

NEBRASKA SALES AND USE TAX FOR AUCTION SALES

OVERVIEW

An auctioneer is a person authorized to sell property and services at auction for a commission or fee. An auction is a sale of land, property, or services to the highest bidder.

Every person engaging in business as an auctioneer is a retailer and must obtain a Nebraska Sales Tax Permit. Auctioneers are required to collect and remit the appropriate sales tax on all sales, unless a specific exemption applies. The auctioneer must retain documentation in his or her business records supporting all non-taxed sales.

If another person acts as a clerk for an auction and handles the money for the sale, the clerk is the retailer and required to obtain a Nebraska Sales Tax Permit. The clerk is required to collect and remit the appropriate sales tax on all sales, unless a specific exemption applies. The clerk must retain documentation in his or her business records supporting all non-taxed sales.

OBTAINING A PERMIT

A Nebraska Sales Tax Permit is obtained by completing a [Nebraska Tax Application, Form 20](#), and returning it to the Department of Revenue. This form is available on our Web site at www.revenue.ne.gov.

TAXABLE RECEIPTS

The gross receipts from **all** sales supervised, aided, or conducted by an auctioneer or agent or employee of an auctioneer are taxable, unless a specific exemption applies. Sales tax must be collected by the auctioneer, his or her employee, or agent on all sales except real property, motor vehicles, trailers, semi-trailers, motorboats, and those items supported by a properly completed [Nebraska Resale or Exempt Sale Certificate, Form 13](#).

Buyer's Premium. Sometimes called a "transaction fee" is an auction fee that is added to the winning bid and becomes part of the gross purchase price. Buyer's premiums or transaction fees are taxable.

Auctions for Governmental Entities. Items sold at auctions conducted, supervised, or aided by an auctioneer, under a contract or for hire, are subject to sales tax.

Auctions for Licensed Retailers. When auctions are conducted for customers who are licensed retailers, the auctioneer, under a contract or for hire, becomes an agent for their customer. The auctioneer's customer, the retailer, is responsible for collecting and remitting the tax.

Auctions for Nonprofit Organizations. Items sold at auctions conducted, supervised, or aided by an auctioneer, under a contract or for hire, are subject to sales tax.

Sales tax is to be collected on the full amount of the bid when a donation and the fair market value of the property sold are not separately stated on the receipt given to the buyer. Fair market value must be determined prior to the auction. An auctioneer is permitted to collect tax on only the fair market value of the property sold when a donation and the fair market value of the property sold are separately stated on the receipt given to the buyer. The donation is calculated by subtracting the fair market value from the total bid price of the property.

Sales of gift baskets which are donated to the nonprofit organization are generally subject to tax. Sales of gift baskets purchased or made by the nonprofit organization are also taxable, unless more than 50 percent of the nonprofit organization's cost of the gift basket and contents consist of exempt food items.

Gift certificates are not taxed when sold at auction, but rather the item purchased with the gift certificate is taxed when the certificate is used. A gift certificate allows the recipient to purchase any item or service at the retailer's store.

A **gift receipt** allows the recipient to pick up a specific item from a specific retailer. Gift receipts sold at auction are taxed at the time of sale unless the specific item is exempt.

Auctions for Religious Organizations. A religious organization may have one annual sale that is not taxed. The religious organization may have the assistance of an auctioneer at this sale without having to collect the tax on the items sold, if the following three requirements are met:

- 1 The sale must be at an activity of the religious organization, but it does not have to take place on the premises of the religious organization.
- 2 The sale may only last up to three consecutive days.
- 3 The religious organization may sell anything it owns at its sale, except a motor vehicle, trailer, or semi-trailer. The items may be new and made especially for the sale, or they may be donated to the organization for the sale.

Estate Sales. The sales of household goods or business property belonging to a decedent's estate which are conducted, supervised, or aided by an auctioneer are taxable.

Farm Auctions. Household goods, personal effects, tools, miscellaneous items, and farm machinery and equipment sold at a farm sale conducted, supervised, or aided by an auctioneer are taxable.

Agricultural machinery and equipment that is used directly in the cultivating or harvesting of a crop, the raising or caring of animal life, or the collecting or processing of an agricultural product on the farm or ranch is exempt from tax with a completed Nebraska Resale or Exempt Sale Certificate, Form 13, from the buyer. For additional information regarding this exemption and types of qualifying machinery and equipment please see the [Agricultural Machinery and Equipment Information Guide](#).

When the auctioneer makes sales of qualified agricultural machinery and equipment, he/she is acting like a farm implement dealer and must charge the sales tax on machinery and equipment at farm auctions unless the buyer completes a Form 13.

Household Goods. Sales of household goods and personal effects at any type of sale conducted, supervised, or aided by an auctioneer are taxable, even though such sales may be exempt if the items were sold by the owner.

Motorboats. Sales tax is not collected by the auctioneer or the clerk of the auction on sales of motorboats. The auctioneer or clerk of the auction must issue to the purchaser a Nebraska Sales and Use Tax Statement for Motorboat Sales, Form 6MB, and a bill of sale. Within 30 days of the purchase date, the purchaser must pay the appropriate sales tax to the county treasurer in the county of the address on the Form 6MB.

