

# **Office of State Tax Commissioner**

Income Tax Withholding  
Sales Tax  
Application to Register



# Guideline

## Income tax withholding

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Tax Commissioner

### Introduction

This guideline is for employers. It explains the income tax withholding requirements under North Dakota income tax law. Current North Dakota income tax law requires income tax withholding from wages paid by an employer to an employee. Certain pass-through entities are also required to withhold individual income tax from the year-end distributive share of income of its individual owners or beneficiaries who are nonresidents of North Dakota. This withholding is reported separately from employer's withholding. For more information about the withholding requirement for pass-through entities, contact the Individual Income Tax Section by e-mail at [individualtax@nd.gov](mailto:individualtax@nd.gov) or by phone at 701-328-1032.

**Definitions.** The terms *wages*, *employer*, *employee*, *payroll period*, and *calendar quarter* have the same meaning as defined in the Internal Revenue Code of 1986, as amended, for purposes of federal income tax withholding on wages. North Dakota Century Code §§ 57-38-59(1) and 57-38-01(10)

**Payroll service provider.** If an employer contracts with a payroll service provider to file and pay the federal and state withholding taxes on behalf of the employer, and the payroll service provider files and pays the employer's federal withholding taxes electronically, the payroll service provider is required to electronically file and pay the employer's North Dakota withholding taxes. For complete details on the procedures that a payroll service provider must follow, go to the Office of State Tax Commissioner's web site at [www.nd.gov/tax](http://www.nd.gov/tax) and click on **Income Tax Withholding > Publications** on the left-hand side of the page. Then click on **Notice To Payroll Service Providers**.

### Income tax withholding requirement

An employer is required to withhold North Dakota income tax from wages paid to an employee if the employee performs services within North Dakota and the wages are subject to federal income tax withholding. Wages that are not subject to federal income tax withholding, such as wages paid for domestic labor, are not subject to North Dakota income tax withholding. If an employer and employee mutually agree to withhold federal income tax from wages that are not subject to federal income tax withholding, the wages are *not* subject to North Dakota income tax withholding. N.D.C.C. § 57-38-59(1)

**North Dakota resident working in another state.** If an employer's main place of business is located in North Dakota, the employer must withhold North Dakota income tax from wages paid to a resident employee who performs services in another state. However, this does not apply if the employer is required by the other state to withhold that state's income tax from the wages. N.D.C.C. § 57-38-59(1)(2)

**Nonresident alien of United States working in North Dakota.** Wages paid to a nonresident alien of the United States for services performed within North Dakota are subject to North Dakota income tax withholding if they are subject to federal income tax withholding. If wages paid to a nonresident alien are exempt from federal income tax withholding because of an income tax treaty between the United States and a foreign country, they are *not* exempt from North Dakota income tax withholding. Except where an income tax treaty between the United States and a foreign country specifically exempts income from state taxation, income tax treaties between the United States and foreign countries are not recognized for North Dakota income tax purposes. N.D.C.C. § 57-38-59(1)(2)

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To determine the amount of North Dakota income tax to withhold from the wages paid to a nonresident alien for services performed in North Dakota, do the following:

- Complete a separate *Federal Form W-4* for North Dakota withholding purposes. Write “North Dakota only—nonresident alien” at the top of the form.
- Fill in the name and address of the nonresident alien. For the address, provide the permanent address in the home country of the nonresident alien. If there is no permanent address in the home country, provide the address used in the United States.
- Fill in the social security number if one is available. If the nonresident alien does not have to obtain a social security number for any federal purpose, one does not have to be obtained just for North Dakota withholding purposes, in which case write “Not required” in the space for the social security number.
- Check the “Single” box.
- Enter “1” for the number of withholding allowances.
- Calculate the North Dakota income tax withholding based on the *Federal Form W-4* as filled out above. (Note: The “Exempt” status may not be claimed.)

