



# NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER SALES TAX NEWSLETTER

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TAX COMMISSIONER

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## Local Tax Changes

### July 1, 2017:

#### Carpio

The city of Carpio will impose a city sales, use, and gross receipts tax of 1.5 percent effective July 1, 2017. The tax will be reported under local tax code 240, the maximum tax amount (Refund Cap) will be \$25 on a single sale, and no permit holder compensation is provided.

#### Dickinson

The city of Dickinson currently has a 1.5 percent city sales, use and gross receipts tax with a maximum tax amount of \$25 per sale. The tax rate for Dickinson starting July 1, 2017 will remain at 1.5 percent, but the maximum tax amount (Refund Cap) will be \$100 per sale. No other changes were made to the ordinance.

#### Tioga

The city of Tioga currently has a 2.5 percent city sales, use and gross receipts tax with a maximum tax amount of \$25 per sale. The tax rate for Tioga starting July 1, 2017 will remain at 2.5 percent, but the maximum tax amount (Refund Cap) will be eliminated. No other changes were made to the ordinance.

A history of rate changes and a listing of current tax rates for all local sales, use, and gross receipts taxes imposed within North Dakota are available at [www.nd.gov/tax/salesanduse/streamlinetax/ratechange](http://www.nd.gov/tax/salesanduse/streamlinetax/ratechange).

The maximum tax is the amount of tax that may apply to a single transaction. If the purchaser pays more than the maximum tax amount on a purchase, the purchaser may apply to the Tax Commissioner for a refund of any tax paid in excess of the maximum tax. Retailers may voluntarily collect up to the maximum tax amount as a convenience to their customers so the purchasers do not need to apply for a refund. Retailers are not required to calculate maximum tax and may continue to collect tax without regard to the maximum tax. Retailers should be consistent in the method they choose to calculate local taxes.

#### Please note:

**Beginning in 2018, all local sales tax rate change notifications will be made electronically and will no longer be provided by mail. Information regarding local tax changes is available through email updates. You may sign up for email notifications online at [www.nd.gov/tax](http://www.nd.gov/tax). In the lower-left of the homepage, click on "Subscribe" under Email Updates, and follow the instructions. There are nine lists to which you may subscribe. To receive the sales tax rate change notifications, make sure you are subscribed to the "ND Sales and Special Taxes" list. You may also view the local sales tax rate change notifications at [www.nd.gov/tax/salesanduse/streamlinetax/ratechange](http://www.nd.gov/tax/salesanduse/streamlinetax/ratechange).**

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## Return Payment Vouchers

The Office of State Tax Commissioner is updating its return payment system to make processing payments for paper returns more efficient. All preprinted sales and use tax returns, restaurant and lodging tax returns and prepaid wireless 911 fee returns mailed to taxpayers after July 1 will include a separate preprinted voucher.

Preprinted vouchers contain all the necessary information to ensure your payment is correctly applied to the paper return you are filing. Beginning in July, all paper returns paid by a check must be accompanied by the preprinted payment voucher. When paying a paper return by check, please include the payment voucher and your check for payment in the same envelope along with your completed return.

Paper returns may also be paid electronically by ACH Debit by selecting the “Electronic Payment” option on our website at [www.nd.gov/tax/tap](http://www.nd.gov/tax/tap). No registration is required. The one-time electronic payment is withdrawn directly from your checking or savings account after you provide your banking information and authorize the payment amount you choose.

The most accurate and trouble-free method to file and pay returns is electronically using our online system, Taxpayer Access Point (TAP). In addition to filing returns and making payments, TAP also provides access to enhanced features that will allow you access to your tax account information and perform a wide variety of tasks. Registration for TAP is also available on our website at [www.nd.gov/tax/tap](http://www.nd.gov/tax/tap). After you sign-up for TAP, you will receive an authorization code that provides you on-line access to your account.

