

# Taxation News

Department of Revenue

Gary Viken, Secretary

## Revenue = eForms

By Rob Witte

eForms have arrived! eForms are a new and improved way for taxpayers to fill out and submit Department of Revenue forms using Adobe Acrobat Reader. eForms are based on the Adobe Portable Document Format (PDF) which allows the department to convert inefficient paper forms to fully interactive electronic forms. Taxpayers now have three options when filling out forms: traditional print, (eForms) fill-in/print and fill-in/electronic submit.

Not only are eForms efficient for taxpayers but they will also enable the department to save in printing, distribution and storage of paper forms in the future. eForms will provide better customer service and streamline the business process between the department and taxpayers. Taxpayers will be able to view, save, print and fill in eForms at anytime using Acrobat Reader.

Taxpayers can find a complete list of interactive Revenue forms online at either [www.state.sd.us/revenue](http://www.state.sd.us/revenue) or [www.sd.gov](http://www.sd.gov).

## 2003 Legislative Update

By Kelly Thompson

A change in administration and new faces in the South Dakota House and Senate brought renewed interest in some familiar tax issues during the 2003 Legislative Session.



The Department of Revenue tracked 137 pieces of legislation during the 40-day session, the majority of which dealt with alcohol and cigarettes taxes; property taxes; the taxation of telecommunication services; proposed exemptions to sales, use and contractors' excise taxes; the tourism tax; and how tax is applied to wind energy development projects.

Among the issues receiving approval by lawmakers and Governor Rounds was the expansion of South Dakota's participation in the Streamlined Sales Tax Agreement. Under SB76, cities are required to have one tax rate effective January 1, 2004 and must also tax the same items and services as every other city in South Dakota. In addition, the legislation adopts new exemption definitions for medical devices that are currently exempt and new definitions for tangible personal property and lease and rental. Passage of SB76 completed the process started last year to bring South Dakota into compliance with the agreement. Nine other states introduced similar legislation so far this year. South Dakota was the first state to sign such legislation into law.

Discussion over the Streamlined Sales Tax Agreement generated much debate over whether food should be exempted from the state's sales tax. Two bills, HB1249 and HB1071, were proposed that would have exempted food from South Dakota's sales tax when the provisions of the Streamlined Sales Tax Project become effective. A third piece of legislation, HB1248, would have exempted certain low-income individuals from paying sales tax on food. Although all three bills failed, the issue will be the topic of a summer study to be conducted later this year.

The so-called "sin taxes" were revisited in 2003, with a number of bills relating not only to the taxation of alcohol and cigarettes but also as to how revenues from the sale of those items should be spent. Several pieces of legislation advocated giving local governments more control over setting alcohol license fees in their jurisdictions.

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### Taxation News

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Want to receive Taxation News via email? Send your email address along with your tax license number to: [webman@state.sd.us](mailto:webman@state.sd.us)

## South Dakota QUEST

QUEST users, take advantage of the department's email reminder today. If you'd like to receive a reminder that your return is due, provide us with your e-mail address.

Send your e-mail address along with your license number to [sdquest@state.sd.us](mailto:sdquest@state.sd.us) or call us at 1-800-TAX-9188.

# Dates to Remember

## April

**April 1** - SD/NE Border Issue Seminar, Sioux Falls, SD.

**April 2** - SD/IA Border Issue Seminar, Sioux Falls, SD.

**April 6** - Daylight Savings Time.

**April 9** - SD/MN Border Issue Seminar, St. Paul, MN.

**April 18** - **Good Friday, Revenue Offices Closed at Noon.**

**April 21** - Paper returns and payments due for monthly filers.

**April 22** - Basic Tax Seminar, Sioux Falls.

**April 23** - Basic Tax Seminar, Rapid City.

**April 23** - SD QUEST returns due.

**April 23-24** - Two Day Business Workshop, Watertown, SD.

**April 29** - SD QUEST electronic payments due.

## May

**May 7-8** - Two Day Business Workshop, Sioux Falls, SD.

**May 14** - SD/ND Border Issue Seminar, Watertown, SD.

**May 21-22** - Two Day Business Workshop, Rapid City, SD.

**May 26** - **Memorial Day, Revenue Offices Closed.**

**May 20** - Paper returns and payments due for monthly filers.

**May 23** - SD QUEST returns due.

**May 29** - SD QUEST electronic payments due.

**May 31** - Paper returns and payments due for bi-monthly filers.

## June

**June 1-2** - SD/NE Border Issue Seminar, Chadron, NE.

**June 11-12** - Two Day Business Workshop, Pierre, SD.

**June 21** - Paper returns and payments due for monthly and seasonal monthly filers.

**June 23** - SD QUEST returns due.

**June 27** - SD QUEST electronic payments due.

## Business Education Program

Come join our Business Education Program at one of the workshops or seminars in your area. The department offers a number of educational opportunities that cover different tax issues facing new and existing business owners. For the most current list of seminars or to register, log onto the web at [www.state.sd.us/revenue](http://www.state.sd.us/revenue). 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.

