

Drugs

Sales Tax Fact Sheet 117A

What's New

Starting July 1, 2023, edible cannabinoid products are subject to the Cannabis Tax. See Cannabinoid Products.

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 the *Dietary Supplements* Fact Sheet.

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 the *Grooming and Hygiene Products* Fact Sheet.

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 (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.

Cannabinoid Products

Currently, edible cannabinoid products and nonintoxicating topical products are legal to sell in Minnesota.

Starting July 1, 2023, edible cannabinoid products are subject to the 10% Cannabis Tax. In addition to the Cannabis Tax, taxable cannabis products are subject to both:

- 6.875% state general rate sales tax
- Any applicable local sales taxes based on where the transaction takes place

Nonintoxicating topical products are not subject to the 10% Cannabis Tax, but are subject to both:

- 6.875% state general rate sales tax
- Any applicable local sales taxes based on where the transaction takes place

For more information, go to our website www.revenue.state.mn.us and type **Cannabis Tax** into the Search box.

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. The seller's purchase price of the stapler is \$2 and the staples are \$6. 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.

- Surgical kits that contain a prosthetic device and disposable surgical instruments for implanting the prosthetic device are sold for \$500. The seller's purchase price of the nontaxable prosthetic device is \$300 and the taxable surgical instruments is \$150. 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.

Legal References

Minnesota Statutes 297A.67, subd. 7, Drugs; Medical Devices

Fact Sheets

Durable Medical Equipment

Grooming and Hygiene Products

Health Care Facilities

Health Product Exemptions

Local Sales and Use Taxes

Mobility Enhancing Equipment

Prosthetic Devices

Sales to Government

Use Tax for Businesses