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Motor Vehicle Lease and Rentals

The purpose of this Tax Fact is to explain how South Dakota state and local sales taxes apply to motor vehicle lease and rentals. It is not intended to answer all questions that may arise. The information in this fact sheet is current as of the date of publication. This guide may change with updated information or added examples.

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With few exceptions, the sale of products and services in South Dakota is subject to sales or use tax.

If you rent or lease a motor vehicle for 28 days or less to customers in South Dakota, the rental fee is subject to state and municipal sales tax and may be subject to tourism tax and motor vehicles gross receipts tax. Table 1 shows the tax that applies to the lease or rental receipts of the vehicle listed.

When you buy a vehicle to rent to others, you may owe motor vehicle excise tax on the vehicle purchase. The sale or purchase of a motor vehicle subject to the motor vehicle excise tax is not subject to sales or use tax. For title, license and registration information on a specific vehicle, please contact your County Treasurer.

Motorcycles, cars, pickups, and vans that will be rented for 28 days or less and trailers with a trailer ID plate under § 32-5-8.1 that have an unladen weight of 9,000 pounds or more that are rented for 6 months or less are not subject to the 4% motor vehicle excise tax if the motor vehicle rental is subject to the Motor Vehicle Gross Receipts tax imposed by § 32-5B-20.

You may purchase motor vehicles to lease or rent without sales tax.

The last column in Table 1 indicates if motor vehicle excise tax or sales tax applies to the purchase or sale of the leased or rented vehicle.

Dealers are required to collect the state sales tax and any applicable municipal sales tax, motor vehicle gross receipts tax, and tourism tax on any vehicle, product, or service they sell that is subject to sales tax in South Dakota.

South Dakota Taxes and Rates	
Motor Vehicle Excise Tax – Applies to the purchase of most motor vehicles (See Table 1) *(Rate increased from 3% to 4% effective April 1, 2015)*	**4%**
State Sales and Use Tax – applies to all sales or purchases of taxable products and services.	**4%**
The following taxes may apply *in addition* to the state sales tax:	
Municipal Sales and Use Tax – applies to all sales of products and services that are subject to the state sales or use tax if the purchaser receives or uses the product or service in a municipality that imposes a sales or use tax.	**1 to 2%**
Tourism Tax –applies to the rental of certain motor vehicles. (See Table 3) Tourism tax does not apply when you are remitting use tax.	**1.5%**
Motor Vehicle Gross Receipts Tax – applies to the rental of motorcycles, cars, trucks, and vans for less than 28 days, and the rental of certain trailers for 6 months or less. (See Table 3)	**4.5%**

Table 1: Motor Vehicle Lease and Rentals Applicable Taxes					
Vehicle (See Table 1 for vehicle description)	**Taxes that apply to the Lease or Rental Payments**				**Does Motor Vehicle Excise Tax or Sales Tax apply to the vehicle purchase or lease?**
	Sales or Use Tax	**Municipal Sales or Use Tax**	**Tourism Tax**	**Motor Vehicle Gross Receipts Tax**	
1. Automobiles, Pickups, Vans, and Motorcycles					
▪Leased or rented under a single contract for 28 days or less	Yes	Yes	Yes	Yes	No
▪Leased or rented under a single contract for more than 28 days If this same vehicle is later rented for 28 days or less, the receipts from that rental are subject to the state and applicable municipal sales tax, motor vehicle gross receipts tax, and tourism tax.	No	No	No	No	Motor Vehicle Excise Tax
2. Trailers with a trailer ID plate under 32-5-8.1 that have an unladen weight of 9,000 pounds or more					
▪Leased or rented under a single contract for 28 days or less	Yes	Yes	No	Yes	No
▪Rented under a single contract for more than 28 days but less than 6 months	No	No	No	Yes	No
▪Rented for more than 6 months	No	No	No	No	Motor Vehicle Excise Tax
3. Recreational Equipment that are motor vehicles under 32-5-1.					
▪Leased or rented under a single contract for 28 days or less	Yes	Yes	Yes	No	All recreational vehicles listed are subject to motor vehicle excise tax, except for ATVs and Mopeds.
▪Leased or rented under a single contract for more than 28 days	No	No	No	No	*ATVs and Mopeds are subject to sales tax and may be purchased for resale to lease or rent to others.
Includes: ATVs* Snowmobiles Campers Snowmobile trailers Camping trailers Watercraft trailers Mopeds* Watercraft (Boats) Motor coaches					
4. All motor vehicles other than those listed in 1-3 above that are defined by SDCL 32-5-1					
▪Leased or rented under a single contract for 28 days or less	Yes	Yes	No	No	Contact your County Treasurer for applicable Motor Vehicle Tax
▪Leased or rented under a single contract for more than 28 days	No	No	No	No	