**April 23-24, 2003**  
Lake Area Technical Institute  
Watertown, SD

**May 7-8, 2003**  
Kuehn Community Center  
Sioux Falls, SD

**May 21-22, 2003**  
Western Dakota Tech Inst.  
Rapid City, SD

**June 11-12, 2003**  
South Dakota State Library  
Pierre, SD

### Basic 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. The sales tax seminar will be held from 9am-12pm while the contractors' excise seminar will be from 1pm-4pm.

#### Sales and Contractors' Excise Tax Seminar

**April 22, 2003**  
Sioux Falls, SD

**April 23, 2003**  
Rapid City, 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/NE Sales & CET Seminars

**April 1, 2003**  
Sioux Falls, SD

**June 1-2, 2003**  
Chadron, NE

#### SD/IA Sales & CET Seminars

**April 2, 2003**  
Non-Profit Center  
Sioux Falls, SD

#### SD/MN Sales & CET Seminars

**April 9, 2003**  
Minnesota Department of Revenue  
St. Paul, MN

#### SD/ND Sales & CET Seminars

**May 14, 2003**  
Lake Area Technical Institute  
Watertown, SD

# News You Can Use

## Working With Revenue

By Melissa Schofield

### Exemption Certificates

In order to eliminate any unnecessary confusion, the department suggests you don't submit exemption certificates unless you have been specifically requested to do so. Exemption certificates should be kept with the records of the vendor, supplier, or service provider selling for resale or selling for another reason specified on the exemption certificate. If an exemption certificate is absent from a vendor's records and the vendor took a resale deduction, the vendor can be held liable for the sales tax that should have been charged.

If you are required to send an exemption certificate to an employee of our department, please be sure to address the envelope accordingly, or include a note or statement indicating the person who is to receive the exemption certificate. This will help our staff provide better service to you.

### Replying to a letter you've been sent

If you are calling the Department of Revenue about a letter or other correspondence you've received, be sure to identify yourself and ask specifically for the person who sent you the letter when you call. If there is no signature or sender information on the letter, review the letter for a case number, a file number or a project number and give that information when you call.

## Zip Codes Don't Always Equal Tax Codes

By Rob Witte

Cities and towns have been sharing zip codes for over 40 years. On July 1, 1963, the United States Postal Service instituted ZIP (Zoning Improvement Plan) Codes to improve customer service and decrease time for sorting letters and packages.

Since 1963, many public and private institutions have adopted zip codes as a way to help themselves sort and move information quicker and easier. With all business systems, the ability to adapt and change is crucial to ensuring prosperity and longevity.

The department would like to point out that some cities in South Dakota share the same zip code but not the same tax rates. Two eastern South Dakota towns, Garretson and Sherman, are keeping businesses on their toes while they share the same zip code, 57030. The department encourages taxpayers to use the proper tax code to ensure the tax rate goes to the correct city.

*The department would like to point out that some cities in South Dakota share the same zip code but not the same tax rates.*

57030	Sherman	328-1	1%
57030	Garretson	138-2	2%
		138-3	1%

If you have any questions or comments, log onto the web at [www.state.sd.us/revenue/municipaltax/municipaltaxesindex.htm](http://www.state.sd.us/revenue/municipaltax/municipaltaxesindex.htm) or call 1-800-TAX-9188.

## Did You Know...

**Attention Attorneys, Hospitals and Medical Clinics** - State sales tax plus any applicable municipal tax applies to copying charges for medical records. Hospitals and clinics should be charging, collecting and remitting sales tax on fees charged for copies of medical records. If sales tax is not charged on these fees, the individual or attorney owes use tax.

**Installation of Home Entertainment Systems (Sound Systems)** - Businesses that sell home theatre and sound systems and perform the installation of these systems in homes and businesses are subject to the contractors' excise tax. The tax is owed on the installation of the stereos, sound equipment, home theaters and surround sound.

**Dog Grooming** - Dog grooming services are subject to the 4% state sales tax, no municipal tax. Equipment and supplies used by the dog groomer are subject to the 4% state sales tax, plus applicable municipal tax.

**Coin Operated Laundry Machines** - The annual license fee for each coin operated washer and dryer in South Dakota is ten dollars. However, in municipalities having a population of one thousand persons or less, the annual license fee is eight dollars. The license fee is in lieu of any sales or gross receipts taxes from the operation or ownership of coin operated washers and dryers.

**In-State Freight** - South Dakota companies who work with other in-state businesses should be aware of taxing in-state freight. In state freight is also subject to sales tax on a taxable retail sale.

