

Digital Products

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Sales Tax Fact Sheet 177

Fact Sheet

What's New in 2014

Starting July 1, 2014, webinars are exempt from sales tax when they meet certain requirements. For details, see "Nontaxable Digital Products" below.

This fact sheet explains how Minnesota Sales and Use Tax applies to digital products.

What are digital products?

A digital product can be any product that is transferred electronically to a customer.

Common examples of digital products include music or movie downloads, ring tones for a cell phone, digital books – often called "e-books" – and online games.

"Transferred electronically" means the purchaser accesses or obtains the product in a way other than tangible storage media (such as a USB drive or DVD disk). Common ways to do this include:

- Downloading a product from the internet
- Viewing a product that is streamed over the internet
- Receiving a product by email from the retailer

Note: Prewritten computer software is always considered a physical good – known as "tangible personal property" for tax purposes. This is true no matter how the software is transferred to the purchaser. For more information, see Fact Sheet 134, *Computer Software*.

Taxable digital products

Minnesota Sales and Use Tax applies to specified digital products, other digital products, and digital codes.

Specified digital products include:

- Digital audio works such as live or recorded music, songs, speeches, audio books, ring tones, or other sound recordings.
- Digital audiovisual works such as movies, music videos, news and entertainment, or live or recorded events. This does not include digital photos.
- Digital books such as novels, biographies, or dictionaries. This does not include periodicals, magazines, newspapers, blogs, or other news and information products.

Other digital products include:

- E-Greeting cards
- Online video or computer gaming

Digital codes include:

- Codes that give the purchaser access to the digital products listed above. (This does not include gift cards or similar products.)

Bundled transactions

When taxable digital products are bundled with nontaxable items and sold for one lump-sum price, the entire sale is taxable unless the price of the taxable item or service is de minimis.

For bundled transactions, "de minimis" means the seller's purchase price or sales price for the taxable products is 10 percent or less of their total purchase or sales price for the bundled products.

Note: To determine if a transaction is taxable, sellers must use their purchase price **or** the sales price – and not a combination of the two.

Nontaxable digital products

The following digital products are not taxable:

- Access to digital news articles
- Charts and graphs
- Digital photos and drawings
- Logos and designs

The following exemptions apply to taxable digital products.

Webinars

Charges for live or pre-recorded audio and audiovisual presentations are exempt when they are accessed electronically if they meet all of the following requirements:

- Admission to the in-person presentation is not subject to tax
- Online participants and the presenter can interact with each other while the participants view the presentation
- Any limits on the amount of interaction (and when it occurs) are the same for both online and in-person participants

Note: Tuition is not taxable for classes a student attends online as part of a course of study at a post-secondary school, college, university, or private career school.

Textbooks and instructional materials

The following items are exempt:

- Textbooks for use in a course of study at a school, college, university, or private career school.

- Instruction materials – including digital audio clips and audiovisual clips – for use in a course of study at a post-secondary school, college, university, or private career school.

Industrial production

Materials used or consumed in the industrial production of a retail product, including digital products, are exempt from Minnesota Sales Tax.

To buy these materials exempt from tax, the purchaser must provide a completed Form ST3, *Certificate of Exemption*. Specify the Industrial production exemption.

For more information, see Fact Sheet 145, *Industrial Production*.

Resale

Businesses purchasing digital products that will be resold can purchase them exempt from Minnesota Sales Tax. The purchaser must provide a completed Form ST3, *Certificate of Exemption*. Specify the Resale exemption.

Capital equipment

When you buy or lease machinery and equipment used to make digital products you must pay sales or use tax. However, you may qualify for the capital equipment exemption. For more information, see Fact Sheet 103, *Capital Equipment*.

Sourcing digital products

The sale or purchase of a digital product takes place when the seller transfers possession to the purchaser or when the product is first used, whichever comes first.

For tax purposes, the sale of a digital product occurs at – or is “sourced to” – the purchaser’s address the seller has on file.

Minnesota Sales Tax does not apply to items a seller delivers to customers outside the state, whether transferred electronically or by other means.

For more information, see Fact Sheet 110, *Items for Use Outside Minnesota*.

Multiple points of use (MPU)

Starting July 1, 2013, someone who buys digital products may source the sale to multiple locations. This is permitted only if the buyer knows at the time of purchase that the items will be used concurrently in more than one taxing jurisdiction.

For purposes of this exemption, “concurrently available for use” means that employees or other agents of the buyer may use the digital products simultaneously in locations both inside and outside of Minnesota. This also applies to digital codes, if the products to be obtained with the code will be used both inside and outside the state.

The buyer must provide a completed Form ST3, *Certificate of Exemption*. Specify the Multiple points of use exemption.

The buyer is responsible to apportion and remit the tax due to each taxing jurisdiction. Any reasonable apportionment method can be used. The buyer must apply the method in a consistent, uniform manner, and be able to justify it through supporting records.

Local sales and use taxes

If you are located or working in an area with a local tax, local sales or use tax may also be due. Local sales taxes are listed and explained in detail in Fact Sheet 164, *Local Sales and Use Taxes*.

Legal References

Minnesota Statute 297A.61

- subd. 3, Sale and purchase
- subd. 50, Digital audio works
- subd. 51, Digital audiovisual works
- subd. 52, Digital books
- subd. 53, Digital code
- subd. 54, Other digital products
- subd. 55, Specified digital products
- subd. 56, Transferred electronically

Minnesota Statute 297A.67, subd. 33, Presentations accessed as digital audio and audiovisual works

Minnesota Statute 297A.68, subd. 38, Bundled transaction

Other Fact Sheets

103, *Capital Equipment*

110, *Items for Use Outside Minnesota*

119, *Telecommunications, Pay Television and Related Services*

134, *Computer Software*

145, *Industrial Production*

164, *Local Sales and use Taxes*

169, *Photography and Video Production*