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## Hotel and Motel Rentals

Gross receipts from the rental of hotel, motel, bed and breakfast or tourist court accommodations including, but not limited to, meeting rooms, conference rooms, banquet rooms or swimming facilities are subject to sales tax. Charges for rollaway beds, cribs, room damages, and fees for smoking in a non-smoking room are all part of the room rental subject to tax.

An exception occurs when accommodations are occupied by the same individual or individuals for residential housing for periods of 30 or more consecutive days. Room rentals that meet the 30 day requirement are exempt from tax. To qualify for exemption, the accommodations must be occupied by the same individual or individuals with no break in the continuous occupancy. If a room is rented by one party or entity for 30 or more consecutive days but the room is not occupied by the same individual or individuals the accommodations are not exempt from tax.

Sales from a hotel or motel bar, lounge, coffee shop, restaurant or gift shop are also subject to sales tax.

Charges by the facility for internet access beginning July 1, 2017, in-room movies, game rentals, laundry or dry cleaning services, baby-sitting services and valet parking are all exempt from sales tax.

Some North Dakota cities impose a city lodging and/or a city lodging and restaurant tax that apply in addition to state and local sales taxes. The same facility rental charges that are subject to state and local sales taxes are also subject to any locally imposed lodging or lodging and restaurant taxes.

For additional information on local taxes, see the *Local Option Taxes by Location* guideline on our website at the following link: [www.nd.gov/tax/salesanduse/guidelines](http://www.nd.gov/tax/salesanduse/guidelines).

Additional information on this topic may be found in our *Hotels and Motels* guideline on our website at the following link: [www.nd.gov/tax/salesanduse/guidelines](http://www.nd.gov/tax/salesanduse/guidelines).

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## Mobile Food Trucks

Prepared food is subject to sales tax, including applicable local city or county sales tax and applicable city lodging and restaurant taxes. Like other restaurants, gross receipts from food and drink sales made by food trucks are subject to tax.

Generally, prepared food includes food sold in a heated state or heated by the seller, food that is prepared by combining two or more food ingredients by the seller for sale as a single item, and food sold with eating utensils, such as plates, knives, forks, spoons, glasses, cups, napkins or straws provided by the seller.

Taxable sales by food trucks include, appetizers, prepared meals, lunches, snacks, sandwiches, prepackaged and fountain soft drinks, coffee, tea, soft serve ice cream, prepackaged ice cream and frozen desserts, candy and cigarette and tobacco products.

If you sell prepared food through a mobile food truck and have not registered to collect the applicable sales or restaurant taxes, please contact the Sales and Special Taxes Compliance Section at 701.328.1246 or [salestax@nd.gov](mailto:salestax@nd.gov).

For further details, please see the *Local Option Taxes by Location* guideline on the website.  
<http://www.nd.gov/tax/salesanduse/guidelines>

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## Sand, Gravel and Scoria

Operators of sand and gravel pits are retailers and are liable for collection of sales tax on receipts from sales. Delivery charges are part of the sale and are subject to tax when the seller delivers to the purchaser's location. Sales to truckers, haulers, and businesses who resell the sand, gravel, or scoria are exempt from sales tax when the purchaser provides a properly completed and signed certificate of resale. When sand or gravel is procured at the pit for delivery at the pit to a purchaser who has employed a trucker or hauler, the operator of the pit must collect and remit the tax.

### Contractors-Retail Sale

If a contractor sells sand, gravel or scoria and "truck-spreads" the product, and completes no other activity in association with the delivery and spreading of the product, the sale is a retail sale. Sand, gravel or scoria sold and stockpiled for a customer or loaded on the customer's truck is a retail sale and is subject to sales tax on the total selling price, including delivery charges, unless the sand, gravel or scoria is sold to an exempt entity (i.e. state, city, county or township government).

### Installation

If a contractor sells and delivers sand, gravel or scoria and provides additional follow-up activity such as leveling or spreading the product with additional equipment, the sale is no longer a retail sale, but rather the sand, gravel or scoria is considered to be installed into real property. The contractor is responsible for the payment of tax based on the contractor's purchase price of the product.

