



Taxation News

Department of Revenue & Regulation

Gary R. Viken, Secretary

South Dakota QUEST

Online tax filing - a quick and easy way to pay your taxes

Your local revenue agent is your best resource for finding out how to begin filing and paying your taxes electronically. Stop in and visit us at one of our seven offices: Pierre, Rapid City, Mitchell, Aberdeen, Watertown, Yankton and Sioux Falls. He or she can offer a free online tutorial showing you how easy it is to use SD QUEST.

Visit us online at www.state.sd.us/drr2/sdquest or call us toll free at 1-800-TAX-9188 and we will send you an application and user packet that will help you get started.

SD QUEST is a fast, secure, reliable and free electronic option to filing your taxes in South Dakota.

T² Where Technology meets Taxes - From Dr. Revenue

Online Tax Applications Now Available

Effective October 1, 2004, the days of filling out a paper application to get a sales and contractors' excise tax license are over.

New businesses applying for a license now need only to boot up their computers, go to the Department of Revenue & Regulation website, click and type. The change from a paper system to a secure electronic application not only eliminates costly and cumbersome paperwork, it also gives taxpayers the opportunity to complete and submit their applications immediately any time that's convenient for them.

The online application mirrors the previous paper version and features a series of easy-to-follow screens asking for specific areas of information. For example, if an individual indicates on the start-up screen that he or she will be operating a business as a sole proprietorship, they are taken next to a screen asking for owner information, followed by subsequent screens in which they enter their business address and contact information, and data on the specifics of their business operation.

While the online application allows potential licensees to apply for a license any time of the day or night, it does require them to complete the application in a timely manner. To ensure the integrity of the applicants personal information, if no activity is recorded for a maximum of 20 minutes, the application session expires.

Once the application is completed and submitted, the applicant receives a confirmation number. Applicants are urged to print out the confirmation screen for their records.

Even potential licensees who don't own computers can take advantage of the secure online application process. Computers are available for application purposes at the Department of Revenue & Regulation's offices in Aberdeen, Mitchell, Pierre, Rapid City, Sioux Falls, Watertown and Yankton. To access the online application for sales or contractors' excise tax licenses, visit the department's website at www.state.sd.us/drr. If you have questions about the application process, please call our toll-free helpline at 1-800-829-9188.

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Taxation News

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Contact Us:
South Dakota
Department of Revenue & Regulation
445 East Capitol Avenue
Pierre, South Dakota 57501-3185
www.state.sd.us/drr
1-800-TAX-9188
Fax: 605-773-6729

Editor/Writer: Robert Witte
rob.witte@state.sd.us

Contributors: Jody Bartels, Kelly Thompson, Beth Christie, Michael Kenyon

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

You guide them through the fields and we'll guide you through your taxes *By Rob Witte*

When you read this, most waterfowl guides will already have one weekend of guiding under their belts and pheasant guides will only have to wait two more weeks before setting afield. Besides cleaning bunk houses, training dogs and planning your meals, knowing what services and products should be taxed is vital to running a successful South Dakota guiding operation.

Dates to Remember

October

October 5 - SD/IA Border Issues Workshop, Sioux Falls, SD.

October 6 - Small Business Tax Workshop, Aberdeen, SD.

October 6 - Basic Tax Seminar, Rapid City, SD.

October 6-7 - SD/NE Border Issues Workshop, Norfolk, NE.

October 11 - **Columbus Day, Department Offices Closed.**

October 14 - Small Business Tax Workshop, Rapid City, SD.

October 20 - SD/MN Border Issues Workshop, Sioux Falls, SD.

October 20 - Paper returns and payments due for monthly and seasonal monthly filers.

October 23 - SD QUEST returns due.

October 28 - SD QUEST electronic payments due.

November

November 4 - Basic Tax Seminar, Sioux Falls, SD.

November 8 - Basic Tax Seminar, Mitchell, SD.

November 10 - Basic Tax Seminar, Yankton, SD.

November 10 - Small Business Tax Workshop, Standing Rock Reservation, SD.