## Exemptions

All wages that are subject to federal income tax withholding are subject to North Dakota income tax withholding, except:

- Wages paid to a nonresident of North Dakota for performing regularly assigned duties in more than one state for an interstate motor, rail, air, or water carrier company, as provided for under federal interstate commerce law.
- Wages paid to an eligible resident of Minnesota or Montana for services performed in North Dakota (see “**Reciprocity**” below for more information). N.D.C.C. § 57-38-59.1
- Wages paid to a Native American Indian for services performed on an Indian reservation, provided the person (1) is an enrolled member of a federally-recognized Indian tribe, (2) lives on the reservation where enrolled, and (3) performs the services for which the wages are paid on the reservation where enrolled.
- Wages paid by a farmer or rancher to an employee solely for agricultural labor. N.D.C.C. § 57-38-60(10)

**Reciprocity.** Income tax reciprocity agreements between North Dakota and the states of Minnesota and Montana provide that wages paid to residents of Minnesota and Montana for services performed in North Dakota are exempt from North Dakota income tax withholding, provided the employee completes and gives a *Form NDW-R, Reciprocity exemption from withholding for qualifying Minnesota and Montana residents working in North Dakota*, to the employer. (Note: Under the agreement with Minnesota, the employee must return to his or her home in Minnesota at least once every month to qualify for the exemption.) The employee must renew the exemption from withholding at the beginning of each year by completing and giving a new *Form NDW-R* to the employer on or before February 28. The employer is responsible for making *Form NDW-R* available to employees. N.D.C.C. § 57-38-59.1

**Voluntary agreement to withhold.** An employer and an employee may mutually agree to have North Dakota income tax withheld from wages otherwise exempt from North Dakota’s income tax withholding requirement, in which case the employer must comply with the registration, reporting, and payment requirements explained in this guideline. N.D.C.C. § 57-38-61

## Amount to withhold

An employer may use one of three methods to determine the amount of North Dakota income tax to withhold. Method One (Percentage of Wages Method), which is functionally similar to the federal percentage method (in *Circular E*), is recommended for all wage levels and is best suited for computerized payroll systems. Method Two (Percent of Federal Withholding) is a simplified method in which the federal income tax withheld is multiplied by

a flat tax rate; however, this method is recommended for use only when annual wages do not exceed \$18,000 for single persons or \$30,000 for married persons. Method Three (Withholding Tables), which is functionally similar to the federal wage bracket method (in *Circular E*), may be used for annual wages up to \$65,000 and is recommended for manual payroll systems. Instructions on the use of each method are provided in a separate publication entitled *North Dakota Income Tax Withholding: Rates and Instructions*. N.D.C.C. § 57-38-59

**Minimum amount to withhold.** If the amount of North Dakota income tax to withhold from an employee's wages for a pay period is calculated to be less than \$1.00, the employer is not required to withhold that amount. However, if the employer withholds an amount of less than \$1.00, the employer must remit the amount to the Office of State Tax Commissioner. N.D.C.C. § 57-38-61

**Federal Form W-4.** North Dakota does not have a form comparable to *Federal Form W-4*. The information on the *Federal Form W-4* is also used for North Dakota income tax withholding purposes. If an employee claims exempt status on *Federal Form W-4*, the exempt status is recognized for North Dakota income tax withholding purposes. If an employer is required to submit a copy of *Federal Form W-4* to the Internal Revenue Service, the employer must also submit a copy of the *Federal Form W-4* to the Office of State Tax Commissioner. N.D.C.C. § 57-38-61

**Funds held in trust.** North Dakota income tax withheld from an employee's wages is deemed to be held in trust by the employer for the State of North Dakota. N.D.C.C. § 57-38-60(8)

## Registration

Every employer required to withhold North Dakota income tax must register with the Office of State Tax Commissioner by completing and filing *Application to Register for Income Tax Withholding and Sales and Use Tax Permit*. If an employer is a new business in North Dakota, this form is included in the booklet *New Business Registration Forms*, which contains information and forms for common state business requirements and other purposes. The application is also located on the Tax Commissioner's web site. North Dakota Administrative Code § 81-03-03.1-02

**Change in federal employer identification number (FEIN).** If an employer's FEIN is changed for any reason, the employer must complete and file a new *Application to Register for Income Tax Withholding and Sales and Use Tax Permit* to register the change.

