

NEBRASKA CONSUMER'S USE TAX

OVERVIEW

Consumer's use tax is a complement to the state and local sales tax. Consumer's use tax is due **only** if the state and/or local sales tax was not paid. It is imposed at the same rate and on the same transactions as the sales tax. If the local sales tax is not properly paid on the original purchase, the local consumer's use tax is owed.

[Nebraska Sales and Use Tax Regulation 1-001, Nature of the Sales Tax](#), provides a general guideline of what is taxable. For additional information on taxable property or services, please refer to the Nebraska Sales and Use Tax Regulations on the Department's website.

This guidance document is advisory in nature but is binding on the Nebraska Department of Revenue (Department) until amended. A guidance document does not include internal procedural documents that only affect the internal operations of the Department and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.



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Consumer's use tax is remitted directly to the state by the purchaser. Listed below are examples of transactions that are subject to consumer's use tax.

- ❖ Items purchased by mail order, telephone, or the Internet without payment of Nebraska sales tax;
- ❖ Items purchased out-of-state and delivered or distributed to a home or business in Nebraska without payment of Nebraska sales tax;
- ❖ Items or taxable services purchased in Nebraska without payment of appropriate sales tax; and
- ❖ Items purchased tax-free for resale that are subsequently withdrawn from inventory for business or personal use, including items that will be given away as gifts or donations.

REMITTING THE TAX

Businesses, that are not required to be licensed for sales tax, may file a [Nebraska Tax Application, Form 20](#), to register for consumer's use tax filing. Individuals must report and pay use tax by filing a [Nebraska and Local Individual Consumer's Use Tax Return, Form 3](#).

Consumer's use tax is remitted directly to the Department using one of the following returns:

❖ **Businesses:**

[Nebraska and Local Sales and Use Tax Return, Form 10](#). Retailers who have a sales and use tax permit and file a Nebraska and Local Sales and Use Tax Return, Form 10, must use the same return to report any consumer's use tax. If retailers have no consumer's use tax to report, they **must** put zeros on the consumer's use tax lines of Form 10 to indicate no use tax is due for that filing period.

Example: A retail paint store withdraws a gallon of paint from inventory and uses it to repaint its office. Consumer's use tax is due on the store's cost of the paint since it was withdrawn from tax-free inventory and the store became the consumer of the paint.

Retailers report and remit their consumer's use tax at the same time they file and remit sales tax they have collected from their customers.

[Nebraska and Local Consumer's Use Tax Return, Form 2](#). This return is used by businesses that are not required to be licensed for sales tax but need to report their consumer's use tax liability.

Example: An accounting firm buys a computer from an out-of-state supplier and is not charged Nebraska sales tax. Consumer's use tax is due since Nebraska sales tax was not paid.

❖ **Individuals:**

Nebraska and Local Individual Consumer's Use Tax Return, Form 3. This return is used by individuals to report their consumer's use tax liability. Individuals are required to remit consumer's use tax on the total amount paid for the items purchased including any amount paid for shipping and handling charges, warranties, labor charges, and other taxable services.

Example: An individual purchases a coat from a mail order catalog company and is not charged Nebraska sales tax. Consumer's use tax is due since Nebraska sales tax was not paid.

FILING FREQUENCY FOR FORMS 2 AND 3

Forms 2 and 3 are filed monthly, quarterly, or annually based on the annual consumer's use tax liability. If the annual liability is:

- ❖ More than \$3,000 — returns are filed monthly;
- ❖ \$900 to \$3,000 — returns are filed quarterly; and
- ❖ Less than \$900 — returns are filed annually.

The due date is the **20th** day of the month following the tax period covered by the return.

Example: for most individuals, this means your consumer's use tax return (Form 3) will be due on January **20th** of each year. **The due date for filing sales and use tax returns changed from the 25th of the month to the 20th of the month effective for returns filed after October 31, 2011.**

EXEMPTIONS

Transactions that are exempt from Nebraska sales tax are also exempt from Nebraska consumer's use tax. [Nebraska Sales and Use Tax Regulation 1-012, Exemptions](#), provides a detailed listing of exempt purchases.

In addition, the following exemptions from consumer's use tax also apply:

- ❖ Transactions where tax was properly paid in another state at a rate equal to or greater than the appropriate state and local sales tax rate;
- ❖ Transactions where the item purchased was first used for its intended purpose in another state (this does not apply to motor vehicles, motor boats, or airplanes);

Example: A printer with locations in both Nebraska and Iowa purchases a new copier in Iowa and installs it at the Iowa location and uses it there for two months. The printer then brings the copier to their Nebraska location. Nebraska consumer's use tax is not due since the copier was purchased and first used in Iowa.

- ❖ Transactions where the item was purchased in another state and is stored but not used in Nebraska, and subsequently taken to and used in another state; or
- ❖ A restaurant that provides free meals to its employees does not owe a consumer's use tax on the cost of the food ingredients purchased and used for the meals.

Aircraft purchased or brought into Nebraska on which no sales tax has been paid are subject to use tax unless:

- ❖ The purchase of the aircraft qualifies as an occasional sale;
- ❖ The aircraft qualifies as a common-carrier vehicle; or
- ❖ The aircraft was brought into Nebraska one year or more after purchase and was neither regularly based nor used for more than one-half of the aircraft's operating hours inside Nebraska during the year after the aircraft was purchased.

For additional information regarding aircraft, contact the Department's Taxpayer Assistance as indicated below.

INTEREST AND PENALTY

Interest on any unpaid tax is assessed at the statutory rate from the due date until payment is received. A penalty may be assessed for failure to timely file a return, nonremittance, or partial payment of tax.

ENFORCEMENT

Nebraska is a member of the Midwest Border States Compact and Streamlined Sales Tax Project. Member states have mutual tax enforcement agreements that provide for the exchange of information regarding purchases in one state that are delivered into another state. These organizations encourage out-of-state businesses to register and collect Nebraska sales taxes voluntarily as a service to their Nebraska customers.

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