

Nebraska Sales and Use Tax for Auction Sales

Overview

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

Auctioneers that sell tangible personal property, admissions, or taxable services are retailers and must obtain a Nebraska Sales Tax Permit. Auctioneers are required to collect and remit the appropriate sales tax on all taxable sales, unless a specific exemption applies. Auctions include either silent or live auctions. 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 is 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.

This guidance document is advisory in nature but is binding on the Nebraska Department of Revenue (DOR) until amended. A guidance document does not include internal procedural documents that only affect the internal operations of DOR 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.

This guidance document may change with updated information or added examples. DOR recommends you do not print this document. Instead, sign up for the [subscription service](https://revenue.nebraska.gov) at revenue.nebraska.gov to get updates on your topics of interest.

Obtaining a Permit

A Nebraska Sales Tax Permit is obtained by completing a [Nebraska Tax Application, Form 20](#), and returning it to DOR. This form is available on our [website](#).

Taxable Receipts

The gross receipts from all sales supervised, aided, or conducted by an auctioneer, or by an 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, All-Terrain Vehicles (ATV) and Utility-Type Vehicles (UTV) and those items supported by a properly completed [Nebraska Resale or Exempt Sale Certificate, Form 13](#).

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

Auctions for Governmental Entities. Governmental entities selling items at an auction, including those that are sold at auctions conducted, supervised, or aided by an auctioneer, are subject to sales tax, unless a specific exemption applies.

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

Auctions for Nonprofit Organizations. Items, including donated items, sold at auctions conducted, supervised, or aided by an auctioneer, under a contract or for hire, are subject to sales tax, unless a specific exemption applies.

Sales tax is to be collected on the full amount of the bid when the fair market value of the property sold is not separately stated on the receipt given to the buyer. An auctioneer is permitted to collect tax on only the fair market value of the property sold when the fair market value of the property sold is 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. The fair market value of the item must be determined prior to the auction.

Sales of gift baskets that 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% of the nonprofit organization's cost of the gift basket and contents consist of exempt items.

Gift certificates are not taxed when sold at auction, but rather the transaction where the gift certificate is used is taxed when the certificate is applied.

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 transaction is exempt.

Auctions for Religious Organizations. A religious organization may have one annual sale that is not taxed. The religious organization may use 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. The items may be new, made especially for the sale, or donated to the organization for the sale. Sales of motor vehicles, motorboats, ATVs, or UTVs are not tax-exempt. Sales tax will be paid by the purchaser at the time of registration of a motor vehicle or the time of application for title for a motorboat, ATV, or UTV.

Estate Sales. 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, and miscellaneous items, 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 auctioneers make sales of qualified agricultural machinery and equipment, they are acting as 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 or other third-party company (for example, an estate sale company) are taxable, even though such sales may be exempt if the items were sold by the owner. Please note, however, that sales made at an individual residence or online auction site for the sale of household goods and personal effects by the owner are tax exempt if the sales are held on three or less days in any calendar year. The three-day limit begins with the day of the first sale. Household goods and personal effects do not include motor vehicles, motorboats, ATVs, UTVs, or aircraft.

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 after the purchase, the purchaser must pay the appropriate sales tax to the county treasurer of the county that the address on the Form 6MB indicates.

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.

Camper units and camper shells that are detached from a motor vehicle and sold to the same person who purchased the motor vehicle on which the camper unit or camper shell was previously attached 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, 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 related motor vehicle. Sales tax must be collected on all such sales.

All-Terrain Vehicles (ATV) and Utility-Type Vehicles (UTV). Sales tax is not collected by the auctioneer or the clerk of the auction on sales of ATVs or UTVs. The auctioneer or clerk of the auction must issue a [Nebraska Sales and Use Tax Statement for All-Terrain Vehicle \(ATV\) and Utility-Type Vehicle \(UTV\) Sales, Form 6ATV](#), 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 appropriate county treasurer at the time the buyer applies for a certificate of title.

Occasional Sales. Any sale that is made, supervised, or aided by an auctioneer, or by an agent or employee of an auctioneer, does not qualify as an occasional sale exemption, except for a single annual sale by a nonprofit religious organization discussed above and a tag sale discussed below.

Delivery Out of 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.

Tag Sales. Tag sales are not auctions. Tag sales are retail sales where a tag with the sales price is attached to the household goods or personal effects being sold by someone other than the owner. The owner must collect sales tax on the items sold unless **all** of the following conditions have been met:

- ❖ The sale must qualify as an exempt occasional sale under [Nebraska Sales and Use Tax Reg-1-022](#).
- ❖ The responsibilities of any third party hired to help with the sale are primarily limited to appraising the property, affixing price tags to the property being sold, and collecting the proceeds of the sale.
- ❖ 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 sale 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. Sales performed by auctioneers that perform services beyond appraising an estate's property, affixing price tags to the property being sold, and collecting the proceeds of the sale do not qualify as tag sales and are not within this exemption.

Non-Taxable Receipts

Real Property. Sales of real property (for example, residential properties, agricultural and horticultural land, commercial properties) 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 must be supported by a properly completed 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 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 website.

Use Tax. Auctioneers are consumers of items used when conducting auctions, such as office equipment, office supplies, tables, and sound equipment. 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, use tax must be remitted to DOR. If the supplier/vendor of such item does not collect the proper state and local sales tax, use tax must be remitted to DOR.

Resource List

If you need additional information, see the resources listed below that are available on DOR's website:

- ❖ [Governmental Entities Information Guide](#)
- ❖ [Taxation of Nonprofit Organizations Information Guide](#)

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