

taxation

South Dakota Department of Revenue & Regulation

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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: Brooke McNaughton
brooke.mcnaughton@state.sd.us

Contributors: Jody Bartels, Ronda
Detlefsen, Randy Hartmann, Betty
Morford, Jan Talley

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

Prime Contractors: Are You Working on a Qualified Utility Project?

Is the owner of the construction project a Qualified Utility such as:

- Electric, Heating, Power, Water, and Gas Companies
- Railroads
- Telephone Companies
- Rural Electric, Telephone or Water Supply Companies
- Rural Water Systems.

Or does your contract include construction work for a:

- Municipal Sewer System
- Municipal Telephone System
- Municipal Utility including electric, light, heat and power
- Municipal Water System

If you answer yes to either question, then you, and any sub contractors, are working on a Qualified Utility Project and are subject to the alternate contractors' excise tax under SDCL 10-46B. Examples of construction projects are buildings, pipelines, power lines, railroads, towers, or drilling wells.

Municipalities may combine municipal utility, sewer, telephone, or water system construction contracts with other construction work such as paving streets. All contracts that include construction to a municipal utility, sewer, telephone, or water system are subject to the alternate contractors' excise tax. Construction contracts for a municipality that do not include work for a municipal utility, sewer, telephone, or water system are subject to the contractors' excise tax under SDCL 10-46A.

The contractors' excise tax that applies to the original contract will apply to all change orders to that contract. If the original contract is subject to the alternate contractors' excise tax under SDCL 10-46B, change orders to that contract are also subject to tax under SDCL 10-46B.

Subcontractors' tax liability is determined by the prime contractor's contract. If the prime is subject to tax under 10-46B, the sub contractors are also.

Tax Application

SDCL 10-46A: The prime contractor is responsible for 2% contractors' excise tax on the gross receipts for the project. Gross receipts include the value of material furnished by the owner for this project. The prime contractor must issue prime contractor exemption certificates to subcontractors.

SDCL 10-46B: The prime contractor and ALL subcontractors are responsible for the 2% contractors' excise tax on their gross receipts for this project. Gross receipts do **not** include the value of material furnished by the owner; however, use tax is due on this material if sales or use tax was not previously paid. Prime contractor exemption certificates can **not** be issued to subcontractors.

(CONTINUED ON PAGE 2)

Insights...from the Secretary's Desk



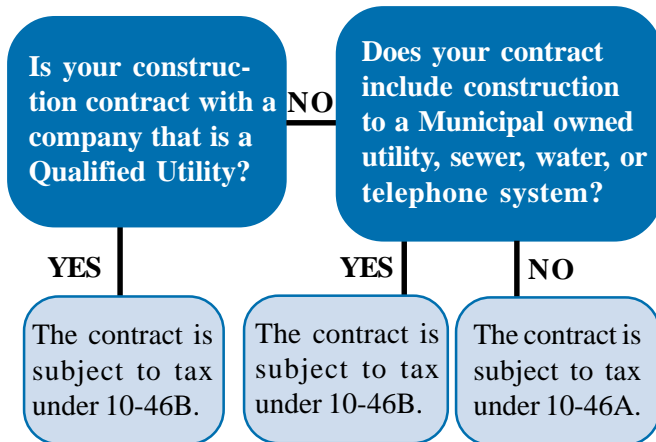
Fall is always a busy time of the year around the state capitol, and this year is certainly no exception. Final touches are being placed on the Vietnam War Memorial Dedication ceremonies to be held in Pierre on September 15 and 16. While the event will have come and gone by the time you read this newsletter, the importance and enormity of this event warrant mentioning, and I hope that you were able to attend part or all of the ceremony. Most veterans of the Vietnam War era are still young by today's standards. As I'm sure you'll agree, the importance of giving these veterans the recognition they deserve for all they did for our nation cannot be understated.

