NDTax
NORTH DAKOTA
Brian Kroshus, Tax Commissioner

SALES TAX: HOTELS, MOTELS, AND LODGING FACILITIES GUIDELINE

Gross Receipts of Lodging accommodations

The gross receipts from the rental of accommodations at lodging facilities for less than 30 days are subject to sales and use tax. A seller providing accommodations must have a sales and use tax permit and is responsible for collecting and remitting the tax to the North Dakota Office of State Tax Commissioner. City lodging and restaurant taxes should be charged in addition to sales and use tax when applicable based on location. See the City Lodging Tax & City Lodging and Restaurant Tax Section in this guideline for additional information.

Examples of lodging facilities include:

- Campgrounds renting cabins or campers
- Hotels
- Hunting cabins
- Man camps
- Motels
- Residential short-term rentals
- Resorts
- Rooming houses
- Trailer Camps
- Vacation home rentals

Examples of accommodations include:

- Banquet rooms
- Conference rooms
- Guest rooms
- Meeting rooms
- Sleeping rooms
- Swimming facilities

Lodging facilities may charge a fee for additional rental items, services, or amenities related to the rental of the accommodation. These items are subject to tax as part of the accommodation rental.

Examples of additional taxable charges and fees include:

- Audio-visual equipment rental fees
- Early or late departure fees
- Extra person fee
- In-room safe rental fee
- Microwave & refrigerator fees)
- No show charges
- Pet fee
- Crib and roll-away fees
- Reservation fee (handling, processing, or administrative fee)
- Room damage fee
- Smoking fee
- Telephone access or surcharges
- Transfer fee (room or date changes

The gross receipts from a lodging facility operating a bar, café, or restaurant are subject to sales tax and applicable city lodging and restaurant tax. For additional information on restaurants, please see the Guideline - Restaurants at **www.tax.nd.gov/guidelines**.

Sales of items as a convenience to customers are also subject to sales tax. See the Guideline - Grocery Stores, Convenience Stores, & Delicatessens for additional information at **www.tax.nd.gov/guidelines**.

Non-Taxable Services

Services offered to customers, such as valet, laundry, and childcare services are not taxable.

Accommodations for 30 Consecutive Days or More

Lodging accommodations occupied by the same individual or individuals for a period of 30 or more consecutive days are exempt from sales and lodging taxes. To qualify for the exemption, an individual must maintain **continuous** occupancy for 30 or more consecutive days. Any break in the continuous occupancy by that individual will cause the room charge to be subject to sales tax. The lodging facility must keep records to verify the individual stayed for 30 or more continuous days. If tax was collected during the first 30 days of a continuous stay, it must be refunded to the customer once they meet the 30 consecutive day threshold.

Rooms rented for a period of 30 or more days by a company but not occupied by the same individual for 30 continuous days or more are subject to sales tax.

Examples:

1. Individual A rents a room from a hotel for 45 consecutive days.
    - The rental is exempt from sales tax and applicable city lodging or city lodging and restaurant taxes.
    - If the hotel billed weekly, the tax collected prior to the 30th consecutive day must be refunded to Individual A.
2. Individual B rents a room for 29 days, checks out, then returns the following week to rent a room an additional 20 days for a total of 49 days.
    - Both rental charges are subject to sales tax because each stay was for less than 30 consecutive days.
3. Company ABC rents a room from a hotel for 60 consecutive days. During this time, there were three different individuals who each occupied the room for 20 days.
    - This rental is subject to sales tax because the room was not occupied by the same individual for 30 consecutive days.

Businesses Providing Accommodations Solely for Employees

Businesses that provide lodging accommodations **solely** to house their employees, contractors, or a contractor's employees but not the general public are not lodging facilities. The business is not required to collect sales tax when it charges employees for use of the room.

Any business that rents or leases lodging accommodations to the general public, including an employer that also rents rooms to its own employees, is considered a lodging facility, and is required to collect sales tax on all sales.

Accommodation Rentals to Governmental Agencies

Under North Dakota sales tax law, the federal government, state governments, county governments, city governments, political subdivisions, and its agencies are exempt from the payment of sales tax for rental accommodations.

Accommodations for a representative or employee of these entities are tax exempt when the charges are billed to and paid by the governmental entity. Payment methods may include government warrant, check, or a government issued credit card that is centrally billed to and paid by the issuing governmental entity. Cash payments are always subject to tax.

