

MinnesotaCare Tax 2019 Legend Drug Use Tax

Information and instructions for filing your MinnesotaCare tax return (Minnesota Statutes, Chapter 295)

Information and Assistance

Website/e-Services

www.revenue.state.mn.us

Email

MinnesotaCare.tax@state.mn.us

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651-282-5533

(Weekdays, 8 a.m. to 4:30 p.m.)

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651-556-5233

Business Registration

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business.registration@state.mn.us

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This information is available in alternate formats.

Your 2019 Annual Return is Due March 16, 2020

File your return electronically starting **January 22, 2020**.

Go to our website and log in to e-Services to file or pay.

What's New

New Law Changes Starting 2020 for MinnesotaCare Taxes

MinnesotaCare Taxes Continue After 2019

You must continue to file and pay MinnesotaCare taxes after December 31, 2019. The taxes were scheduled to end after 2019, but a law change extended them beyond this year.

Tax Rate Change

The tax rate will be 1.8% in 2020. The new 1.8% rate applies to the price you paid for legend drugs that you deliver or receive in Minnesota on or after January 1, 2020 (regardless of when you purchased the legend drugs).

Remote Sellers of Legend Drugs

Businesses that sell or distribute legend drugs into Minnesota are subject to tax if they have taxable presence, or nexus, in Minnesota. Taxable presence includes having either physical presence or economic presence in the state. (See Minnesota Statute 295.51, subdivision 1a.) Businesses that sell, deliver, or distribute legend drugs into Minnesota without having physical presence in the state are remote sellers. These remote sellers now have economic presence in Minnesota and are subject to tax, unless they qualify for the applicable Small Seller Exception.

For more information about taxable presence and requirements for remote sellers, go to our website at www.revenue.state.mn.us and enter the following in the Search box:

- **MinnesotaCare Taxable Presence** to help determine if you have physical or economic presence in Minnesota and for information on Small Seller Exceptions.
- **MinnesotaCare Remote Sellers** for information on requirements for remote sellers with economic presence.

Sign Up to Receive Email Updates

Stay informed about MinnesotaCare taxes! Sign up to receive email updates about:

- filing and payment due date reminders
- new or updated publications
- educational tax seminars
- tax law changes

To sign up, go to our website at www.revenue.state.mn.us and subscribe for email updates. Enter your email address and select **MinnesotaCare Tax Updates** from the list.

Registering for a Minnesota Tax ID Number

Before you can file a MinnesotaCare tax return and/or make estimated tax payments, you must have a Minnesota Tax ID Number. This is a seven-digit number assigned to you when you register with the Minnesota Department of Revenue.

If you do not have a Minnesota ID number, you must apply for one. You can apply on our website at www.revenue.state.mn.us or by contacting Business Registration (see *Information and Assistance* on Page 1).

If your business currently has a Minnesota ID number for other Minnesota taxes, you can add a MinnesotaCare tax account to your number. To add an account, go to our website and log in to e-Services or contact Business Registration.

General Information

Who Must File

You are required to file a MinnesotaCare Legend Drug Use Tax Return if you have taxable presence (nexus) in Minnesota and either of the following apply:

- You are located outside of Minnesota and you sell, deliver, or distribute legend drugs to consumers or other entities in Minnesota when the MinnesotaCare Wholesale Drug Distributor Tax does not apply
- You are located in Minnesota and you receive legend drugs from a vendor that is not subject to the MinnesotaCare Wholesale Drug Distributor Tax

The following situations are common examples of when you would be subject to the tax:

- You are a pharmacy located outside of Minnesota that sells legend drugs at retail to consumers in Minnesota (including by mail order)
- You are a Minnesota pharmacy that purchases legend drugs from a vendor that is not subject to the Wholesale Drug Distributor Tax

To determine if a vendor is subject to tax, check your purchase invoice for a MinnesotaCare tax expense charge or contact the vendor for verification.

Definition of Legend Drugs

Legend drugs are drugs or gases required by federal law to be sold or dispensed in a container labeled with one of the following statements:

- “Caution: Federal law prohibits dispensing without prescription”
- “Rx only”

Legend drugs or gases must be classified by the U.S. Food and Drug Administration (FDA) as a drug and not a device.

Nutritional products, blood, and blood components are not considered legend drugs and are not subject to Legend Drug Use Tax.

Blood derivatives, however, that are derived from blood, plasma, or serum through a chemical manufacturing process, are considered legend drugs and are taxable.

Tax Expense Transfer

Pharmacies may transfer and recover the cost of MinnesotaCare tax, or the “tax expense”, by passing it through to insurers or pharmacy benefits managers.

You cannot transfer the tax expense in a deceptive manner or transfer it when no tax is owed.

Pharmacies must base the transferred tax expense on the wholesale price the pharmacy paid for the legend drugs, and not on the retail price paid to the pharmacy.