Motor Vehicles, Trailers, and Semi-Trailers. Sales tax is not collected by the auctioneer or the clerk of the auction on sales of motor vehicles, trailers, and semi-trailers. The auctioneer or clerk of the auction must issue a Nebraska Sales/Use Tax and Tire Fee Statement for Motor Vehicles and Trailer Sales, Form 6, and a bill of sale to the purchaser. Within 30 days of the purchase date, the purchaser must pay the appropriate sales tax to the county treasurer in the county where the purchaser resides.

❖ **Camper Units and Camper Shells.** Camper units and shells sold with a motor vehicle are considered part of the motor vehicle. The auctioneer or clerk of the auction must issue to the purchaser a Nebraska Sales/Use Tax and Tire Fee Statement for Motor Vehicle and Trailer Sales, Form 6, and a bill of sale. Within 30 days of the purchase date, the purchaser must pay the appropriate sales tax to the county treasurer in the county where the purchaser resides.

The sale of camper units and camper shells (detached from a motor vehicle and sold to the same person who purchased the motor vehicle on which the camper unit or camper shell could be placed) is considered to be one transaction with the purchase of a motor vehicle. The auctioneer or clerk of the auction must issue a Form 6 indicating the **total** amount paid for **both** the motor vehicle and the camper shell, and a bill of sale. Within 30 days of the purchase date, the purchaser must pay the appropriate sales tax to the county treasurer in the county where the purchaser resides.

Unattached camper units or shells sold at an auction sale are taxable when sold to a person other than the purchaser of the motor vehicle. Sales tax must be collected on all such sales.

Occasional Sales. Any sale that is made, supervised, or aided by an auctioneer, or agent or employee of an auctioneer, does not qualify for an occasional sale exemption.

Required Delivery Out Of The State. When the auctioneer is required, as a condition of the sale, to deliver items sold at auction to a point outside of the state, or to deliver it to a common or contract carrier for transportation to a point outside of this state, the Nebraska sales tax does not apply.

Sale of Business and Going Out of Business Sales. Sales of new or used business equipment are taxable when conducted, supervised, or aided by an auctioneer.

Silent Auctions. A silent bid auction is treated in the same manner as other auctions.

NON-TAXABLE RECEIPTS

Real Property. Sales of real property (i.e., land and homes) are not subject to sales tax.

Sales for Resale Purposes. Sales for resale, such as those made to antiques dealers, may be made without collecting the sales tax, **provided** the auctioneer or clerk receives a properly completed Nebraska Resale and Exempt Sale Certificate, Form 13, Section A, from the purchaser.

Documenting Exempt and Non-Taxable Sales. All sales on which sales tax is not collected must be supported by appropriate documentation as indicated below:

- ❖ Items purchased for resale purposes must be supported by a properly completed Nebraska Resale or Exempt Sale Certificate, Form 13, Section A, signed by the purchaser;
- ❖ Items purchased by an exempt entity must be supported by a properly completed Form 13, Section B, signed by the purchaser;
- ❖ Sales of qualifying agricultural machinery and equipment must be supported by a properly completed Nebraska Resale or Exempt Sale Certificate, Form 13, Section B, Category 2, signed by the purchaser;
- ❖ Exempt receipts from sales conducted for religious organizations must be supported by a copy of the contract or agreement with the organization to conduct the sale; and
- ❖ Sales of real property must be supported by a bill of sale indicating the parcel of land purchased.

GENERAL INFORMATION

Customer's Invoices. When taxable and non-taxable sales are included on the same invoice, they must be separately stated or the entire amount of the sale is taxable regardless of whether a Form 13 or other exemption applies to part of the sale.

Reporting the Tax. Sales tax is reported and remitted on the [Nebraska and Local Sales and Use Tax Return, Form 10](#). This return may be filed electronically from our Web site.

Consumer's Use Tax. Auctioneers are consumers of items, such as office equipment, office supplies, and sound equipment, used when conducting auctions. Sales tax must be paid when consumable items are purchased. If such items are purchased from a vendor who is not licensed to collect Nebraska sales tax, consumer's use tax must be remitted to the Department. If the supplier/vendor of such item does not collect the proper state and local sales tax, consumer's use tax must be remitted to the Department.

Tag Sales. Tag sales are not auctions. Tag sales are retail sales where a tag with the sales price is attached to the property being sold. These sales are taxable unless **all** of the following conditions have been met:

- 1 The sale must qualify as an exempt occasional sale under [Nebraska Sales and Use Tax Reg. 1-022](#).
- 2 The responsibilities of any third party hired to conduct the sale are primarily limited to appraising the property, affixing price tags to the property being sold, and collecting the proceeds of the sale.
- 3 The sales are not made at an auction.

The exemption does not transfer to other items not specifically identified in the occasional sale regulations such as property brought onto the premises for the sale by the auctioneer or consignment property. Persons that conduct tag sales are required to collect tax on the sale of all property that does not qualify under the exemption.

This information guide is intended to provide an overview of Nebraska sales and use tax laws that apply to auction sales. Nothing in this information guide supersedes, alters, or otherwise changes any provisions of the Nebraska tax code, regulations, Department rulings, or court decisions.

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