**Cash deposit or bond or undertaking executed by surety company.** If required by the tax commissioner, an employer must either make a cash deposit or post a bond or undertaking executed by a surety company authorized to do business in North Dakota. The amount of the cash deposit, bond or undertaking must be reasonably calculated to ensure the payment of North Dakota income tax withheld from wages by the employer. N.D.C.C. § 57-38-60(9)

**Closing an account.** If an employer goes out of business or permanently ceases to pay wages, the employer must immediately notify the Office of State Tax Commissioner. Upon notification, the Office of State Tax Commissioner will provide the proper forms and other information that the employer will need to satisfy any remaining income tax withholding requirements and close the employer's account. N.D.C.C. § 57-38-61

**Personal Liability of corporate officer, or LLC governor, manager, or member.** North Dakota tax law makes the corporate officer, manager or governor of a limited liability company, or member of a member-controlled limited liability company who controls, supervises, or is charged with the responsibility of filing the withholding or sales and use tax returns and payments personally liable for the failure of the business to file the returns or remit the tax. Dissolution of the business does not discharge this personal liability.

**Cash deposit or bond or undertaking executed by surety company in lieu of personal liability.** The corporate officers, governors or managers of a limited liability company, or members of a member-controlled limited liability company may elect to not be personally liable for a failure to file or pay, if the corporation or LLC makes a cash deposit or posts a bond or undertaking executed by a surety company authorized to do business in North Dakota. The amount of the cash deposit, bond or undertaking must be equal to the estimated annual income tax withholding liability of the corporation or LLC. Contact the Office of State Tax Commissioner if the corporation or LLC wishes to exercise this option. N.D.C.C. §§ 57-38-60.1 and 57-38-60.2

## Reporting and payment requirements

Every employer required to withhold North Dakota income tax must file an income tax withholding return on a calendar quarter basis (or, if eligible, on a calendar year basis) and pay the tax withheld with the return. The income tax withholding return may be filed either on paper or electronically. (See **Electronic Filing** on this page for more information on electronic filing and payment.) In addition to the income tax withholding return, every employer must file a copy of *Federal Form W-2* for each employee with a transmittal return at the end of the calendar year. A *Form W-2* does not have to be filed with North Dakota if the wages reported on it for federal purposes are exempt from North Dakota withholding (see **Exemptions** on page 2).

**Paper filing.** If filing on paper, preaddressed forms are mailed at the appropriate time(s) during the year to every registered employer. If a registered employer does not receive a preaddressed form for any reason, the employer should contact the Office of State Tax Commissioner before the due date of the return to obtain a preaddressed form. Failure to receive the proper form does not relieve the obligation to file or pay on time.

**Electronic filing of income tax withholding return.** If approved to file the income tax withholding return electronically, timely reminders will be provided in lieu of preaddressed paper forms. The reminder will be sent by e-mail, if an e-mail address is provided by the employer, or by regular mail if an e-mail address has not been provided. Failure to receive a reminder does not relieve the obligation to file or pay on time.

**Income tax withholding return.** Except as provided below under **Annual filing, Form 306, North Dakota Income Tax Withholding Return**, must be filed for each calendar quarter on or before the following due dates:

Calendar quarter	Due date
January, February and March	April 30
April, May and June	July 31
July, August and September	October 31
October, November and December	January 31 N.D.C.C. § 57-38-60(1)(2)

**Annual filing.** An annual filing option is available to eligible employers under which one *Form 306* may be filed for the entire calendar year on or before January 31 following the end of the calendar year. An employer is eligible for annual filing if *all* of the following conditions apply: (1) The employer had an obligation to file *Form 306* for all four quarters of the preceding calendar year; (2) The employer filed a *Form 306* and paid the full amount of North Dakota income tax required to be withheld on or before the due date for all four quarters of the preceding calendar year; *and*, (3) The total North Dakota income tax withheld by the employer during the preceding calendar year was less than \$500.00. Contact the Office of State Tax Commissioner for information on the procedures that apply for annual filing. N.D.C.C. § 57-38-60(1)

