

South Dakota Taxation News

Department of Revenue

Gary Viken, Secretary

File & Pay Your Federal Tax the E-asy Way

That's right! Pay your Federal estimated tax payments electronically over the phone or computer by punching in payment information and a PIN. Arrangements for estimated payments can be made up to 365 days in advance with Electronic Federal Tax Payment System (EFTIPS). You can arrange deposits for employer and other businesses taxes up to 120 days in advance. Get more information at 1-800-555-4477 or visit the IRS at www.irs.gov.

File your IRS business forms electronically over the Internet. It's fast, accurate, and you get an acknowledgement that you filed. **Visit E-file for Business at www.irs.gov for details.** You can also file up to 10 W2s at a time at the Social Security website, www.ssa.gov and print your employee copies. It's so E-asy!



Receives Enhancements

The Department of Revenue is proud to announce the 3rd Anniversary of our electronic filing system, SD QUEST. To commemorate our anniversary we are excited to announce a number of enhancements to the system that will streamline your electronic filing experience.



As more taxpayers move to electronic filing, we search for new and innovative tools that will make the experience easier. We went to you the user and asked what more we could do in order to improve the QUEST system. The most frequent issue that was brought to our attention was the time consuming task of inputting city codes. Inputting numerous city codes each month is not only time consuming but costly. We addressed this with Dynamic Web Import (DWI). This option allows you to import existing city/reservation tax information from your data files. Using the import tool eliminates the need to re-key this data when filing your return on QUEST.

We went a step further with city codes by implementing the option to have the cities reported on the previous return displayed in the right column of the return under the City/Reservation Tax Calculations section. This field allows for up to ten cities/codes to populate or be displayed in this section.

For example, if a taxpayer reported sales in Sioux Falls, Rapid City and Pierre last period, the codes for these cities will automatically show in the city section the next reporting period. Now all the taxpayer has to do is input the taxable amount each month. This will be handy for those taxpayers that repeatedly report the same city codes each month.

Have you ever started filling out a return on Friday afternoon, got half way finished and forgot that your director who approves payment was on Hole 13 at the local golf course? Now what do you do? Now all you have to do is hit SAVE! You no longer have to worry about preparing a return and getting approval at the same time.

These updates will be implemented in October 2002. The Department of Revenue encourages all taxpayers to check out SD QUEST at www.state.sd.us/revenue. If you have any questions regarding this free service, please contact us at 1-800-TAX-9188.

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Taxation News

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Please send your e-mail address (along with your tax license number) to webman@state.sd.us

Dates to Remember

OCTOBER

- October 2 SD/IA Border Issues, Sioux Falls, SD
- October 2-3 2-Day Business Tax Workshop, Aberdeen, SD
- October 14 Native American Day, DOR offices closed
- October 16 SD/MN Border Issues (Sales Tax), St. Paul, MN
- October 17 SD/MN Border Issues (Contractors' Tax), St. Paul, MN
- October 16-17 2-Day Business Tax Workshop, Rapid City, SD
- October 21 Paper returns and payments due for monthly and seasonal monthly filers.
- October 22 Sales Tax Seminar, Rapid City, SD
- October 22 Contractors' Excise Tax Seminar, Rapid City, SD
- October 23 Sales Tax Workshop, Rapid City, SD
- October 23 SD QUEST returns due for monthly and seasonal monthly filers.
- October 30 SD QUEST electronic payments due.

NOVEMBER

- November 6 Sales Tax Seminar, Sioux Falls, SD
- November 6 Contractors' Tax Seminar, Sioux Falls, SD
- November 11 Veterans Day, DOR offices closed
- November 20 Paper returns and payments due for monthly, seasonal monthly, bi-monthly, and seasonal bi-monthly filers.
- November 23 SD QUEST returns due for monthly, seasonal monthly filers, bi-monthly and seasonal bi-monthly filers.
- November 27 SD QUEST electronic payments due.
- November 28 Thanksgiving Day, DOR offices closed

DECEMBER

- December 4 Tri-State Border Issues (Sales Tax), Sioux City, IA
- December 5 Tri-State Border Issues (Contractors' Tax), Sioux City, IA
- December 20 Paper returns and payments due for monthly filers.
- December 23 SD QUEST returns due for monthly filers.
- December 25 Christmas, DOR Offices closed
- December 30 SD QUEST electronic payments due.

Business Education Program

Come join our Business Education Program at one of our workshops or seminars in your area. The Department offers a number of seminars that cover different tax issues facing new and existing business owners. For the most current list of seminars, visit us on the web at www.state.sd.us/revenue/classreg.htm. All seminars and workshops are free of charge.

2-Day Business Tax Workshop

This workshop is excellent for new business owners or as a refresher course. Information regarding the IRS, Dept. of Revenue, Dept. of Labor, Social Security and OSHA will be covered.

October 2-3, 2002
Aberdeen, SD

October 16-17, 2002
Rapid City, SD

Basic Business Tax Seminars

Our Basic Business Tax Seminars cover sales, use and contractors' excise tax issues. These seminars are free and designed for new business owners or as a refresher course.

