Drugs
Sales Tax Fact Sheet 117A

What's New in 2017
We made general updates to this fact sheet.

This fact sheet defines drugs and summarizes how Minnesota Sales and Use Tax applies to these items.

All drugs for human use, including prescribed drugs and over-the-counter drugs are exempt. Vitamins and minerals are not over-the-counter drugs. They are taxable as dietary supplements. For more information, see Fact Sheet 102E, Dietary Supplements.

Definitions
Drugs
Drug means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages, that is:

- recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them
- intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease
- intended to affect the structure or function of the body

Over-the-counter-drug
An over-the-counter-drug is an exempt drug when label includes one of the following:

- A ‘Drug Facts’ panel (Code of Federal Regulations, title 21, section 201.66)
- A statement of active ingredients with a list of those ingredients contained in the compound, substance, or preparation

Over-the-counter-drugs do not include grooming and hygiene products, regardless of whether they otherwise meet the definition. For more information, see Fact Sheet 117F, Grooming and Hygiene Products.

Examples
Often, categories of products include both taxable and exempt items. Remember to check the label on over-the-counter-drugs to determine if a specific item is exempt or taxable. For example, eye drops are taxable unless the label has an active ingredient or a Drug Facts panel.

Examples include:

- acne medications
- alcohol (rubbing)
- analgesics (aspirin, acetaminophen, ibuprofen, ketoprofen, naproxen)
- antacids
- antibiotic creams and ointments
- antifungal creams and sprays
- antihistamines
- antiseptics (betadyne, iodine)
- birth control (pills, patches, implants)
- burn remedies
- medicated lip balm
- contraceptives (creams, gels, foams, medicated condoms)
- cold and cough medications, drops, lozenges
- contact lens solutions
- decongestants
- dermal fillers (injectable)
- dialysis dialsate solution
- diaper rash creams
- enema preparations
- eye drops (tears, lubricants, not saline solution)
- gases – medical grade (air, carbon dioxide, helium, nitrogen, oxygen)
- hand sanitizers
- hydrogen peroxide
- insulin
- laxatives
- nutrition formulas (enteral, parenteral)
- oxygen
- prescription medicines
- radioactive isotopes
- medicated rubs
- sleeping pills
- smoking cessation products (gum, lozenges, patches)
- sterile water for injections
- sterile normal saline (.9% (IV or irrigation)
- vaccines
- petroleum jelly
- yeast infection medications

This fact sheet is intended to help you become more familiar with Minnesota tax laws and your rights and responsibilities under the laws. Nothing in this fact sheet supersedes, alters, or otherwise changes any provisions of the tax law, administrative rules, court decisions, or revenue notices. Alternative formats available upon request.

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Combination sales (bundled transactions)
When a bundled transaction includes drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices, or medical supplies, special rules apply. The sale may or may not be taxable. The sale is taxable if:

- the seller’s purchase price of the taxable items in the transaction is more than 50% of the total purchase price of all of the items in the transaction,
- or
- the seller’s sales price of the taxable items in the transaction is more than 50% of the total sales price of the transaction.

Sellers cannot use a combination of the purchase price and sales price when making the 50% determination.

Use tax
Use tax is due on the seller’s cost of taxable items included in the bundle if:

- the retail sale of the bundled transaction is not taxable, and
- the seller’s purchase price of all taxable items in the bundled transaction is more than $100.

Examples

- A medical stapler loaded with staples for sutures is sold for $10.00. The seller’s purchase price of the stapler is $2.00 and the staples are $6.00. The sale of the stapler is not taxable since the taxable item in the sale (stapler) is less than 50% of the total purchase price of all the items in the sale. The seller does not owe use tax on the taxable items because their purchase price is less than $100.00.
- Surgical kits that contain a prosthetic device and disposable surgical instruments for implanting the prosthetic device are sold for $500.00. The seller’s purchase price of the nontaxable prosthetic device is $300.00 and the taxable surgical instruments is $150.00. Sales of the surgical kits are not taxable because the seller’s purchase price of the taxable items (surgical instruments) is less than 50% of the total purchase price of all of the items in the sale. The seller owes use tax on their cost of the taxable items in the sale since they cost the seller more than $100.00.

Legal References
Minnesota Statutes 297A.67, subd. 7, Drugs; Medical Devices

Other Fact Sheets
117B, Durable Medical Equipment
117C, Mobility Enhancing Equipment
117D, Prosthetic Devices
117E, Health Product Exemptions
117F, Grooming and Hygiene Products
142, Sales to Government
146, Use Tax for Businesses
164, Local Sales and Use Taxes
172, Health Care Facilities