**Payment of income tax withheld.** The total amount of North Dakota income tax withheld during the period covered by *Form 306* must be remitted with *Form 306*. N.D.C.C. § 57-38-60(1)(2)

**Electronic Filing.** Employers may use either of two electronic filing and payment options to satisfy their *Form 306* filing and payment obligations: Withholding WebFile or Withholding E-File. The Withholding WebFile option allows employers to submit their returns on the Internet and make payment by an ACH Debit electronic funds transfer (Tax Commissioner withdraws funds from employer's bank account). There is no cost to the employer to

use WebFile. The Withholding E-File option allows employers to electronically submit the return information and payment through an ACH Credit electronic funds transfer (employer contacts its bank with instructions to initiate the electronic transfer of your tax payment from your bank account to the State's account). The employer is responsible to pay any bank fees under the E-File option. Employers must register to use either electronic filing method. WebFile registration must be completed on-line from the Tax Commissioner's web site at [www.nd.gov/tax](http://www.nd.gov/tax). Click on **Income Tax Withholding > Electronic Filing** on the left-hand side of the page. Then click on **Getting Started**. E-File registration may be completed on-line in the same manner as WebFile or by mailing a completed *Form 301EF*, which is also available on our web site under **Income Tax Withholding > Forms**.

**Transmittal return.** *Form 307, North Dakota Transmittal of Wage and Tax Statements (Forms W-2) Return*, must be filed on or before February 28 following the close of the calendar year. See **Information returns for wages** below for more information about *Form W-2* requirements. N.D.C.C. § 57-38-60(3)

## Information returns for wages

Except for the wages listed under **Exemptions** on page 2 of this guideline, every employer is required to file a copy of *Federal Form W-2* with the Office of State Tax Commissioner to report the payment of wages to an employee during the calendar year. This requirement applies even if an employer is not required to register for North Dakota income tax withholding purposes. In addition to the information required to be shown on *Form W-2* for federal tax purposes, the copy of *Form W-2* filed with North Dakota must show the total amount of North Dakota wages and North Dakota income tax withheld for the calendar year. Except where an employer is required to file *Form W-2* information on magnetic media, an employer may file the information in paper document form or on magnetic media. N.D.C.C. § 57-38-60(3)(4)(6)

**Magnetic media requirement.** If an employer or payroll service provider is required to file *Form W-2* information on magnetic media for federal purposes and the quantity of *Form W-2* forms required to be filed with North Dakota is 250 or more, the information must be filed on magnetic media for North Dakota purposes. For more information, obtain the *Income tax guideline: Information returns*.

**Transmittal of W-2s.** Employers required to register for North Dakota income tax withholding purposes must submit the *Form W-2* information, whether on paper or magnetic media, with *Form 307, North Dakota Transmittal of Wage and Tax Statements (Forms W-2) Return*. Employers not required to register for North Dakota income tax withholding purposes do not have to file *Form 307* but must submit the *Form W-2* information, whether on paper or magnetic media, with a cover letter. All employers required to submit *Form W-2* information, whether registered or not, must submit the information on or before February 28 following the end of the calendar year in which the wages were paid. N.D.C.C. § 57-38-60(3)(4)

**Reporting to employees.** On or before January 31, an employer must provide each employee with a copy of the *Federal Form W-2* that is required to be filed with the Office of State Tax Commissioner. N.D.C.C. § 57-38-60(6)

## Information returns for nonwages

In addition to reporting wage information, a business that owns property, or carries on its trade or business activities, in North Dakota may be required to file information from *Federal Forms 1099, 1042-S* and *W-2G* with the Office of State Tax Commissioner. For more information, obtain the *Income tax guideline: Information returns*.

