

# 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 medicines, drops, lozenges
- contact lens solutions
- decongestants
- dermal fillers (injectable)
- dialysis dialysate 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

## 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*