

2011

South Dakota
Department of Revenue

Sales and Use Tax Guide

July 2011

Tax Help That Works!

Find tax answers toll-free at **1-800-829-9188**.

bustax@state.sd.us

www.state.sd.us/drr

E-file: SDQUEST.com

Dear Taxpayer:

This book is designed to assist licensees in better understanding the South Dakota Sales and Use Tax Laws, including the collection and remittance of the tax. Sales and Use Tax is an essential part of the South Dakota tax structure and the more you know about the tax, the easier it is to comply with it. Please take time to acquaint yourself with how this tax relates to your business.

Information published by the department in newsletters, tax facts, guides, press releases, or on the Department's website rescinds all prior written opinions.

Newsletters and Tax Facts, which are information bulletins for specific businesses, may be obtained online at www.state.sd.us/drr or can be obtained by contacting the department at 1-800-829-9188.

The department offers a toll-free helpline you can call for answers to sales and use tax questions. The number is 1-800-829-9188 or 605-773-7126 in the Pierre area.

If you have questions, do not hesitate to contact any of our offices or email us at bustax@state.sd.us.

Sincerely,
Business Tax Division

Taxpayer's Bill of Rights

1. You have the right to confidentiality.
2. You have the right to tax information that is written in plain language.
3. You have the right of appeal.
4. You have the right to courteous, prompt, and accurate answers to your questions.
5. You have the right to be certain that collection procedures or assessments are not influenced by performance goals or quotas.
6. You have the right to rely on the written advice given to you by the Department of Revenue.
7. You have the right to be notified before the department audits your records unless the Secretary of Revenue determines that a delay will jeopardize the collection of tax.
8. You have the right to clear and consistent policy regarding the deadlines for filing tax returns and making payments.
9. You have the right to seek a refund of any taxes you believe that you have overpaid within the last three years.
10. You have the right to a process requiring that the seizure of your property for taxes be approved by a person no lower in authority than the division director.
11. You have the right to expect that a good-faith effort to comply with tax laws will be given consideration in disputed cases.
12. You have the right to a tax credit of interest or penalties that are determined to have been inappropriately levied.
13. You have the right to the removal of a lien on your property within 30 days after you have paid all tax, penalty and interest due.
14. You have the right to have the South Dakota Department of Revenue correct the public record.

Talk to Us!

If you have a tax problem or question, call the South Dakota Department of Revenue toll-free at 1-800-829-9188. Visit us on the web at www.state.sd.us/drr, email us at bustax@state.sd.us or write us:

South Dakota Department of Revenue

Business Tax Division | 445 East Capitol Avenue | Pierre, SD 57501-3100

Aberdeen Area Office

419 Moccasin Drive
Aberdeen, SD 57401-5085

Mitchell Area Office

417 N. Main, Suite 112
Mitchell, SD 57301-2600

Rapid City Area Office

4447 S. Canyon Rd., Suite 6
Rapid City, SD 57702-1889

Sioux Falls Area Office

300 S. Sycamore, Suite 102
Sioux Falls, SD 57110

Watertown Area Office

1505 10th Ave. SE, Suite 1
Watertown, SD 57201-5300

Yankton Area Office

1900 Summit Street
Yankton, SD 57078-1951

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Publications and Forms

Additional brochures are available online at www.sd.state.drr or by calling 1-800-829-9188.

City Tax Publications

- Municipal City Tax Guide

Sales Tax Publications

- Accountants
- Advertising Agencies
- Agricultural Equipment & Services
- Auctioneers, Auction Clerks & Auction Services
- Attorneys
- Audits
- Bars & Restaurants
- Beauty Salons & Barber Shops
- Boats
- Campaign Taxes
- Carpet & Flooring
- Churches
- Communications Equipment - Installation & Repair
- County Governments
- Delivery Charges
- Direct Sellers
- Dentists
- Drop Shipments
- Entertainers
- Exemption Certificate
- Exempt Entities
- Financial Institutions
- Flooring
- Food Stamps & WIC Purchases

- Franchise Operations
- Funeral Services
- Garbage/Solid Waste
- Gravel
- Gross Receipts
- Health Services, Drugs, and Medical Devices
- Hospitals - Nonprofit
- Hotels, Motels and Campgrounds
- Hunting and Fishing Services
- Internet
- Investigative Services Bureau
- Landscape & Lawn care
- Lease and Rental
- License Requirements for Sales, Use, and Contractors' Excise Tax
- Manufactured and Modular Homes
- Metal Mining
- Motor Vehicle Sales & Repairs
- Municipalities
- Non-Collecting Retailers
- Oil & Gas Field Services
- Photographers
- Prepared Food
- Printers, Newspapers and Mailing Services
- Products Transferred Electronically
- Real Estate
- Restaurants and Bars
- Rodeo and Rodeo-Related Activities
- Storage
- Taxidermists
- Telecommunications Services
- Title & Abstract Companies
- Tobacco Retailers
- Tourism Tax
- Tribal Tax
- Universities
- Use Tax
- Use Tax - Everyone's Responsibility
- Veterinarians

Forms Available

- Sales and Use Tax Return
- Sales and Use Tax Return Worksheet/Instructions
- Application for Change in Accounting Method
- Change of Address Form
- Change in Partnership Application
- Corporate Officer Update
- Direct Payment Permit Application
- Exemption Certificate
- Information Release Authorization Form
- Power of Attorney
- Sales Tax Exempt Status Application
- Summary for Amending Returns
- Electronic Filing: SD Quest Application

Taxes and rates that may apply to a retail business.

Sales and Use Tax	4%
Municipal Sales and Use Tax	1 to 2%
Municipal Gross Receipts Tax	1%
Tourism Tax	1.5%
Motor Vehicle Gross Receipts Tax	4 ½ %
Wireless Gross Receipts Tax	4%
Sioux Falls Lodging Tax	1%

Sales Tax

Sales tax is applied to the gross receipts of all retail sales, including the selling, leasing, and renting of products which include: tangible personal property and any product transferred electronically, and the sale of services, as long as the products or services are not specifically intended for resale or sold to a governmental or sales tax exempt agency. (SDCL 10-45)

A use tax of the same rate as the sales tax applies to all goods, products and services that are used, stored, or consumed in South Dakota on which South Dakota sales tax was not paid. The purchaser or consumer of the goods or services is responsible for reporting and remitting the use tax in the filing period in which they receive the goods or services. (SDCL 10-46)

The state sales and use tax rate is 4%. In addition, municipalities may impose municipal sales and use tax of up to 2% and a 1% municipal gross receipts tax. Some sales are subject to additional tax such as Tourism.