Electronic Filing and Payments

Annual Returns

You must file your annual return electronically using our e-Services system (see Page 4).

Payments

You are required to pay electronically if your tax liability was more than \$10,000 for any one Minnesota business tax during the previous fiscal year (July 1 – June 30).

If you are required to pay any Minnesota business tax electronically for one year, you must pay all Minnesota business taxes electronically *for all future years*. We will send you a notice the first year you are required to pay electronically.

A 5% penalty will be assessed on any non-electronic payments if you fail to pay electronically when required.

Filing Due Date

Annual Tax Return

The regular due date to file your annual MinnesotaCare tax return and pay any additional tax due for the previous calendar year is March 15.

The return must be filed even if there is no additional tax due. If March 15 falls on a weekend or holiday, returns filed on the next business day are considered timely.

General Information (continued)

Extension of Time to File

If you cannot file your return by the regular due date, you may request a 60-day filing extension. To request an extension for your 2019 return, call 651-282-5533 no later than March 16, 2020.

A filing extension does not extend the time you have to pay your tax. You must pay any tax you owe by the regular due date or you will be assessed penalties and interest. For 2019 returns, the regular due date is March 16, 2020. To pay electronically, go to our website and log in to e-Services.

Estimated Tax Requirements

You are required to make estimated tax payments for the year if your total annual MinnesotaCare tax was more than \$500 for the previous year and will be more than \$500 for the current year.

If your total annual tax will be \$500 or less, you may pay your tax when you file your annual tax return and are not required to make estimated payments for the year.

Due Dates

Estimated tax payments are due quarterly by the 15th day of April, July, and October of the current year and January 15 of the following year.

If a due date falls on a weekend or holiday, payments electronically made or postmarked the next business day are considered timely.

Each estimated tax payment must be at least the lesser of either:

- 90% of one-fourth of your actual tax for the current year
- one-fourth of your actual tax for the previous year if you were in business for the entire year and you had a tax liability

To determine your estimated tax payments, see the *MinnesotaCare Estimated Tax Instructions* for Legend Drug Use Tax available on our website.

Additional Tax Charge for Underpayment of Estimated Tax

If any payment is paid late or is less than the required amount, an additional tax charge (ATC) for underpayment of estimated tax will be assessed.

When you file your annual tax return, our e-Services system will calculate any ATC for you.

Reporting Business Changes

Be sure to update your business information if you do any of the following:

- change the name, address, owner/officers, or ownership of your business
- make any other changes (such as email address, phone number, or contact person)
- need to add or close a tax account
- close your business
- are no longer required to file and pay MinnesotaCare tax

To update business information, go to our website and log in to e-Services. For additional information, see *Managing Your Account Profile in e-Services* on Page 5.

Recordkeeping

Keep all internal accounting records and external third-party documentation that support the amounts reported on your MinnesotaCare tax return.

This includes any paper records and any records you receive or store electronically. Some examples of paper and electronic records include:

- legend drug sales invoices
- all other summary and detail reports, schedules, ledgers, and journals

All documentation should be made available on request for the department to review. If you are audited, you will be asked to provide between 4 and 6 years of records.

Statute of Limitations

The department may audit your return within 3½ years from the due date of the return or the date you filed the return, whichever is later. If there is an error in the amount of tax you reported, and the difference between the original amount and the correct amount is 25% or more, we have 6½ years to audit the return. There is no time limit if we find you have filed a false or fraudulent return, or if you have not filed a return.

Electronic Payment Options

e-Services

You can make payments using our online e-Services system. If you pay through e-Services, you will be able to view a record of your payments online once they are processed.

General Information (continued)

Go to our website at www.revenue.state.mn.us and log in to e-Services. You will need your bank's routing number and your account number. To be timely, you must submit your payment and receive a confirmation number on or before the payment due date. When paying electronically, you may not use an account associated with a foreign bank.

Credit or Debit Card

For a fee, you may charge your payments to your Visa, MasterCard, American Express, or Discover credit or debit card. To do so, have your card ready and go to www.paystatetax.com/mn or call 1-855-947-2966.

ACH Credit

ACH credit payments are initiated by you through your bank. You authorize your bank to transfer funds to the state's bank account. The bank must use ACH file formats, which are available on our website. Your bank may charge you a fee for these payments.

Bank Wire

You can authorize a direct transfer from your bank account to the department. For information on how to make a bank wire transfer, call us at 651-556-3003 or 1-800-657-3909.

How to File Your Annual Return

Your 2019 MinnesotaCare tax return is due March 16, 2020.

File your return using our e-Services system starting January 22, 2020.

Information You Will Need to File Your Return

You must file your MinnesotaCare tax return electronically using our e-Services system. Before you can file your return, you will need the following:

- your username and password
- dates and amounts of any MinnesotaCare estimated tax payments you made for the year
- total legend drug purchases subject to use tax (see the *Line Instructions* on this page for help calculating this amount)
- if you are making a payment with your return, your bank's nine-digit routing number and bank account number

You must have a MinnesotaCare Legend Drug Use Tax account to file a return. To add an account, log in to e-Services or contact Business Registration (see Page 2).