November 11 - **Veterans Day, Department Offices Closed.**

November 17 - Basic Tax Seminar, Pierre, SD.

November 20 - Paper returns and payments due for monthly and seasonal monthly filers.

November 23 - SD QUEST returns due.

November 25 - **Thanksgiving, Department Offices Closed.**

November 29 - SD QUEST electronic payments due.

November 30 - Paper returns and payments due for bi-monthly and seasonal bi-monthly filers.

December

December 20 - Paper returns and payments due for monthly filers.

December 23 - SD QUEST returns due.

December 24 - **Department Offices Closed in observance of Christmas.**

December 30 - 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, visit our website at www.state.sd.us/drr. All seminars and workshops are free of charge.

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.

Sales and Contractors' Excise Tax Seminar

October 6, 2004
City/School Admin Building
Rapid City, SD
Sales Tax: 9am - Noon
Contractors' Excise Tax: 1 - 4pm

November 4, 2004
Sioux Falls Non-Profit Center
Sioux Falls, SD
Sales Tax: 9am - Noon
Contractors' Excise Tax: 1 - 4pm

November 8, 2004
Mitchell Public Library
Mitchell, SD
Sales Tax: 10am - 1pm
Contractors' Excise Tax: 2 - 5pm

November 10, 2004
Yankton Public Library
Yankton, SD
Sales Tax: 10am - 1pm
Contractors' Excise Tax: 2 - 5pm

November 17, 2004
SD State Library
Pierre, SD
Sales Tax: 9am - Noon
Contractors' Excise Tax: 1 - 4pm

Small Business Tax Workshops

Information regarding the IRS, Dept. of Revenue & Regulation and Dept. of Labor will be covered. For more information, check us out on the web at www.state.sd.us/drr.

October 6, 2004
SD Department of Labor
Aberdeen, SD
October 14, 2004
City/School Admin Center
Rapid City, SD

November 10, 2004
Grand River Casino
Standing Rock Reservation

Border Issues Seminars

Border Issues Seminars cover the difference in the tax application and reporting process between South Dakota and bordering states. Sales Tax is from 9am-Noon and Contractors' Tax is from 1pm-4pm, unless noted otherwise. For more information, check us out on the web at www.state.sd.us/drr.

October 5, 2004
SD/IA Border Issues
Sioux Falls, SD
October 20, 2004
SD/MN Border Issues
Sioux Falls, SD

October 6-7, 2004
SD/NE Border Issues
Norfolk, NE
Oct 6: Sales Tax
Oct 7: Contractors' Tax

News You Can Use

Guiding Services (CONTINUED FROM COVER)

Individuals providing hunting services are required by state law to obtain a sales tax license from the department. An application may be downloaded from our website at www.state.sd.us/drr or by visiting one of our seven field offices throughout the state.

Taxable Services and Products (list is not inclusive)

Ammunition Sales

Guide Services

Sale of Hunting Privileges (Seasonal or annual fees received for granting exclusive rights to hunt or fish on property are exempt if filed with the County Register of Deeds.)

Meals

Membership Fees

Room Rentals

The South Dakota sales tax rate is 4%. In addition to the 4% state sales tax, these services or products may be subject to the 1% tourism tax, the municipal tax and/or municipal gross receipts tax.

Payment need not be received in cash to be subject to sales tax - barter income is also taxable. If bartering does occur, the estimated market value of the product received in exchange for the service is subject to the 4% sales tax plus applicable tourism and municipal tax.

For more information on how sales tax applies to hunting guide services and commercial hunting operations, download **Hunting and Fishing Services Tax Fact Sheet #195** at www.state.sd.us/drr or request a copy by calling 1-800-TAX-9188.

Federal Tax News

TIP Agreements Benefit Employers and Employees

The IRS encourages business owners to sign up for voluntary compliance agreements in industries where tipping is customary. These agreements are designed to enhance tax compliance through employee education instead of traditional enforcement actions, which include examinations. Employers benefit because the IRS agrees not to initiate any tip examinations against the employer when there is a valid voluntary compliance agreement in place. Employees reap the benefits of increased worker's compensation, unemployment, social security and Medicare benefits and improved chances for loans for mortgages and cars.