## Need help?

Phone: 701.328.3125

Speech/hearing impaired—call us through Relay North Dakota at 1.800.366.6888

E-mail: [withhold@nd.gov](mailto:withhold@nd.gov)

Web site: [www.nd.gov/tax](http://www.nd.gov/tax)

Write: Office of State Tax Commissioner, 600 E. Boulevard. Ave., Dept. 127, Bismarck, ND 58505-0599



# Guideline

## Sales Tax Sales, Use and Gross Receipts Tax Requirements

Cory Fong  
Tax Commissioner

September 2006

In order to promote a better understanding of the North Dakota sales, use and gross receipts tax laws, the Office of State Tax Commissioner provides the following general information. Special guidelines for certain types of businesses also are available and may be obtained by contacting the Sales Tax Compliance Section of the Office of State Tax Commissioner or by viewing the guidelines on our web site at [www.nd.gov/tax](http://www.nd.gov/tax).

### Imposition and Rates - Sales & Use Tax

Sales tax is paid by the purchaser and collected by the retailer.

Sales tax is levied at the following rates:

- 2 percent on the total receipts from retail sales of natural gas.
- 3 percent on the total receipts from retail sales of *new* mobile homes. (*Used* mobile homes are exempt.)
- 5 percent on the total receipts from the leasing or renting of hotel, motel or tourist court accommodations for periods of less than 30 consecutive days. (Note: 1% lodging gross receipts tax also applies)
- 5 percent on the total receipts from all other taxable retail sales of tangible personal property and services.

### Imposition and Rates - Gross Receipts Tax

Gross receipts tax is levied at the following rates:

- 1 percent on the gross receipts from the leasing or renting of hotel, motel, or tourist court accommodations for periods of fewer than thirty consecutive days, excluding bed and breakfast accommodations.
- 3 percent on the gross receipts from retail sales of new farm machinery and new irrigation equipment used exclusively for agricultural purposes.
- 7 percent on the gross receipts from retail sales of alcoholic beverages sold for consumption either on or off the premises.

### Permits and Reporting

Any business or institution making taxable retail sales of tangible personal property or services is required to hold a North Dakota sales, use and gross receipts tax permit. An application to obtain a permit must be submitted to the Sales Tax Compliance Section of the Office of State Tax Commissioner. When a business or institution has a permit, a sales, use and gross receipts tax return is sent to the taxpayer each calendar quarter (or each assigned reporting period) to report and remit the sales, use and gross receipts tax. The reporting and paying of North Dakota state and local sales, use and gross receipts taxes can also be completed using the state's electronic sales, use and gross receipts tax filing system, which may be used as an alternative to filing the paper tax return. For more information on the state's sales, use and gross receipts tax filing system, please refer to the electronic filing information located at [www.nd.gov/tax/salesanduse/elecfileing](http://www.nd.gov/tax/salesanduse/elecfileing). ***These returns must be filed each period whether tax is due or not.*** If no tax is due, the return must be filed indicating that no taxable sales or reportable purchases were made for that period. If the return is not filed, the Sales Tax Compliance Section will notify the permit holder that the return is delinquent and that a penalty is due.

Sales tax applies to sales of tangible personal property and certain services to a final user and consumer. Use tax is complimentary to sales tax and is imposed on the use, storage or consumption of tangible personal property in this state unless the goods already have been subjected to sales tax.

If a business or institution purchases materials, supplies or equipment for resale, the business or institution should not pay the tax to the supplier. Instead, the business or institution should collect tax from the customer when the item is sold and remit the tax to the Office of State Tax Commissioner.

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If a business or institution purchases materials, supplies or equipment for use in its business, the business or institution is required to pay sales tax to the supplier of these items. If the supplier does not hold a North Dakota sales, use and gross receipts tax permit, the tax should not be remitted to the supplier, but should be remitted as a use tax directly to the Office of State Tax Commissioner.

## Penalties

For returns filed late, a minimum penalty of 5 percent of the tax due or \$5.00, whichever is greater, will be added to the tax due for the first month the return is late. For each additional month or fraction thereof that a return is late an additional penalty equal to 5 percent of the tax due will be assessed up to a maximum of 25 percent of the tax due. Interest is not assessed for the first month the return is delinquent. Interest of 1 percent of the tax due will be assessed for each month or fraction of a month after the first month that a return is late. Penalty and interest is calculated separately for sales/use tax and gross receipts tax.

