

Selling Event Exhibitors and Operators

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Fact Sheet

Sales tax registration

Any business, individual, promoter, operator, or fair board making taxable sales at a flea market, collectors' show, craft show, antique show, county fair, trade show, or similar event must be registered to collect the Minnesota general sales tax and any applicable local taxes before the event begins. You may register for a Minnesota ID number online at: www.taxes.state.mn.us or by calling 651-282-5225 or toll-free 1-800-657-3605. The Application for Business Registration, Form ABR, is available on our web site or by writing: Minnesota Tax Forms, Mail Station 1421, St. Paul, MN 55146-1421.

Certain individual sellers at a flea market or similar event are not required to register to collect sales tax if they qualify for the isolated and occasional sales exemption. To qualify, all the following conditions must be met:

- The seller participates in only one event per calendar year that lasts no more than three days;
- The seller makes sales of \$500 or less during the calendar year; and
- The seller provides a written statement to that effect, and includes the seller's name, address and telephone number.

This isolated and occasional sales provision applies to individuals only, it does not apply to businesses.

Operators of selling events

Minnesota law requires that before an operator of a craft show, art fair, flea market, or similar selling event can rent space to a seller at the event, the operator must have either proof that the seller is registered to collect Minnesota sales tax, a written statement from the seller that no taxable items are being sold, or a written statement from the seller indicating that they qualify for the isolated and occasional sales exemption mentioned above. ***Sellers are required to give the operator a completed Operator Certificate of Compliance, Form ST19, or other similar written statement for this purpose.*** Form ST19 is available on our web site, or you may call our office to request one.

Operators should keep the forms for at least three and one half years. Operators who do not have Form ST19 or a similar written statement from sellers, can be fined a penalty of \$100 for each seller that is not in compliance for each day of the selling event.

Sales

Sales of arts, crafts, antiques, collector items, and equipment are generally subject to the general state sales tax and any applicable local taxes. Sellers should separately state the sales tax whenever possible. If the tax is included in the selling price, the item must be marked "tax included," or a sign posted indicating that tax is included in all prices.

Below are guidelines for items commonly sold at fairs and other selling events.

Admissions

Entertainment events. Admission tickets to county fairs and other *entertainment or sporting events* such as grandstand shows, horse shows, and auto races are taxable.

Selling events. Admission tickets to flea markets, antique shows, and similar *selling events* are not taxable.

Entry fees to participate in a competitive event are not taxable unless they are for a normally taxable admission or use of an amusement device. For example, entry fees to enter a quilt in a sewing competition are not taxable because no admission or amusement is involved. However, entry fees to play in a dart tournament are taxable because the normal fee for playing darts is taxable.

Amusements. Charges for rides, sideshows, or exhibitions are taxable. This includes all carnival rides and games, as well as bungee jumping, video games, games of chance or skill, mechanical handwriting analysis, virtual reality games and other entertainment.

Clothing. Clothing meant to be worn on the human body for general use is not taxable, but some accessories are taxable. Baby clothing (including receiving blankets used as clothing) is not taxable. See Fact Sheet 105, Clothing, for more information.

Collectors. Sales of collector items such as model trains, guns, coins, comic books, stamps, and sports memorabilia are subject to sales tax when sold at a collectors' show, flea market, or any similar gathering of sellers.

Lodging. Charges for lodging accommodations, including camp sites, mobile homes or other lodging facilities are taxable.

Parking. Charges for parking vehicles are taxable (except at parking meters).

Rentals of equipment such as display booths, coolers, and generators are taxable. Rentals of booth space are not taxable.

Utilities. Charges for electricity, gas, water, or other utilities to operators of shows or concessions are taxable.

Food and drinks

Prepared food, as well as candy and soft drinks, are subject to Minnesota sales tax. Food and drinks, including bakery goods, are taxable when sold with eating utensils provided by the seller. Eating utensils include plates, knives, forks, spoons, glasses, cups, napkins, or straws.

See Fact Sheets 102A Food and Food Ingredients, 102B Candy, 102C Soft Drinks and Other Beverages, 102D Prepared Food, and 102E Dietary Supplements for more information.

Alcoholic beverages

Sales of intoxicating liquor are subject to the state general sales tax and a 2.5 percent liquor gross receipts tax. Non-alcoholic beer, such as O'Doul's and Sharp's, is subject to the state general sales tax. See Fact Sheet 137, Restaurants and Bars, for more information.