Sand or gravel that is severed from land owned by a contractor and later installed into real property by that contractor is subject to use tax based on a value of \$.08 per ton. If sand or gravel is purchased by the contractor from another source, and installed into real property by the contractor, the contractor is obligated for sales or use tax based on the purchase price. If the contractor pays a royalty to a land owner, the contractor is responsible to pay sales or use tax based on the royalty agreement.

For details, please see the *Contractors* guideline and the *Sand, Gravel and Scoria* guideline at the website address below. <http://www.nd.gov/tax/salesanduse/guidelines>

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## Auctioneers

Auctioneers are retailers and are liable to collect state and applicable local sales tax on any item auctioned when the principal (owner) is not disclosed. If the principal is disclosed, sales tax is not due provided the principal does not normally sell the item at retail. If the principal is disclosed on some items and not disclosed on other items, the auctioneer is obligated to collect tax on those undisclosed items being auctioned. Because auctioneers are retailers, they must collect sales tax when selling their own property.

Further details may be found in our *Auctioneers* guideline found on the website at <http://www.nd.gov/tax/salesanduse/guidelines>.

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## Stylists/Salons

Stylists at hair salons perform nontaxable services, but may also make retail sales of tangible personal property subject to tax. Taxable retail sales may include sales of shampoos and conditioners, hair sprays, palm aids, gels, and similar products purchased for personal use by the customer. Salons making taxable retail sales must collect state and local sales tax on these sales.

Haircuts, perms, coloring services, extensions, eye brow and lip waxing, etc. are nontaxable services. Stylists and salons purchasing products used to perform these services are the final users of these products and must pay sales or use tax on their cost.

Products purchased for both retail sale and for business use should be purchased tax free using a certificate of resale. Tax is collected on the selling price of the products sold at retail, and use tax is accrued, reported, and remitted if the product is used in providing services.

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## Water and Ice

Water is generally not taxable, but there are certain instances when the sale of water will be subject to state and local sales taxes. Fresh water sold for commercial (not for human consumption) purposes, ice, and bottled drinking water (including mineral, carbonated and distilled water) when sold as a grocery food item are not taxable.

Flavored water is not taxable unless it also includes natural or artificial sweeteners. However, sweetened beverages containing 50 percent or more of fruit or vegetable juice are food items not subject to tax.

The following sales of water are examples of taxable transactions:

- Bottled water served in a restaurant or bar.
- Water containing natural or artificial sweeteners.
- Water sold through a vending machine.

For additional information, please refer to our *Grocery, Convenience Store, and Delicatessen* guideline at <http://www.nd.gov/tax/salesanduse/guidelines>.

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## **Mandatory Electronic Filing**

Businesses reporting more than \$333,000 of taxable sales and purchases in the previous calendar year are required by state statute to file their Sales, Use and Gross Receipts Tax returns monthly and electronically on our Taxpayer Access Point (TAP) system. Sales tax accounts are reviewed annually in May and those that have met or exceeded the threshold are notified the second week of June if their filing frequency will change. Taxpayers that have not been filing electronically in the past will need to create a TAP account and begin filing electronic returns for periods beginning July 1st or file electronic returns using the Streamlined Sales Tax Simplified Electronic Tax Return (also known as SER).

If a taxpayer's taxable sales and purchases fall below \$333,000 in a subsequent calendar year, they will be returned to a quarterly filing status unless they request to remain a monthly filer. If a taxpayer fails to file and pay timely or does not file electronically as required, penalty and interest will apply.

### ***Did You Know?***

***North Dakota permit holders must file sales tax returns at every designated filing frequency even if there are zero sales for a filing period.***

Contact us:  
Sales Tax Compliance  
Phone: 701.328.1246  
Email: [salestax@nd.gov](mailto:salestax@nd.gov)