## Retail Sales-Sales For Resale

A *retail sale* is the sale of tangible personal property to a person who is the final user and consumer of the goods. The seller or supplier in this instance is required to collect sales tax on the sale to the final user.

A *sale for resale* is made when a dealer or supplier sells to another bona fide retailer for resale. The seller or supplier is not required to collect sales tax from the individual or company making the purchase for resale provided the seller obtains a North Dakota certificate of resale, a Multistate Tax Commission Uniform Sales and Use Certificate, or a certificate of exemption authorized by the Streamlined Sales Tax Agreement from the purchaser.

If a person submits a false North Dakota certificate of resale to a seller, the person submitting the false certificate is liable for any tax and penalties which may become due. Certificates of resale should be obtained from retailers at least every two years.

The North Dakota certificate of resale is available on our website.

### North Dakota Certificate of Resale

I hereby certify that I hold \_\_\_\_\_ Sales and Use Tax Permit Number \_\_\_\_\_. I am engaged in the business of selling, leasing or renting \_\_\_\_\_, and that the tangible personal property purchased from \_\_\_\_\_ is purchased by me for resale.

**I further certify that I will report and remit any sales or use tax and any penalties which become due as a result of purchases made from the above seller which are used or consumed by me.**

\_\_\_\_\_  
Business Name

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

*These certificates are not to be sent to the Office of State Tax Commissioner*, but must be retained in the supplier's files to substantiate sales claimed as sales for resale.

## Purchases Subject to Use Tax

Individuals and businesses that purchase supplies and equipment for use in running a business or for personal use must pay a sales or use tax on these purchases, based on the cost of the items being purchased. If these items are purchased from a firm that does not collect North Dakota sales tax, the purchaser must report the purchase on the *Items Subject to Use Tax* line of the sales, use and gross receipts tax return and pay a use tax on the purchase price. Examples of taxable purchases include office supplies, office equipment, samples, fixtures, display cases, maintenance items, cleaning supplies, delivery equipment, special installation tools and equipment, etc.

## Rentals of Tangible Personal Property

The term *sale* also includes the leasing or renting of tangible personal property leased or rented for final use or consumption within this state. Certain vehicles subject to the motor vehicle excise tax imposed by the North Dakota Century Code ch. 57-40.3 also will be subject to sales tax if the vehicle is rented in this state for less than 30 days. Please see the Licensed Motor Vehicle Dealers Guideline for details.

## **Delivery To Out-Of-State Residents**

Delivery to a customer out-of-state constitutes a sale in interstate commerce and is not a taxable sale in North Dakota. For example, if a retailer in North Dakota sells merchandise to an out-of-state resident and, as a condition of the sale, agrees to deliver the merchandise or to have the merchandise delivered to the customer at a point in another state, North Dakota sales tax does not apply. However, the North Dakota retailer may be obligated to collect and remit the tax for the state into which the retailer delivers if the retailer's activities in that state are sufficient to obligate the retailer to that state's tax law.

On sales to out-of-state residents, retailers must be certain that their records contain proof of delivery, such as truck records, bills of lading, statement by the customer, etc. These conditions apply to deliveries into any state or Canadian province.

## **Delivery Charges Taxable**

Freight, delivery, and other transportation charges, including shipping and handling charges and setup charges, are always considered to be part of the selling price. If the sale is taxable, the freight, delivery, and other transportation charges are taxable. If the product being delivered is exempt from sales tax, then the freight, delivery and other transportation charges are also exempt. Delivery charges billed directly to the customer by delivery services that are not making the sale of tangible personal property remain exempt from sales and use tax.

## **Sales to Nonprofit Organizations Are Taxable**

The total receipts from sales of tangible personal property to nonprofit organizations for their own use are subject to sales tax. Such organizations include Boy Scouts, Girl Scouts, F.F.A., Chambers of Commerce, Lions Clubs and other civic organizations, as well as churches and religious groups.