For more information, go to www.irs.gov. South Dakota employers or employees with questions on voluntary compliance agreements may contact IRS tax specialist Gay Blazek at 701-239-5400, Ext 228. or by e-mail at Gay.M.Blazek@irs.gov.

Avoid The Dirty Dozen

The Internal Revenue Service is urging taxpayers to avoid falling victim to one of the "Dirty Dozen" tax scams and a variety of other schemes. Schemes being seen in South Dakota include misuse of the Disabled Access Credit, improper Home Based Business Deductions, frivolous non-filing arguments that aren't supported by law, and abusive trusts and use of off-shore accounts.

For more information, go to www.irs.gov and search for "abusive tax schemes", or order Publication 3995 by calling 1-800-829-3676.

Did You Know...

Agricultural Equipment - The sale of farm machinery used exclusively for agricultural purposes is subject to 3% state sales tax, no municipal sales tax. The sale of farm machinery at a public auction is subject to the 3% state sales tax, no municipal sales tax regardless of the use. A rate increase was passed by the 2002 Legislature but it will not go into effect until January 1, 2006.

Reimbursable Expenses - When a business charges a customer or client for a service or product that was purchased on behalf of that customer or client, the charge is considered gross receipts and is subject to sales tax (i.e. travel expenses, lodging, food).

Exemption: Services purchased for a specific client in which the client was legally liable to pay (i.e. court filing fees or a real estate broker obtaining an abstract on a property).

For example, if an engineer charges travel expenses to a client, that charge is part of their gross receipts and is subject to sales tax, even though sales tax was paid at the time the engineer paid for the motel room. (SDCL 10-45-29.1 does specifically exempt attorneys and accountants from having to charge sales tax on certain expenses that are itemized and separately billed to a specific client.)

Real Estate Commissions – Sale of HUD Homes - The real estate commissions received from the sale of a HUD home that are paid by HUD are exempt from sales tax because HUD is a government entity. Therefore, if a listing broker shares a commission received from HUD with a buyer's agent, that share of the commission is also tax exempt. Any fees or commissions received that are not from HUD or another tax exempt entity are subject to sales tax.

In Other Revenue News

Special Taxes Division begins Retail Tobacco Sweeps *By Michael Kenyon*

The Department of Revenue & Regulation has begun retail checks of businesses selling tobacco products. These checks ensure that cigarettes sold in South Dakota have a State of South Dakota excise stamp on each package of cigarettes. In addition, the checks ensure that only cigarettes and roll-your-own tobacco legally allowed to be sold in South Dakota are on the premises. A listing of all cigarette and roll-your-own tobacco brands that may be legally sold in South Dakota are on the Department's website at www.state.sd.us/drr/tobacco. Cigarettes without a South Dakota tax stamp or cigarettes and roll-your-own tobacco that are not on the Department's certified list are contraband, and will be seized by the Department.

South Dakota law allows tobacco retailers to purchase tobacco products, except cigarettes, directly from tobacco manufacturers. Retailers, however, may only purchase roll-your-own tobacco from manufacturers whose brands are listed on the Department's website. Retailers that choose to purchase directly from manufacturers must file monthly reports with the Department.

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Retailers purchasing directly from a manufacturer must complete the "Retailer Tobacco Shipment Form," reporting to the Department how much "roll-your-own" tobacco the retailer purchased from each manufacturer. This report is only required for roll-your-own tobacco, it does not include cigars, chewing tobacco, or any other tobacco product.

Also, retailers purchasing directly from a manufacturer must complete and file the "Tobacco Products Monthly Tax Return." This is a 10% excise tax on the wholesale price, without any deductions or discounts, of tobacco products. Failure to file and pay the 10% excise tax is a Class 2 misdemeanor. The monthly tax return is for any type of tobacco product purchased directly from a manufacturer or from a distributor or wholesaler not licensed by South Dakota. Retailers purchasing tobacco products from a wholesaler or distributor with a South Dakota license do not have to worry about this tax.