# In Other Revenue News

## Ask Dr. Revenue

Dear Dr. Revenue:

I own and operate a granite rock company in southeastern Minnesota. I recently sold some granite to a greenhouse in Luverne, MN who then sold it to a landscaper in Sioux Falls, SD. The greenhouse asked me to deliver the granite directly to the landscaper. My accountant and I are unsure who to charge sales tax to in this incident. What should we do?

Sincerely,  
Mr. Rattled Rocker

Dear Mr. Rocker:

You have come to the right place, Mr. Rocker. Here's the doctor's diagnosis. Your situation is summed up with two words, "drop shipment."

Drop shipments occur when a retailer purchases an item from a vendor and the vendor delivers (or dropships) the product directly to the retailer's customer. In your case, the landscaper is the retailer's (greenhouse) customer. You delivered the product directly to the retailer's customer thus becoming a drop shipment. You must charge South Dakota sales tax to the greenhouse unless they provide you with a properly completed South Dakota Exemption Certificate.

The greenhouse may use their resale number from their respective state for Exemption Certificate filing requirements because the delivery takes place in South Dakota

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. Capitol Avenue  
Pierre, SD 57501-3100  
1-800-TAX-9188  
E-mail: bustax@state.sd.us

## \$100,000 Rule – Buildings for Lease

By Jody Bartels

With interest rates at an all time low and Wall Street producing a bear market, real estate has become an attractive investment for many Americans. If you are considering developing parcels of land or own existing buildings, you should know about the \$100,000 Rule.

The \$100,000 Rule is fairly simple in that if you are constructing a new building that is valued at \$100,000 or more that you intend to lease to others, you may need a prime contractors' excise tax license. Some examples of buildings that may be leased to others are an office building, apartment building, duplex, or hotel. You should know the following:

1. You are a prime contractor if:
  - a. You are the owner and do some of the work yourself, **or**
  - b. You have a contractors' excise tax license.
2. You are responsible for paying sales or use tax on all construction material.
3. You are responsible for remitting the 2% contractors' excise tax on the fair market value of the building when the building is first leased.

If the value of the building is less than \$100,000, you are not the prime contractor even if you have a contractors' excise tax license. Owner/investors that do not have a contractors' excise tax license, that do none of the work are not the prime contractor regardless of the value of the building. If you are not the prime contractor, you cannot issue prime contractor exemption certificates and you do not owe the excise tax on the value of the building when it is first leased.

## Specialty Builders

Are you a spec builder – someone who holds title to the land and builds new buildings or remodels existing structures with the intent to sell or lease? If so, you need to know the following:

1. You are a spec builder even if you do not do any of the work yourself.
2. All spec builders must have a contractors' excise tax license.
3. You are responsible for paying sales or use tax on all construction material.
4. You are responsible for remitting the 2% contractors' excise tax at the time of the closing, if sold within four years of completion. Contractors' excise tax is due on the selling price, less the cost of the land and land improvements when excise tax was paid to the contractor completing the improvements. If land improvements were made four years prior to the sale, the fair market value of the land will be deducted instead of the cost.

## 2003 Legislative Update CONTINUED FROM PAGE 1

Lawmakers debated increasing the alcohol tax in a variety of increments with the resulting revenues earmarked for law enforcement, domestic abuse and alcohol abuse and prevention programs at the local level. In addition, debate was held in both committees and on the House and Senate floors as to how much the tax on cigarettes should be increased. In the waning hours of the final day of the Legislative Session, legislators approved raising the tax \$.20 per pack. And in the area of enforcement of the state's statutes against illegal sales of cigarettes, a bill was approved that makes it a Class 2 misdemeanor for the first offense when an unlicensed individual sells unstamped cigarettes and a Class 6 felony for subsequent violations.

Several bills affecting you as taxpayers and the way you do business in South Dakota were still awaiting final action on Governor Rounds' desk at the time this edition of our Taxation News went to print. In an effort to ensure that you are made aware of these bills and their impact on your business, the Department will be sending all license holders a 2003 Legislative Update either by mail or by e-mail in the weeks ahead. When you receive this update, should you have any questions regarding the new laws, please feel free to contact your local Department of Revenue office or call our toll-free helpline at 1-800-TAX(829)-9188.

## Internet Insight on the SD Legislature

*By Kelly Thompson and Rob Witte*

Each year during South Dakota's Legislative Session, the House and Senate galleries are filled with spectators wanting to get a firsthand glimpse of the legislative process at work. If you were unable to make the trip to the Capitol City this year, a few quick clicks of the mouse can bring all the legislative action direct to your computer via the Legislative Research Council (LRC) website.