## **Sales to Residents of Montana**

North Dakota sales tax law contains an exemption for residents of Montana from paying sales tax when purchasing tangible personal property within North Dakota. A resident of Montana can take delivery of tangible personal property in North Dakota and can purchase this property without paying the North Dakota sales tax provided the following conditions are met:

1. The sale is in excess of \$50.00.
2. The personal property will be taken out of the state of North Dakota and used exclusively outside this state.
3. The resident of Montana is in North Dakota to make a specific purchase and not as a tourist.
4. The resident of Montana must sign a certificate of purchase form certifying Montana residency and that the goods will be used outside of North Dakota.

The prescribed certificate of purchase for use in making sales to Montana residents may be obtained from the Office of State Tax Commissioner or from our website.

Goods purchased by Montana residents must be taken from North Dakota and used entirely outside this state in order to qualify for the exemption. Accordingly, tax must be paid on lodging accommodations, meals, entertainment and similar goods and services which are consumed in this state.

## **Sales to Canadian Residents**

Sales to residents of Canada are not exempt from North Dakota sales tax, however, in some cases the Canadian buyer may obtain a refund of North Dakota sales tax paid.

The refund is available under the following conditions:

1. The Canadian resident must be in North Dakota to make a purchase and not as a tourist or temporary resident.
2. The goods must be removed from North Dakota within 30 days of purchase and permanently used outside of North Dakota.
3. The Canadian resident must apply for a refund to the Tax Commissioner on a form prescribed by the Tax Commissioner. Refund forms may be obtained from the Tax Commissioner's office or from our web site.
4. The qualifying purchases (each invoice) must equal or exceed \$25.00 before sales tax.
5. The refund must be \$15.00 or more. To reach the \$15.00 limit, qualifying purchases may be accumulated for a period not to exceed one calendar year.

Goods purchased by Canadian residents must be taken out of North Dakota and used entirely outside this state in order for the refund to be allowed. Accordingly, tax paid on lodging accommodations, meals, entertainment, etc. is not subject to refund since these purchases are used in North Dakota.

**Sales to Contractors**

North Dakota sales and use tax law regards any contractor who incorporates tangible personal property into real property as the final user and consumer of the property. As a final user and consumer, the contractor is liable for sales or use tax on the purchase price of that property.

If a contractor furnishes the seller of construction materials with a completed contractor certificate containing the contractor’s license number assigned under the provisions of N.D.C.C. ch. 43-07 and the contractor’s sales and use tax number assigned by the State Tax Commissioner, the seller is not required to collect tax on the sale. Any contractor furnishing such a certificate must report those purchases on the sales and use tax return for the reporting period in which the purchases are made and pay the tax to the Office of State Tax Commissioner with that return. Reporting the purchases and paying the tax on a completed job basis is not permitted.

The following constitutes the Contractor’s Certificate as prescribed by the State Tax Commissioner and is available on our website.

**Contractor’s Certificate**

I, the undersigned, am a construction contractor holding North Dakota Contractor’s License No. \_\_\_\_\_ issued by the Secretary of State of the State of North Dakota and North Dakota Sales and Use Tax Permit Number \_\_\_\_\_ assigned to me by the State Tax Commissioner of the State of North Dakota.

I certify that as a construction contractor, I will report and remit any sales or use tax due directly to the Office of the North Dakota State Tax Commissioner as a result of purchases made by me from \_\_\_\_\_ (Seller)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_  
(Contractor)

\_\_\_\_\_  
(Address)

If a contractor or subcontractor also is engaged in retail trade and part or all of the machinery, equipment, material or supplies used in carrying out a construction contract are taken from stock that was purchased for resale, the contractor must pay a use tax on his cost of the materials. The purchase price or value of the machinery, equipment, materials or supplies used or consumed in carrying out the construction contract must be reported on the *Items Subject to Use Tax* line of the sales, use and gross receipts tax return.