The necessary forms and a list of licensed wholesalers/distributors can be found at www.state.sd.us/drr2/prospectax/compliantnpm.htm

Use Tax: Repair Services and Architects

Use tax is overwhelmingly the number one tax overlooked and misunderstood by South Dakota taxpayers. Use tax helps create a level playing field for South Dakota businesses in that it ensures goods and services purchased from out of state businesses are taxed at the same rate as goods and services purchased in South Dakota. Currently, the state use tax rate is the same as the state sales tax rate, 4%.

Understanding the state use tax is fairly simple and straightforward. Where the department finds problems when talking to taxpayers is municipal use tax. This is because a business may use, store or consume purchased products or repairs in multiple cities. Example 2 under Repairs will better explain how this situation applies.

Repairs

Repair services are subject to sales tax where the repaired item is delivered to the customer. Use tax applies where the repair is used, stored, or consumed. The 4% state use tax applies when the repair is brought into SD. Additional municipal use tax is due if the repair is used, stored, or consumed in a municipality that imposes a municipal tax. Each time the repaired part is taken into a different taxing jurisdiction use tax will apply, unless a greater or equal amount of sales or use tax was legally paid. Use tax is due on the full repair cost – parts, labor, and delivery charges.

Examples

1. A motor is sent to Minnesota, repaired and shipped back to the business in Aberdeen, SD. South Dakota state sales tax plus Aberdeen municipal sales tax applies in SD because the repaired item was delivered to SD. If the Minnesota repair business does not collect the sales tax, the SD business owes state use tax (4%) plus Aberdeen use tax (2%) on the charge for the repair plus, delivery.
2. A backhoe is repaired in Wyoming and picked up by the contractor in Wyoming. Wyoming sales tax applies because the repaired item is received in Wyoming. Wyoming charges sales tax on the parts, but not the labor. When the backhoe is brought into SD and used in Spearfish, the 4% state use tax plus 2% Spearfish municipal use tax applies to the full charge - parts and labor, less credit for the sales tax paid in Wyoming. If the backhoe is later used in Rapid City, which imposes a 1.84% use tax, no additional use tax is due because a greater amount of use tax was already remitted.

Architects

Architect services are subject to sales tax where the plans or reports are delivered to the customer. If the delivery of the service is unknown at the time of billing or if the service is delivered to multiple locations, sales tax will apply based on the customer's address. Use tax, however, is due where the service is used by the owner. If used to construct or renovate a building, use tax applies based on the location of the project.

Contractors' In The Know

Manufactured Homes

Whether or not a manufactured home built to HUD standards will be placed on a permanent foundation determines what tax will apply to the sale of the manufactured home.

The sale of a manufactured HUD home that will be placed on a permanent foundation is subject to the sales, use and contractors' excise taxes. Such homes are not subject to the 3% initial registration fee. The 3% initial registration fee only applies to manufactured HUD homes that will not be placed on a permanent foundation.

For more information view the tax facts on manufactured and modular homes which is available on our website at www.state.us.sd/drr or by calling 1-800-TAX-9188.

Modular Homes and Houses on Blocks

Homes which are built to standards other than HUD are subject to sales or use tax and contractors' excise tax. These include modular or sectional buildings, or buildings on blocks. When a dealer sells a sectional home and includes installation on a foundation the dealer is responsible for the use tax on the cost of material used to construct the home and the 2% contractors' excise tax on their total receipts. Installation is included if the dealer is responsible for connecting the home to the foundation.

When a dealer sells a sectional home, but does not include the installation, the dealer is making a retail sale and owes sales tax on the cost of material used to construct the home. The dealer does not owe contractors' excise tax unless they have the contract to install the home on a foundation.

Contractors hired by the homeowner to install a home on a foundation are responsible for the contractors' excise tax on their receipts and must include the value of the home as owner furnished material subject to the contractors' excise tax.

