



NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER GUIDELINE - SALES TAX: EXEMPT ORGANIZATIONS

SALES MADE TO EXEMPT ORGANIZATIONS

The North Dakota Office of State Tax Commissioner issues sales tax exemption certificates to organizations that are exempt from paying North Dakota sales and use tax on purchases made by the organization. Sellers making exempt sales to exempt organizations must receive a copy of the exemption certificate and keep the copy in the seller's files to support the exempt sales.

Exempt organizations include:

- Federal, state, and local government units
- Schools (public and private)
- Hospitals, nursing homes, intermediate/basic care facilities, emergency medical service providers, and residential end-of-life facilities licensed by ND Department of Health
- Assisted living facilities licensed by ND Department of Human Services
- Nonprofit voluntary health groups (recognized by National Health Council)
- State and local fairs
- Nonprofit meal delivery groups, but only on items that pass to the final consumer of the meal, including containers, packages, and wrappers
- Qualified senior citizen organizations

A. Government Units

Sales, rentals, or leases of tangible personal property to the United States government, state government, its departments and institutions, and political subdivisions are exempt from sales and use tax. To be exempt, payment must be made directly to the seller and paid from government funds by government warrant, check, or credit card that is centrally billed to and paid by the government entity.

B. Native American Tribal Governments

Sales made to a tribal government are exempt from sales and use tax. This includes a tribal government agency that performs essential government functions.

C. Schools

Public schools are considered instrumentalities of state government and are exempt from North Dakota sales and use tax on all purchases made by the school if payment is made directly to the seller using school funds.

Private or parochial schools are exempt from sales tax when purchasing items to be used exclusively in the operation of the school. These items include textbooks, yearbooks, school supplies, and items purchased by the school for use in classrooms, gymnasiums, athletic fields, and offices.

The exemption granted to a school does not extend to any charitable groups associated with the school. Parent Teacher Organizations (PTOs) and sports booster clubs may not use the school's exemption certificate to make purchases.

D. Health Providers

Hospitals, skilled nursing facilities, intermediate and basic care facilities, residential end-of-life facilities, and emergency medical service providers licensed by the North Dakota Department of Health are exempt organizations. Sales to assisted living facilities licensed by the North Dakota Department of Human Services are also exempt.

Voluntary health associations that are recognized by the Internal Revenue Service (IRS), the National Health Council, the Office of State Tax Commissioner, and the North Dakota Secretary of State as a nonprofit organization are exempt from sales tax.

Qualified senior citizen organizations that are 501(c)(3) organizations and listed as charitable organizations with the North Dakota Secretary of State, and either provide services through the aging services division of the North Dakota Department of Human Services or receive grant funds through the North Dakota Department of Transportation under the Federal Transit Administration's enhanced mobility of seniors and individuals with disabilities program are exempt from sales and use tax.

EXEMPTION CERTIFICATE REGISTRATION AND USE

To make purchases that are sales and use tax exempt, exempt organizations must provide sellers their *Certificate of Exempt Status*. Exempt organizations must complete the *Application for Sales Tax Exemption Certificate* and submit it to our office to obtain this certificate. See the application at www.tax.nd.gov/forms. Only groups identified on this certificate may buy goods without sales and use tax. In the absence of this certificate, the seller is obligated to charge sales tax.

CONTRACTS WITH EXEMPT ORGANIZATIONS

Contractors performing a contract for the United States government, state government, its departments and institutions, or political subdivisions and other organizations that are exempt from sales and use tax in North Dakota are **not exempt** from paying sales and use tax on materials and supplies used or consumed in carrying out contracts. In these cases, the contractor is required to pay sales and use tax as required for contracts with non-exempt organizations. The only exception is for contractors hired for labor only contracts.

See the *Guideline - Contractor's* for additional information - www.tax.nd.gov/guidelines.

SALES MADE BY EXEMPT ORGANIZATIONS

Exempt organizations that operate ongoing and in direct competition with other retailers must always collect and remit sales tax regardless of the use of the net sales receipt.

NONPROFIT ORGANIZATIONS

North Dakota sales and use tax law **does not automatically** exempt purchases made by nonprofit organizations. Instead, the law identifies specific organizations that, if certain conditions are met, are exempt from sales and use tax. Examples of these organizations are:

- Churches and church groups
- Service clubs
- Social clubs
- Veterans' groups
- Trusts
- Recreation groups
- Youth groups
- Labor organizations
- Fraternities and sororities
- Professional associations
- Private, for-profit schools
- Sports booster clubs
- PTOs
- Dance teams

EXEMPT SALES MADE BY NONPROFIT ORGANIZATIONS

Under certain conditions, the gross receipts from sales made by qualifying nonprofit organizations may be exempt from sales tax. A qualifying nonprofit must meet ALL three requirements below to qualify:

1. The net proceeds from the sale must be used for charitable, educational, or religious purposes.
2. The seller may not compete with retailers by maintaining inventory, conducting regular sales from a permanent or seasonal location, or making online sales.
3. The sales cannot be made on a regular, on-going basis.

If the gross receipts from an event held in a publicly owned facility are greater than \$10,000 for a single event, sales tax must be remitted to the Office of State Tax Commissioner on the amount of sales over \$10,000. Public owned facilities include civic centers, public schools, government fairgrounds, or State Capitol grounds.

Example: The Elementary School PTO's fall fundraiser was held at the public school. The fundraiser had total sales of \$10,650. The Elementary School PTO must remit sales tax on the amount of \$650.

Other conditions where the gross receipts from sales are exempt from sales tax include:

1. Sales of tickets or admissions to state, county, district, and local fairs.
2. Sales of tickets or admissions to athletic, musical, dramatic, or scholastic events held, sponsored, hosted, or controlled by an institution of higher education.
3. Sales from any public school district if the receipts are expended in accordance with N.D.C.C § 15.1-07-10 or 15.1-07-11.
4. Sales by a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is 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.

Gross receipts from sales of tickets or admissions to or sales made at an annual church supper or bazaar held in a publicly owned facility are not subject to sales tax. Annual means occurring not more than one time in any calendar year.

LETTER OF EXEMPTION

Nonprofit organizations qualifying to make sales exempt from sales tax may obtain a letter of exemption by contacting the Sales Tax Compliance section at salestax@nd.gov. This letter allows qualifying nonprofit organizations to purchase the goods they will be reselling without paying sales and use tax on their purchase price.

To apply for a letter of exemption, submit a request to the Sales Tax Compliance Section at salestax@nd.gov with the following information:

- Name and contact information for the organization.
- Name of the event.
- Description of the fundraising event.
- Frequency of the event.
- Dates of the event.
- Location of the event.
- Whether the event is in-person or online.
- How the net receipts from the event will be used.
- The name of the vendor the organization is purchasing from.

TAXABLE SALES MADE BY A NONPROFIT ORGANIZATION

Nonprofit groups that operate ongoing and in direct competition with other retailers must always collect and remit sales tax regardless of the use of the net sales receipt.

Organizations that make regular retail sales must have a North Dakota sales and use tax permit to collect and remit applicable tax. Organizations operating on a limited basis in publicly owned facilities should contact the Sales Tax Compliance Section at salestax@nd.gov or **701-328-1246** prior to making taxable sales.

CONTACT INFORMATION

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