



Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF REVENUE
Kim Conroy, Tax Commissioner
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September 10, 2014

Dear County Treasurer:

Beginning October 1, 2014, the sales and use tax imposed on the sale of all-terrain vehicles (ATVs) and utility-type vehicles (UTVs) will be collected by the county treasurer or other designated county official at the time the purchaser makes application for the certificate of title.

In anticipation of the changes, as required due to the passage of LB 814, the Nebraska Department of Revenue (Department) provides the following information and forms that will be used by sellers of ATVs, UTVs, and county treasurers.

1. Nebraska Sales and Use Tax Statement for All-Terrain Vehicle (ATV) and Utility-Type Vehicle (UTV) Sales, Form 6ATV (attached).

The seller of the ATV or UTV is required to furnish the purchaser of the ATV or UTV a completed Form 6ATV. Form 6ATV is similar to Form 6 and Form 6MB; however, the forms are not interchangeable. The instructions on the reverse side of Form 6ATV provide important information for the purchaser, seller, and county treasurer.

County treasurers who need to have a supply of Forms 6ATV on hand, can order the form from the Department's website, revenue.nebraska.gov. Click on "Forms," then click on "Sales and Use Tax," and "Click here to order these forms." When completing the order form, in the subject box, select "Forms Ordering," complete the mailing address information, and in the message box provide the **name of the form** and **quantity ordered**. Then click the submit button.

2. ATVs and UTVs that must be titled.

The all-terrain vehicles and utility-type vehicles that fall within the following definitions must be titled:

An **ATV** is any motorized, off-highway device which is 50 inches or less in width, has a dry weight of 1,200 pounds or less, has three or more nonhighway tires, and is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger.

A **UTV** is any motorized off-highway device which is 74 inches in width or less, is 180 inches or less in length including the bumper, has a dry weight of 2,000 pounds or less, and travels on four or more nonhighway tires.

3. Local sales and use tax rates must be used to calculate the sales tax on line 5 of Form 6ATV.

County treasurers are required to collect the local sales and use tax **based on the location of the sale of the ATV or UTV and not on the registration or title address of the ATV or UTV**. The location of the sale is where the purchaser takes delivery of the ATV or UTV. The responses to questions A and B on Form 6ATV provide the needed information to determine the location of the sale. If the seller indicates on Form 6ATV that the purchaser took delivery of the ATV or UTV at the seller's address, the county treasurer must collect the local sales and use tax based on the seller's address. If the ATV or UTV is delivered to the purchaser's address or some other address, the county treasurer will collect the local sales and use tax at the rate in effect at that address.

Example 1. A person who lives in Lincoln purchases and takes delivery of the ATV at the dealer's location within the City of Omaha. The purchaser titles the ATV in Lincoln. The Lancaster County Treasurer must collect the Omaha local sales tax. The Lancaster County Treasurer must report the Omaha local sales tax on its Form 9ATV, Nebraska Schedule – Local Sales and Use Tax Collected.

Example 2. A person who lives in Hastings purchases an ATV from a seller located in Grand Island and has the seller deliver it to the purchaser's residence in Hastings. The Adams County Treasurer must collect the Hastings local sales tax. The Adams County Treasurer will report the Hastings local sales tax on its Form 9ATV, Nebraska Schedule – Local Sales and Use Tax Collected.

After these new rules take effect, it is possible that a county treasurer will be required to collect and report the local sales tax for several different cities. If you have collected the local sales and use tax for a city that is not preidentified on your Nebraska Schedule – Local Sales and Use Tax Collected, enter the city name, code, and sales tax amount for each city in the blank spaces. If you have more than 20 cities for which you collected the local sales and use tax, attach a list and provide the city name, code, and sales tax amount for each city. If you do not know the city code, it can be obtained from the Department’s website at revenue.nebraska.gov. Under “Specific Tax Info,” click on “Sales and Use Tax,” and then click on “Current and Local Sales and Use Tax Rates.”

4. County treasurer must collect the local sales and use taxes based on the location of the sale.

The county treasurer is required to collect the local sales and use tax based on the location of the sale and not at the registration or title address because the exceptions to the sourcing rules in Neb. Rev. Stat. § 77-7703.01 were not amended by LB 814. Specifically, § 77-2703.01(11) was not amended to insert the terms “all-terrain vehicles” and “utility-type vehicles.” By not inserting these terms into this statute, the sourcing rules in §§ 77-2703.01(1) to 77-2703.01(4) determine the sourcing of the state and local tax. The sourcing rules for the local sales and use tax are found in § 77-27,147, which provides: “For purposes of the Local Option Revenue Act, all retail sales, rentals, and leases, as defined and described in the Nebraska Revenue Act of 1967, shall be sourced according to the provisions of §§ 77-2703.01(1) to 77-2703.01(4).”