If you have an account, but the period you are filing is not listed in e-Services, please call the MinnesotaCare Tax Unit at 651-282-5533 so we can add it to your account.

To File Online

Go to our website at www.revenue.state.mn.us and log in to e-Services.

You will need internet access with a browser that supports 128-bit encryption, such as Internet Explorer 8.0 to 11.0, Firefox 3.0 or higher, Google Chrome, or Safari 5.X.

Line Instructions

Use this information when you electronically file your return.

Purchases Subject to Use Tax

Out-of-State Pharmacies. Report the total price you paid for legend drugs delivered to consumers or other entities in Minnesota during the year (regardless of when you purchased the drugs).

Do not include the price you paid for legend drugs delivered into Minnesota that were returned to you during the year.

Minnesota Pharmacies. Report the total price you paid during the year for legend drugs you received from vendors who were not subject to the Wholesale Drug Distributor Tax.

Do not include the price you paid for legend drugs:

- Returned to vendors
- Delivered or shipped outside of Minnesota (that were not returned to you later)

For the definition of legend drugs, see Page 2.

Tax

Our e-Services system will calculate your tax. The tax rate is 2%.

How to File Your Annual Return (continued)

Estimated Payments

Any estimated payments you made for the year will be applied to your return. You will be asked to review the payments in e-Services when filing your return. If there are discrepancies between the payments in e-Services and your records, please contact us.

Penalties and Interest

Late Payment

A late payment penalty is assessed on any tax not paid by March 15. The penalty is 5% of the unpaid tax for every 30-day period (or part of a 30-day period) that your return payment is late, up to 15%.

Late Filing

There is also a penalty for filing your return after the due date. The late filing penalty is 5% of any unpaid tax.

Extended Delinquency

If the department sends a written demand to file a tax return and the return is not filed within 30 days, an extended delinquency penalty of 5% of the unpaid tax or \$100, whichever is greater, will be assessed.

This penalty is in addition to any late filing penalty that may be assessed and applies to all unfiled returns, even if you paid the correct amount of tax on time, or do not have a tax liability.

Payment Method

If you are required to make your tax payments electronically and do not, a 5% penalty will be assessed on any non-electronic payments (such as paper checks or money orders).

Interest

You must pay interest on unpaid tax and penalty from the regular due date until the total is paid. The interest rate is determined each year.

The interest rate for 2019 is 5%.

Paying the Balance Due

If you owe additional tax, you can use e-Services to pay at the same time you file your return. You will need your bank's routing number and your account number.

If you pay through e-Services, you will be able to view a record of your payments online once they are processed.

If you choose to pay electronically another way, see the additional payment options starting on Page 3.

How to Amend Your Return

To adjust your return, you must file an amended return electronically using our e-Services system.

To claim a refund, you must file your amended return within 3½ years of the regular due date for the year you are amending.

Keep all supporting documentation for any amended return you file. All documentation should be made available on request for the department to review. All amended returns are subject to audit.

Filing Instructions

To amend a return, go to our website at www.revenue.state.mn.us and log in to e-Services. Choose your Legend Drug Use Tax account and select **View Return** next to the period you want to amend. Then, select **Change** on the return screen and enter the corrected amount that should have been reported on your original return. You will also need to enter the reason you are amending your return.

You will receive a confirmation number if your amended return is filed successfully.

If you need help or have questions about amending a return, please contact us.

Managing Your Account Profile in e-Services

Our e-Services system lets you:

- update your web profile information
- store your email address, phone number, and banking information
- create access to your and other people's accounts
- add additional users with varying security, as well as request and approve third-party access

Managing Your Account Profile in e-Services (continued)

Set Up and Manage Users

There are two types of users in e-Services: e-Services Master and Account Manager. An e-Services Master can manage other users as well as view, file, and/or pay for specific account types. An Account Manager can view, file, and/or pay for specific account types depending on the access an e-Services Master has set up for the user.

e-Services has the following access level options:

- **All Access**—allows user total access to update the account, file, and pay
- **File**—allows user to view all information and file returns
- **Pay**—allows user to view all information and make payments
- **View**—allows user to only view all information

For instructions on how to create additional logons for users, see Help in e-Services.

Two-Step Verification

Two-step verification adds a second layer of security to prevent unauthorized access to your account. You must enter a username, password, and a verification code we send you to log in to your account.

Third-Party Access

Third-party access is for accountants and other non-employees who file returns and/or make payments on behalf of another business. In order to receive third-party access, the non-employee must request access from the taxpayer. The taxpayer must then grant the access and manage the login of the non-employee before the request can become active.

Both parties must be active in e-Services and work together to establish third-party access. For detailed instructions on how to request third-party access, go to our website.