Sales Tax
October 22, 2002
Rapid City, SD

Contractors' Excise Tax
October 22, 2002
Rapid City, SD

October 23, 2002
Rapid City, SD

November 6, 2002
Sioux Falls, SD

November 6, 2002
Sioux Falls, SD

Border Issues Seminars

Border Issue Seminars cover the differences in the tax application and reporting processes between South Dakota and our neighboring states of Iowa, Minnesota, Nebraska and North Dakota.

SD/IA Border Issues Seminars

Sales and Contractors' Tax
October 2, 2002
Sioux Falls, SD

SD/MN Border Issues Seminars

Sales Tax
October 16, 2002
St. Paul, MN

Contractors' Tax
October 17, 2002
St. Paul, MN

Tri-State (SD/IA/NE) Border Issues Seminars

Sales Tax
December 4, 2002
Sioux City, IA

Contractors' Tax
December 5, 2002
Sioux City, IA

News You Can Use

Revenue Develops New Certificate

In an effort to reduce paperwork and streamline our tax process here in South Dakota, the Department of Revenue is proud to announce a new and improved Exemption Certificate.

The new Exemption Certificate will replace Manufacturers and Processors, Agricultural, Resale and General Exemption Certificates. Along with a new Exemption Certificate comes a new Sales Tax Facts Sheet (#154) that outlines the new changes in greater detail.

You can download this form and the tax facts on the web at www.state.sd.us/revenue/businessstax/btaxforms.htm or give us a call at 1-800-TAX-9188 to request a form via regular mail.

Exempt Entities - Governments

The sale of products and services to the following governmental entities is exempt from South Dakota sales and use tax per SDCL 10-45-10.

- 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

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.

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), 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.

Documentation Required

Government entities must provide an exemption certificate to the vendor or the vendor must keep documentation to show the purchase was paid from government funds. Documentation may include a purchase order or a check stub. Government entities are exempt from sales and use tax per SDCL 10-45-10. Government entities do not need to list an exemption number on the exemption certificate.

Use Tax

The 4% South Dakota use tax is the counterpart of the 4% South Dakota sales tax. Although the two taxes apply to the same goods and services and utilize the same tax rates and similar laws, there is a difference in the circumstances in which they apply.

Sales tax applies to the gross receipts resulting from a sale of services or tangible personal property at the time of the sale. At the time of the sale of goods or services, the seller is responsible for remitting the state and applicable municipal taxes.

Use tax applies **after** the transaction takes place and only on goods and services 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 4% state use tax, plus applicable municipal use tax, in the filing period in which the purchaser receives the goods or services. The use tax is due on the purchase price, including delivery charges.

Cigarette Buydowns, Rebates and Discounts

Buydowns or reimbursements you receive from a manufacturer are gross receipts subject to sales or use tax.

Example

Your business buys cigarettes from a local wholesaler and you receive a "payment" from the manufacturer. State and municipal sales or use tax is due on the full retail price of the cigarettes, plus the buydown payment.

Failure to collect sales tax on the pre-buydown price can result in violation of the state minimum pricing law under SDCL 37-10.

If you provide services to a manufacturer or supplier, such as providing special locations for products or shelf stocking, the payments you receive are subject to sales tax.

In Other Revenue News

Ask Dr. Revenue

Dear Dr. Revenue:

I'm a contractor in the Pierre area and need to hire some day laborers to finish a contract. I was told there is a difference in tax paid by a contractor for day labor than the tax paid by a retailer?

Sincerely,
Workers Wanted

Dear Workers Wanted:

First, check with the SD Department of Labor to see if they consider your "day laborers" to be employees subject to unemployment taxes.

You are correct. There is a difference in the tax paid by contractors and retailers for day labor. A contractor owes use tax on amounts paid to day laborers for sales taxable work. However, contractors do not owe use tax on amounts paid to day laborers for excise taxable work. The contractor must include the cost of the day labor in the total gross receipts subject to the contractors' excise tax.

A retailer owes use tax on amounts paid to day laborers. Day laborers are hired to perform miscellaneous services that may include anything from janitorial services, mowing, or snow removal to painting a building.

If either contractor or retailer hires a person through a temporary help agency, the temporary help agency's gross receipts are subject to sales tax.

If you need more answers regarding day labor issues, please give me a call at 1-800-TAX-9188.

Sincerely,
Dr. Revenue

If you have a question regarding South Dakota tax law, please contact us at:

SD Dept of Revenue
Business Tax Division
445 E. Capital Avenue
Pierre, SD 57501-3185
1-800-TAX-9188
E-mail: bustax@state.sd.us

Wanted: Fill Dirt

If you are a contractor or subcontractor, South Dakota law imposes a use tax on materials used in a construction project. The tax is "measured by the purchase price or fair market value of the property, whichever is greater". If you use dirt on any project in South Dakota and the dirt was obtained without charge, you owe the 4% state use tax, plus applicable municipal tax, on the fair market value of the dirt. This would also apply to gravel, top soil, aggregate, rip rap or any other material received without charge.