The sale or lease of farm machinery and attachment units and irrigation equipment used exclusively for agricultural purposes is subject to 4% state tax. Municipal tax does not apply to these sales (SDCL 10-46E).

The sale of products and services are subject to sales tax where the customer receives the product or service. The following general rules are used to determine where sales tax applies.

1. Items picked up at the seller's location are subject to sales tax at that location.
2. Items delivered are subject to sales tax at the delivery address. Delivery may be by the seller or by a transportation company hired by the customer.
3. If items are delivered, but the delivery address is unknown, sales tax applies based on the customer's address.
4. If items are delivered, but no delivery address or customer address is on file, then sales tax applies based on where:
 - a) tangible personal property was shipped;
 - b) the product transferred electronically was first available for transmission by the seller; or
 - c) the service was provided.

Use tax is applied to products and services where the products are used, stored, or consumed.

Gross Receipts

Gross receipts, means the total amount or consideration, including cash, credit, property, and services, for which tangible

personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

1. The retailer's cost of the property or service sold;
2. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense of the retailer; and
3. Except for construction services taxed under in chapter 10-46A or 10-46B, charges by the retailer for any services necessary to complete the sale whether or not separately stated, including delivery charges.

Gross receipts include consideration received by the retailer from third parties if the following four criteria are met:

1. The retailer actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
2. The retailer has an obligation to pass the price reduction or discount through to the purchaser;
3. The amount of the consideration attributable to the sale is fixed and determined by the retailer at the time of the sale of the item to the purchaser; and
4. One of the following criteria is met:
 - a. The purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any retailer to whom the coupon, certificate, or documentation is presented;
 - b. The purchaser identifies himself or herself to the retailer as a member of a group or organization entitled to a price reduction or discount (a preferred customer card that is available to any patron does not constitute membership in such a group); or
 - c. The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

For the purposes of this section, the purchaser is the end consumer.

Gross receipts, do not include:

1. Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a retailer and taken by a purchaser on a sale;
2. Interest, financing, and carrying charges from credit extended on the sale of products or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
3. Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

4. Any fees or other interest imposed by a retailer for late charges on overdue accounts, no account, or insufficient funds checks;
5. The sale price of property returned by customers if the full sale price is refunded either in cash or by credit;
6. The credit or trade-in value allowed by the retailer when products were taken in trade or in a series of trades as a credit or part payment of a taxable retail sale and the product taken in trade is subject to sales tax; and
7. The sales tax collected from your customer if the customer was notified that the tax is being applied. For example, if a business collects \$100 for an item plus \$4 state sales tax, for a total of \$104, the business reports \$100 as gross receipts and owes \$4.00 state sales tax on the \$100.

Delivery Charges

Delivery charges are subject to state and municipal sales tax when the merchandise is delivered to a customer in South Dakota. If the product is not taxable, the delivery charge is not taxable.

Delivery charges are the charges by the retailer for preparation and delivery to a location designated by the purchaser of product or services. Delivery charges include shipping, postage, handling, crating, packing, and fuel surcharge.

For more information, review the Gross Receipts Tax Facts.

Lease and Rentals

Gross receipts from the lease or rental of products are subject to the 4% state sales tax, plus applicable municipal sales tax. Sales tax also applies to any buy-out payments at the end of a lease.

The lease or rental of farm machinery used exclusively for agricultural purposes is subject to 4% state tax, no municipal tax.

Repair to or replacement parts for leased items are subject to sales or use tax. Repairs, repair parts, and maintenance items and services for farm machinery that is used exclusively for agricultural purposes are exempt from sales and use tax.

Lease or rental means any transfer of possession or control of products for a fixed or indeterminate term or consideration. A lease or rental may include future options to purchase or extend.

For more information, review the Lease and Rentals Tax Facts.

Use Tax

Use tax applies after the transaction takes place and only on goods and services on which South Dakota sales tax was not paid. Use tax applies to all goods and services that are used, stored, or consumed in South Dakota. The purchaser or consumer is responsible for reporting and remitting the 4% state use tax, plus applicable municipal use tax in the filing period in which the purchaser receives or is invoiced for the goods or services. The use tax is due on the purchase price, including

delivery charges.

Products delivered to a purchaser in South Dakota are subject to the South Dakota sales or use tax, even if the supplier charges another state's sales tax. The purchaser may request a refund from their supplier for incorrect tax charged.

When a purchaser takes possession of the product out-of-state, then brings the item to South Dakota, the supplier may legally charge that state's sales tax. If the other state's sales tax is less than South Dakota's, the difference must be paid to South Dakota. The state plus applicable municipal taxes must be added together to determine if additional tax is due.

Use tax is also due on supplies taken out of retail inventory for the business's use. Use tax is due in the filing period in which the business takes items out of inventory.

Businesses using services in South Dakota owe use tax on those services, even if the service provider completes their work outside the state. Services performed on products are subject to use tax where the service is used.

Examples of items often assessed use tax in audits include:

Books	Meals furnished for employees
Computers	Office supplies
Leases of equipment	Manufacturing equipment
Software & Support	Snow removal
Tools	Farm Equipment
Services	Internet Accessories

Examples of Use Tax Liabilities

Demonstration and sample items

Items withdrawn from inventory to demonstrate products are subject to use tax. Items withdrawn temporarily from inventory to be demonstrated that are returned to inventory to be sold are not subject to use tax.

The sale of demonstration items is subject to sales tax.

Samples owned by a business to show products they have as well as samples given to customers at no charge are subject to use tax.

Property withdrawn from inventory for purposes other than demonstration, such as for personal use or other commercial use, is subject to the use tax when withdrawn. The sale of the used equipment is subject to sales tax on the selling price without any deduction for the use tax paid.