Motor Vehicle Rentals

Optional Products or Services

The following items may be included with a vehicle rental. The charges for these items are subject to the same tax as the vehicle rental whether the rental agency lists each charge on the customer's invoice or includes it in the car rental fee.

- Additional driver fee
- Airport concession fees and facility fees
- Car navigational (GPS) system
- Car Satellite radio
- Child seat
- Drivers 24 years or younger
- Drop charges
- Emergency roadside service
- Energy surcharges
- Exceeding mileage
- Frequent flyer surcharge
- Fuel and service charges
- Fuel purchase option
- Loss damage waiver
- Rental tax surcharges
- Ski racks
- Up charges for nonstandard vehicles
- Vehicle licensing fees passed onto customer

Insurance Premiums

A car rental company does not owe sales tax on the insurance premiums customers pay for insurance the rental company sells when the following criteria are met:

a. The insurance is from a licensed insurance company;
b. The entire amount charged to the customer for the premium is subject to insurance premiums tax; and
c. The charge is itemized on the customer's invoice.

If the charge to the customer for the insurance is greater than the amount the insurance company pays insurance premiums tax on, the entire charge is subject to sales tax.

Delivery and Handling Fees

The seller's charge for delivery is subject to the same state and municipal sales tax rate as the product or service sold. If the product or service sold is not taxable, the delivery charge is not taxable.

Delivery charges include any charge for transportation, shipping, postage, handling, crating, and packing.

If you hire a transportation company and bill the customer for the transportation service, your receipts for the transportation charge are subject to the same tax as the product sold.

When a shipment contains taxable and nontaxable products, sales tax is due on the portion of the delivery charge for the taxable products. This is determined by using a percentage of the sales price compared to the total sales *or* a percentage of the weight of the taxable products compared to the total weight of all products in the shipment.

Examples

1. A parts store ships a part to a customer in rural Minnehaha County for $200 plus $20 delivery.

✓ The parts store owes 4% state sales tax on $220. No municipal sales tax is due because the customer takes possession outside the city limits.

2. A parts store sells spark plugs to a repair shop in Watertown for $100 plus $10 delivery. The repair shop provides the parts store with an exemption certificate.

✓ The store does not owe sales tax as this is a sale for resale.

3. Jones Auto sells and delivers the following items to Fred's Farm Store in Pierre: 2 tires for resale for $1000 and 1 tire display rack for use by Fred for $1000. Jones bills Fred $2000 plus $200 delivery. Fred gave Jones an exemption certificate for the two tires.

✓ Jones charges state sales tax plus Pierre municipal sales tax on $1,100 ($1000 for the display rack plus $100 shipping). Taxable shipping was determined by dividing the taxable products by the total sale ($1000 / 2000 = 50%). 50% of the shipping is taxable ($200 x 50% = $100).

Sourcing – Which State or City Tax Applies?

► Products or Services Sold

Sales tax applies where the customer receives the product or service. Receive means where the customer takes possession of the product.

Products purchased, repaired, or serviced that are picked up at the seller's shop are taxed at the shop's location.

Products the seller delivers, with their vehicle or by a delivery company, are taxed at the delivery address.

When a customer hires a shipping company, the seller will owe sales tax based on the delivery address. The shipping company should give the seller documentation showing the delivery address. If the seller does not have a delivery address, the seller will owe sales tax based on the customer's address.

Products or services delivered to locations outside South Dakota are not subject to South Dakota sales tax.

The seller must keep documentation of the address used to determine tax.

► Lease or Rentals

With exception of motor vehicles and transportation equipment, sales tax applies to the first lease payment where the lessee receives or takes possession of the product. If the product is moved to a new location and the lessee tells the lessor the new location, sales tax applies to each additional payment based on the new location. If the lessor does not know the product's new location, sales tax will continue to apply based on where the lessee received the product.

