

MinnesotaCare Tax 2020 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

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This information is available in alternate formats.

Your 2020 Annual Return is Due March 15, 2021

File your return electronically starting **January 22, 2021**.

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

What's New

Out-of-State Pharmacies

File Legend Drug Use Tax Return Starting 2020

Starting with the 2020 tax year (returns due March 15, 2021), out-of-state pharmacies selling to consumers in Minnesota must file a Legend Drug Use Tax Return instead of a Wholesale Drug Distributor Tax Return to report these sales. There will no longer be a line on the Wholesale Drug Distributor Tax Return to report this information.

Out-of-state pharmacies selling to consumers in Minnesota should use these instructions to prepare their return information.

Tax Rate Change Reminder

The tax rate is 1.8% for 2020. The 1.8% rate applies to the price you paid for legend drugs that you delivered or received in Minnesota on or after January 1, 2020 (regardless of when you purchased the legend drugs).

e-Services Upgrade

Our e-Services system has a new look and feel! The new design is more intuitive and user friendly. For help, search **e-Services Help** on our website.

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, or nexus, in Minnesota and either of the following apply:

- You are located outside of Minnesota and you sell, deliver, or distribute legend drugs into Minnesota that are not subject to Wholesale Drug Distributor Tax
- You are located in Minnesota and you receive legend drugs from a vendor that is not subject to Wholesale Drug Distributor Tax

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

- You are an out-of-state pharmacy 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 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.

Remote Sellers

Out-of-state businesses that do not have physical presence (nexus) in Minnesota and sell, deliver, or distribute legend drugs into the state that are not subject to Wholesale Drug Distributor Tax are remote sellers. Remote sellers are required to file a Legend Drug Use Tax Return if they meet one or both of these thresholds during a calendar year:

- 200 or more legend drug sales, deliveries, or distributions into Minnesota
- More than \$100,000 in total price you paid for legend drugs sold, delivered, or distributed into Minnesota (regardless of when you purchased the drugs)

Small Seller Exception for Remote Sellers. Remote sellers that are below both thresholds during a calendar year qualify for the Small Seller Exception and are not subject to tax for that year.

If you qualify for the Small Seller Exception for 2020 and are not registered for Legend Drug Use Tax, you do not need to register or file a return now. If for any calendar year you no longer qualify for the Small Seller Exception, you must register, file a return, and pay tax for that year.

If you qualify for the Small Seller Exception for 2020 and are already registered, see *Claiming the Small Seller Exception for Remote Sellers* on Page 5.

For more information on requirements for remote sellers and the Small Seller Exception, go to our website at www.revenue.state.mn.us and enter **MinnesotaCare Remote Sellers** in the Search box.

Taxable Presence (Nexus)

You are subject to Legend Drug Use Tax if you have taxable presence, or nexus, in Minnesota. Taxable presence means you either have physical presence or economic presence in the state.

Physical Presence

You have physical presence in Minnesota if you, a subsidiary, or an affiliate have a location in the state or a representative that does work for you in the state. Representatives include those working in the state, permanently or temporarily. You also have physical presence if you own or lease property in Minnesota.

If you have physical presence in Minnesota, you must file a return every year you sell, deliver, or distribute legend drugs in the state.

Economic Presence

Economic presence in Minnesota only applies to remote sellers (out-of-state businesses that do not have physical presence in Minnesota and sell, deliver, or distribute legend drugs into the state that are not subject to Wholesale Drug Distributor Tax). Remote sellers have economic presence in Minnesota every year they do not qualify for the Small Seller Exception and must file a return for those years.

For more information on taxable presence and for common examples of locations, representatives, and property that establish physical presence in Minnesota, go to our website at www.revenue.state.mn.us and enter **MinnesotaCare Taxable Presence** in the Search box.

General Information (continued)

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 Payment Requirements

Annual Return

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

Filing Due Date

Annual 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.

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 2020 return, call 651-282-5533 no later than March 15, 2021.

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 2020 returns, the regular due date is March 15, 2021. To pay electronically, go to our website and log in to e-Services.

Estimated Tax Payments

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 you are not required to make estimated tax payments for the year, you may pay your tax when you file your annual return.

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

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

General Information (continued)

Additional Charge for Underpaid Estimated Tax

If any payment is paid late or is less than the required amount, an additional charge will be assessed. Our e-Services system will calculate any additional charge when you file your annual return.

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 6.

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 purchase invoices
- audited and compiled financial statements
- all other summary and detail reports, schedules, ledgers, and journals
- computer system or software back-ups

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

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.

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 2020 MinnesotaCare tax return is due March 15, 2021.

File your return using our e-Services system starting January 22, 2021.

Information You 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:

How to File Your Annual Return (continued)

- 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 your 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 Taxes 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.

Out-of-State Pharmacies

Report the total price you paid for legend drugs delivered to consumers 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 Wholesale Drug Distributor Tax.

Do not include the price you paid for legend drugs:

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

For the definition of legend drugs, see Page 3.

Tax

Our e-Services system will calculate your tax. The tax rate is 1.8%.

Estimated Tax Payments

Any estimated tax 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.

Claiming the Small Seller Exception for Remote Sellers

Remote sellers that do not have physical presence (nexus) in Minnesota and sell, deliver, or distribute legend drugs into the state that are not subject to Wholesale Drug Distributor Tax may qualify for the Small Seller Exception. To qualify for the Small Seller Exception, you must meet **both** of the following requirements for a calendar year:

- Less than 200 legend drug sales, deliveries, or distributions into Minnesota
- \$100,000 or less in total price you paid for legend drugs sold, delivered, or distributed into Minnesota (regardless of when you purchased the drugs)

If you qualify for the Small Seller Exception for 2020 and are currently registered for Legend Drug Use Tax, you must notify us by March 15, 2021, using our online e-Services system. Log in to e-Services and select **Returns and Periods** for your Legend Drug Use Tax account. Then select **File Return** for the 2020 period. After you review any payments you made for the year, you will be asked if you qualify for the Small Seller Exception. If you qualify, you will need to enter the total number of legend drug sales you made into Minnesota for the year and the total price you paid for legend drugs sold into Minnesota for the year. Follow the remaining prompts in e-Services to submit a return reporting zero tax. This return serves as your Small Seller Exception notification.

If you qualify for the Small Seller Exception but the screen to confirm the exception is not available on your annual return in e-Services, contact us at 651-282-5533 or MinnesotaCare.tax@state.mn.us. We will update your e-Services account to include the screen on your return.

For more information on the Small Seller Exception for remote sellers, go to our website at www.revenue.state.mn.us and enter **MinnesotaCare Remote Sellers** in the Search box.

How to File Your Annual Return (continued)

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 tax is not paid in full, 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

We charge interest on unpaid tax and penalties from the regular due date of the tax until it is paid in full. The interest rate is determined each year.

The interest rate for 2020 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 on Page 4.

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, follow these steps:

1. Go to our website at www.revenue.state.mn.us and log in to e-Services.
2. Select **Returns and Periods** for your Legend Drug Use Tax account.
3. Select **View or Change Return** for the return you want to amend.
4. Select **Change** on the return screen.
5. Enter your corrected amounts and the reason you are amending the return.
6. Follow the remaining prompts and select **Submit**.

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 and 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.