Example

A furniture store purchases computer desks exempt from tax to resell to customers. The store uses one of the desks in their office for three months. The store owes use tax on their cost of the desk. When the desk is sold, sales tax is due on the selling price.

Donations

A business donating items such as prizes for a contest or fundraiser owes use tax on the cost of the donated item if sales tax was not previously paid on the item. A business does not

owe use tax on items donated to entities that are exempt from sales and use tax. To find out if an organization is exempt from sales tax call 1-800-829-9188.

Equipment brought into South Dakota from another state

New or used equipment delivered or brought into South Dakota is subject to 4% sales or use tax, plus applicable municipal tax, on the purchase price.

If used equipment is brought into the state by a business that originally purchased the equipment for use in another state and the equipment is seven years old or less, use tax must be paid on the fair market value of equipment. The amount of use tax on the equipment will be reduced by the amount of sales or use tax previously paid. The age of the equipment is based on the manufacture date if available; if not available, age is based on the purchase date.

Equipment that is more than seven years old when brought into the state by the person who purchased such property for use in another state is exempt from the use tax.

Purchases from unlicensed vendors and on the Internet

Purchases from a business that is not licensed to collect and remit South Dakota sales tax are subject to use tax.

Businesses purchasing products from unlicensed Internet vendors owe use tax on their purchases.

Tourism Tax

The tourism tax is a tax on certain lodging and amusement services that is imposed for tourism promotion.

Tourism tax is 1.5%.

Tourism tax applies to the gross receipts of:

- Hotels and Lodging Establishments
- Campgrounds
- Motor Vehicle Rentals
- Recreational Equipment Rentals
- Recreational Services
- Spectator Events
- Visitor Attractions
- Visitor-Intensive Businesses

Tourism tax is reported on the state sales tax return using the code 700-1.

For more information, review the Tourism Tax Facts.

Municipal Tax

Municipal Sales and Use Tax

Cities may impose municipal sales and use tax up to 2% that applies to all products and services that are subject to the state sales or use tax.

Municipal sales tax applies when products or services are delivered within a city that imposes a tax. Municipal use tax applies when a product or service is used within a city that imposes a tax. Additional municipal tax may be due if a product or service is used, stored, or consumed in a different city that imposes a higher rate of tax than was previously paid.

Exceptions:

- The transportation of passengers is subject to municipal tax only if the trip begins and ends in the same city.
- Farm machinery and irrigation equipment for exclusive agricultural use are subject to 4% state tax, no municipal tax.

Municipal Gross Receipts Tax

Cities may impose a 1% municipal gross receipts tax that is collected in addition to their general sales tax rate on the sale of all or any of the following:

- Alcoholic beverages
- Eating establishments
- Lodging accommodations
- Ticket sales or admissions to places of amusement, athletic and cultural events

The Municipal Tax Information Bulletin is a listing of all Municipal sales and use tax rates and information on the Municipal Gross Receipts Tax. This bulletin may be obtained by calling 1-800-829-9188 or online at www.state.sd.us/drr. Changes in municipal taxes are published in the department newsletter in January and July.

Example: Aberdeen

- Imposes a 2% Municipal Sales Tax that is reported using code 001-2.
- Imposes a 1% Municipal Gross Receipts Tax that is reported using code 001-1. The Municipal Gross Receipts tax applies to:
 - ▶ Lodging
 - ▶ Eating Establishments
 - ▶ Alcohol Sales
 - ▶ Admissions

Municipal Tax Information Bulletin Listing for Aberdeen

City	MUNICIPAL SALES TAX		GROSS RECEIPTS TAX – IN ADDITION TO MUNICIPAL SALES TAX					
	Rate	General Code	Gross Receipts Tax	Tax Code	Lodging	Eating Establishments	Alcohol	Admissions
Aberdeen	2.00%	001-2	1.00%	001-1	X	X	X	X

TaxMatch

TaxMatch, the department's Geographic Information System (GIS), will help users quickly find the correct tax rate and codes for locations throughout South Dakota. Users may enter any South Dakota address into the TaxMatch system. The system will then provide all the applicable tax codes and rates for that address. This tool is available online at <http://www.state.sd.us/drr2/businessstax/municipaltax/municipaltax.htm>.

Reporting Municipal and Tourism Tax

All municipal and Tourism tax is reported on the state sales tax return.

Each tax must be reported separately, using the designated code for that tax. Do not combine taxes or report all tax under one code.

Example: An Aberdeen motel has \$10,000 in receipts from room rentals. Motel rooms rented in July 2011 in Aberdeen are subject to 2% Municipal sales tax, 1% Municipal Gross Receipts Tax and 1.5% Tourism Tax. This tax is reported under the City tax calculation section of the return.

City	Code	Net Taxable Sales	%	Column A Tax Due
Aberdeen*	001-2	10,000	2.00%	200.00
Aberdeen	001-1	10,000	1.00%	100.00
Tourism	700-1	10,000	1.50%	150.00

Wireless Gross Receipts Tax

The 4% telecommunications gross receipts tax applies to wireless personal communications services, wireless local loop services, enhanced special mobile radio services, fixed wireless services, and cellular services that provide two-way communication.

This 4% tax on the gross receipts on the retail sale of wireless intrastate and interstate telecommunications services applies if the customer's place of primary use is located in South Dakota regardless of where the service actually originates or terminates.

Telecommunication services do not include specialized mobile radio service, non-network two-way radio telephone service, private mobile radio service, one-way cable television service, or two-way cable system subscriber interaction that may be required for the selection of video or other programming services.

The Wireless Gross Receipts tax is reported on the state sales tax return using code 900-1.

Sioux Falls Lodging Tax

This is a 1% tax imposed by Sioux Falls on receipts for lodging establishments that is reported on the state sales tax return using code 800-1.

Motor Vehicles Lease and Rentals

Automobiles, pickups or vans that are rented for 28 days or

less, which are licensed under the noncommercial licensee fee schedule per SDCL 32-5-6 and have a manufacturer shipping weight, including accessories, of 10,000 pounds or less, are subject to the following taxes:

- State sales tax (4%)
- Municipal sales tax (1 to 2%)
- Motor vehicle gross receipts tax (4.5%)
- Tourism tax (1.5%)

This tax is based on the amount of the rental payments. The state and municipal tax applies based on where the vehicle is delivered to the customer.