On the issue of taxation of remote sales, the Streamlined Sales Tax Governing Board met in Bismarck on August 29-30. Two additional states, Vermont and Rhode Island, were approved as member states, bringing the number of member states, which includes South Dakota, to twenty-one. This is important because nearly 50% of all states which impose a sales tax have now simplified their sales tax systems in accordance with the national streamlining standards. We continue to be optimistic that Congress will support the efforts of the states to simplify their taxes and will pass legislation soon that will level the playing field between traditional retailers and remote sellers.

With summer now behind us, the fall hunting season is here once again. Please be reminded that sales tax applies to most payments received by those people and businesses providing hunting services. If you have questions as to how sales tax applies to hunting guides and commercial hunting operations, please download the **Hunting & Fishing Tax Facts** at www.state.sd.us/drr or request a copy by calling 1-800-TAX-9188. As always, our offices across the state are ready to assist you with any tax questions you may have.

Gary R. Viken

Are You Working on a Qualified Utility Project? (CONTINUED FROM COVER)



Examples of contracts with a municipality:

1. A municipality has approved the replacement of a water main and pavement of a street. Municipal water system and sewer systems are qualified utilities; the street is not a qualified utility. Tax application is determined by what work is included in the contract.

A. One contract is written that includes the replacement of

the water main and pavement of the street. Because this contract includes work for the municipal water system, which is a qualified utility, the entire contract is taxed under 10-46B as a qualified utility project.

B. Separate contracts are written for the water main and for the pavement of the street.

- The contract to pave a street, and any change orders to this contract, are subject to tax under 10-46A.
- The contract to replace a water main, and any change orders to this contract, are subject to tax under 10-46B.

2. A municipality awards two contracts, one to build a new law enforcement center and a second to build a storage building for the municipal electric system.

- The contract for the law enforcement center is not a qualified utility and is subject to tax under 10-46A.
- The contract for the storage building for the municipal electrical system, which is a qualified utility project, is subject to tax under 10-46B.

REVENUE SOLUTIONS

Business Education Program

Come join our Business Education Program at one of the workshops or seminars in your area. For the most current list of seminars or to register, visit our website at www.state.sd.us/drr.

Border Issues Seminars

Border Issues Seminars cover the difference in the tax application and reporting process between South Dakota and bordering states. For more information or to view our latest seminars, visit us online at www.state.sd.us/drr2/seminar/classreg.htm.

MN/SD Border Issues

October 3, 2006

MN Dept. of Revenue Building
600 N. Roberts Street
St. Paul, MN

Sales Tax:

9:00am – 12:00pm

Contractors' Tax:

1:00pm – 3:00pm

WY/SD Border Issues

October 11, 2006

Rapid City School &
City Administration Center
First Floor Community Room
300 Sixth Street
Rapid City, SD

Sales Tax:

9:00am – 12:00pm

Contractors' Tax:

1:00pm – 4:00pm

WY/SD Border Issues

October 12, 2006

Campbell County
Sheriff's Department
Meeting Room
600 West Boxelder Road
Gillette, WY

Sales Tax:

9:00am – 12:00pm

Contractors' Tax:

1:00pm – 4:00pm

ND/SD Border Issues

October 17, 2006

West Acres Mall
JCPenney Wing
Lower Level
Fargo, ND

Sales Tax:

8:30am – 12:00pm

Contractors' Tax:

1:00pm – 3:00pm

Tri-State (IA/NE/SD)

November 15, 2006

Room L416

November 16, 2006

Room 155

4647 Stone Avenue
Western Iowa Technology
Sioux City, IA

Sales Tax:

9:00am – 4:00pm

Contractors' Tax:

9:00am – 4:00pm

Small Business Workshops

Information regarding the Dept. of Revenue & Regulation, Dept. of Labor, and the Small Business Administration will be covered. For more information, check us out online at www.state.sd.us/drr2/seminar/classreg.htm.

October 4, 2006

Northern State University
Student Center
Centennial Room B & D
1200 S. Jay St.

8:15am – 5:00pm

October 18, 2006

Western Dakota Technical Institute
CTC-A Room
800 Mickelson Drive
Rapid City, SD

8:15am – 5:00pm

Ask Doctor Revenue

By Dr. Revenue

I am an architect. I purchase blueprints and furnish them to the owner of a project. I bill the owner my service fees plus the cost of the blueprints. Can I purchase the blueprints for resale?