**Local Sales and Use Tax**

In addition to state sales, use and gross receipts taxes, various cities and counties also impose local option sales, use and gross receipts taxes. Most locations that impose a local option sales tax also impose a local option use tax, with the exception of the cities of Cando, Regent, Richardton and Scranton. These locations impose a sales tax but not a use tax. See the *Local Option Taxes by Location* guideline for details about local option sales, use and gross receipts taxes.

Because Cando, Regent, Richardton and Scranton do not impose a local option use tax, a business must be located within these cities to be affected by the local taxes. However, for locations that impose a use tax, businesses not located within the city or county may be required to collect the local option tax if they maintain an office or warehouse in that location, have any employees or representatives working or stationed in that location, deliver goods into the city or county in company owned delivery vehicles or have some other type of presence within the location.

Although local option taxes are imposed locally, the Office of State Tax Commissioner administers the taxes. Please contact the Office of State Tax Commissioner for additional information regarding the local taxes which may affect you.

**Streamlined Sales & Use Tax Agreement**

North Dakota is a member state that is in compliance with the Streamlined Sales and Use Tax Agreement. It is the purpose of this agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance. For more information regarding the Streamlined Sales and Use Tax Agreement, please visit our web site at [www.nd.gov/tax](http://www.nd.gov/tax) or contact [salestax@nd.gov](mailto:salestax@nd.gov).





**Attention:** A Corporation, Limited Liability Company (LLC), Limited Partnership (LP) and Limited Liability Partnership (LLP) must answer questions 20, 21 and 22. Sole Proprietorship, Husband/Wife and General Partnership proceed to question 23.

North Dakota law provides that a foreign Corporation, LLC, LP and LLP may not transact business in this state or obtain any license or permit required by this state until it has procured a Certificate of Authority from the North Dakota Office of Secretary of State. Questions regarding this requirement should be directed to the Secretary of State's Office at 701-328-4284.

20. Enter the ID number from the Certificate of Authority assigned to your organization by the North Dakota Secretary of State  
\_\_\_\_\_.

21. Name of state under which the Corporation, LLC, LP or LLP is organized? \_\_\_\_\_

22. If registration with the Secretary of State's Office is not required, check here

23. Complete if you acquired the business in whole or in part

a. Date of acquisition \_\_\_\_\_  
Month Day Year

b. Prior owner's business name and address \_\_\_\_\_

c. Prior owner's sales/use tax number \_\_\_\_\_ Is prior owner still in business?  Yes  No

24. Do you currently have or have you had a sales and use tax permit in North Dakota?  Yes Permit No. \_\_\_\_\_  No

25. Do you anticipate your monthly sales tax liability to be less than \$50.00?  Yes  No

26. Estimated number of employees in North Dakota and total wages paid for the current year.

Number of employees \_\_\_\_\_ Amount of wages \_\_\_\_\_

27. Is business seasonal or part time?  Yes  No If seasonal, give period of operation \_\_\_\_\_

If business is temporary, give approximate time period of business activity in North Dakota \_\_\_\_\_ through \_\_\_\_\_

28. Name of individual to contact for sales tax matters \_\_\_\_\_ Phone No.: \_\_\_\_\_

Name of individual to contact for withholding tax matters \_\_\_\_\_ Phone No.: \_\_\_\_\_

29. Application must be signed by authorized individual:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Authorized Individual)

Print name: \_\_\_\_\_ Title: \_\_\_\_\_ Phone No: \_\_\_\_\_

I declare under the penalties of North Dakota Century Code ch. 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application, including any accompanying schedules and statements, has been examined by me and to the best of my knowledge and belief is a true, correct and complete application.

FOR OFFICE USE ONLY

**Mail to:** Office of State Tax Commissioner  
Business Registration  
600 E. Boulevard Ave., Dept. 127  
Bismarck, ND 58505-0599

**Contact:** Phone: 701.328.3125 - Withholding  
Phone: 701.328.3474 - Sales  
Web site: www.nd.gov/tax