Premiums for insurance policies sold by a car rental agency are not subject to sales tax if itemized on statement.

Trailers with an unladen weight of 9,000 pounds or more are subject to the following taxes:

1. If rented for 28 days or less:
 - State sales tax (4%)
 - Municipal tax (1 to 2%)
 - Motor vehicle gross receipts tax (4.5%)
2. If rented for more than 28 days but less than 6 months:
 - Motor vehicle gross receipts tax (4.5%)

Tourism tax does not apply to the rental of trailers.

Recreational vehicles, when rented for 28 days or less, including ATV's, recreational vehicles, camping trailers, snowmobiles, snowmobile trailers, mopeds, motorcycles, motor coaches, watercraft and watercraft trailers, are subject to the following taxes:

- State sales tax
- Municipal sales tax
- Tourism tax

All motor vehicles, other than the above categories, that are rented for 28 days or less are subject to the 4% state sales tax and municipal sales tax.

Report the 4.5% motor vehicle gross receipts tax in the municipal tax section of the sales tax return, using the code 600-1.

Motor Vehicle Leasing

Leases of motor vehicles without an operator or driver for more than 28 days are not subject to sales tax, gross receipts tax or tourism tax. These motor vehicles are subject to the 3% motor vehicle excise tax which is assessed at the time of registration based on the purchase price of the vehicle.

For more information on lease and rental of motor vehicles, see the Lease and Rental Tax section on page 5.

Sales and Use Tax on Indian Country

Tax Collection Agreements

At present, four Indian Tribes in South Dakota have tax collection agreements with the State that include sales, use and con-

Taxable Transactions

The following list is a sample of common taxable transactions.

tractors' excise taxes. Two Indian Tribes have limited tax collection agreements that include contractors' excise tax and use tax.

The tax collection agreements ensure that all businesses making sales or providing construction services on property included in a tax collection agreement are subject to the same taxes, tax rates, and exemptions. All businesses, including those owned by tribal members, are responsible for remitting tax.

Indian country controlled by a Tribe that is part of a tax collection agreement is considered a Special Jurisdiction. All tax due in each Special Jurisdiction is reported on the state tax return using the code assigned to that Special Jurisdiction. The tax remitted is then distributed between the State and Tribal Governments based on the tax collection agreements.tractors' excise taxes.

Tourism tax applies on the Cheyenne River, Rosebud, and Standing Rock Special Jurisdictions.

Special Jurisdictions

The Special Jurisdictions for the five tax collection agreements with sales, use, and contractors' excise tax are as follows:

Cheyenne River Special Jurisdiction - the Cheyenne River Indian Reservation, which is Dewey and Ziebach Counties, excluding a 500 foot strip of land in the northern-most portions of Dewey and Ziebach Counties.

Oglala Special Jurisdiction - the Pine Ridge Indian Reservation, which is Shannon County and that portion of Jackson County south of the White River. This Special Jurisdiction also includes the Allen Store in Allen, SD.

Rosebud Special Jurisdiction - the Rosebud Indian Reservation, which is Todd County. This Special Jurisdiction also includes Indian country defined by 18 U.C.S. 1151 (b) and (c) in Mellette, Tripp, and portions of Gregory and Lyman Counties controlled by the Rosebud Sioux Tribe.

Standing Rock Special Jurisdiction - the Standing Rock Indian Reservation, which is Corson County and a 500 foot strip of land in the northern-most portions of Dewey and Ziebach Counties.

The Special Jurisdiction for the limited tax collection agreements with use and contractors' excise tax are as follows:

Yankton Sioux Special Jurisdiction

Sisseton-Wahpeton Special Jurisdiction

If you have any questions concerning whether or not a business or customer is located in a Special Jurisdiction set forth above, please contact the Department at 1-800-829-9188.

For further information on tax rates, collections, and reporting of taxes for Special Jurisdictions and Indian Country that does not have agreements, review the Tribal Tax Facts.

Churches – sales made to churches or similar organizations.

Gifts and Premiums – the sale or use of goods which are to be given away as gifts for advertising purposes.

Prepared Food, Meals, or Drink – furnishing, serving, or preparing foods, soft drinks, and alcoholic beverages.

Repair and Service of Products – repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection and maintenance of tangible personal property.

Sales to Schools, Colleges, and Religious, Benevolent, Fraternal, and Charitable Organizations – sales to colleges, high schools, elementary schools, related clubs or supporting organizations when the personal property is intended for resale at activities sponsored by these groups; gross receipts from sales to religious, benevolent, fraternal, or charitable organizations, or youth associations; and sales of property to schools to resell at activities such as concession stands or for fund-raisers.

Not Taxable: purchases made for the school's own use and made with funds administered by a school district. This includes textbooks, desks, and food for the school lunch program, etc.

Containers – sales of containers, including deposits on containers to retail customers. A container is an article whose major function is to act as a receptacle or flexible covering for shipment or transportation of goods. The tax collected on the deposit for a container may be refunded when the deposit is refunded unless one of the following conditions are true:

- The container is not identified as the retailer's by a logo, stamp, inventory number or other means;
- The retailer will return the "deposit" on any container returned regardless of where the container was obtained;
- The retailer makes no effort to identify or keep records of which customers have their containers;
- The retailer makes no effort such as a phone call or letter to get the container back if it is not returned; or
- An invoice, sales slip or other document exists that contains language showing passage of title.

Not Taxable: Containers, such as paper and plastic bags, wrapping paper, twine, tape, glasses, cups, plates, etc., that hold other property subject to tax and are supplied free as a convenience to the customer, are not subject to tax.

Note: Items such as molds, dyes, or castings, the chief purpose of which is to be used in a manufacturing or fabricating process rather than in shipping or transportation, are not containers and are subject to tax.

Coin Operated Washers and Dryers – The sale of coin operated washers and dryers.

Not Taxable: Receipts from coin operated washers and dryers. There is an annual license fee paid in lieu of a sales tax on

receipts. Fee amounts are: \$20.00 for each coin-operated washer and dryer located in municipalities having populations greater than 1,000 and an \$16.00 fee for each machine located in municipalities with populations of 1,000 or less.

Exempt Sales Requiring Documentation

The state law exempts certain products or services from sales tax based on how the product or service is used. Before a seller may exempt a sale from tax, they must receive a properly completed exemption certificate from the purchaser. Sellers must have exemption certificates in their records to document transactions for three years. If the purchaser doesn't provide the seller with a properly completed exemption certificate, the seller must collect sales tax.

An exemption certificate may be used for a single purchase or as blanket certificate for recurring purchases.

Exemption certificates may be obtained on our website at www.state.sd.us/drr2/businessstax/forms/forms.htm or you can request a copy by calling the department at 1-800-829-9188. Exemption certificates may be photocopied

Misuse of exemption certificates

The purchaser is responsible for assuring that the products and services purchased exempt are of a type covered by the exemption certificate. Any purchaser that provides an invalid exemption certificate with the intent to evade payment of the tax, is guilty of a Class I misdemeanor and may be fined up to 50% of the tax in addition to the tax.

If a business legitimately purchases an item for resale, but later uses that item, the purchaser is responsible for reporting and paying use tax on that item.

South Dakota businesses with permit numbers containing UT (use tax) or ET (contractors' excise tax) cannot buy products or services for resale.

If the purchaser is from a state that does not issue sales tax permits, the exemption certificate must still be completed documenting the purchaser is exempt or is buying products or services for an exempt use.

Exempt Entities

State law exempts certain entities from having to pay sales or use tax on their purchases. These entities include:

- Governments, including SD public schools
- Non-profit hospitals
- Relief agencies
- SD Religious and private schools

Relief agencies, religious and private schools must apply to the Department and be approved for exempt status.

The sale of products and services to the following governmental entities is exempt from South Dakota sales and use tax:

- Indian Tribes
- United States government agencies

- State of South Dakota
- Public or municipal corporations of the State of South Dakota
- Municipal or volunteer fire or ambulance departments
- Public schools, including K-12, universities and technical institutes that are supported by the State of South Dakota or public or municipal corporations of South Dakota.

Government entities must provide an exemption certificate to the vendor or the vendor must keep documentation to show the purchase was paid with government funds.

The department issues some government entities exemption numbers. These agencies will include their exemption number on the exemption certificate. The exemption number for public schools contains the letters "RS". The exemption number for other governments contains the letters "RG".

The governments from other states or the District of Columbia are exempt from sales tax if the law in that state provides a similar exemption for South Dakota governments. Governments providing a similar exemption are Colorado, Indiana, Iowa (motels and hotels are not exempt), Minnesota (motels and hotels are not exempt), North Dakota, Ohio, and West Virginia.

The governments from states without a sales tax are exempt from South Dakota sales tax. These states are: Alaska, Delaware, Montana, New Hampshire, and Oregon.

The following are NOT exempt from sales tax:

- Churches
- Sales to membership organizations such as YMCA, YWCA, Boy Scouts, Lions Club or Jaycees
- Civic and nonprofit associations

Employee Purchases

The exemption from sales and use tax for governments, nonprofit hospitals, relief agencies, and private or religious schools does not extend to the purchase of products or services for the personal use of officials, members, or employees of such institutions.

Employees or representatives of an exempt entity cannot buy products or services without paying sales tax if they use a personal check or personal credit card. This is true even if the exempt entity later reimburses the employee. The exempt entity must pay the vendor from the exempt entity's funds. Payment may be made by the exempt entity's check or credit card.

Sales for Resale

A business that purchases items to sell, rent, or lease to others in the normal course of their business, may purchase those items exempt from sales tax. Specific criteria must be met before a business can purchase services for resale.

For details on resale criteria review the Exemption Certificate Tax Facts.

Exempt Products and Services

State law exempts certain products or services from sales or use tax. There are some sales on which no sales tax is levied. In some cases, another kind of tax (such as a fuel tax) has already been levied; in others, a registration fee is charged in lieu of the tax; and yet in others, the sale is totally exempt from fees and taxes.

Documentation is not required to support these exemptions. However, if there is any doubt as to the intended use of these items the purchaser should provide an exemption certificate to the seller.

When completing a tax return, include receipts from exempt sales on line 1 of the tax return "Gross Sales." Then deduct these sales on the non-taxable sales line of the tax return.

Some services specifically exempt from sales tax include:

- Health services
- Educational services
- Social services
- Agricultural services
- Forestry services
- Services rendered by certain membership organizations
- Financial services performed by institutions registered under bank franchise (loan-origination fees, late-payment charges, charges on non-sufficient funds/checks, stop payment charges, safe-deposit box rental, exchange charges, commission on travelers checks, charge for administration of trusts, interest charges, points charged on loans)
- Commissions paid by an insurance company to an agent for the sale of a policy
- Stock and commodity broker service; services of brokers and agents licensed under Title 47
- Trucking
- Travel agent services
- Water services (domestic use)
- Construction services (see Contractors' Excise Tax)
- Motion picture rentals to theaters

The following are examples of sales that are exempt from sales tax:

Advertising - Charges for preparing and placing ads in the media are not subject to sales tax. The key factor is that the agency must prepare and place the advertising with the media for it to be considered an exempt advertising service.

Charges by newspapers and magazines to place ads are not sales taxable.

Taxable: The sale of single copies & subscriptions of newspapers and magazines is taxable. The sale of paint, tools, and office supplies to these enterprises are taxable. Sales by advertising firms of items such as booklets, brochures and other materials are also taxable.

For additional information on advertising review the Advertising Tax Facts.

