Use Tax for Businesses

The use tax complements and is similar to the sales tax. Use tax and sales tax rates are identical.

Use tax applies when you buy, lease, or rent taxable items or services used in your business without paying sales tax to the seller. The use tax is based on your cost of taxable purchases.

Use tax may be due when you bring items into Minnesota or when you take them out of inventory for a taxable use. Use tax is also due if a seller does not charge Minnesota sales tax on taxable items.

Local use tax may also be due. For more information, see Fact Sheet 164, Local Sales and Use Taxes.

Examples of use tax liability

Items purchased from an out-of-state mail order company or over the Internet. If the seller ships the items to you in Minnesota but does not collect Minnesota sales tax, you owe Minnesota use tax.

Items commonly purchased from retailers outside Minnesota that are subject to tax include:

- computer hardware and software
- office supplies and equipment
- business furniture, fixtures and accessories

Equipment purchased to manufacture a product. Starting July 1, 2015; the capital equipment exemption is allowed at the time of purchase. To claim this exemption, give the seller a completed Form ST3, Certificate of Exemption.

Before July 1, 2015; you had to pay use tax if you didn’t pay sales tax when you bought the equipment. You could apply for a refund of tax paid if the items qualified as capital equipment, but the use tax had to be paid before the refund was allowed.

Did you know?

- The majority of businesses have a use tax liability.
- The most frequent assessments made in audits involve unreported use tax.

For more information, see Fact Sheet 103, Capital Equipment.

Items purchased exempt from sales tax for the purpose of resale. If you take an item out of inventory for use in your business, use tax is due on your cost of the item taken out of inventory. For example, an office supply store buys several boxes of cash register tapes exempt for resale. Later, an employee takes a roll of tape off the shelf to use in the store register—use tax is due on the store’s cost of the tape.

Taxable items donated to a charitable organization for a fund raiser. If you didn’t pay sales tax when you bought the donated items, you owe use tax, even if the recipient is a tax-exempt organization.

Taxable items given as gifts to clients, employees or others. If you took possession of the gifts in Minnesota but didn’t pay sales tax when you bought them, you owe use tax, even if you send the gifts out of Minnesota. If the gifts are sent out of state by the seller, no use tax is due to Minnesota. You may be liable for reporting use tax in the state to which the gifts are shipped.

Materials used by a contractor on a construction contract in Minnesota are subject to use tax if sales tax was not paid. For more information, see Fact Sheet 128, Contractors.

Fuel for non-highway use is subject to use tax if:

- no sales tax was paid, and
- petroleum tax either was not charged or was refunded.
For more information, see Fact Sheet 116, Petroleum Products.

**Interstate motor carriers** authorized to pay use tax directly to the Minnesota Department of Revenue must pay use tax on a percentage of the cost of parts and accessories and leased equipment. For more information, see Fact Sheet 107, Interstate Motor Carriers.

**Bundled sales.** Use tax may be due on your cost of taxable items that are included in a nontaxable bundled transaction. Sales that otherwise meet the definition of a bundled transaction are not taxable if the transaction meets certain tests. In those cases, you owe use tax on the taxable items included in the transaction if your purchaser price of the taxable items is more than $100.

A bundled transaction is the retail sale of two or more distinct and identifiable products for one non-itemized price. Generally, a bundled transaction is taxable when one of the products included in the sale is a taxable item. For more information, see “Bundled transactions” in the 2008 Sales and Use Tax Newsletter on our website.

**Occasional sale exemption**

Usually, sales of new or used business equipment are taxable. However, when a business sells its own equipment, the occasional sale exemption may apply. For more information, see Fact Sheet 132, Isolated and Occasional Sales.

If you buy items that are exempt from sales tax as occasional sales, use tax is not due. To document a nontaxable purchase in case of a future audit, ask the seller to give you a statement indicating the reason the sale is tax exempt.

**Example:** Purchases made at garage sales are generally nontaxable occasional sales, since sellers are not considered to be “a business.” If they are not “in business,” they are not required to collect sales tax. Since the seller is not obligated to charge sales tax, the purchaser is not required to pay use tax in this case.

**Tax paid to another state**

Minnesota allows credit for state or local sales tax legally required to be paid to another state or locality. When you buy items out of state, the supplier may be required to charge you that state’s state and local sales tax if you pick up the items there. You still owe use tax to Minnesota if the other state’s sales tax rate is less than Minnesota’s general sales and use tax rate. You pay the difference in rates as a variable rate use tax to Minnesota.

**Example:** A Red Wing, Minnesota business buys and picks up office supplies in LaCrosse, Wisconsin. The office supply store charges 5.5 percent sales tax (5 percent Wisconsin state sales tax and 0.5 percent LaCrosse county sales tax). The business brings the supplies back to Red Wing for use.

<table>
<thead>
<tr>
<th>Tax Rate Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minnesota sales tax rate (current rate)</td>
<td>6.875%</td>
</tr>
<tr>
<td>Wisconsin state and local sales tax</td>
<td>- (5.5%)</td>
</tr>
<tr>
<td>Variable rate tax due to Minnesota</td>
<td>1.375%</td>
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</table>

Record the 1.375 percent use tax as variable rate use tax when you electronically file your Minnesota sales and use tax return.

**How to accrue use tax**

A business must set up a system to record and pay use tax. This may be a use tax accrual account or other record-keeping system where purchases subject to use tax are recorded. It may be as simple as a file folder with copies of the individual invoices.

