



**RICK CLAYBURGH**  
TAX COMMISSIONER

# North Dakota Office of State Tax Commissioner

## DRUGSTORES

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### Sales and Use Tax Guideline

All sales of tangible personal property by a drugstore are taxable under the general sales tax law unless exempted by a specific sales tax statute. The most common exemptions are as follows:

#### **Prescription Drugs**

The sales of drugs which are sold under a doctor's prescription for human consumption or use are not taxable. Medicines which are purchased without a doctor's prescription are taxable.

#### **Oxygen**

The sales of oxygen to any person for medical purposes are exempt if sold under a doctor's prescription. Sales or rentals of oxygen producing equipment, or oxygen equipment and supplies necessary for the administration of oxygen are taxable, even if prescribed by a doctor.

#### **Orthopedic and Artificial Medical Devices - Individually Designed**

The sale of artificial medical devices individually designed, constructed or altered solely for the use of physically disabled persons so as to become a brace, support, supplement, correction or substitute for the bodily structure, including the extremities of the individual, are exempt from sales tax.

- a) Trusses, supports, shoes, braces and mastectomy bras are exempt only when specifically fitted or altered to fit a particular person.
- b) Artificial limbs, artificial eyes, hearing aids (hearing aid batteries sold separately are taxable), artificial breast forms, pacemakers and other equipment worn as a correction or substitute for any functioning portion of the body are exempt. Replacement straps and clamps are taxable.
- c) Artificial teeth when sold by a dentist, or eyeglasses when prescribed or designed by an ophthalmologist, physician, oculist or optometrist for the personal use of the owner are exempt.
- d) Crutches and wheelchairs for use by physically disabled persons are exempt. Canes, walking sticks, crutch tips, pads and replacement parts for crutches and wheelchairs are taxable.
- e) The sale or rental of medical equipment or other equipment is generally taxable, even if prescribed by a doctor, unless exempted by a specific sales tax statute.

#### **Diabetic, Bladder Dysfunction and Ostomy Equipment and Supplies**

The sales of diabetic, bladder dysfunction and ostomy equipment and supplies are exempt.

- a) Insulin and diabetic equipment and supplies, such as hypodermic syringes and needles, sugar (urine and blood) testing equipment and materials purchased by diabetics are exempt.
- b) Bladder dysfunction and ostomy equipment and supplies used in bladder dysfunction and ostomy care including, but are not limited to, ostomy bags, discs, tubes and belts, cements and removers, powders, germicides, incontinent pads and adult diapers are exempt.

#### **Equipment Used to Modify Articles for Use by Physically Disabled Persons**

Equipment used to modify a motor vehicle for use by a permanently physically disabled persons, equipment which may be attached to real property for use by a permanently physically disabled person in that person's principal dwelling, or equipment including manual control units for attaching to or modifying motorized farm implements is exempt.

## **Food and Food Products**

Most food and food products are not taxable. However, sales tax is due on the sale of candy, chewing gum, carbonated soft drinks and other generally recognized soft drinks (including fruit drinks which contain less than 70 percent pure fruit juice), powdered drink mixes, coffee, tea, beverage cocoa, water sold in containers of less than one gallon (3.79 liters), cigarettes and tobacco products. Bottled water sold in containers of one gallon (3.79 liters) or more is not taxable. Sales of vitamins, dietary supplements and adjuncts sold in liquid, powdered, granular, tablet, capsule, lozenge and pill form are taxable.

All food sold in a luncheon area or in a restaurant is regarded as sold for *immediate consumption* and is taxable.

## **Magazines and Newspapers**

Magazines sold at newsstands and over the counter are subject to sales tax. North Dakota's exemption regarding magazines applies only to subscriptions. Sales of newspapers are exempt from sales tax whether sold over the counter or through subscriptions.

## **Photo Finishing**

Many stores act as film collection centers where their customers may drop off film for photo finishing. Charges for photo finishing and for the finished prints or slides are subject to sales tax. Stores must charge sales tax on the total charge for photo finishing prints, slides or movie film.

## **Purchases Subject to Tax**

All stores are required to pay sales or use tax on purchases of equipment and supplies for their own use. Examples of these items include: cash registers, file cabinets, light bulbs, paper towels, cash register and tape. If these items are purchased from a supplier who holds a North Dakota sales and use tax permit, sales tax should be paid directly to the supplier. If these items are purchased from a supplier who does not charge North Dakota sales tax, the buyer must include the cost of the purchases on the *Items Subject to Use Tax* line of the North Dakota Sales and Use Tax Return and remit use tax on those items directly to the Office of State Tax Commissioner. Any items originally purchased for resale but subsequently used or consumed by the store also should be reported for use tax purposes.

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