No, you should pay sales or use tax on the blueprints at the time of purchase. Blueprints, including blueprint photocopies, are tangible personal property. Architects, engineers, and surveyors must pay sales tax on their purchases of tangible personal property. Your bill to the owner of the project should assess sales tax on your service fees and blueprint charges.

Tax Filing Deadlines

October

- Oct. 20 - Paper returns and payments due for monthly filers.
- Oct. 23 - SD QUEST returns due.
- Oct. 30 - SD QUEST electronic payments due.

November

- Nov. 20 - Paper returns and payments due for monthly filers.
- Nov. 23 - SD QUEST returns due.
- Nov. 29 - SD QUEST electronic payments due.
- Nov. 30 - Paper returns and payments due for bi-monthly filers.

December

- Dec 20 - Paper returns and payments due for monthly filers.
- Dec 23 - SD QUEST returns due.
- Dec 28 - SD QUEST electronic payments due.

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. View the latest seminars at www.state.sd.us/drr2/seminar/taxseminars.htm.

October 26, 2006

Spearfish Holiday Inn
Spearfish, SD

Sales Tax:

9:00am – 12:00pm

Contractors' Excise Tax:

1:00pm – 4:00pm

November 1, 2006

Southeast Technical Institute
Mickelson Center, Room 101
2320 N. Career Ave.
Sioux Falls, SD

Sales Tax:

9:00am – 12:00pm

Contractors' Excise Tax:

1:00pm – 4:00pm

NEWS YOU CAN USE

Attention Hunting & Fishing Guides

Hunting and fishing guide services, including lodging and meals, are subject to state sales tax, applicable municipal sales tax, municipal gross receipts tax, and tourism tax.

If you sell alcohol or alcohol is included in a hunting package you must have an on-sale liquor license or an on and off-sale malt beverage license. To obtain this license contact your local county auditor.

Examples of goods or services which may be purchased for resale by fishing or hunting service providers are:

- Exclusive hunting rights to land
- Items to be sold in retail outlets
- Live game birds sold to commercial hunting operations
- Meals in restaurants
- Motel rooms

Items which may not be purchased for resale by service providers are:

- Ammunition
- Bait
- Beverages
- Boats
- Decoys
- Equipment
- Gasoline
- Repair Parts
- Snacks
- Tackle

Hunting or fishing licenses

A seller of a hunting or fishing package may purchase the state required hunting or fishing licenses for their

customer. If the license fee is listed as a separate charge to the customer, the license fee is not subject to sales tax. If the fee is included in the package price and is not separately listed, the entire package price is subject to sales tax.

Hunting Lodge

Because a hunting lodge is selling services and not tangible personal property, they cannot purchase tangible personal property for resale. Lodges are the consumers of supplies and equipment used by them in rendering their services. If the sales tax on such items is not paid to a South Dakota licensed supplier when purchased, then the cost of such items must be reported as a use tax item on the sales tax return. ARSD 64:06:02:75 states that sales of supplies and equipment to a lodging establishment are taxable. Examples of such items include refreshments provided as a convenience to guests.

If the lodge has a restaurant or snack bar where they sell food, they may purchase from their supplier for resale. The lodge will owe use tax on food provided to the customer at no charge and on food that is included in a hunting package. If the lodge sells food for a separate charge from the hunting guide package, they may purchase that food for resale.

For more information see the Hunting & Fishing Services Tax Fact on our website at www.state.sd.us/drr2.

Installing flooring?

The tax that applies to the installation of flooring depends on the type of flooring that is installed.

Contractors' excise tax applies to installation of the following floor material:

- Ceramic Tile
- Concrete
- DuraCeramic
- DuraStone
- DuraTile
- Epoxy
- Fresco
- Marble Installation
- Mosaic work
- Subflooring
- Terrazzo

Sales tax applies to the installation of the following floor material:

- Asphalt Tile
- Carpet
- Hardwood
- Linoleum
- Parquet
- Resilient Flooring
- Vinyl

Prime contractors' exemption certificates may be issued to contractors installing material subject to contractors' excise tax. This certificate may **not** be issued to contractors when the installation of the flooring is subject to sales tax.

