



# Guideline

## Sales Tax Fitness Centers

*Cory Fong*  
*Tax Commissioner*

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Basic membership dues or fees for a fitness center providing activities primarily for health benefits are not subject to sales tax under North Dakota Century Code § 57-39.2-02.1(c).

### Membership Dues or Fees

Previously, basic membership dues or fees of a fitness center were regarded as a charge to a place of recreation, amusement and entertainment and were subject to sales tax. However, the continued expansion of activities by fitness centers to include competitive and noncompetitive activities, instructional activities, and those activities primarily providing health benefits and recreational activities resulted in a review of this sales tax application on membership dues and fees. Of primary concern during these reviews was whether the purpose of a fitness center is to provide health benefits or to provide recreation. This resulted in our attempt to determine if the recreational aspects of the exercise were incidental to the health benefits or if the health benefits were incidental to the recreational aspects. It was determined that this was dependent upon the nature of the exercise being provided. Exercises, such as racquetball, tennis, basketball or swimming are commonly viewed as recreational activities. Other exercises, such as aerobics, strength training, cardiovascular training or nutrition/weight control training are commonly viewed as activities engaged in primarily for health benefits.

Based on this review, it has been determined that membership dues and fees collected by a fitness center whose primary purposes are not recreational are not subject to sales tax. However, if the membership dues or fees collected by a fitness center also provide for recreational activities, such as racquetball, tennis, basketball or swimming, the total membership dues or fees are subject to sales tax unless the membership dues and fees are itemized to reflect that portion of the fee attributed to activities primarily for health benefits and that portion primarily attributed to recreational activities. If itemized, only those portions attributed to recreational activity are taxable.

### Athletic Events or Tournaments

Admissions to athletic events or tournaments scheduled by fitness centers are subject to sales tax. If the entrance fee is charged for the athletic event or tournament, the portion that constitutes a charge for court time is subject to sales tax. Any portion of the entrance fee that is attributable to prize monies or for tournament trophies is not subject to sales tax.

If the events are sponsored by a nonprofit charitable, educational or religious organization and are not located in a public facility, the gross receipts received from the event are not subject to sales tax provided the net proceeds are expended for or donated to an educational, religious or charitable purpose. If the net proceeds are merely put into the treasury of the nonprofit organization, the gross receipts from the event are subject to sales tax.

21952

## Instructional Fees

Separately stated instructional fees are not subject to sales tax. Therefore, instructional fees, such as for aerobics, martial arts, swimming, tennis or softball are not subject to sales tax.

## Sales of Tangible Personal Property

Fitness centers continue to be responsible for collecting and remitting sales tax on the sales of tangible personal property.

The following may represent some of the taxable sales that may be made by a fitness center.

Clothing	Concession sales
Sports equipment	Pop
Tanning supplies	Candy

## Purchases for Use by the Organization

If items are purchased for use by the fitness center from North Dakota suppliers, or from out-of-state suppliers having a North Dakota sales tax permit, the suppliers must be advised that North Dakota sales tax should be charged on these purchases. If items are purchased from a supplier who does not charge the tax, then the fitness centers must account for these purchases and report the total costs of all such purchases on the *Items Subject to Use Tax* line of the sales and use tax return covering the period when the purchases were made. The following represent some of the items that are taxable when purchased by a fitness center for final use.

Exercise equipment	First aid supplies	Employee uniforms
Sports equipment	Computers	Janitorial supplies
Tanning beds	Office furniture/equipment	Tools
Trophies	Office supplies	Repair parts
Towels		