



NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER GUIDELINE - SALES TAX: RADIO AND TELEVISION

PURCHASES SUBJECT TO USE TAX

Radio stations and television stations are in the business of providing the public with entertainment, news, weather, sports and public service information. They obtain the bulk of their revenue through the sale of advertising time to national and local accounts. These receipts are not subject to sales or use tax.

In order to provide their listeners and viewers with their services, radio and television stations must purchase and use equipment, materials and supplies. These items are purchased for the use of the radio or television station and are subject to sales or use tax.

Payments for the lease, rental, license, or purchase of syndicated broadcast programming are not subject to sales or use tax. However, similar payments for background music, sound effects, and other "canned" audio or video material are taxable. These canned materials are generally "used" by the radio or TV station in providing advertising service and, as final use items, are subject to tax.

Much of the electronic and technical equipment needed by radio and television stations is not available through North Dakota sources and must be purchased from out-of-state suppliers. Many of the major electronic and photographic companies have North Dakota sales tax permits and are authorized to collect North Dakota sales tax made to customers in North Dakota. Rentals and leases of personal property, including electronic goods, are taxable. However, rentals and leases of real property, including towers, installed satellite dishes, etc., are not subject to tax.

When purchasing from out-of-state suppliers, the radio and television stations should determine that the tax being charged is North Dakota sales or use tax and not the sales tax of the state where the supplier is based. If the supplier is properly charging North Dakota sales or use tax, no further accounting must be done by the radio or television stations for sales tax purposes. If no tax is charged, the station must report and pay use tax directly to the Office of State Tax Commissioner.

Office equipment, office supplies, printed material, records, tapes, repair parts and janitorial supplies are generally purchased from local suppliers who should charge sales tax. If a North Dakota supplier fails to charge sales tax on items sold to a radio or television station, the station must report and pay the tax directly to the Office of State Tax Commissioner.

The following list includes items which are purchased by radio or television stations and which are subject to North Dakota sales or use tax when purchased for use in this state. Sales or use tax must be paid to the seller if the seller holds a North Dakota sales tax permit. If the seller is not obligated or fails to collect North Dakota sales or use tax, the radio or television station must accrue use tax and report and remit it to the Office of State Tax Commissioner.

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Taxable Items Purchased by Radio or Television Stations

Film	Video Tape Heads
Tape	Repair Parts
Reels	Recording Equipment
Bulbs	Transmitting Equipment
Tubes	Office Supplies
Cameras	Cassette Tapes
Records	Office Equipment
Microphones	Reception Room Furniture
Lenses	Developing Solutions
Chemicals	Rental of Equipment
Art Supplies	Cables
Batteries	Light Bulbs
Head Sets	Janitorial Supplies
Video Tapes	
Projectors	

Audit experience in television stations has indicated a particular problem with rebuilt videotape heads. Apparently these head are very expensive and when worn, are sent out of the state to be rebuilt. The head is then replaced with a rebuilt head (not the same one which the station had sent in). The charge for the replacement head is a purchase of a rebuilt head and is subject to tax. If the station actually received its own videotape head after it was repaired and rebuilt, it would simply be a repair and only the repair parts would be subject to sales tax.

SALES OF TANGIBLE PERSONAL PROPERTY

While radio and television stations are not generally regarded as retailers, they do occasionally sell tangible personal property at retail and are required to collect and remit sales tax on such sales. For example, some radio and television stations trade advertising time for merchandise. The merchandise is then accumulated and auctioned off once or twice each year. The sale of this merchandise is considered to be a retail sale and North Dakota sales tax must be collected by the radio or television station on all such sales. If the merchandise is not sold but is used by the radio or television station, it is subject to North Dakota use tax. The value of this merchandise is determined by the value of the advertising time traded for it. For example, a television station agrees to accept a new console television set as payment for \$400.00 worth of advertising. The television station then takes the television set and places it in its waiting room for the convenience of visitors. Since the television station is using the television set as its own equipment, the television station is subject to use tax based on the value of the television set. That value has been established as \$400.00 worth of advertising and this is the cost which must be reported and on which North Dakota use tax must be paid.

Sales of discount coupons, and other credit certificates, and sales of souvenirs, history books, cookbooks, etc. are sales of tangible personal property and are subject to sales tax. Sales tax also applies to any shipping or handling charges assessed on such sales.

Sales of used records or recording tape by a radio or television station are also taxable sales. Radio or television stations are users of these records and tapes and tax must be paid when these items are first purchased by the radio or television station and, in addition, any subsequent sales of these records and tapes are taxable with the station required to collect and remit sales tax on all such sales.

Sales of “copies” of audio and video tapes are also subject to sales tax even though the sale of the original work may be exempt as a sale of nontaxable service. Materials sold as part of these “copies” should therefore be purchased tax free (for resale) and tax imposed when the copy is sold.

SPONSORING OF ENTERTAINMENT OF ATHLETIC EVENTS

Many radio and television stations sponsor and promote entertainment or athletic events. Admissions to these events are taxable under North Dakota sales tax law and the sponsor or promotor is responsible for the collection of sales tax. The sale of advance tickets as well as admissions at the door are taxable. Sales tax may be included in the total charge for each ticket if the ticket or admission pass is clearly marked to indicate that the price includes North Dakota sales tax. For example, a \$5.00 admission ticket may be marked as follows to comply with the law:

Admission	\$4.76
North Dakota Sales Tax	<u>.24</u>
TOTAL	\$5.00

PRIZES AND GIVEAWAYS

Most radio and television stations offer prizes and give-away items to their listeners and viewers. All such items are subject to North Dakota sales tax when purchased by the radio or television station. If the prizes or items which are given away have been acquired by the radio or television station in exchange for advertising time, the value of the advertising time becomes the cost or value of the merchandise and tax must be paid based on that value. For example, a radio station gives away a small appliance to the first listener who is able to identify a certain song being played. The appliance which is given away to the listener has been acquired by the radio station in exchange for \$25.00 worth of radio advertising time. The radio station is the final user of the appliance and is subject to tax based on the \$25.00 value placed on the advertising which was traded for this particular appliance.