5. Sellers of ATVs and UTVs.

Sellers of ATVs and UTVs, as of October 1, 2014, will no longer be authorized to collect the sales tax on the sale of an ATV or UTV at the time of sale. However, they are required at the time of the sale, to state on the sales invoice the dollar amount of the sales tax and furnish a completed Form 6ATV to the purchaser. As part of Form 6ATV, the seller is required to complete questions A and B. The county treasurer will use this information to verify that the proper local sales tax rate was used in calculating the local sales tax amount on line 5. The local sales tax amounts must be collected by the county treasurer and properly reported on Form 9ATV for each appropriate city.

6. Nebraska and Local Sales and Use Tax Return, ATVs and UTVs, Form 9ATV (attached).

A Form 9ATV must be filed for each tax period. County treasurers are required to maintain the white copy of Form 6ATV and provide copies to the Department upon request. The Department will mail the Form 9ATV to the counties each month, similar to Form 9 and Form 9MB.

Since the sales and use tax on ATVs and UTVs will be placed in the Game and Parks Commission Capital Maintenance Fund, separate electronic payments or checks must be submitted with the filing of each return even though Form 9, Form 9MB, and Form 9ATV may be sent in the same envelope.

7. ATVs or UTVs purchased prior to October 1, 2014, and titled on and after October 1, 2014.

If an owner purchased an ATV or UTV prior to October 1, 2014, and is titling it for the first time on or after October 1, 2014, it is not necessarily required to complete a Form 6ATV if the county treasurer is satisfied that the ATV or UTV was purchased prior to October 1, 2014.

If the county treasurer is not satisfied that the ATV or UTV was purchased prior to October 1, 2014, the county treasurer can require the owner to complete Form 6ATV for the purpose of having the owner substantiate, by checking one of the exemption boxes on the bottom of Form 6ATV, that the purchase of the ATV or UTV is exempt from sales tax. If the owner is claiming an exemption that is not listed, it may be necessary that the owner contact the Department, or pay the sales tax and file a Claim for Overpayment of Sales and Use Tax, Form 7.

If the ATV or UTV was purchased more than five years and 30 days before the title date, no sales tax, penalty, or interest can be collected. When this occurs, the words “statute of limitations” or some similar statement should be written on line 1 of Form 6ATV.

8. ATVs and UTVs purchased in another state and titled in Nebraska.

Owners of ATVs and UTVs that are purchased in another state, and who are required to title the ATV or UTV in Nebraska, must provide the county treasurer a completed Form 6ATV after October 1, 2014. If the purchaser only has an invoice for the ATV or UTV, the purchaser must complete Form 6ATV before titling the ATV or UTV in Nebraska. The owner is required to pay the Nebraska and local sales and use tax unless an exemption can properly

be claimed. In addition, sales tax properly paid to another state will be credited toward the total state and local sales tax due in Nebraska. Documentation will be required to support sales tax claimed to be paid to another state.

9. Depreciable agricultural machinery and equipment exemption.

Purchasers who title and check exemption block 1 on Form 6ATV are exempt from paying the Nebraska and local sales and use tax. However, the purchaser should list the ATV or UTV on its personal property return. You may want to share a copy of Form 6ATV with the county assessor’s office in these instances.

10. ATV and UTV trailers.

Sellers who also sell ATV and UTV trailers should complete, in addition to Form 6ATV, a Nebraska Sales/Use Tax and Tire Fee Statement for Motor Vehicle and Trailer Sales, Form 6. Purchasers are required to pay the sales tax when the trailer is registered. Trailers cannot qualify for the agricultural machinery and equipment exemption. Sellers of ATV or UTV trailers, that do not complete Form 6, must collect the state and local sales tax at the time the trailer is sold. The person registering the trailer must be able to provide proof of sales tax paid to the seller to forego the payment of sales tax at the time the trailer is registered. The address shown on the trailer registration certificate will determine the local sales tax rate that must be used in calculating the amount of local sales tax to collect.

Example 3: A person who lives in Hastings purchases an ATV and trailer from a seller located in Grand Island and takes possession of the ATV and trailer at the seller’s location in Grand Island. The seller did not collect any sales tax on this transaction. The Adams County Treasurer must collect the state and Grand Island local sales tax on the selling price of the ATV and collect the Hastings local sales tax based on the registration address of the trailer. The Grand Island local sales tax will be reported on the Adams County Treasurer’s Form 9ATV, Nebraska Schedule – Local Sales and Use Tax Collected. The Hastings local sales tax collected on the registration of the trailer will be reported on the Adams County Treasurer’s Nebraska and Local Sales and Use Tax Return, Form 9.

11. Penalty and interest on purchases of ATVs and UTVs that are not timely titled.

If the sales and use tax is not paid within 30 days after the purchase date, the county treasurer must collect the tax and applicable interest calculated from the 30th day until the date of payment, along with a penalty of \$5.

If you have any questions or comments regarding the attached forms or information, please contact Cliff Thomas at 402-471-5676 or cliff.thomas@nebraska.gov.

For the Tax Commissioner



Clifford W. Thomas
Tax Specialist Senior
Policy Division

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Attachments: