

## South Dakota & Iowa Border Sales/Use Tax Issues Webinar Q&A 10/8/14

**Q: We have a client that provides martial arts instruction. They also sale gear, uniforms, etc to their customers. They have a location in Iowa and South Dakota. All fees are collected at the Iowa location and the customer can use either location. Which parts are taxable, and in which state do we pay the tax?**

A (Iowa): Martial arts instruction is not a taxable service in Iowa. The sale of the gear, uniforms, etc. is the taxable sale of tangible personal property and Iowa tax is due if delivery occurs in Iowa.

A (South Dakota): Clubs that have multiple locations are taxed where the member receives their membership information. If they purchase at a club location, tax applies there. If purchased on-line, by phone, or mail, tax applies based on the member's address. Use tax would still apply on any equipment or items used at the South Dakota location where no sales tax was previously paid. Any products sold would be subject to sales tax based on where the customer first takes possession of the item.

**Q: Our facility is located outside city limits....so if i have a computer delivered and set up we only pay the state tax but if I have filters that go into our trucks delivered to our office we put them in the trucks and drive to town I will need to pay the city sales tax? Am I understanding this correctly?**

A (Iowa): For Iowa purposes, if delivery occurs in a local option area, both state sales tax and local option sales tax will apply. If delivery occurs outside of a local option tax area, then only the state sales tax applies. This is assuming that the customer is not tax exempt for some reason.

A (South Dakota): City tax is applied the same as state tax. Tangible Personal Property (TPP) is taxable where possession is taken. If the item is later used in a city that imposes a city tax, that city tax is due, however, credit is given for any city tax previously paid.

**Q: If we purchase an item from another state to be used in city in IA that has a local tax of 1%, would we only owe 6% use tax and not the 1% local option tax?**

A (Iowa): That is generally correct. The Iowa consumers use tax rate is 6%. The local option tax does not apply to use tax.

**Q: When filing our SD sales tax return, should our gross sales reflect all gross sales from all states, or only our gross sales in SD?**

A (South Dakota): If your business is located inside South Dakota then gross sales should include all sales (taxable and non-taxable) made in South Dakota and all states. Out-of-state business should include only their South Dakota sales in the gross sales line.

**Q: Question regarding IA exempt services. My company manufactures bulk commodity trailers, we also have repair shops where we will repair a customers trailers. These are licensed vehicles. Bullet #4 does not pertain to our repair of a customers trailer correct? This question would be for both SD and IA.**

A (Iowa): The repairs would be taxable in Iowa. The bullet point referenced, "Services that recondition or repair tangible personal property when that property is normally sold in the regular course of the retailer's business," applies to repairs on merchandise not yet sold.

A (South Dakota): Services such as trailer repair are subject to state and municipal sales tax. These services are taxed according to where the customer receives the repaired item. Tax

applies at the customer's location if the item is delivered to the customer's location after the repair is completed. Tax applies at the repair shop if the repaired item is picked up at the repair shop.

**Q: We have a Nebraska company delivering pop to a SD location and they are not charging SD tax. They are in process of updating tax software. Can we include tax in payment of invoice?**

A (South Dakota): Additional information is needed to properly answer the question. We need to find out how the product is being used in South Dakota; more details are needed about the transaction. Please contact the South Dakota Department of Revenue at 1-800-829-9188 for clarification so we can provide you the correct answer.

**Q: So in Iowa, if an employee cleans the business office where they work for the employer to make extra money, the employer doesn't have to add sales tax to the amount paid to the employee?**

A (Iowa): If you performed this service as part of your duties as an employee, no tax is due. If you are being paid outside of your duties as an employee as an independent contractor, then sales tax will be due.

**Q: On your reciprocity example where the computer was purchased in SD and you still owe IA 2% sales tax - how do you put that on the report?**

A (Iowa): You will need to back into the correct amount due in order to make this work when you file your Iowa sales or use tax return. In other words, enter an amount that when multiplied by the Iowa state rate of 6%, will result in the correct amount of additional tax due.

**Q: For Iowa, if we are a law firm that sometimes travels to Iowa for court or other business, do we need to get a permit?**

A (Iowa): The services of an attorney are not taxable services in Iowa, so no Iowa sales/use tax permit is needed for these services.

**Q: Do we need to have farmers fill out exemption certificates if the purchases they are making are non taxable items, such as livestock feed and medicine?**

A (Iowa): For Iowa purposes, an exemption certificate is required to document non-taxable purchases in this situation.

A (South Dakota): State law exempts certain products or services from sales or use tax based on how the product or service is used. If there is doubt as to the intended usage for agricultural purposes on items that could be exempt, the seller should obtain an exemption certificate signed by the farmer. Medicines for livestock and pets are subject to the 4% state sales tax, plus applicable municipal tax. Medicine mixed with feed or feed supplements prior to being sold are not registered as remedies, but as feed supplements. Feed supplements for livestock are exempt from sales tax. More information on the agricultural industry can be found at [http://dor.sd.gov/Taxes/Business\\_Taxes/Publications/PDFs/agriculture0713.pdf](http://dor.sd.gov/Taxes/Business_Taxes/Publications/PDFs/agriculture0713.pdf) or by calling the South Dakota Department of Revenue at 1-800-829-9188.