House Movers

Anyone who is not a licensed dealer needs a permit from the treasurer of the county where the manufactured HUD home is currently located before they can move the home somewhere else.

To get the permit you must obtain an affidavit proving that all current taxes have been paid and pay a \$15 permit fee. The permit must be purchased in the county where the home is located. Moving permits are valid for a single trip from the point of origin (where the home is now) to a point of destination in South Dakota (where you are moving the home to).

Any mobile/manufactured home moved by a transporter has to have:

- A notice of Dealer/Transporter Transport form (form MV-1031) showing the point of origin and the point of destination. Copies of this form are provided to the directors of equalization in both the county of origin and the county of destination.
- On any used home, an affidavit issued by the county treasurer of the county where the home is located showing the current year's taxes have been paid.

A house mover that moves a home from or to a permanent foundation is subject to the 2% contractors' excise tax. If the house mover also installs or attaches the home to a permanent foundation and the home was previously on a temporary foundation or the dealer's lot, the house mover must include the value of the home in his receipts subject to contractors' excise tax.

A transportation company's receipts for moving a mobile or manufactured HUD home that is not on or being placed on a permanent foundation are not subject to sales tax or contractors' excise tax. Contractors hired by the transportation company or the homeowner to provide the tie-down, blocking, and skirting are subject to contractors' excise tax. The transportation company cannot issue prime contractors' exemption certificates for this work.

For more information view the tax facts on manufactured and modular homes which is available on our website at www.state.us.sd/drr or by calling 1-800-TAX-9188.

What is a Bid Factor?

Contractors' excise tax is calculated on total gross receipts. Gross receipts are defined as the total amount received including, but not limited to, sales tax, use tax, contractors' excise tax, cost of materials, your labor and profit, owner-furnished material and any other expenses. You may, if you choose, use the bid factor of 2.041% to recover the entire amount of excise tax that you will owe on your gross receipts from your customer. Use this factor when computing the contractors' excise tax to put on your bid or bill.

Call Before You Dig!

We have all heard the above phrase reminding us that making a call to be sure where power lines, gas lines, and telephone lines are can prevent a major problem and liability to you. The same is true concerning your taxes. If you are presented with a situation and you are not sure how sales, use, or contractors' excise tax applies, give us a call at 1-800-TAX-9188 and our agents will be more than happy to assist you with your questions.



445 East Capitol Avenue
Pierre, SD 57501-3185
www.state.sd.us/drr
bustax@state.sd.us or call 1-800-TAX-9188

Address Service Requested

Insights...from the Secretary's Desk



In the previous edition of this newsletter, I commented on the primary goals our department recently adopted and how those goals fit within Governor Rounds' 2010 Initiative. One of our goals is aimed at improving performance related to collection of delinquent taxes owed the State of South Dakota.

On September 20, our department will begin taking a centralized approach to collecting sales, use and contractors' excise taxes. Rather than having all of our revenue agents and auditors involved in collections work, a centralized collections staff is being assembled which will concentrate solely on the collection function, freeing up most of our agents and auditors to concentrate on finding new taxpayers, working more closely with current taxpayers on the filing of accurate returns, performing more audits, and providing better taxpayer education. In addition to creating a specialized collections staff within the department, we will also begin referring certain delinquent accounts to a private collection agency beginning sometime in October. As taxpayers, I wanted to alert you to this operational change, as it will be noticeable to those currently delinquent. More importantly, I want to express to you that we want to do everything we can to assist you in cleaning up delinquent accounts and preventing delinquency in the future.

With fall and hunting season upon us once again, those people and businesses receiving payment for hunting services are reminded that sales tax applies to most payments received. If you need information on how sales tax applies to hunting guides and commercial hunting operations, please download **Hunting and Fishing Services Tax Fact** at www.state.sd.us/drr or request a copy by calling 1-800-TAX-9188.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Viken". The signature is fluid and cursive.

Gary R. Viken