

# Artists, Sculptors, & Business Owners Sales & Use Taxes

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States are hungry for revenue! It is unfortunate that they believe self-employed artists are a major revenue source. It is important that, as a business owner, you have a basic knowledge of the sales & use taxation rules. Penalties and interest for failing to accurately report and file sales & use tax reports can be costly.

## **Keeping Track - QuickBooks**

We recommend that you use an accounting program to keep tract of taxable sales. One program that is user-friendly and cost-effective is QuickBooks. It can help you maintain all of your financial records for your business and keep track of necessary sales tax information to help aid you in the filing of periodic reports. For more information, check out <a href="https://www.quickbooks.com">www.quickbooks.com</a>.

## Sales & Use Tax

Currently, Alaska, Delaware, Montana, New Hampshire & Oregon are the only states that do not charge sales & use tax. Alaska does not have a state sales tax but some localities have established sales & use tax rates. The laws behind sales & use tax are determined at the state level which creates a lack of consistency and can make it very complex. There are efforts to develop a more uniform code, but that has yet to make its way through all fifty states.

Sales tax is a tax imposed by the state governments at the point of sale on retail goods. The tax is collected by the retailer from the customer and then is remitted to the state government. The most important question here is, "when do I need to charge sales tax?" Generally, all retail sales are subject to sales tax, with a couple exceptions. You do not charge sales tax if you are shipping goods to a state in which your business does not have a physical presence. See example 1 below. You also do not charge sales tax if you are selling to another business for resale. See example 2 below.

Use tax is a state tax on goods purchased in one state for consumption in another state. The reasoning behind use tax is to help recoup the lost sales tax from purchasing out-of-state goods. See examples 1 & 3 below. Some states allow a credit against use tax for any sales tax paid to another state.

## **Example 1**

Kathy owns a gallery in California. Kathy purchases a piece of furniture from a small company in Virginia and has the furniture shipped to her business in CA. Since the VA Company does not have a business location in CA, that company will not charge Kathy sales tax on the purchase. However, Kathy owes use tax to CA for the consumption of the goods in CA.

## **Example 2**

Kathy owns a gallery in Florida. Kathy purchases a piece of artwork from another gallery located in Florida that she believes one of her clients will love. Because Kathy will be re-selling this piece of artwork to her client, she can provide the other gallery a re-sale certificate which will allow them to not charge Kathy the sales tax when she purchases the artwork. Kathy will charge her client sales tax when she makes the final sale.

### Example 3

Kathy is a sculptor and has her own business in Ohio. She was engaged to complete a project for the lobby of a commercial building in Arizona. This project will become a permanent piece of the buildings structure. The total contract revenue will be \$50,000. The materials to construct the piece cost Kathy \$5,000 and will be shipped from Ohio to Arizona for installation. Kathy owes use tax to Arizona on the cost of materials (\$5,000) that she shipped into the state for the construction of the final project.

## **Exemptions**

For both sales & use tax, exemptions from the tax vary state by state. California does provide exemptions from sales & use tax for works of art purchased by governmental entities and not-for-profits provided they meet additional requirements. Maryland does not specifically provide exemptions for works of art but does provide guidance for the purchases of photographic and printing materials and for sales to not-for-profit entities made to carry on its work. Washington DC allows an exemption for sales to the US government provided they are purchased with a government check and paid directly to the vendor.

In order for a project or sale to be exempt, you must consider who your contract is with or who purchases the artwork along with who owns the artwork at the end of the contract, if ownership changes hands. If the entity that you are doing business with is a tax exempt entity, make sure that you request a copy of the sales & use tax exemption certificate. Just because they are an exempt entity does not guarantee that you will be exempt from sales & use taxes for any sales or projects with this entity. Therefore, we suggest that when you begin a new project that you write a letter to the respective state identifying all necessary information regarding your project and asking them to verify, in writing, that your project is indeed exempt from sales & use tax.

#### **Cultural Districts**

More than 90 cities in the United States have implemented "cultural districts." The goals of these areas are to boost local economies through the arts, business & job development, and historic preservation. Before beginning a new project, check to see if the project is located in one of these areas. If so, there may be tax advantages for doing business in a cultural district.

### **Conclusion**

A basic understanding of the laws regarding sales & use taxes will go a long way to help you avoid costly fines and to help keep your business running smoothly. The information provided here is for the purpose of familiarizing you with certain issues and may not apply specifically to your situation or applicable state. The websites provided below are an excellent starting place to research specific laws & regulations for each state. It is important that you consult with your CPA before applying any principles or suggestions.

