



Sales Taxes

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Background

Of all the taxes Americans are subjected to, [SALES TAX](#) is the more often than not considered the least controversial. Rarely does it inspire the debate of the [INCOME TAX](#) or property tax. Thus, a useful tax for funding everything from schools to ballparks.

The general sales tax has only been in effect since 1932, when it was imposed on the state of Mississippi and the municipalities of New York City and New Orleans. Special sales taxes, or [EXCISE](#) taxes, have been used for much longer: the famous Boston Tea Party of 1773 was held as a protest over such a tax on tea, and the United States first imposed an excise tax on whiskey in 1790.

Within the context of tax revenues, the state sales tax is an important tax. In fact, it is currently the largest source of total state revenues in the country—45 states and the District of Columbia now impose a sales tax, and hundreds of municipalities and local government entities across the United States impose their own sales taxes. Cuts in income taxes and property taxes over the past 10 years have made states and local governments even more dependent on the sales tax.

General Sales Tax

Although most people assume sales taxes are paid by the purchaser, the general sales tax is considered to be imposed on the seller, and is considered a tax on the privilege of doing business in the state or municipality. It is imposed when the seller completes a sale of TANGIBLE PERSONAL PROPERTY or services.

The goods and services covered by a sales tax are generally extensive—virtually any transaction within the state or municipality where money changes hands is covered by the general sales tax, including all consumer goods, entertainment such as movies or sports events, hotels, restaurants, and even items such as phone charges or electrical bills.

Although the seller is required to collect the sales tax, the tax is imposed upon the purchaser as part of the final purchase price. The seller is usually considered ultimately responsible for the collection of the tax as the primary tax collector.

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The sales tax is identified in percentage terms within the measure of a dollar—a 4 percent sales tax means for every dollar spent, there will be a four-cent tax. Most government entities utilize a bracket system to identify how much tax is to be paid on specific goods. The bracket system allocates how much sale tax is to be paid to a specific dollar amount. For example, the six percent sales tax in Michigan results in the following brackets: no tax due on amounts from \$0.00 to \$0.10, one cent due from \$0.11 to \$0.24, two cents due from \$0.25 to \$0.41, three cents due from \$0.42 to \$0.58, four cents due from \$0.59 to \$0.74, five cents due from \$0.75 to \$0.91, six cents due from \$0.92 to \$0.99, and for \$1.00 and each multiple of \$1.00, 6 percent of the sale price. Like Michigan, many states have these specific bracket calculations set out in their [STATUTE](#), although some states delegate this power to an administrative agency.

Sellers are generally required to remit the sales tax on a periodic basis, usually quarterly, sometimes more frequently if the amount of the tax reaches a certain point. Most states allow sellers to keep a small portion of the tax as a payment for the work they do in collecting the tax.

General sales taxes usually contain exclusions and exemptions. These exclusions and exemptions can be quite broad, often including sales of intangible personal property and goods meant for resale. Goods used in production are also often exempted from sales tax to prevent multiple taxations. Most states exempt professional and personal services such as those provided by doctors and lawyers from sales taxes.

The sales tax is a regressive tax—that is, its burdens fall more heavily on poorer people. Because of this fact, basic goods such as food, clothing, and medicine are many times exempted from sales tax. Some states also declare "tax holidays" exempting persons shopping within a specific time frame from having to pay sales tax.

Most states allow local government entities within the state to impose their own general sales taxes. Usually, doing so requires the approval of both the state and municipal government, although in some states with strong home rule provisions, these taxes can be passed without state approval. The same exclusions and exemptions of the state sales tax are usually present for these local sales taxes, though state law sometimes allows local governments to override these exclusions with their own taxes. Local governments are also commonly restricted in the rates they can impose.

A problem that often arises when local government entities impose their own sales taxes in multiple sales taxes for businesses located in several different places. States solve this problem by declaring the sales tax is to be imposed at the place of business of the seller. If there is more than one place of business, then the place where the initial transaction occurs determines the imposition of the tax.