Examples of food sales at a fair or other event:

Example 1. A baker makes and sells cinnamon rolls served on a plate. Since the plate is considered an eating utensil, sales of the cinnamon rolls are taxable.

Example 2. A booth at a fair makes and sells jars of spaghetti sauce. The sauce is not taxable because the customer generally heats it after the sale.

Example 3. A shop at a flea market makes and sells jam. The jam is taxable because the seller prepared the jam by combining two or more food ingredients, and the customer does not usually cook or heat it after the sale.

Example 4. A booth at a carnival sells whole fresh fruit. No eating utensils are provided. The fruit is not taxable.

Example 5. A vendor at a fair prepares and sells flavored nuts. The nuts are taxable because they are prepared by the seller and the customer does not usually cook or heat them after the sale.

Example 6. A vendor at a trade show sells spices made by someone else to use in cooking. The vendor uses the spices in demonstrations and passes out free samples of spiced food. Eating utensils are used to pass out the samples. The spices are not taxable because they not prepared by the seller. The eating utensils used during the demonstration do not cause the spices to be taxable.

However, if the vendor *prepares* the spices (i.e., mixes his/her own spice blends), they are taxable even if the vendor does not provide eating utensils.

Example 7. A concessionaire sells pickles. The concessionaire uses a wooden skewer to retrieve the pickle from the container and hands the pickle to the customer on the skewer, which the customer keeps. The skewer is considered to be an eating utensil, so the pickle is taxable.

Advertising

Sales of advertising products such as programs, brochures and signs, and rentals of portable signs are taxable. Leases or rentals of billboard advertising are not taxable. Advertising services (including concept and design) are not taxable.

Prizes

Prizes awarded in games of skill or chance conducted at events such as carnivals, festivals, and fairs *lasting less than six days* are exempt from sales or use tax. Give the seller a fully completed Certificate of Exemption, Form ST3, to claim exemption.

Purchases of prizes are taxable for use at amusement parks, arcades, the State Fair, or other events that last six days or more. Also, items are taxable if they are awarded as prizes in connection with lawful gambling or the state lottery.

Use tax

Use tax applies to items or services *you use* that you purchased without paying sales tax. Use tax is similar to the sales tax and the rates are identical. Use tax is based on your cost of taxable purchases. Common examples of when use tax is due:

- You buy items for resale for your business, then remove some of the items from inventory for business or personal use.
- You buy a computer for use in your business from a mail order company or over the Internet and the seller does not charge sales tax.

Report state and local use tax electronically at the same time you report your sales tax. See Fact Sheet 146, Use Tax for Businesses, for more information.

Out-of-state vendors

Out-of-state businesses must collect Minnesota tax on all taxable sales made while in Minnesota. If you make sales to Minnesota residents after you leave the state of Minnesota, or take orders for future direct mailings, these sales may be subject to Minnesota tax. See Revenue Notice 00-10, Nexus Standards, for guidelines.

If you come into Minnesota for a selling event you are subject to income tax if you meet the minimum filing requirements; call 651-296-3781 or 1-800-652-9094 for more information.

Any wages paid to employees are subject to Minnesota withholding tax requirements; call 651-282-9999 or 1-800-657-3594 for more information.

Minnesota local taxes

Minnesota Revenue administers and collects local taxes on behalf of several local governments. Local taxes are listed and explained in detail in Fact Sheet 164, Local Sales and Use Taxes.

Special local taxes on food, liquor, admissions, entertainment, and lodging. In addition to the general local sales and use tax, some cities impose additional sales and use taxes on sales of food, liquor, lodging and entertainment, which the Department of Revenue administers. See Fact Sheets 164M, Minneapolis Special Local Taxes, and 164S, Special Local Taxes, for more information.

References:

M. S. 297A.87, Flea markets, shows, and other selling events
Revenue Notice 95-04, Penalty for Operators of Flea Markets and Similar Events
Revenue Notice 99-05, Responsibility for Collection and Remittance of Sales Tax on Tickets Sold at Selling Events
Revenue Notice 00-10, Nexus Standards

Fact sheets that may be of interest:

Food and Food Ingredients, #102A
Candy, #102B
Soft Drinks and Other Beverages, #102C
Prepared Food, #102D
Dietary Supplements, #102E
Local Sales and Use Taxes, #164
Fact Sheet 154, Arts and Crafts (describes how tax applies to craft sales and how to buy items used to make the crafts exempt for resale)