Sales and Use Tax Guide

Tax Help That Works!
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Email: bustax@state.sd.us

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October 2013

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Talk to Us!
If you have a tax problem or question, call the South Dakota Department of Revenue toll-free at **1-800-829-9188**.

Visit us on the web at **dor.sd.gov** email us at **bustax@state.sd.us** or write us:

Visit one of our Tax Offices:
South Dakota Department of Revenue
Business Tax Division | 445 East Capitol Avenue | Pierre, SD 57501-3100

Aberdeen Area Office
419 Moccasin Drive
Aberdeen, SD 57401-5085

Mitchell Area Office
417 N. Main, Suite 112
Mitchell, SD 57301-2600

Rapid City Area Office
1520 Haines Avenue, Suite 3
Rapid City, SD 57701

Sioux Falls Area Office
300 S. Sycamore, Suite 102
Sioux Falls, SD 57110

Watertown Area Office
715 S Maple
Watertown, SD 57201-5300

Yankton Area Office
1900 Summit Street
Yankton, SD 57078-1951

Online resource provides tools and information to taxpayers

Our website is located at dor.sd.gov, and features:

Tax License Application: Apply online for the following types of tax licenses: Contractors' Excise, Manufacturer, Sales, Use, Wholesaler, and all Motor Fuel tax types.

EPath: Sales, Use, and Contractors' Excise Taxes, 911 Surcharges and certain Motor Fuel taxes.

Tax Match: A tool to look up state and municipal sales or use tax rates for any location within the State of South Dakota.

Business Education: Go to http://dor.sd.gov to register for an in-person seminar.

Industry Specific Guides: To help you better understand the tax obligations for specific industries, we've created many online guides.

Tax Basics

South Dakota does not have a corporate, unitary, or personal income tax. However, businesses may be subject to one or more of the following taxes:

The Department of Revenue administers these taxes. Following are basic descriptions of each tax and information on how to report the tax. This is general information only.

For explanations on specific laws and how they apply to your business, refer to South Dakota laws, administrative rules, and publications on our website at dor.sd.gov or call 1-800-829-9188.

Sales tax	4%
Use Tax	4%
Contractors' Excise Tax	2%
Amusement Machine Receipts	4%
Farm Machinery and Irrigation Equipment	4%
Municipal Sales and Use Tax	1-2%
Municipal Gross Receipts Tax	1%
Tourism Tax	1.5%
Motor Vehicle Gross Receipts Tax	4.5%
Wireless Gross Receipts Tax	4%
Sioux Falls Lodging Tax	1%
911 Emergency Surcharge	$1.25 per user line per month
911 Prepaid Wireless Emergency Surcharge	2%

Sales Tax

The sales tax applies to the gross receipts of all retail sales, including the sale, lease, or rental of tangible personal property or any product transferred electronically, and the sale of services.

The state sales tax rate is 4%.

A business must report and pay sales tax on its gross receipts from the sale of a product or service unless:

A. They receive an exemption certificate from the buyer stating:
   a. the purchase is intended for resale;
   b. the purchase is intended for an exempt use; or
   c. the sale is to an exempt agency, such as South Dakota state or local governments;

B. The product or service is specifically exempt by law; or

C. The service is a construction service taxed in chapter 10-46A or 10-46B. See the Contractors' Excise Tax Guide for information on tax on construction services.

South Dakota law allows the seller to add the tax to the price of the product or service. However, the seller is liable for the sales tax due, whether or not it is collected.

Determine the location of the sale

Sales tax applies where the customer receives the product or service.

1. Products picked up at the seller's location are subject to sales tax at that location.

2. Products delivered are subject to sales tax where delivered. Delivery may be by the seller or by a transportation company hired by the customer.

3. If the product is delivered, but the delivery address is unknown, sales tax applies based on the customer's address.

4. For products transferred electronically, if there is no delivery or customer address on file, sales tax applies based on where the product is first available for transmission by the seller.

Sales delivered to a location outside South Dakota are not subject to South Dakota sales tax, but may be subject to that state's tax.

Sales to non-residents are taxable if possession is taken in South Dakota.

- Personal care services are taxed at the location the service is performed, which is the same location where the purchaser receives the service. This includes any service performed on the physical human body, such as haircuts or massages.

- Services performed on products are taxed at the location the product is delivered to the customer. This includes services such as repair services.

- Lease or rental of products is taxed where the customer receives the product. However, if the product is moved to another location, sales tax on future payments applies at that location.

Use Tax

Use tax is a tax on all products and services that are used, stored, or consumed in South Dakota when South Dakota's sales tax has not been paid.

State sales and use tax rates are the same.

Use tax applies where the product or service is used, stored or consumed.

Use tax is reported and paid on the return for the month in which you are invoiced for or you receive the product or service or you remove the item from tax unpaid inventory for use.

Use tax is calculated based on the purchase price of the product or service, which includes freight and handling charges.

You can use the amount of sales or use tax that is legally due and paid on a product or service in another state against the amount of use tax due on that product or service in South Dakota.

Unless you make a purchase for resale, you will usually pay sales tax. However, situations occur when South Dakota sales tax may not have been paid and use tax is due, including:

- When items are purchased from an out-of-state vendor
- When untaxed retail inventory is removed for your use
- When items are purchased over the Internet
- When items are purchased through catalogs
- When a product purchased from an out-of-state vendor is delivered in South Dakota, but the other state's tax is incorrectly charged
- When a purchase is made in another state then brought into South Dakota and the product was not taxed or was taxed at a lower tax rate than applies in South Dakota, you owe use tax.

Examples of items often assessed use tax include:

- Computers
- Demonstration and sample items
- Donations
- Equipment brought into South Dakota from another state
- Farm Equipment
- Office supplies
- Leases of equipment
- Manufacturing equipment
- Meals furnished for employees
- Promotional Gifts
- Services
- Software & Support
- Snow removal
- Tools

Gross Receipts

Gross receipts means the total amount of money or other consideration the retailer receives for products or services sold, leased, or rented. Consideration may include cash, credit, property or services.

A retailer may not deduct the following from their gross receipts:

1. The retailer's cost of the product or service sold;
2. The retailer's expenses such as the cost of materials, labor, interest, losses, transportation to the retailer, or taxes imposed on the retailer; and
3. Charges by the retailer for services necessary to complete the sale, including delivery charges. Construction services taxed in chapter 10-46A or 10-46B are not subject to sales tax.

Gross receipts include consideration received from third parties if the following four criteria are met:

1. The retailer actually receives consideration from a third party that is directly related to a discount on the sale;
2. The retailer has an obligation to pass the discount through to the purchaser;
3. The amount of consideration on the sale is set by the retailer at the time of the sale to the purchaser; and
4. One of the following criteria is met:
   a. The purchaser provides a coupon, certificate or other document to the retailer to claim the discount and the document is authorized, distributed, or granted by a third party with the understanding the third party will reimburse the retailer for the coupon.
   b. The purchaser provides documentation he is a member of a group entitled a discount; or
   c. The discount is identified as a third party discount on the invoice given the purchaser or on the documentation presented by the purchaser.

Gross Receipts do not include:

1. Discounts that are not reimbursed by a third party. This may include cash discounts, early payment discounts or store coupons;
2. The sale price of property returned by customers if the full sale price is refunded in cash or by credit; and
3. Credit allowed for products taken in trade as a part payment of a taxable retail sale when the product taken in trade is subject to sales tax.

The following are not included in the gross receipts when separately stated on the invoice or documentation provided the purchaser:

1. Interest, financing, and carrying charges from credit extended on the sale of products or services;
2. Any taxes legally imposed directly on the consumer; and
3. Any fees or other interest imposed for late charges on overdue accounts, no account, or insufficient funds checks.

Sales tax is not included in the gross receipts if itemized or documentation shows the tax is included in the sales price. For example, a business that collects $100 plus $4 sales tax, reports $100 gross receipts and owes $4.00 tax. If a business collects $100 and the document states tax is included, the business reports $96.15 as gross receipts and owes $3.85 sales tax.

Returned Merchandise
If you report tax on merchandise in one reporting period and the merchandise is returned in another reporting period, you may report the amount credited to the customer for the returned item as non-taxable sales on the tax return during the reporting period the item is returned.

Delivery Charges
Delivery charges are included in the gross receipts and are subject to the same sales or use tax rate as the product or service. If the product or service is not taxable, the delivery charge is not taxable.
Delivery charges are the charges by the retailer for preparation and delivery to a location designated by the purchaser of product or services. Delivery charges include shipping, postage, handling, crating, packing, and fuel surcharge.

For more information, review the Gross Receipts Tax Facts.

Municipal Tax

Cities may impose municipal sales and use tax up to 2% that applies to all products and services that are subject to the state sales or use tax.

Municipal sales tax applies when the consumer receives the products or services within a city that imposes a tax. Municipal use tax applies when a product or service is used, stored or consumed within a city that imposes a tax. Additional municipal tax may be due if a product or service is used, stored, or consumed in a different city that imposes a higher rate of tax than was previously paid.

Exceptions:
- Transportation of passengers is subject to municipal tax only if the trip begins and ends in the same city.
- Farm machinery and irrigation equipment for exclusive agricultural use are subject to 4% state tax, no municipal tax.
- Receipts from amusement devices are subject to 4% state tax, no municipal tax.

Municipal Gross Receipts Tax
Cities may impose a 1% municipal gross receipts tax that is in addition to their sales tax rate on the sale of all or any of the following:
- Alcoholic beverages
- Eating establishments
- Lodging accommodations
- Ticket sales or admissions to places of amusement, athletic and cultural events

To ensure local governments receive the correct amount of tax money, retailers must report their sales accurately.

Report the Municipal taxes in the City and Special Jurisdiction Section on the state sales tax return using the code designated for that city and tax. Each tax must be reported separately, using the designated code for that tax. Do not combine taxes or report all tax under one code.

Sioux Falls Lodging Tax
The city of Sioux Falls imposes a 1% tax on lodging establishment's receipts. Report the Sioux Falls lodging tax in the City and Special Jurisdiction Section on the state sales tax return using code 800-1.

Tax Match

City tax rates vary across the state. You can find local tax rates using TaxMatch lookup tool on our website at dor.sd.gov.

Or view the Municipal Tax Information Bulletin that lists all municipal sales, use, and gross receipts taxes.

Changes in municipal taxes are posted on the Department's website in November and May.

Changes are effective January 1 and July 1.

Tourism Tax

The tourism tax on certain lodging and amusement services is for tourism promotion.

Tourism tax is 1.5%.

Report the tourism tax in the City and Special Jurisdiction Section on the state sales tax return using the code 700-1.

Tourism tax applies to the gross receipts of:
- Hotels and Lodging Establishments
- Campgrounds
- Motor Vehicle Rentals
- Recreational Equipment Rentals
- Recreational Services
- Spectator Events
- Visitor Attractions
- Visitor-Intensive Businesses

For listings of specific products and services subject to tourism tax, review the Tourism Tax Facts.

Example: An Aberdeen motel has $10,000 in receipts from room rentals.
Motel rooms rented in July 2013 in Aberdeen are subject to 4% state sales tax, 2% municipal sales tax, 1% Municipal Gross Receipts Tax and 1.5% Tourism Tax.
The municipal and tourism taxes are reported under the City and Special Jurisdiction section of the tax return.