Agricultural Products - The following items are exempt from sales tax in South Dakota:

- Repair parts, repair services, maintenance items, and maintenance services for farm machinery, farm machinery attachment units, and irrigation equipment are exempt from sales and use tax. To be exempt, the part must replace a farm machinery, farm machinery attachment unit, or irrigation equipment part that has a specific or generic part number assigned to it by the farm implement manufacturer.
- Seed legumes, seed grasses and seed grains, when twenty five pounds or more are sold in a single sale to be used exclusively for agricultural purposes (exemption includes seed for CRP land).
- Commercial fertilizers, either liquid or solid, when five hundred pounds or more are sold in a single sale to be used exclusively for agricultural purposes.
- The sale of pesticides and any product or substance to be used in conjunction with the application or use of pesticides for agricultural purposes, including but not limited to, adjuvants, surfactants, ammonium sulfate, inoculants, drift retardants, water conditioners, seed treatments, foam markers, and foam dyes. Pesticides include herbicides, insecticides, fungicides, and rodenticides.

Equipment for the application of pesticides and related products and substances is not exempt. Gross receipts from the rental of devices primarily used to apply pesticides for agricultural purposes are exempt if tax was paid on the original purchase. Pesticides must be registered with the Department of Agriculture.

Taxable: Endoparasiticides and ectoparasiticides, including insecticide fly tags.

- Livestock, or live poultry, ostriches, emus or rheas, when sales are part of a series of transactions to produce a finished product to be sold at retail and feed for such animals.
- Live cattle, buffalo, sheep, goats, swine, poultry, ostriches, emus, rheas, and domesticated fur-bearing animals defined in chapter 40-35, used or to be used as breeding or production stock and feed for such animals.
- Feeds for pheasants, partridges, and quail.
- Live nondomestic animals regulated by the animal industry board pursuant to §40-3-26 if the animal is to be used by a farmer or rancher who is regularly engaged in the breeding and raising of such animals, and feed for such animals.
- Horses and horse feed.
- Motor fuel, including kerosene, tractor fuel, liquefied petroleum gas, natural and artificial gas, diesel fuels and distillate, when used for agricultural or railroad purposes.
- Electricity used to power irrigation pumps and horsepower charge on electric motors powering irrigation pumps when for agricultural purposes.
- Swine and cattle semen.
- The sale of agricultural and industrial production equipment in international commerce if, under the terms of the sales agreement, physical delivery of the goods takes place in South Dakota.

For additional information on agricultural products review the Agricultural Tax Facts.

Bad Check Fees - Receipts resulting from bad check fees charged by a retailer as the result of a retail sale are exempt.

Controlled Group - Services provided by a member of a controlled group to another member of that controlled group are not subject to sales or use tax.

Reimbursements made between controlled group members for services provided to the controlled group by a third party are not subject to sales tax when sales or use tax was paid on the third party's services. The lease of products between controlled groups is not exempt unless sales or use tax has been paid on the property by the lessor.

A controlled group is defined as any corporations or other entities eligible to file a consolidated federal income tax return, or entitled to only a single surtax exemption for federal corporate income tax purposes, and includes a controlled group of corporations as defined at 26 U.S.C. § 1563, as of July 1, 2002. A controlled group also consists of any subchapter S corporation, limited liability company, limited liability partnership, general partnership, or limited partnership with at least eighty percent common ownership as if the entity was converted to or taxed as a subchapter C corporation under the Internal Revenue Code as in effect on January 1, 2002.

Note: Sole proprietors are not part of a controlled group. These exemptions do not apply to contractors' excise tax.

Food Stamp Purchases - All food stamp purchases.

Gasoline - Sales of gasoline, diesel fuels, gasohol, alcohol fuels, propane, kerosene, aviation fuel, jet fuel, and other similar combustible fuels are not subject to sales tax when subject to South Dakota fuel tax.

Note: Off road, non-ag use of fuel may be subject to sales tax.

Construction Services - Not subject to sales tax. Gross receipts from realty improvement construction are subject to contractors' excise tax.

Lottery Sales - South Dakota lottery tickets and video lottery receipts.

Taxable: The sale of video lottery machines are subject to 4% state sales tax and no municipal tax. Each machine must have an amusement decal attached to it.

Motor Vehicles, Motor Homes and Mobile Homes - The sale of motor vehicles and motor homes are not subject to sales tax when subject to the South Dakota Registration fee. Mobile homes or manufactured (HUD) homes are subject to a 4% initial registration fee and are exempt from sales, use, and contractors' excise tax.

Taxable: Unlicensed off-road vehicles such as ATV's.

Out-of-State Sales - Sales delivered to a location outside South Dakota are not subject to South Dakota sales tax, but may be subject to that state's tax.

Taxable: Products or services purchased out of state and used

in South Dakota are subject to use tax if sales tax has not been paid. Sales to non-residents are taxable if possession is taken in South Dakota.

Prescription Drugs and Medical Supplies

The sale of insulin without a prescription is exempt from sales tax. The sale of drugs, durable medical equipment, mobility enhancing equipment, prosthetic devices, and medical devices used by humans when prescribed by a physician, chiropractor, optometrist, dentist, podiatrist, or audiologist are exempt from sales tax.

Rental of Rooms, Lodging Facilities and Parking Sites

Rental of rooms or parking sites by lodging establishments or campgrounds for more than 28 consecutive days are exempt from tax.

Replacement Parts - Sales of replacement parts to retailers who will install them in tangible personal property that will be resold are not subject to the sales tax.

Taxable: Repair and replacement parts for leased items.

Returned Merchandise - If you report tax on merchandise in one reporting period and the merchandise is returned in another reporting period, you may report the amount credited to the customer for the returned item as non-taxable sales on the tax return.

Telecommunications Companies - Any 800 or 800 type service unless the service both originates and terminates in South Dakota; Any sale of a telecommunication service to a provider of telecommunication services, including access service, for use in providing any telecommunication service;

Any sales of interstate telecommunication service provided to a call center that is certified by the department.

Taxable: Internet access charges are taxable to the customer's place of primary use.

W.I.C. - Authorized purchases made under the Child Nutrition Act (W.I.C.).

Warranty Parts and Service - Parts and services to fulfill an obligation of the manufacturer, providing no charge is made to the customer.

Taxable: Charges to customer for parts, service, or deductibles.

General Information

Cancelling a License: Cancellation requests must be in writing. To cancel a license, you must file all returns and pay all tax, penalties and interest due. Write the last date of business on your return in the area provided. This must be done within 30 days of the completion of the sale or the closing of the business. If you sold your business the purchaser must apply for a new license in his or her own name.