The intermittent use at different locations, such as use of business property that accompanies employees on business trips or service calls, does not alter the property location.

Motor Vehicles Lease or Rentals:
Includes the lease or rental of motor vehicles, trailers, or semitrailers that do not qualify as transportation equipment.

- *One payment* covers the entire lease or rental: The payment is taxed where the customer receives or takes possession of the property.
- The lease or rental includes *more than one payment*: Each payment, including the first payment, is taxed at the primary property location, which is the address for the property the lessee provides the lessor. Occasional use at a different location does not change the primary property location.

Examples

1. Smith buys an ATV in Sioux Falls and hires Speedy Transport to deliver the ATV to Mitchell. Smith gives the dealer the delivery information.

✓ The dealer owes 4% state sales tax and 2% Mitchell municipal sales tax because the dealer delivered the ATV to Mitchell.

2. A repair shop picks up a car in rural Minnehaha County, repairs the car at its shop in Sioux Falls, then delivers the repaired car to the customer in rural Minnehaha County.

✓ The repair service, including any pickup and delivery charges, is subject to the 4% state sales tax. No municipal tax applies because the product was delivered to the customer outside city limits.

3. Rusty Car Rental in Rapid City rents a car to John for 7 days. John uses the car to tour the Black Hills and Badlands in South Dakota.

7 Day Rental		
Full Size Car		$ 375.00
GPS Navigation		50.00
Collision Damage Waiver		25.00
Airport Facility Fee		20.00
Sub Total		**$ 470.00**
Tax	**Rate**	
State sales tax	4%	18.80
Rapid City sales tax	2%	9.40
Tourism Tax	1.5%	7.05
Motor Vehicle Gross Receipts Tax	4.5%	21.15
TOTAL DUE		**$ 526.40**

✓ All charges on the rental are subject to the same tax.
✓ The Collision Damage Waiver is not insurance.
✓ Rapid City tax applies because the car was delivered to John at the Rapid City airport.

Transportation Equipment includes:

- Any locomotive and railcar used for the carriage of persons or property in interstate commerce;
- Any truck/truck-tractor with a Gross Vehicle Weight Rating of 10,001 pounds or greater and any trailer, semitrailer, or passenger bus that is:
  - Registered through the International Registration Plan; and
  - Operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or other federal authority to engage in the carriage of persons or property in interstate commerce;
- Any container designed for use on and component parts attached or secured on any transportation equipment defined in this section.

Sales tax applies to *all lease and rental payments* for transportation equipment where the customer receives or takes possession of the equipment.

Repairs and Maintenance

Services such as auto repair, maintenance, body repair, oil changes, and customizing are subject to state and municipal sales tax. Sales tax applies to the full charge, including parts, labor, and delivery charges.

Repairs and maintenance to rental vehicles are subject to sales or use tax whether the rental agency or the customer pays for the service.

Resale Purchases

A rental business cannot buy repair parts or maintenance items for their rental fleet without tax.

Use Tax

If you buy taxable products or services that are used, stored, or consumed in South Dakota without paying sales tax, you owe use tax. If you buy taxable items in another state and pay another state's sales tax at a lower rate, you owe use tax based on the difference in tax rates when you use or store the product in South Dakota.

You owe use tax on any item taken out of tax unpaid inventory to use for your business or your personal use.

You will owe municipal use tax if you buy a product or service in one city (or a rural location) and use, store, or consume that product or service in another city that imposes a higher city tax. For example, JC Repair, mails a repair part to your address outside Huron. The JC charges 4% state sales tax. You then use the repaired equipment in Huron. You owe the additional 2% Huron city use tax on the amount paid for the repair part at the time you take the repair into Huron.

You do not owe use tax on items bought to resell to customers.

The fact that you may add a charge to a repair bill to cover costs of the supplies used does not relieve you from your liability for the tax on such items used or consumed in the operation of your business.

Examples of taxable products:

- Auto shop equipment
- Breathing masks
- Brushes
- Carburetor and brake cleaner
- Clothing: boots, coats, coveralls, shirts, work uniforms
- Fire extinguishers
- Floor dry
- Floor mats and rugs
- Grinding compounds
- Hand tools
- Hearing protectors
- Paint remover
- Sandpaper
- Safety glasses or goggles (nonprescription)
- Soap
- Tape
- Wash rack supplies
- Welding shop equipment
- Welding gloves or helmets
- Wiping rags

Promotional items: You owe sales or use tax on products such as calendars, key chains, pens, caps, t-shirts and jackets that you give to customers or employees.

