tripods, light measuring devices, props, viewers and viewing tables, which do not become an ingredient or component part of the items being sold are taxable.

Film

Film purchased by a *portrait photographer* does not become an ingredient or component part of a finished photograph. Therefore, the sale of film to a portrait photographer is **not** exempt from sales tax as an item for resale. In the event a portrait photographer does pass ownership of the developed film or negatives to the customer, the portrait photographer must apply sales tax on the total selling price but is allowed to deduct the cost of the film from the selling price when reporting the taxable transaction on the sales tax report.

Unlike the portrait photographer, film purchased by a *commercial photographer* generally is sold to the photographer's customer. A charge for the developed film or negatives is subject to sales tax on the total selling price and must be itemized on the customer's invoice showing intent to pass ownership of the film to the customer. In the event the commercial photographer purchases film that does not pass to the customer, the film is not exempt from sales tax as an item for resale.

A photographer may use a resale certificate to purchase any film that will be sold unexposed to customers.