JANUARY 2013 - MUNICIPAL TAX INFORMATION BULLETIN

City	MUNICIPAL SALES TAX		GROSS RECEIPTS TAX - IN ADDITION TO MUNICIPAL SALES TAX					
	January 2013 Rate	General Code	January 2013 Gross Receipts Tax	Tax Code	Lodging	Eating Establishments	Alcohol	Admissions
Aberdeen	2.00%	001-2	1.00%	001-1	X	X	X	X

SALES TAX CALCULATIONS	GROSS	TAXABLE	RATE	TAX DUE
1. Gross Sales	$10,000.00			
2. Use Taxable				
3. Non-Taxable Sales				
4. Special Jurisdiction Sales (Detail in City Section)				
5. Net State Sales Taxable (Line 1 plus Line 2, minus Line 3, minus Line 4)		$10,000.00	x 4%	$400.00
6. City & Special Jurisdiction Tax Calculation Detail:				
7. City/Special Jurisdiction Name	Code	Taxable	Rate	Tax Due
8. Aberdeen - municipal tax	001-2	$10,000.00	2.00	200.00
9. Aberdeen - municipal gross receipts tax	001-1	$10,000.00	1.00	100.00
10. Tourism Tax	700-1	$10,000.00	1.50	150.00

MOTOR VEHICLES LEASE AND RENTALS

The rental receipts from **automobiles, pickups or vans** rented for 28 days or less, which are licensed under the noncommercial licensee fee schedule per SDCL 32-5-6 and have a manufacturer shipping weight, including accessories, of 10,000 pounds or less, are subject to the following taxes:

- State sales tax
- Municipal sales tax
- Motor vehicle gross receipts tax
- Tourism tax

The rental receipts from trailers with an unladen weight of 9,000 pounds or more are subject to the following taxes:

1. If rented for 28 days or less:
   - State sales tax
   - Municipal tax
   - Motor vehicle gross receipts tax

2. If rented for more than 28 days but less than 6 months:
   - Motor vehicle gross receipts tax

Tourism tax does not apply to the rental of trailers.

Report the motor vehicle gross receipts tax in the City and Special Jurisdiction section on the state sales tax return using code 600-1.

The rental receipts from the following **recreational vehicles, which are also motor vehicles,** rented or leased under a single contract for 28 days or less, are subject to state sales tax, municipal tax, and tourism tax.

ATV's	Motorcycles
Campers	Snowmobiles
Camping trailers	Trailers
Mopeds	Watercraft trailers
Motor coaches	

The rental receipts from **motor vehicles, other than the above categories**, rented or leased under a single contract for 28 days or less are subject to the state sales tax and municipal sales tax and are not subject to tourism tax.

The lease or rental of motor vehicles are not subject to sales tax or tourism tax when rented under a single contract for more than 28 days.

The lease or rental of the following recreational equipment is subject to the state sales tax and municipal sales tax, regardless of the length of the contract. Tourism tax will also apply if these vehicles are leased or rented under a single contract for 28 days or less.
Go-carts
Recreational water equipment
Snowmobiles
Watercraft

For listings of all recreational equipment subject to Tourism Tax, review the Tourism Tax Facts.

Motor Vehicle Leasing
Leases of motor vehicles without an operator or driver for more than 28 days are not subject to sales tax, gross receipts tax or tourism tax. These motor vehicles are subject to the 3% motor vehicle excise tax that is assessed at the time of registration based on the purchase price of the vehicle.

For more information, review the Motor Vehicles Tax Facts.

Wireless Gross Receipts Tax

The 4% telecommunications gross receipts tax applies to the retail sale of wireless intrastate and interstate telecommunications services if the customer's place of primary use is in South Dakota.

Wireless telecommunications services include wireless personal communications services, wireless local loop services, enhanced special mobile radio services, fixed wireless services, and cellular services that provide two-way communication.

Wireless Gross Receipts Tax is 4%.

Report the Wireless Gross Receipts in the City and Special Jurisdiction Section on the state sales tax return using code 900-1.

911 Emergency Surcharge

All telecommunications service providers, wireless service providers, and Interconnected Voice over Internet Protocol service providers are responsible for collecting and remitting the 911 Emergency Surcharge.

1. The surcharge is $1.25 per service user line per month.
2. The $1.25 per service user line surcharge does not apply to prepaid wireless telecommunications service.