Donations: If you donate or give away taxable items, you owe sales or use tax on your cost of the items, unless given to a tax-exempt entity. For example, if you change the oil in a church van at no charge, you owe use tax on your cost of the filter and the oil used.

Use tax is due when you buy the product or service. You owe use tax on items you bought with the intent to resell when you remove them from inventory to use.

It is your responsibility to identify taxable purchases when an exemption certificate is used. You must either tell your vendors to charge you tax on the taxable items or report the use tax on line 2 of your sales tax return at the time you make the purchase.

Failure to account for the use tax due on taxable items you bought from licensed vendors you gave an exemption certificate to may result in a penalty of 50% of the use tax due in accordance with SDCL 10-45-61.

All supplies and services purchased that are not being resold to a customer are subject to sales or use tax.

Towing Services

Receipts from towing services are subject to state and city tax at the location to which the vehicle is towed. Receipts for towing to a location outside South Dakota are not subject to South Dakota sales tax.

Driving Services

Fees charged for driving a motor vehicle from one location to another are subject to sales tax or use tax. Sales tax applies based on the location to which the vehicle is driven. For example, if a person drives a car from Highmore to Pierre, the state and Pierre municipal sales or use tax is due.

Warranties, Insurance, and Service Contracts

- **Manufacturer's Warranty**

Parts and labor furnished to fulfill a warranty obligation of the manufacturer are not subject to sales tax. Your receipts from the manufacturer for warranty work are not taxable. You do not owe use tax on parts taken from inventory to complete work under a manufacturer's warranty.

Receipts from the customer or manufacturer for items not covered by the warranty are subject to sales tax.

If the manufacturer's warranty states:	Sales or Use Tax Due
1. No cost to customer for parts	No sales or use tax due on the parts
2. Customer is responsible for a percentage of parts and labor	Sales tax due on the amount charged the customer
3. Customer pays a deductible for parts or labor	Sales tax due on the amount charged the customer
4. Customer is responsible for the repair labor	Sales tax due on the amount charged the customer
5. The manufacturer furnishes you the repair part at no charge	No sales or use tax due on the repair part
6. The manufacturer pays you for the repair part	No sales or use tax due on the repair part
7. The manufacturer pays you for the repair labor	No sales or use tax due on the repair labor

Loaner/rental vehicle: A warranty may provide for a loaner or rental vehicle while a car is repaired.

- When the manufacturer pays for the loaner/rental vehicle as provided under a warranty, the receipts are subject to the motor vehicles gross receipts tax, but are not subject to sales tax or tourism tax.
- If the customer pays for the rental vehicle, the receipts are subject to state and municipal sales tax, motor vehicles gross receipts tax, and tourism tax.

Warranties, Insurance, and Service Contracts (continued)

- **Extended Service Contracts (Extended Warranty)**

Extended service contracts that cover unexpected repair costs are subject to the motor vehicle excise tax when sold at the time of the vehicle purchase.

Extended service contracts sold later are subject to sales tax. Sales tax applies where the extended warranty is delivered to the buyer.

- **Mechanical Breakdown Insurance**

Insurance policies are not considered warranty or service contracts. Insurance premiums are not subject to sales tax; however, the premiums are subject to insurance premiums tax. All charges made to the insurance company for parts and labor are subject to sales tax.

If you do not know if a service contract is insurance or not, you may contact the South Dakota Department of Labor, Insurance Division and ask if the company that sells the contract is a licensed insurance company, or call the Department of Revenue at 1-800-829-9188.

- **Implied Warranty**

If you do not charge for repairs made to a customer's motor vehicle after the sale and those repairs are not covered by a written warranty, you owe use tax on the cost of all parts installed in the customer's vehicle. You do not owe use tax on your employee's labor.

Contact Us

If you have any tax questions, please contact the **South Dakota Department of Revenue.**

Call toll-free: 1.800.829.9188

Website: http://dor.sd.gov/

Business Tax Division Email: bustax@state.sd.us

Motor Vehicle Division Email: motorv@state.sd.us

Mailing address and office location: South Dakota Department of Revenue
445 East Capitol Ave
Pierre, SD 57501