

# Use Tax for Businesses

**146**

Sales Tax Fact Sheet 146

Fact Sheet

**What's new in 2018**

We clarified when sellers are required to collect local sales taxes. See Local Sales and Use Taxes on page 4.

Minnesota Use Tax applies when you buy, lease, or rent taxable items or services for your business and the seller does not charge Minnesota Sales Tax. The use tax complements and is similar to the sales tax. Use tax and sales tax rates are identical.

You may also owe use tax if you bring items into Minnesota or when you take them out of inventory for a taxable use.

**Did You Know?**

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

Use tax is based on your cost of taxable purchases.

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 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 taxable include:

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

**Capital Equipment**

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.

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

**Items Taken Out of Inventory**

If you take an item out of inventory for use in your business, use tax is due on your cost of that item. For example, an office supply store buys cash register

tapes exempt for resale. An employee takes a roll of cash register tape off the shelf to use in the store register. The office supply store must accrue use tax on the store's cost of the roll of cash register tape.

**Donations of Taxable Items**

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.

**Construction Materials**

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*.

### Non-Highway Use Fuel

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

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 the Transportation Service Providers Industry Guide.

### 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.

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## Occasional Sale Exemption

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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, 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.

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## Tax Paid to Another State

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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 sales tax rate 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.

Minnesota sales tax rate (current rate)	6.875%
Wisconsin state and local sales tax	<u>-(5.5%)</u>
Variable rate tax due to Minnesota	1.375%

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

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## How to Accrue Use Tax

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A business must set up a system to record and pay use tax. This may be a use tax accrual account or as simple as a file folder with copies of the individual invoices subject to use tax.

Record on the invoice itself or somewhere in your records when the use tax is reported and paid.

For a sample, see the Minnesota Use Tax Worksheet on page 5.

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## Helpful Hints

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### Review Your Vendors

In your business, regular purchases from a certain vendor 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 vendors normally do not charge tax.

### Check Fact Sheets and Industry Guides

Check fact sheets and industry guides 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 and industry guides.

### Use a Spreadsheet

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 file your sales and use tax return. Keep the spreadsheet or ledger detail as a backup to your return.

### Record Use Tax on the Invoice

Sometimes a business will also record 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

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

Items to look for when reviewing invoices:

- Delivery and handling charges for taxable items are taxable. 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. However, repair labor is not taxable if it is separately stated. For more information, see Fact Sheet 152, *Labor - Installation, Fabrication, Construction, and Repair*.
- Many tangible items for your own use are taxable, including fixed assets and equipment.
- You may have an exemption certificate on file with a vendor because most items you buy are for resale. However, you may purchase an item with an inventory order that you will use in your business. 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.
  - Building cleaning and maintenance, see Building Cleaning and Maintenance Industry Guide
  - Detective, security, and alarm services, see Fact Sheet 114
  - Laundry, dry cleaning, and alterations services, see Fact Sheet 120

- Lawn, garden, tree, and bush services, see Fact Sheet 121A
- Motor vehicle towing, washing, waxing, rustproofing, and cleaning services, see the Motor Vehicle Industry Guide
- Messages, see Personal Services Industry Guide
- Parking services, see the Parking Service Providers Industry Guide
- Pet grooming, boarding, and care services, see the Pets and Pet Services Industry Guide

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## How to Report Minnesota Use Tax

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You can report state, local sales, and use taxes electronically at [www.revenue.state.mn.us](http://www.revenue.state.mn.us). If you do not have internet access, you can file by phone at 1-800-570-3329 (toll-free).

1. Go to [www.revenue.state.mn.us](http://www.revenue.state.mn.us)
2. Under Businesses, select Sales and Use Tax.
3. Under File and Pay, select Filing Information.

For more information on how to file:

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### Local Sales and Use Tax

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If you are located in or make sales into an area with a local tax, you may owe local sales or use. For more information, see Fact Sheet 164, *Local Sales and Use Taxes*.

You may need to alter the Minnesota Use Tax Worksheet on page 5 for any local use taxes.

#### Legal References

Minnesota Statutes 289A.60, subd. 25, Penalty for failure to properly complete sales and use tax return.  
 Minnesota Statutes 297A.61, subd. 38, Bundled transactions.  
 Minnesota Statutes 297A.63, Use taxes imposed; rates.  
 Minnesota Statutes 297A.76, Computation of sales and use taxes.  
 Minnesota Statutes 297A.77, Collection of sales and use taxes.  
 Minnesota Statutes 297A.78, Liability for use tax; receipt as evidence.  
 Minnesota Statutes 297A.80, Taxes in other states; offset against use tax.  
 Minnesota Statutes 297A.95, Coordination of state and local sales tax rates.  
 Minnesota Statutes 297A.99, Local sales taxes.  
 Minnesota Statutes 297A.995, Uniform sales and use tax administration act.

#### Other Fact Sheets

103, *Capital Equipment*  
 110, *Items for Business Use Outside Minnesota*  
 114, *Detective and Security Services*  
 116, *Petroleum Products*  
 120, *Laundry and Cleaning Services*  
 121A, *Lawn and Garden Care, Tree and Bush Service*  
 128, *Contractors*  
 132, *Isolated and Occasional Sales*  
 134, *Computer Software*  
 152, *Labor - Installation, Fabrication, Construction, and Repair*  
 155, *Delivery Charges*  
 164, *Local Sales and Use Taxes*

#### Industry Guides

Building Cleaning and Maintenance  
 Motor Vehicle  
 Parking Service Providers  
 Personal Services  
 Pets and Pet Services  
 Transportation Service Providers