Prepaid Wireless 911 Emergency Surcharge
All sellers and wireless service providers that sell prepaid wireless service are responsible for collecting and remitting the 2% Prepaid Wireless 911 Emergency Surcharge. Prepaid wireless service includes:

- prepaid wireless airtime cards
- prepaid wireless plans
- prepaid wireless minutes

1. The surcharge is 2% on the gross receipts from retail sales of prepaid wireless service made in South Dakota, delivered to customers in South Dakota, or sold to online customers with a South Dakota address.

2. The surcharge applies to the sale of all prepaid wireless services; however, a seller may elect not to collect the 2% surcharge on any sale of a prepaid wireless device (a prepaid wireless phone) that is bundled with prepaid wireless service denominated as ten minutes or less or as five dollars or less.

911 Emergency Surcharges itemized on the customer's invoice are not subject to sales tax.

Registration: All sellers and providers that collect and remit the 911 Emergency Surcharges are required to register with the Department of Revenue, even if the provider has a sales tax license.

Reporting: All 911 surcharges are electronically reported and paid to the Department of Revenue using SD EPath.

Administrative Fee: All providers and sellers may keep 2% or $25, whichever amount is greater, of the total surcharge collected each month as an allowance for the cost of collecting and remitting the 911 Emergency Surcharge. The administrative fee cannot exceed the amount of surcharge collected. Returns and payment must be filed and paid timely by electronic means to receive the Administrative fee.

For more information, review the 911 Emergency Surcharge Tax Facts.

Sales and Use Tax on Indian Country

Five Indian Tribes in South Dakota have tax collection agreements with the State that include sales, use and contractors' excise taxes. Two Indian Tribes have limited tax collection agreements that include contractors' excise tax and use tax.

Tourism tax applies on the Cheyenne River, Crow Creek, Rosebud, and Standing Rock Special Jurisdictions.

The tax collection agreements ensure that all businesses making sales or providing construction services on property included in a tax collection agreement are subject to the same taxes, tax rates, and exemptions. All businesses, including those owned by tribal members, are responsible for remitting tax.

Indian country controlled by a Tribe that is part of a tax collection agreement is considered a Special Jurisdiction.

Reporting of tax due in a Special Jurisdiction is in the City and Special Jurisdiction section on the state sales tax return using the code assigned to that Special Jurisdiction.

Special Jurisdictions
The Special Jurisdictions for the five tax collection agreements with sales, use, and contractors' excise tax are as follows:

- Cheyenne River Special Jurisdiction
- Crow Creek Special Jurisdiction
- Oglala Special Jurisdiction
- Rosebud Special Jurisdiction
- Standing Rock Special Jurisdiction

The Special Jurisdictions for the limited tax collection agreements for use and contractors' excise tax are as follows:

- Yankton Sioux Special Jurisdiction
- Sisseton-Wahpeton Special Jurisdiction

If you have any questions concerning whether or not a business or customer is located in a Special Jurisdiction set forth above, please contact the Department at 1-800-829-9188.

For information on tax rates and reporting of taxes for Special Jurisdictions and Indian Country that does not have agreements, review the Tribal Tax Facts.

Exemptions

A seller does not have to collect sales tax when a purchaser gives a seller a completed exemption certificate at the time of sale.

The exemption certificate is used to:
1. Claim exemption for:
   a. Products or services intended to be resold; or
   b. Products or services used for an exempt purpose.
2. Provide documentation the purchaser is an exempt entity.

The purchaser can give a "single purchase" certificate for just one transaction or a blanket certificate that applies to future purchases of qualifying exempt items.

Exemption certificates do not expire unless the information on the certificate changes; however, we recommend updating exemption certificates every three to four years.

A purchaser from a state that does not issue sales tax permits may use their FEIN, driver's license number, or state issued ID number on the exemption certificate.

South Dakota businesses with permit numbers containing UT (use tax) or ET (contractors' excise tax) cannot buy products or services for resale.

A business that purchases an item for resale, but later uses that item is responsible for reporting and paying use tax on that item.

Any purchaser that provides an invalid exemption certificate with the intent to evade payment of the tax is guilty of a Class I misdemeanor and may be fined up to 50% of the tax in addition to the tax.

