



## Construction Materials Bid Exception Fact Sheet

Effective June 1, 2016 the state sales and use tax rate in South Dakota increases from **4 to 4.5%**. The new rate applies to sales of tangible personal property, products transferred electronically, and services. An exception to the state sales tax increase involves purchases of materials that are incorporated into construction contracts.

What is the exception?	<p>Materials incorporated into construction projects that were <b>bid or entered into before June 1, 2016</b>, are subject to the 4% state plus applicable city sales or use tax. The prime contractor's bid date determines the sales or use tax rate applicable to materials supplied by subcontractors.</p> <p>Contract change orders follow the tax rates in effect when the prime contractor's contract was bid.</p>
Who does this impact?	Prime contractors, subcontractors, material retailers and suppliers
How are the purchases to be documented?	<p>The contractor must give written documentation to the material retailer or supplier at the time the materials are purchased for the project. The documentation is needed to verify the contract was bid or entered into <u>before June 1, 2016</u>. The material retailer or supplier must keep a copy of the documentation in its records.</p> <p>The Department has created a form for contractors to use as verification of the bid or contract date. It is available either by clicking <a href="#">here</a> or visiting the Contractors' Excise Tax section of our website under Forms.</p>
Applicable laws	SDCL 10-45-2.2, SDCL 10-46-5.2
Contract/Bid Date	Summary Details
Prior to June 1, 2016	<ul style="list-style-type: none"> <li>Material retailer or supplier charges <b>4%</b> state plus applicable city sales tax on purchases by all contractors.</li> <li>The 4% state sales tax rate applies to the purchase of construction materials through the original contract and change orders.</li> <li>Each prime and subcontractor must provide written documentation to the material retailer or supplier supporting the prime contractor's bid date.</li> <li>The material retailer or supplier retains the supporting documentation their records.</li> <li>All contractors owe <b>4%</b> state plus applicable city use tax on materials purchased without sales tax.</li> </ul>
June 1, 2016 or Later	<ul style="list-style-type: none"> <li>The material retailer or supplier charges <b>4.5%</b> state plus applicable city sales tax to all contractors.</li> <li>All contractors owe <b>4.5%</b> state plus applicable city use tax on materials purchased without sales tax.</li> </ul>
How can we help?	If you have additional questions, call the South Dakota Department of Revenue toll-free at 1-800-829-9188 or email us at <a href="mailto:bustax@state.sd.us">bustax@state.sd.us</a>