Established in 1951 by legislative action, the LRC is the state's legislative service operation. In addition to considering legislative policies between sessions, the division's staffers perform research, draft bills, and provide budgetary analysis. During the legislative session, they provide technical assistance to the legislative committees, draft amendments, ensure that the procedures of the legislative process are accurately adhered to, and provide the latest updated information on all aspects of the SD Legislature on their website, <http://legis.state.sd.us/index.cfm>

The website features information on individual legislators, including what bills they sponsored, their committee assignments, the district they represent and how they can be contacted both during the session and the rest of the year. And finding bills and researching existing laws online at the LRC website is a cinch. Users can type in the specific bill number if they know it and call up all the action on that specific bill from its introduction to its ultimate passage or demise. And if you don't know the bill number, simply access the subject index and choose your topic; the website automatically lists all bills pertaining to that subject. Begin your research now - log onto the web at <http://legis.state.sd.us/index.cfm>

## Beware - Offshore Payment Cards

Internal Revenue Service officials have announced the launch of an initiative aimed at bringing taxpayers who used "offshore" payment cards or other offshore financial arrangements to hide their income back into compliance with tax law.

Under the Offshore Voluntary Compliance Initiative, eligible taxpayers who step forward will not face civil fraud and information return penalties. However, taxpayers will still have to pay back taxes, interest and certain accuracy or delinquency penalties.

The Initiative reflects an attempt to bring taxpayers back into compliance quickly while simultaneously gathering more information about the promoters of these offshore schemes. As part of the request to participate, the taxpayer must provide full details on those who promoted or solicited the offshore financial arrangement. The IRS will use this information to pursue promoters.

Under the Initiative, eligible taxpayers will have to file or amend their returns and pay interest and certain civil penalties, as well as the tax. For example, a taxpayer who understated his income to avoid \$100,000 in taxes in 1999 would wind up paying \$149,319 to the government. This includes the tax liability plus \$29,319 in interest and an additional accuracy-related penalty of \$20,000. If a taxpayer did not step forward, his tax liability generally would include the civil fraud penalty of \$75,000, and therefore higher interest of \$42,758. The total amount due would be \$217,758, without considering probable additional civil penalties for failure to file certain information returns.

To apply for the Initiative, taxpayers must notify the IRS in writing and provide their name, taxpayer identification number, current address, daytime phone number and certain promoter information. The last day a taxpayer can apply is April 15, 2003.

Written requests for the Voluntary Compliance Initiative can be sent to:

Regular Mail	National Offshore Voluntary Compliance Initiative Coordinator P.O. Box 480 Bensalem, PA 19020
Overnight/ Special Delivery	National Offshore Voluntary Compliance Initiative 11601 Roosevelt Blvd. Philadelphia, PA 19154 DP S6005

Those seeking information by telephone should call: 215-516-3537 (not toll-free). In addition, a special e-mail address, [VCI@irs.gov](mailto:VCI@irs.gov), has been set up for taxpayer inquiries. More information on the Initiative can be found on the IRS Web site at [www.irs.gov](http://www.irs.gov).



**Department of Revenue**

445 East Capitol Avenue

Pierre, SD 57501-3100

Forwarding Service Requested

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## Insights...from the Secretary of Revenue



As one might expect, the 2003 Legislative Session was quite different from those in recent years, given our state has a new Governor and many new legislators who participated in the process for the first time this year. All in all, it was a good legislative session in terms of important legislation being passed. In passing SB 76, the legislature took the necessary step once again to ensure that South Dakota is positioned to be among those states leading the charge to create equity in the way sales tax applies to traditional retailers and to those who sell by catalog and Internet. This action, when combined with similar action in other state legislatures across the country, demonstrates the resolve that many states have to fix the current inequity and says something very positive about the momentum that currently exists on the part of some forty states to convince Congress that out-of-state direct marketing firms should collect and pay sales tax just like traditional in-state retail businesses are required to do. Other taxation matters brought before the 2003 Legislature ranged from how to tax new wind farm projects to railroad projects, and much debate took

place surrounding the appropriate tax the state should apply to groceries, tobacco products, alcoholic beverages and telecommunications.

As you might know, Governor Rounds also presented a plan to the legislature for reorganization of the Executive Branch of state government, some of which will impact this department. The Department of Revenue will soon become the Department of Revenue & Regulation, and will be responsible for overseeing the regulation of banking, insurance, securities, gaming, the state lottery and other functions in addition to overseeing and administering the state's system of taxation. I will keep you posted on things that may be of interest as the new department unfolds. Let me assure you that continuing to improve taxpayer education and doing all we can to make it easier for you to file and pay your taxes will continue to be at the top of our list, even as the department grows and takes on broader responsibilities.

Hopefully, Spring is truly just around the corner . . . and better times are ahead for business and for all the people of South Dakota. Don't forget to make time for our great outdoors as warm weather returns once again.

A handwritten signature in dark ink, appearing to be "D. K. [unclear]".