QUEST - Quick Easy Secure Tax Filing

File your tax return over the phone or online. Sign up with QUEST at www.state.sd.us/drr.

Reminder for Quest Users:

The save and exit button only saves the form. To submit your form you must reopen the form and click on the submit button.

Tax Liabilities

Tax liabilities for businesses and contractors in different industries may vary based on the project, the type of sale, or the customer.

Tree Removal for Utility Lines

Removing or trimming tree limbs so they do not interfere with utilities lines is subject to sales tax. However, the removal of shelterbelts or removal of trees to clear land for a utility line is subject to contractors' excise tax.

Repair of Products Under Warranty

Charges to a manufacturer for parts or services covered by the manufacturer's warranty are not subject to sales tax. Any amounts that are billed to the customer for parts, labor, or other charges that were not covered by the warranty are subject to sales tax.

Receipts from the sale of an extended warranty are also subject to sales tax.

Collection Agencies

The fees a collection agency receives for its services are subject to sales tax. Sales tax applies based on the address of the agency's client. If the client is located in Rapid City, SD, the 4% state sales tax, plus 2% Rapid City sales tax applies to the agency's receipts. If the client is located in St. Paul, MN, the agency will not owe South Dakota sales tax on the receipts from that client.

Contractors

The gross receipts reported on line 1 of your contractors' excise tax return includes amounts you collected for sales, use or contractors' excise tax.

Multilevel Companies

Items given away are subject to use tax. This may include flyers, samples, or order forms that are given to distributors. If these items are sold to the distributor, sales tax is due on the selling price.

If you provide any of the above services and have taxation questions, please contact the department at 1-800-TAX-9188 or visit our website at www.state.sd.us/drr.

Tax on Paging Services

Paging services are subject to the telecommunications gross receipts tax that applies to wireless personal communications services. A 4% tax is due on the gross receipts on the retail sale of intrastate and interstate telecommunications services if the customer's place of primary use is located in South Dakota regardless of where the service actually originates or terminates. Paging services are also subject to the 4% state sales tax and applicable municipal tax.

Please contact the Department at 1-800-829-9188 for information on reporting the telecommunication gross receipts tax.

Video Lottery: Special Considerations for Retailers

Retailers who offer video lottery should be aware of rules that can affect not only your tax obligations to the State, but also your video lottery licensing.

Do you offer free food or drink to video lottery players?

- Any promotional item offered to video lottery players must be offered to all customers to be in compliance with Lottery laws and regulations.
- Promotional items are subject to sales or use tax. If you give away items that you had purchased without tax, you are responsible for remitting the 4% state use tax, plus applicable municipal tax. The 1% municipal gross receipts tax imposed by some cities does not apply to food or beverages given away.

Video Lottery Proceeds

The proceeds from video lottery are not subject to sales tax. Include the lottery receipts in Line 1 of your sales tax return and then deduct them under Line 3, Nontaxable transactions. You must keep adequate documentation to support this deduction.

If you have further questions, call us at 1-800-829-9188, or see our website for both sales tax and video lottery information at www.state.sd.us/drr.

RETURN FORMS

Confused by the tax return forms?

The Department of Revenue and Regulation revised both the sales tax and contractor's excise tax return forms as of January 1, 2006. The new forms are more streamlined and are intended to make your tax preparation simple.

The most noticeable change in the new return forms is the format. The form changed from a two-column to a single-column format. Other changes apply specifically to the Sales or Excise Tax return form.