Sales or contractors' excise tax licenses are NOT transferable.

Ownership Change: If your business changes from one kind of business ownership to another, you must contact the department and a new license must be issued.

- **Partnerships:** When changing partners in a partnership, the new partner must supply the department with his or her name, social security number, personal address, and phone number. When a person leaves a partnership, that person must inform the department in writing of the effective date of separation. Changes in partnerships must be signed by all partners, those leaving, those entering and those staying in the partnership.
- **Corporations, LLC, or LLP:** A change in corporate officers or members does not require a change in the tax license, but all changes must be reported to the department.

Address Change: If your mailing address or your business location changes, inform us in writing immediately. Send the new address information including the zip+4, effective date of the change, your taxpayer number, and business name to:

South Dakota Department of Revenue
Business Tax Division
445 East Capitol Avenue
Pierre, SD 57501-3100
Email address changes to: bustax@state.sd.us

Accounting Methods

When using the **accrual method**, you report and pay tax as you bill the customer and enter the transaction on your records whether or not you have received payments. Under the accrual method, all cash, credit installment, and conditional sales must be included as gross receipts for the reporting period in which the transaction occurs or when billed. This rule applies even though all or part of a customer's payments have not been received.

Taxpayers reporting on the accrual method may take credit for bad debts on the return for the period during which the bad debt is written off as uncollectible in their books and records and is eligible to be deducted for federal income tax purposes.

The exception is a **conditional sales** contract in which the installment period is greater than 60 days. In this instance, only the payment actually received during each tax-reporting period is subject to sales tax.

When you use the **cash method** of accounting, you report gross receipts and pay tax as you receive payments. No bad debts are allowed on the cash basis.

Statements are prepared on a cash basis when revenue and expenses are recognized only upon receipt. In the case of cash basis, revenue from the sale of goods and services are recognized only when payments are made.

Changes in accounting methods must be requested in writing.

Under both cash and accrual reporting:

Use tax is due on materials or services during the reporting period the purchaser receives the materials or services or is invoiced for the purchase.

Record Keeping

Every taxpayer is required to establish and maintain records

that are adequate for auditors to use in determining the correct amount of a business' tax liability.

This responsibility includes not only those paying sales tax but also individuals paying use tax; persons purchasing tangible personal property for storage, use or other consumption in the state.

Records of business transactions must be kept at least three years and must include beginning and ending inventories, purchase invoices, sales, canceled checks, receipts, invoices, bills of lading, depreciation schedules, exemption certificates, contracts, prime contractor exemption certificates, and other pertinent documents.

Direct Payment Permit

A Direct Payment Permit is a permit issued by the department that allows the holder to accrue and pay the use tax on their purchases directly to the department. The Direct Payment Permit holder must provide an exemption certificate or provide a copy of their Direct Payment Permit to purchase products or services without sales tax.

Only taxpayers with a sales, use, manufacturer, or wholesaler tax license may qualify for a Direct Payment Permit.

To determine if your business meets the criteria to obtain a Direct Payment Permit review the Direct Payment Permit application.

Audits and Reviews

Eventually, most businesses will be audited or reviewed as a part of the department's normal review process. Our auditors and agents will do their best to minimize any disruption of your business during the audit or review.

Prior to the audit or review, an auditor or agent will contact you to make arrangements for a convenient time to check your books and records. You will need records or receipts, sales invoices, bills of lading, copies of bills of sale, and other pertinent papers that will allow the auditor or agent to confirm the accuracy of your tax returns. While you may only be asked to provide the records for a single reporting period, you must keep your records for a minimum of three years or longer if you are depreciating capital assets.

If, after reviewing your books, an auditor determines that you were deficient in the amount of taxes you paid, you will be assessed the additional tax and interest. In occasional cases where the errors in filing a return were fraudulent, returns were not filed, no taxes were paid, or the law was otherwise broken, criminal charges may be filed in addition to the interest and penalties assessed.

Collections

If a taxpayer fails to file returns or pay taxes, penalties and interest, the Department of Revenue may take the following actions to collect the amounts due.

All licensed persons must file applicable tax returns whether or not the person has gross receipts subject to tax.

Notice of Jeopardy Assessment - If the Secretary of Revenue finds that the collection of any tax is in jeopardy because of a taxpayer's delay the Secretary may make an immediate assessment of the estimated tax, penalty, or interest and demand payment from the taxpayer. The assessment may be made based on records or other sources of information available to the Secretary.

Notice of Tax Lien - Any time a taxpayer has tax, penalty, or interest due the department may file a Notice of Tax Lien with the Register of Deeds of the county where the taxpayer has property to preserve the state's lien priority against other creditors or entities.

The taxpayer will be unable to sell real property with a clear title until the department releases the lien. The taxpayer must satisfy the lien in full before the department will release the lien.

State law holds corporate officers personally liable for the taxes of the corporation. The department will impose liens on the corporate officers as well as the corporation.

Distress Warrant – Collection Agency - If the taxpayer fails to make payment, the department may turn the account over to a collection agency or request that the county treasurer issue a distress warrant to the county sheriff. A distress warrant is an official request from the department to the county sheriff to collect taxes owed to the State of South Dakota.

A distress warrant directs the sheriff to collect delinquent taxes by seizing and selling the taxpayer's personal property. State law considers business and personal checking and savings accounts to be personal property subject to seizure.

License Revocation - The department may revoke a tax license for failure to file returns timely or pay taxes due. Any person who engages in business after the Secretary of Revenue has revoked a tax license is guilty of a Class 6 felony.

Criminal Penalties - Any person who:

- Fails to file and/or pay one return is guilty of a Class 1 misdemeanor.
- Fails to keep or maintain records is guilty of a Class 1 misdemeanor.
- Fails to file returns or pay tax due two or more times in any twelve month period is guilty of a Class 6 felony.
- Makes any false or fraudulent return in attempting to defeat or evade the tax is guilty of a Class 6 felony.
- Engages in business without a license after having been notified in writing by the Secretary of Revenue is guilty of a Class 6 felony.