Exemption certificates may be obtained on our website at dor.sd.gov or by calling 1-800-829-9188.

For more information, review the Exemption Certificate Tax Facts.

Direct Payment Permit
A Direct Payment Permit allows the holder to purchase products and services without sales tax. The holder reports and pays the use tax on their purchases directly to the Department.

Only taxpayers with a sales, use, manufacturer, or wholesaler tax license may qualify for a Direct Payment Permit.

For further information, review the Direct Payment Permit Application.

When completing a tax return, include receipts from exempt sales on line 1 of the tax return "Gross Sales." Then deduct these sales on the non-taxable sales line of the tax return.

Sales for Resale
A business that purchases items to sell, rent, or lease to others in the normal course of its business may purchase those items exempt from sales tax.

Specific criteria must be met before a business can purchase services for resale. For information on services that can be purchased for resale review the Exemption Certificate Tax Facts, the tax facts for that service, or call 1-800-829-9188.

Exempt Entities
State law exempts certain entities from paying South Dakota sales or use tax on their purchases. These entities include:

- Indian Tribes
- United States government agencies
- State of South Dakota
- Public or municipal corporations of the State of South Dakota
- Municipal or volunteer fire or ambulance departments
- Public schools, including K-12, universities and technical institutes that are supported by the State of South Dakota or public or municipal corporations of South Dakota.
- Non-profit hospitals
- Relief agencies
- SD Religious and private schools

Relief agencies, religious and private schools must apply to

the Department and be approved for exempt status. Their exemption number must be included on the exemption certificate. The exemption numbers for relief agencies include an "RA"; private schools include an "RS".

Government entities must provide an exemption certificate to the vendor, or the vendor must keep documentation to show the purchase was paid with government funds.

Some government entities are issued exemption numbers that include the letters "RG". These agencies may include their exemption number on the exemption certificate.

The **governments from other states** or the District of Columbia are exempt from sales tax if the law in that state provides a similar exemption for South Dakota governments or does not impose a sales tax.

The following state governments are exempt from South Dakota sales tax:

- Alaska
- Colorado
- Delaware
- Indiana
- Montana
- New Hampshire
- North Dakota
- Ohio
- Oregon
- West Virginia
- Iowa (motels and hotels are not exempt)
- Minnesota (motels and hotels are not exempt)

Employee Purchases
The purchase of products or services for the personal use of officials, members, or employees of exempt entities is subject to sales tax.

Employees or representatives of an exempt entity cannot buy products or services without paying sales tax if they use a personal check or personal credit card. This is true even if the exempt entity later reimburses the employee. The exempt entity must pay the vendor from the exempt entity's funds using that entity's check or credit card.

Exempt Products and Services
State law exempts certain products or services from sales or use tax. Documentation is not required to support these exemptions. However, if there is any doubt as to the intended use of these items, the purchaser should provide an exemption certificate to the seller.

Some services specifically exempt from sales tax include:

- Health services
- Educational services
- Social services
- Agricultural services
- Forestry services
- Services provided by certain membership organizations
- Financial services performed by institutions registered under bank franchise
- Commissions paid by an insurance company to an agent for the sale of a policy
- Stock and commodity broker service; services of brokers and agents licensed under Title 47
- Trucking
- Travel agent services
- Construction services (see Contractors' Excise Tax)

For information on exemptions that apply to specific businesses review the following tax facts:
Advertising
Agricultural
Financial Institutions
Hospitals – Nonprofit
Health Services, Drugs, and Medical Devices
Hotels, Motels and Campgrounds
Manufactured and Modular Homes
Motor Vehicles
Schools
Telecommunication Services

Other Exempt Transactions or Products
Coin Operated Washers and Dryers – Receipts from coin operated washers and dryers are not subject to sales tax. There is an annual license fee paid in lieu of a sales tax on receipts. Fee amounts are: $20.00 for each coin-operated washer and dryer located in municipalities having populations greater than 1,000 and a $16.00 fee for each machine located in municipalities with populations of 1,000 or less.
Taxable: The sale of coin operated washers and dryers.