Sales Tax Return Changes (See page 7)

- **Gross Sales Section:** Taxable sales are now determined by adding line 1 (Gross Sales) and line 2 (Use Taxable), then deducting line 3 (Non-taxable Transactions) and line 4 (Reservations Sales). The total taxable sales are then placed on line 5 (Net State Taxable). Previously lines 1 and 2 were subtotaled, then deductions were subtracted.
- **Deductions:** All deductions are now reported on a single line - line 3 Non-taxable Transactions. Previously deductions were itemized according to the type of deduction. Documentation, such as exemption certificates, must be kept to support any deduction taken.
- **Reservation Sales, Line 4:** This line should only include the taxable sales made on the Cheyenne River, Pine Ridge, Rosebud, or Standing Rock Indian Reservations. Taxable sales made on these reservations are then itemized under the City & Reservation Tax Calculation Detail using the appropriate reservation name and code. City tax is not included on Line 4. It is itemized by city under the City & Reservation Tax Calculation Detail Section.

Contractors' Excise Tax Return Changes

- **Gross Receipts Section:** The taxable gross receipts are now determined by adding line 1 (Gross Receipts) and line 2 (Owner-Furnished Materials), then deducting line 3 (Deductions - Subcontractor Receipts, Out-of-State) and line 4 (Reservation Receipts). The receipts subject to contractors' excise tax are placed on line 5. Previously lines 1 and 2 were subtotaled prior to taking deductions.
- **Out-of-state receipts:** Receipts from all jobs, both in and out-of-state, are now reported on line 1 (Gross Receipts). Receipts from out-of-state jobs are then deducted on line 3 (Deductions - Subcontractor Receipts, Out-of-state). Previously out-of-state receipts were deducted from line 1, gross receipts. Documentation must be kept to support deductions such as prime contractors exemption certificates and proof of jobs performed out-of-state.

A new line is included on each return for Adjustments (Previous Credit/Balance Due), line 25. If you receive a balance due or credit notice from the Department, you enter the amount due or credit amount on this line and adjust your amount due accordingly.

Your feedback regarding the new return forms is valuable to our Department. Call us at 1-800-829-9188, or email us at bustax@state.sd.us.

Bad Debt Deductions

A bad debt is any portion of the purchase price of a transaction that a seller has reported as taxable and has written off as uncollectible for federal income tax purposes.

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 and is eligible to be deducted for federal income tax purposes.

Bad debts include worthless checks, worthless credit card payments, and uncollectible credit accounts.

Bad debts do not include financing charges or interest, sales or use taxes charged on the purchase price, uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid, expenses incurred in attempting to collect any debt, debts sold or assigned to unrelated third parties for collection, or repossessed property.

If a seller subsequently collects the debt in whole or in part, the tax on the amount collected must be paid and reported on the next return due after the collection.

If a seller's amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, the seller may obtain a credit or refund of tax on any amount of bad debt. However, a credit or refund under this paragraph will not include interest.

For further information on bad debts review the Gross Receipts Tax Facts available at www.state.sd.us/drr or call 1-800-829-9188.



SALES AND USE TAX RETURN

Reporting Period _____

Return _____

Return Due _____

File Code _____

CHECK FOR CHANGE OF ADDRESS BELOW

Check if out of business
Last day of business: _____

All sales taxable, non-taxable, reservation, products & services

Cost of good or services on which no sales tax was paid.

Some non-taxable sales include: resale, video lottery, out-of-state sales, fishing & hunting licenses, government, bad debts, motor fuel, WIC, food stamps

License # _____

SALES TAX CALCULATIONS		GROSS	TAXABLE	RATE	TAX DUE
1.	Gross Sales				
2.	Use Taxable				
3.	Non-Taxable Sales				
4.	Reservation 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 & Reservation Tax Calculation Detail:					
7.	City/Reservation Name	Code	Taxable	Rate	Tax Due
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
20.					
21.					
22.	Total City/Reservation 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				

Sales and Deliveries in Cheyenne River, Pine Ridge, Rosebud, Standing Rock, should also be included in line 1.

Each city rate, amount, and tax due should be listed including net taxable receipts for reservations.

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 _____

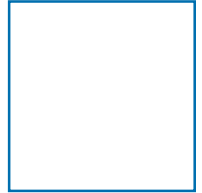
Date _____

Licensee _____



Revenue &
egulation

445 EAST CAPITOL AVENUE
PIERRE, SD 57501-3185



taxation

www.state.sd.us/drr

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

Return Service Requested