The maximum sentence upon conviction of a Class 1 misdemeanor is one year in jail and/or a \$1,000 fine. The maximum sentence upon conviction of a Class 6 felony is two years in prison and/or a \$2,000 fine.

Filing The Tax Return

State law requires that every holder of tax permit must file a return for each reporting period, even if there is no excise or use tax liability. To file a return where there are no receipts, enter a \$0 in Line 1.

After a tax permit is issued a tax return and worksheet are mailed about 20-30 days prior to the date the return and payment are due. The tax calculations can be figured on the worksheet and the figures transferred to the tax return. Keep a copy of the worksheet.

It is the responsibility of the taxpayer to contact the department if a return is not received.

Due Dates for Returns and Payments

- Filing once a month – returns are due the 20th of the following month.
- Filing every other month, semi-annually, or on a seasonal basis - returns are due the last day of the month following the reporting period.
- Filing electronically, using SD Quest - returns must be filed no later than the 23rd day of the month. Payments must be electronically remitted on the second to last working day of the month.

Mail returns and payments to the Remittance Center, PO Box 5055, Sioux Falls, SD 57117.

Do NOT mail the worksheet. Be sure to include the license number on all correspondence with the department.

Late Filing and Paying

Returns filed late (a return is not received within the next month following the due date) are assessed a late filing penalty of 10% (.10) of the tax liability (minimum \$10.00, even if no tax is due).

Payments made after the due date of the return are assessed interest of 1.25% (.0125) of the tax liability each month or part thereof for a return filed or any tax unpaid after the due date (a minimum of \$5.00 is due the first month).

In addition to penalty and interest, late returns and payments may result in the license being revoked. Collection activities such as tax liens and distress warrants may be used on delinquent accounts.

Filing an Amended Return

If an error is discovered on a previous return, please request a Summary for Amending Sales, Use Tax, and Contractors' Excise Tax and a self-audit worksheet (amended return) for each specific period needing correction. Please call 1-800-829-9188 if an amended return needs to be filed.

South Dakota Streamlined Sales Tax Agreement

Certificate of Exemption

Warning to purchaser:

This is a multi-state form. Not all states allow all exemptions listed on this form. Purchasers are responsible for knowing if they qualify to claim exemption from tax in the state that is due tax on this sale. The state that is due tax on this sale may be notified that you claimed exemption from sales tax.

The purchaser will be held liable for any tax and interest, and possible civil and criminal penalties imposed by the member state, if the purchaser is not eligible to claim this exemption.

1. Check if you are attaching the Multistate Supplemental form.
 If not, enter the two-letter abbreviation for the state under whose laws you are claiming exemption.
2. Check if this certificate is for a **Single Purchase Certificate**. Invoice/purchase order # _____.

3. **Print or type**

A. Name of purchaser _____

B. Business address _____ City _____ State _____ Zip code _____

C. Purchaser's tax ID number _____ State of Issue _____ County of Issue _____

D. If no tax ID number, enter FEIN _____

E. If no ID number or FEIN, enter Driver's License Number/State Issued ID number _____ state of issue _____

F. Foreign diplomat number _____

G. Name of seller from whom you are purchasing, leasing or renting _____

H. Seller's address _____ City _____ State _____ Zip code _____

4. **Circle type of business**

Purchaser's Type of business. Circle the number that best describes your business.

01 Accommodation and food services	11 Transportation and warehousing
02 Agriculture, forestry, fishing, hunting	12 Utilities
03 Construction	13 Wholesale trade
04 Finance and insurance	14 Business services
05 Information, publishing and communications	15 Professional services
06 Manufacturing	16 Education and health-care services
07 Mining	17 Nonprofit organization
08 Real estate	18 Government
09 Rental and leasing	19 Not a business
10 Retail trade	20 Other (explain) _____

5. **Circle reason for exemption**

Reason for exemption. Circle the letter that identifies the reason for the exemption.

A Federal government (<i>Department</i>) _____	H Agricultural
B State or local government (<i>Agency</i>) _____	I Industrial production/manufacturing <u>Does not apply in SD</u>
C Tribal government	J Direct pay permit
D Foreign diplomat	K Direct mail
E Charitable organization	L Other (<i>Explain</i>) _____
F Religious or educational organization	
G Resale	

6. **Sign here**

I declare that the information on this certificate is correct and complete to the best of my knowledge and belief.

Signature of authorized purchaser _____ Print name here _____ Title _____ Date _____



SALES AND USE TAX RETURN

Reporting Period _____

Return _____

Return Due _____

CHECK FOR CHANGE OF ADDRESS BELOW _____

Check if out of business _____

License # _____

SALES TAX CALCULATIONS	GROSS	TAXABLE	RATE	TAX DUE
1. Gross Sales				
2. Use Taxable				
3. Non-Taxable Sales				
4. Spec Juris Sales (Detail in City Section)				
5. Net State Sales Taxable (Line 1 plus Line 2, minus Line 3, minus Line 4)			x 4%	
6. City & Special Jurisdiction Tax Calculation Detail:				
7. City/Special Jurisdiction Name	Code	Taxable	Rate	Tax Due
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
22. Total City/Special Jurisdiction Tax (Add Lines 8 through 21)				
23. Total Tax Due (Line 5 plus Line 22)				
24. Penalty/Interest				
25. Adjustment (Previous Credit/Balance Due)				
26. Total Due (Line 23 plus Line 24 plus Line 25)				
27. Amount Remitted				

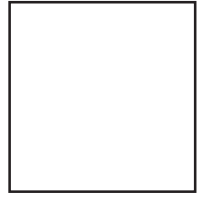
I declare under the penalties of perjury this return has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.

Date _____

Preparer _____

Date _____

Licensee _____



24 hours
 a day,
 365 days
 a year



On the
 Internet



By
 Telephone



E-file your taxes

1-800-829-9188

<http://www.state.sd.us/drr2/businessstax/guest/guest.htm>

- Enjoy Efficient & Convenient Tax Filing
- File Online or by Phone
- Pay Electronically
- Enjoy Safety & Security
- Reduce Filing Errors
- Eliminate Excess Paperwork!