(See *Use tax accrual helpful hints* in the next section, and the sample *Minnesota Use Tax Worksheet* on page 4.) Be sure to record when the use tax is reported and paid, either on the invoice itself or somewhere in your records.

**Use tax accrual helpful hints**

**Review a list of the sellers you buy from.** In your business, regular purchases from a certain seller or of a certain product will be taxable. If you have been audited, the audit schedule listings may help you determine which purchases are normally taxable. This helps to determine which sellers normally do not charge tax.

**Check fact sheets** that relate to your business. They can help you identify purchases subject to use tax. See our website for a list of available fact sheets.

**Use a spreadsheet** (manual or electronic) or a separate general ledger accrual account to summarize purchases subject to use tax. Post each invoice that has a use tax liability to the spreadsheet or ledger. At the end of the filing cycle, total the taxable amount and report it as use tax when you electronically file your sales and use tax return. Keep the spreadsheet or ledger detail as a backup to your return.

**Record that you accrued use tax on the invoice itself.** Sometimes a business will also note the month
and year that use tax was accrued. If use tax is posted to a general ledger accrual account, indicate the account number on the invoice.

Review each invoice as you approve it for payment. If the seller did not charge sales tax, report and pay use tax directly to Minnesota. Do not add the tax to the seller’s invoice.

Items to look for when reviewing invoices:

- All delivery and handling charges stated on the invoice for taxable items are taxable. If the seller charged tax only on the goods, report use tax on the shipping and handling charges. For more information, see Fact Sheet 155, Delivery Charges.
- Computer hardware, canned software, and software maintenance agreements may be fully or partially taxable. For more information, see Fact Sheet 134, Computer Software.
- Fabrication labor to make taxable goods is taxable. For more information, see Fact Sheet 152, Labor - Installation, Fabrication, Construction, and Repair.
- Installation labor is taxable if it is part of the sales price of taxable goods. For example, installation labor for taxable goods is taxable if it is billed by the seller. However, repair labor is exempt as long as it is separately stated. For more information, see Fact Sheet 152, Labor - Installation, Fabrication, Construction, and Repair.
- Many purchases of tangible items for your own use are taxable, including fixed assets and equipment.
- You may have a blanket exemption certificate on file with a seller because most items you buy are for resale. However, sometimes you may buy an item that you will use in your business along with other purchases of inventory. Use tax is due on your cost of the item used in your business.
- If an invoice is for a contract to improve or repair real property, sales or use tax does not usually apply. Contractors owe sales or use tax on their cost of the material used in the contract. For more information, see Fact Sheet 128, Contractors.
- If you had taxable services performed in Minnesota but were not charged sales tax, use tax is due. Following is a list of taxable services. For more information, see Fact Sheets:
  - 112, Building Cleaning and Maintenance
  - 114, Detective and Security Services
  - 120, Laundry and Cleaning Services
  - 121A, Lawn and Garden Care, Tree and Bush Service
  - 162, Massages
  - 113, Motor Vehicle Towing, Washing, Rust-proofing
  - 166, Parking Services
  - 122, Pet Grooming, Boarding, and Care Services

How to report Minnesota use tax
Report state, local, and variable rate use tax when you electronically file your sales and use tax return. See the Minnesota Sales and Use Tax Instruction Booklet for more information.

Local sales and use tax
If you are located in or perform taxable services in an area with local taxes, local sales and use tax may also be due. Local taxes are listed and explained in detail in Fact Sheet 164, Local Sales and Use Taxes. You may also want to adapt the Minnesota Use Tax Worksheet on page 4 to accommodate local use taxes.

<table>
<thead>
<tr>
<th>Legal References</th>
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<tbody>
<tr>
<td>Minnesota Statutes 289A.60, subd. 25, Penalty for failure to properly complete sales and use tax return.</td>
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<tr>
<td>Minnesota Statutes 297A.61, subd. 38, Bundled transactions.</td>
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<td>Minnesota Statutes 297A.63, Use taxes imposed; rates.</td>
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<td>Minnesota Statutes 297A.76, Computation of sales and use taxes.</td>
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<td>Minnesota Statutes 297A.77, Collection of sales and use taxes.</td>
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<tr>
<td>Minnesota Statutes 297A.78, Liability for use tax; receipt as evidence.</td>
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<tr>
<td>Minnesota Statutes 297A.80, Taxes in other states; offset against use tax.</td>
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<td>Minnesota Statutes 297A.95, Coordination of state and local sales tax rates.</td>
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<tr>
<td>Minnesota Statutes 297A.99, Local sales taxes.</td>
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<td>Minnesota Statutes 297A.995, Uniform sales and use tax administration act.</td>
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<tr>
<td>2008 Sales and Use Tax Newsletter</td>
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Other fact sheets
103, Capital Equipment
107, Interstate Motor Carriers
110, Items for Business Use Outside Minnesota
116, Petroleum Products
128, Contractors
132, Isolated and Occasional Sales
142, Sales to Government
152, Labor - Installation, Fabrication, Construction, and Repair
155, Delivery Charges
164, Local Sales and Use Taxes
Minnesota Use Tax Worksheet

Company Name: ________________________________________________________________

Use tax accrual sheet for the period of ____________________ through _______________________

<table>
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<tr>
<th>Date</th>
<th>Invoice Number</th>
<th>Vendor</th>
<th>Taxable Amount</th>
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<tbody>
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Period total: ____________________

List the period total as “use tax purchases” when you electronically file your Minnesota sales and use tax return. Keep this worksheet in your files.

If you owe local use tax or variable rate use tax, adapt the above worksheet to meet your needs and report the totals when you electronically file your sales and use tax return.