2013 Sales & Use Tax Rates by State

State	Sales/Use Tax	Local Rates	Exemptions
	Rate		2.0
Alabama	4%	0-8%	http://goo.gl/4ll47 Title 40 – Chapter 23
Alaska	N/A	0-7.5%	N/A (Does not have a state sales tax but some localities
			do)
Arizona	5.6%	0-7.10%	http://goo.gl/K27s Title 42 – Chapter 5
Arkansas	6.5%	0-5.50%	http://goo.gl/nUQiR Title 26 – Chapter 52&53
California	7.5%	0-2.5%	http://goo.gl/5Vks0q Section related to arts is Section 6365
Colorado	2.9%	0-7%	http://goo.gl/95Ddt Colorado Revised Statutes -Title 39 – Article 26
Connecticut	6.35%	N/A	http://goo.gl/ud3T6
Delaware	N/A	N/A	N/A
District of Columbia	6%	N/A	http://goo.gl/C6Bnx
Florida	6%	0-1.5%	http://goo.gl/F90RnT
Georgia	4%	1-4%	http://goo.gl/zDx6Z Title 48, Chapter 8
Hawaii	4%	0-0.5%	http://goo.gl/7EXAG Chapter 237 & 238
Idaho	6%	0-3%	http://goo.gl/CKBCD Chapter 36 Section 3622
Illinois	6.25%	0-4.25%	http://goo.gl/jcM4G Chapter 35 Section 105
Indiana	7%	N/A	http://goo.gl/5tYRD Article 2.2
Iowa	6%	0-2%	http://goo.gl/bci04
Kansas	6.15%	0-5%	http://goo.gl/IBgUQ
Kentucky	6%	N/A	http://goo.gl/53xU1 Title XI, Chapter 139
Louisiana	4%	0-6.75%	http://goo.gl/xibKA Chapter 47 – Section 305
Maine	5%	N/A	http://goo.gl/UETwu Part 3 – Chapter 211
Maryland	6%	N/A	http://goo.gl/Fo5nw Tax-General, Title 11
Massachusetts	6.25%	N/A	http://goo.gl/sCSmD Section 6
Michigan	6%	N/A	http://goo.gl/yRifd Section 205.54a (sales tax) http://goo.gl/yRifd Section 205.94 (use tax)
Minnesota	6.875%	0-1%	http://goo.gl/ugMGP Section 297A.6771
Mississippi	7%	0-0.25%	http://goo.gl/rVXL4 Title 27- Chapter 65 & 67
Missouri	4.225%	0.5-6.625%	http://goo.gl/6dWFo Section 144.030
Montana	N/A	N/A	N/A
Nebraska	5.50%	0-2%	http://goo.gl/kgu0V Reg-1-012
Nevada	6.85%	0-1.25%	http://goo.gl/Lm4Xb NRS372
New Hampshire	N/A	N/A	N/A
New Jersey	7%	N/A	http://goo.gl/8uBZU NJ Admin Code-Title 18-Chapter 24
New Mexico	5.125%	.125-6.625%	http://goo.gl/gUjr0 Title 3-Chapter 2
New York	4%	0-5%	http://goo.gl/ETRUI
North Carolina	4.75%	2-3%	http://goo.gl/1uUvL Chapter 105, Article 5
North Dakota	5%	0-3%	http://goo.gl/GM9RE
Ohio	5.5%	0-2.25%	http://goo.gl/xNrVhC Title 57, Chapter 5739-41
Oklahoma	4.5%	0-6.35%	http://goo.gl/QOuzb

Oregon	N/A	N/A	N/A
Pennsylvania	6%	0-2%	http://goo.gl/l41WB
Rhode island	7%	N/A	http://goo.gl/NRtxTB Reg 07-48, 99-143
South Carolina	6%	0-3%	http://goo.gl/1B6DZH
South Dakota	4%	0-2%	http://goo.gl/ITzjp5
Tennessee	7%	1.5-2.75%	http://goo.gl/JXyhPE Title 67, Chapter 6, Part 3
Texas	6.25%	0-2%	http://goo.gl/TIZm2t
Utah	4.7%	1-6.25%	http://goo.gl/tt3tYM
Vermont	6%	0-1%	http://goo.gl/HDbi8
Virginia	4.3%	1-1.7%	http://goo.gl/dsi5Ov
Washington	6.5%	.5-3.10%	http://goo.gl/rbLe7 Title 82.08, 82.12
West Virginia	6%	0-1%	http://goo.gl/crWy2c
Wisconsin	5%	0-1.5%	http://goo.gl/CplCA
Wyoming	4%	0-4%	http://goo.gl/mtGK2

Note: These rates are as of July 1, 2013 and are subject to change. In some states, local rates are applied to state rates in determining the use tax rate.

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