



NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER GUIDELINE - SALES TAX: SPECIAL EVENTS

SPECIAL EVENTS

A **special event** is an entertainment, amusement, recreation, selling, or marketing event where sales, displays, or promotional activities occur.

- Examples of special events are craft shows, auto shows, gun shows, sport shows, concerts, carnivals, flea markets, and trade shows.
- Fundraising events held by a charitable, religious, or educational organization where the net proceeds generated from all vendors at the event go to the charitable, religious, or educational organization are not special events.

A **special event vendor** is a person, business or entity making sales, providing displays, or engaging in promotional activities at a special event.

A **promoter** or **organizer** is a person, business, or entity that is responsible for planning, organizing, or promoting a special event.

SALES TAX REGISTRATION

Every person, business, or entity making taxable sales in North Dakota must apply for a sales and use tax permit with the Office of State Tax Commissioner. A sales and use tax permit application may be completed at www.tax.nd.gov/tap/application.

An out-of-state vendor participating at a special event in North Dakota must apply for a sales and use tax permit due to their physical presence in the state. They must collect and remit sales tax on all taxable sales made in North Dakota. This includes future sales made by internet, phone, or mail and delivered or shipped to North Dakota.

If you have additional questions regarding the application process, please contact the Business Registration section at 701-328-1241 or taxregistration@nd.gov.

ADMISSIONS

Admissions to amusement, entertainment, or athletic events are subject to sales tax.

Admissions to selling events are not subject to sales tax. Flea markets, craft shows, antique shows, gem shows, gun shows, and coin shows are examples of selling events.

Admissions to a state, county, or local fair, when the fair is controlled by a fair board, are exempt from sales tax. Registration fees to participate in competitive events are not subject to sales tax.

SALES

Sales of tangible personal property (art, crafts, antiques, collector items, and other goods) are subject to sales tax.

Individuals who sell their own personal property once or twice per year, at a rummage sale or online, are making a casual sale. Casual sales are not subject to sales tax.

- Individuals who purchase items at rummage sales or flea markets with intent to resell are retailers. They are not making casual sales. They must apply for a sales and use tax permit to collect and remit sales tax when they resell the item.
- Individuals who purchase or make items with the intent to resell, using online classified websites or newspaper classifieds, are retailers. They are not making casual sales. They must apply for a sales and use tax permit to collect and remit sales tax when they sell the item.

Sales of prepared food are subject to sales tax and applicable city or county lodging and restaurant taxes. Food vendors selling prepared food items, candy, or soda need to apply for a sales and use tax permit to collect and remit sales tax.

Prepared food is any of the following:

1. Food sold in a heated state or heated by the seller (vendor).
2. Two or more food ingredients mixed or combined by the seller (vendor) for sale as a single item.
3. Food sold with eating utensils provided by the seller (vendor) including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A container or packaging used to transport the food is not considered a plate.

Bakery items such as bread, rolls, buns, biscuits, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas are not taxable unless they are sold with eating utensils or sold in a heated state.

Farmer's market vendors who sell only fresh produce to be cooked or consumed later, do not need to collect sales tax on these sales.

For more information on the taxability of food items, please review the Grocery Stores, Convenience Stores & Delicatessens Sales Tax Guideline at www.tax.nd.gov/salesanduse/guidelines.

SALES TAX RATES

Special event vendors are required to charge sales tax based on the location of the special event.

- North Dakota sales tax rate of 5% and any applicable city and/or county taxes should be charged.
- The Local Taxes by Location Guideline includes a list of North Dakota cities and counties that impose a local tax, including lodging and restaurant tax. It is found at www.tax.nd.gov/salesanduse/localtaxes.

Sales tax should be stated separately on the sales receipt. If it is not stated separately, a sign must be posted to indicate the item's price and the sales tax included in the total selling price.

Examples of separately stated sales tax:

Product A	\$20.00	Or	Product A	\$20.00
ND State Sales Tax (5%)	\$ 1.00		Total Sales Tax (6.5%)	<u>\$ 1.30</u>
City Sales Tax (1.5%)	<u>\$.30</u>		Total	\$21.30
Total	\$21.30			

Calculating Taxable Sales from Total Selling Price

If sales tax was included in the total selling price of an item, the sales tax should be deducted from the total selling price to arrive at the taxable sales amount to be reported on the sales and use tax return.

Example: A vendor has total sales of \$50, which includes sales tax, in a city with a total sales tax rate of 7%. The vendor should divide their total sales amount by 1.07 to determine their taxable sales amount.

$$\$50 \div 1.07 = \$46.73 \text{ in taxable sales}$$

Sales taxes collected are calculated as follows:

$$\begin{aligned} \$46.73 \times 5\% &= \$2.34 \text{ state sales tax} \\ \$46.73 \times 2\% &= \$0.93 \text{ city sales tax} \end{aligned}$$

NONPROFIT ORGANIZATIONS

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

1. The net proceeds from the sale must be used for charitable, educational, or religious purpose.
2. The seller (vendor) 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.

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 sale tax on the \$650 amount.

Nonprofit organizations may not use another entity's Certificate of Sales Tax Exemption to make sales tax exempt purchases. They may contact the Sales Tax Compliance Section by email at salestax@nd.gov to obtain a letter of exemption. This letter allows them to purchase the goods they will be reselling during the fundraiser without paying sales or use tax on their purchase price.

To apply for a letter of exemption, submit a request to 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.

Example: The Elementary School PTO is having a fall fundraiser. They will be purchasing books to sell at the fall fundraiser. The Elementary School PTO cannot use the School District's Certificate of Sales Tax Exemption to purchase the books. The Elementary School PTO must contact the Office of State Tax Commissioner for a letter of exemption to give to their book vendor to purchase the books for resale without paying sales tax.

PROMOTERS OR ORGANIZERS

A promoter or organizer of a special event, where 25 or more special event vendors participate, must provide the Office of State Tax Commissioner with a completed Special Event Vendor Reporting Form.

- The promoter or organizer must list each vendor's sales tax permit number (if applicable), name, address, and phone number on the reporting form.
- The promoter or organizer should report new vendors that were not included on a Special Event Vendor Reporting Form in the last six months.
- All vendors at the event, new or previously reported, count toward the vendor total of the event.
- The Special Event Vendor Reporting Form must be submitted to the Office of State Tax Commissioner within 20 days from the last day of the special event.

Example: Jane organizes a monthly craft sale at her local mall. The first month she has 28 vendors attend. She sends a Special Event Vendor Reporting Form with all 28 vendors to the Office of State Tax Commissioner. The next month, 20 vendors from the previous month attend and five new vendors attend. Jane must submit a Special Event Vendor Reporting Form with the five new vendors to the Office of State Tax Commissioner.

- The Special Event Vendor Reporting Form is available at www.tax.nd.gov/specialevents.
 - A copy of this form must be kept by the promoter or organizer for three years and three months, per sales tax law.

ADDITIONAL INFORMATION

Additional information is available at www.tax.nd.gov/salesanduse, or contact our Sales Tax Compliance Section at 701-328-1246 or salestax@nd.gov.

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