Example 1

Cement Makers Inc. digs a basement and has dirt that will not be needed at the project. Cement Makers Inc. tells Ground Level Up Contracting they can have the dirt if they haul it away. Even though the dirt was free, Ground Level Up Contracting will owe use tax on the fair market value of the dirt when the dirt is incorporated into a construction project.

Example 2

Dirt N More Construction Company owns a dirt and gravel pit. Dirt N More hauls dirt from their company-owned dirt and gravel pit to a project site to level the project site. Dirt N More will owe use tax on the fair market value of the dirt that was incorporated into the construction project.

Miscellaneous Notes...

Restaurants and Food Giveaways - Food that is given away by an eating establishment is subject to the 4% state use tax, plus the municipal general use tax, on the cost of the food. This includes food given to employees or provided as hors' d'oeuvres to customers.

If a charge is made for the food, the receipts are subject to the 4% state sales tax, plus the municipal tax at the prepared rate.

Horse Training - The training of all and any horses, including race horses, is subject to tax.

Lead Codes - When reporting the general municipal tax rate for Lead, please use code 204-6.

2002 Legislative Update

Sourcing Retail Sales for South Dakota

During the 2002 Legislative Session, South Dakota changed many laws to comply with the Streamlined Sales Tax Project. One of these laws requires the retailer to tax sales of tangible personal property and services at the location where the customer receives the tangible personal property or service.

The new law uses the following terms “receive” and “receipt”, which mean:

- Taking possession of tangible personal property,
- Making first use of services, or
- Taking possession or making first use of digital goods, whichever comes first.

The terms “receive” and “receipt” do not include possession by a shipping company on behalf of the purchaser.

The Department has been reviewing this law to determine who is impacted by this change. The following is a brief description of where sales tax applies to products and to services.

Products

Sales tax applies where the customer receives the product.

- Products picked up by the customer at the retailer’s business are subject to sales tax at that location.
- Products that are delivered by the store or by a delivery company hired by the customer are subject to sales tax at the delivery address.
- If the product is delivered, but the retailer does not have access to the delivery address, the sales tax applies at the customer’s address.
- If no address is available, sales tax will apply at the retailer’s business location.

Services

In many cases the customer takes receipt of the service at the location the service is performed. Examples are motels and hotels, janitorial services, veterinarian services, beauty shops, or seminars. Sales tax applies to these services based on where they are performed.

However, there are services that may be received at a location other than where the actual work is done. To determine the correct tax, ask where the product or the service is received by the customer. For example: Accountants need to ask where the customer receives the tax returns. If this is at the accountant’s office, sales tax applies there. If the returns are delivered to the customer, sales tax applies at the delivery address.

More information on changes in where services are taxed will be in the Department’s January 2003 newsletter.

What’s New With Property Taxes?

The 2002 Legislature had numerous bills dealing with property taxes. The one of most interest to property owners, individuals and businesses alike, was HB 1087, which reduces the maximum levy for the general fund for school purposes. The levies for pay 2002 taxes were \$ 4.04 / thousand for agricultural property, \$6.50 / thousand for owner-occupied property and \$13.93 / thousand for other property types. The new maximum levies for pay 2003 taxes are \$3.74 / thousand for agricultural property, \$ 6.02 / thousand for owner-occupied property and \$12.90 / thousand for other property types.

If you have further questions regarding your Property Taxes, check us out on the web at www.state.sd.us/revenue or send us an Email at proptaxin@rev.state.sd.us



Insights...from the Secretary of Revenue



Just a year ago, the United States was reeling from the terrible attacks of September 11, 2001. In the past year, there has been a resurgence of pride, patriotism, and a sense of community among Americans. That reaffirmation is evident not only in people's homes but also on the Main Streets of our towns and cities.

Local businesses help to comprise the backbone of a community's economy, not only in times of unrest and uncertainty (such as that which followed the September 11 attacks) but on a daily basis. The Department of Revenue continues to look for ways to make the "business of doing business" easier in South Dakota. Among those efforts is the "Streamlined Sales Tax Project", a joint undertaking by 39 state governments designed to simplify the sales and use tax system for both Main Street businesses and remote sellers. South Dakota took significant steps towards further participation in the Project during the 2002 Legislature by implementing the set of uniform standards a state must adopt to participate in the project. With another legislative session just months away, look for the Streamlined Sales Tax Project to again be a major topic of discussion.

I am also pleased to announce that some enhancements are being made this fall to our SD QUEST electronic tax filing and payment system. These improvements will make it even easier and more convenient for businesses to file and pay their state sales and use taxes. If you don't currently use the program, I encourage you to contact our office for more information.

Finally, hunting season is again underway in South Dakota and here's a reminder to people and businesses receiving payment for hunting services that sales tax applies to most payments received. For information on how sales tax applies to hunting guides and commercial hunting operations, please download *Sales Tax Fact Sheet #195* at www.state.sd.us/revenue or request a copy by calling 1-800-TAX-9188.

A handwritten signature in dark ink, appearing to read "A. R. 2005".

www.state.sd.us/revenue

bustax@state.sd.us or call 1-800-TAX-9188

The logo for the South Dakota Department of Revenue, featuring the words "South Dakota" in a stylized, cursive script.

Department of Revenue

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