If the representative or employee pays for their own lodging, the lodging accommodations are subject to sales tax, even if the representative or employee is reimbursed by the governmental entity.

Documentation must be kept on file by the hotel, motel, or lodging facility to verify the exemption. Documentation includes a completed **Exemption Certificate for Government and Qualifying School Lodging Accommodations**, which requires a signature by the purchaser **or** a **Certificate of Exempt Status** and a copy of the payment. See **www.tax.nd.gov/forms** for additional information.

Example: A high school basketball team travels for a weekend tournament. They stay overnight at a hotel in Grand Forks, North Dakota.

- The team coach presents the hotel with the school's North Dakota Certificate of Sales Tax Exemption and pays with a school check.
- The lodging charges are tax exempt.

City Lodging Tax & City Lodging and Restaurant Tax

In addition to the state's sales, use, and gross receipts taxes, many cities impose local taxes on lodging accommodations, restaurant meals, and on-sale beverages. The charges for accommodations and accommodation related items are subject to these additional taxes.

Example: Company A reserves a conference room and audio-visual equipment at Hotel 123 in Jamestown, North Dakota for a conference.

- Jamestown has a city lodging tax and a city lodging and restaurant tax.
- When Hotel 123 invoices Company A for the rental of the conference room and audio-visual equipment they will collect state sales tax, city sales tax, city lodging tax, and city lodging and restaurant tax.

See the Guideline - **Local Taxes by Location** for a list of cities imposing city lodging tax and city lodging and restaurant tax and the tax rates - **www.tax.nd.gov/guidelines**.

Short-term Residential Rentals

Renting a house, apartment, a portion of a home, or a room in a home for less than 30 days is a taxable lodging rental. The homeowner is responsible for acquiring a sales and use tax permit, collecting, and remitting the tax due on the short-term rental of their home.

The homeowner may contract with a lodging marketplace to facilitate the rental of their home. The homeowner is still responsible for the collection and remittance of tax unless their contract with the lodging marketplace indicates the lodging marketplace is responsible for remitting the tax.

Examples:

1. A homeowner from Hettinger, North Dakota rents out their basement for 10 days during hunting season.
   - The homeowner must obtain a sales and use tax permit.
   - The homeowner is responsible to collect and remit sales tax and city lodging tax on the lodging rental.

2. A homeowner in Surrey, North Dakota contracts with a lodging marketplace to rent out their home during the state fair. The contract with the lodging marketplace states the marketplace is responsible for collecting and remitting sales tax on the lodging rental.
   - The homeowner is not required to obtain a sales and use tax permit.
   - The lodging marketplace will collect and remit sales tax to North Dakota.

Rooms Provided Free of Charge

When lodging facilities provide rooms free of charge to guests, the lodging facility must pay use tax on the value of the room. The value is the lowest commercial rate offered by the lodging facility for that particular room.

Hotel discount programs reward a frequent guest with a free stay after a certain number of previous paid stays. Rooms provided free of charge in conjunction with a discount program are not subject to sales and use tax.

Customer loyalty programs offer perks and rewards when a customer earns points. If a customer earns a free room from the loyalty program and the loyalty program compensates the hotel for the room, the hotel will remit sales tax plus any applicable city lodging and city lodging and restaurant taxes on the compensation amount.

Purchases Subject to Sales or Use Tax

Lodging facilities are required to pay sales or use tax on purchases of equipment and supplies for their own use. They should pay sales tax on the items at the time of purchase or remit use tax by including the cost on the Items Subject to Use Tax line of the sales and use tax return.

Examples of taxable items include:

- Bedding
- Beds
- Cleaning supplies
- Drinking glasses
- Furniture
- Kleenex
- Kitchen supplies
- Laundry bags
- Office equipment and supplies (including computer hardware and software)
- Registration supplies (including room keys, registration books, and stationery)
- Room furnishings
- Soap
- Televisions
- Toilet paper
- Towels

Complimentary Items

The lodging facility is responsible for sales and use tax on complimentary items provided to guests. This includes items provided in the guests' rooms, such as shampoo, soap, and lotion. It also includes items used to provide complimentary breakfasts and manager's receptions, like drinks, soda, alcoholic beverages, eating utensils, cups, and napkins.

A complimentary breakfast or meal is available as part of the cost a customer pays for their room.

Contact Information

If you have questions, please contact the Sales Tax Compliance Section at **salestax@nd.gov** or 701-328-1246.