

Digital Products

Sales Tax Fact Sheet 177

What's New

We added information on Non-Fungible tokens (NFT's).

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

What are digital products?

A digital product is a product transferred electronically to a customer.

Examples of digital products include:

- Music or movie downloads
- Cell phone ring tones
- Digital books or e-books
- 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 transfer electronically include:

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

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

Non-Fungible Tokens (NFT's)

Non-Fungible tokens (NFT's) are subject to sales and use tax when the underlying product (goods or services) is taxable in Minnesota.

NFT's may entitle purchasers to receive products or services including but not limited to:

- Digital products such as music, audio visual works, or video games
- Admissions to sporting events or concerts
- Prepared food and beverages
- Tangible personal property such as collectibles or memorabilia

Taxable Digital Products

Specified digital products, other digital products, and digital codes are taxable.

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% 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

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 the *Industrial Production* Fact Sheet.

Resale

Businesses may purchase digital products exempt for resale by providing 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 *Capital Equipment* Fact Sheet.

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 the *Items for Use Outside Minnesota* Fact Sheet.

Multiple Points of Use (MPU)

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.

“Concurrently available for use” means that employees or other agents of the buyer may use the digital products at the same time 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 using any reasonable apportionment method. The buyer must apply the method in a consistent, uniform manner, and justify it through supporting records.

Local Sales and Use Taxes

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

Legal References

Minnesota Statute 297A.61

- subd. 3, Sale and purchase
- subd. 38, Bundled transaction
- 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

Other Fact Sheets

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Photography and Video Production

Telecommunications, Pay Television and Related Services