Use Tax

A [USE TAX](#) differs from a sales tax in that a sales tax is assessed on the purchase price of property and is imposed at the time of sale; a use tax is assessed on the storage, use, or consumption of property and takes effect only after such use begins.

Another way of looking at this point is to observe that the taxable event for [ASSESSMENT](#) of the sales tax occurs at the time of sale. The taxable event for assessment of the use tax occurs when possession of the property is transferred to the purchaser within the taxing state for storage, use, or consumption.

The use tax is considered supplementary to the sales tax. It ensures that purchasers who attempt to avoid the sales tax by buying outside of the area of the sales tax will still have to pay the use tax when they use the product or service they have purchased within the taxing area.

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Use taxes are almost always imposed at the same rate as the sales tax. If a sales tax has already been paid on the good or service in question in the place where it was purchased, the use tax will generally not be imposed. The person using the good or service is liable for the tax, although responsibility for collecting the tax is often imposed on the seller.

Use taxes have been fought in court, particularly by mail order companies required to collect the tax. The Supreme Court has ruled that in order to collect a use tax from a business, a company's activity must have a "substantial nexus" with the taxing state. Thus, the court ruled that a mail order company with no office in the taxing state does not have a substantial nexus with the state, and therefore, the state cannot impose its use tax.

Use taxes, by their nature, can be hard to collect, because many times purchasers of goods or services has no idea that they owe a use tax. If the state or local government entity cannot impose the tax directly, they often have no recourse in collecting the tax unless there is a separate registration requirement (as with a car).

Excise and Other Special Sales Taxes

Excise taxes are sales taxes targeted at a specific item, such as cigarettes or alcohol. They are imposed in a different way than sales tax, although responsibility for collecting them is still with the seller.

For example, the cigarette tax is usually imposed as an amount per cigarette or per specific number of cigarettes. Payment of the tax by the seller is designated by the use of stamps, which are attached to the cigarette carton. In the same way, motor vehicle taxes are usually by the gallon, and alcohol taxes are also assessed on a per gallon basis, generally varying by alcohol content.

Excise taxes are among the oldest taxes and are generally imposed only by the state, although some municipalities, such as New York City, are allowed to impose these special taxes. These taxes have to treat all products they tax equally—they cannot favor products made locally. For example, it would be unconstitutional for North Carolina to tax differently cigarettes made from tobacco grown locally different from cigarettes from tobacco grown out of state.

There are other examples of special sales taxes that are not considered excise taxes, since they do not target products but rather services. One example is the hotel/motel tax, which is a tax on the rental of hotel and motel rooms. Also, many states impose various entertainment taxes on restaurants, theaters and other tourist attractions. These taxes are often passed by local government entities and many times do not need the approval of the state in order be imposed.

Gross Receipt Taxes

Gross receipt taxes are charged to businesses and are based on the total revenues of a business. The tax is imposed on an annual or other periodic basis and is required on top of the sales tax. A gross receipt tax differs from a general sales tax in that it is a tax on the business activity itself and is assessed as a percentage of revenues received, regardless of the source of the revenue. The occupational license tax is a good example of such a tax: states require businesses to pay this tax in order to do business in the state.

Sales Tax Issues

The sales tax has been the focus of several important debates over the past 10 years. Two of the most important are over imposing a national sales tax and over taxing goods sold over the Internet.

National Sales Tax

Proponents of a national sales tax have suggested that substituting a national sales tax for the income tax would result in many positive benefits. Such a tax would result in doing away with complicated tax forms, and (some proponents suggest) with the Internal Revenue Service. It would be easier to collect, and, therefore, would result in less cheating. It would also give taxpayers a greater sense of control over the tax, since by their purchases they would determine when the tax would be imposed.

Despite these arrangements, and the endorsement of local and national political candidates of the idea, the national sales tax has never caught on. Opponents of the idea suggest it has [FATAL](#) flaws. For example, the tax would have to be too high to make up for the loss of income tax; it would be regressive unlike the income tax, which is currently administered in a progressive way; and the exemptions and exceptions that would be granted would make it just as difficult and complicated to administer as the income tax.

Internet Taxes

One current area of controversy is the issue of sales taxes for goods sold over the Internet. When the Internet first began to be widely used, there was a debate over whether goods sold over cyberspace should be subjected to a use or tax alternatively, a sales tax if the company selling the goods did business within the state.

In 1998, President Bill Clinton signed the Internet Tax Freedom Act (ITFA). The ITFA imposed a moratorium on all taxes of goods and services sold over the Internet for three years, until a decision was made on what kind of tax system to impose on Internet shopping and use. States could not collect sales or use taxes from Internet sellers unless the seller had a sufficient nexus with the state. The ITFA has now been extended until November, 2003. As of 2002, however, no decision has been made on what kind of sales or use tax system to allow states to impose on Internet goods.

With electronic commerce growing quickly many states believe it would be difficult to continue to lose revenue from Internet commerce not subject to [TAXATION](#). On the other hand, Internet vendors worry that they may face the nightmarish prospect of having to deal with multiple taxes required by a host of states. It remains to be seen whether the federal government will do anything about this situation or will simply let the ITFA expire and let the states go their separate ways.

Listing of State Sales Tax Rates

The following is a listing of state sales tax rates, as of 2001:

ALABAMA: 4.00 %

ALASKA: no sales tax

ARIZONA: 5.60 %

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ARKANSAS: 5.125 %

CALIFORNIA: 6.00 %

COLORADO: 2.90 %

CONNECTICUT: 6.00 %

DELAWARE: no sales tax

DISTRICT of COLUMBIA: 5.75 %

FLORIDA: 6.00 %

GEORGIA: 4.00 %

HAWAII: 4.00 %

IDAHO: 5.00 %

ILLINOIS: 6.25 %

INDIANA: 5.00 %

IOWA: 5.00 %

KANSAS: 4.90 %

KENTUCKY: 6.00 %

LOUISIANA: 4.00 %

MAINE: 5.00 %

MARYLAND: 5.00 %

MASSACHUSETTS: 5.00 %

MICHIGAN: 6.00 %

MINNESOTA: 6.50 %

MISSISSIPPI: 7.00 %

MISSOURI: 4.225 %

MONTANA: no sales tax

NEBRASKA: 5.00 %

NEVADA: 4.25 %

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NEW HAMPSHIRE: no sales tax

NEW JERSEY: 6.00 %

NEW MEXICO: 5.00 %

NEW YORK: 4.00 %

NORTH CAROLINA: 4.50 %

NORTH DAKOTA: 4.50 %

OHIO: 5.00 %

OKLAHOMA: 4.50 %

OREGON: no sales tax

PENNSYLVANIA: 6.00 %

RHODE ISLAND: 7.00 %

SOUTH CAROLINA: 5.00 %

SOUTH DAKOTA: 4.00 %

TENNESSEE: 6.00 %

TEXAS: 6.25 %

UTAH: 4.75 %

VERMONT: 5.00 %

VIRGINIA: 3.50 %

WASHINGTON: 6.50 %

WEST VIRGINIA: 6.00 %

WISCONSIN: 5.00 %

WYOMING: 4.00 %

Additional Resources

"Questioning The Viability Of The Sales Tax: Can It Be Simplified To Create A Level Playing Field?"
McKeown, Rich, *Brigham Young University Law Review*, 2000.

Encyclopedia of Everyday Law: Sales Taxes

"State And Local Sales Tax On Internet Commerce: Developing A Neutral And Efficient Framework." Way, Kashi M., *Virginia Tax Review*, Summer, 1999.

State and Local Taxation and Finance In A Nutshell. Gelfand, M. David, Joel Mintz, Peter W. Salsich, West Group, 2000.

"State Tax Rates" Sales Tax Institute, Available at <http://www.salestaxinstitute.com>, 2001.

Organizations

The National Retail Sales Tax Alliance

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