Controlled Group - Services between members of a controlled group and reimbursements made between controlled group members for services provided to the controlled group by a third party when sales or use tax was paid on the third party's services. The lease of products between members of a controlled group is taxable unless sales or use tax was paid on the product being leased.

A controlled group is defined as any corporations or other entities eligible to file a consolidated federal income tax return, or entitled to only a single surtax exemption for federal corporate income tax purposes, and includes a controlled group of corporations as defined at 26 U.S.C. § 1563, as of July 1, 2002.

A controlled group also consists of any subchapter S corporation, limited liability company, limited liability partnership, general partnership, or limited partnership with at least eighty percent common ownership as if the entity was converted to or taxed as a subchapter C corporation under the Internal Revenue Code as in effect on January 1, 2002.

Sole proprietors are not part of a controlled group.

These exemptions do not apply to contractors' excise tax.

Food Stamp Purchases - All food stamp purchases. (SNAP).

Gasoline - Sales of gasoline, diesel fuels, gasohol, alcohol fuels,

propane, kerosene, aviation fuel, jet fuel, and other similar combustible fuels when subject to South Dakota fuel tax.
Dyed diesel fuel used for agricultural purposes.
Taxable: Off road use of dyed diesel fuel may be subject to sales tax.

Lottery Sales - South Dakota lottery tickets and video lottery receipts. A $12 amusement device decal must be purchased for each machine and renewed by June 30th of each year.
Taxable: The sale of video lottery machines is subject to state sales tax and no municipal tax.

Repairs – Repairs to products in inventory to be sold.
Taxable: Repair and replacement parts for leased products.

W.I.C. - Authorized purchases made under the Child Nutrition Act (W.I.C.).

Warranty Parts and Service - Parts and services to fulfill an obligation of the manufacturer, providing no charge is made to the customer.
Taxable: Charges to customer for parts, service, or deductibles.

Water - bulk water for domestic use, water sold by water supply system for domestic, commercial and industrial use.

Taxable Transactions

The following are examples of taxable transactions (list is not all inclusive)

Sales to:
- Churches
- Membership organizations such as YMCA, YWCA, Boys and Girls Scouts, Lions Club or Jaycees
- Civic and Nonprofit Organizations
- Schools, Colleges, and Religious, Benevolent, Fraternal, and Charitable Organizations for fund raisers

Sales of:
- Gifts and Premiums
- Prepared Food, Meals, or Drink
- Repair and Service of Products
- Products Sold at Auction

Account Changes

Cancel your Account
You must cancel your license within 15 days and immediately file a final return and pay all tax due if:
1. **You close your business;**
2. **You sell your business; or**
3. **The ownership of the business changes.** Sales or contractors' excise tax licenses are NOT transferable.

A change in ownership or legal organization, such as from one sole proprietor to another, from sole proprietor to a partnership, a change from sole proprietor to a corporation, or a merger, requires a new tax license.

Partnerships: Information on any change in partners must be sent in writing to the Department and must be signed by all partners, including those leaving, entering, and staying in the partnership. Information must include:
- The name, social security number, personal address, phone number and effective date of change for any new partner.
- The name and effective date of separation for any partner leaving.

Corporations, LLC, or LLP: Information on any change in corporate officers or members must be sent to the Department. A change in corporate officers or members does not require a new tax license.

Address Change
Notify the Department in writing if your mailing address or your business location changes. Include the new address information, effective date of the change, your taxpayer number, and business name.

Send changes in account information to:

South Dakota Department of Revenue
Business Tax Division
445 East Capitol Avenue
Pierre, SD 57501-3100

Email address changes to: bustax@state.sd.us

Filing and Paying Your Tax Return

Your business must file a tax return each reporting period even if you did not conduct business or receive income.

Electronic Filing and Paying
Electronic filing is the preferred method for filing your tax return. It is a free and secure service that lets you prepare and file your tax return electronically from anywhere with an Internet connection.

•**EPath** – File and pay Sales, Use, and Contractors' Excise Taxes and 911 Emergency Surcharge. For more information on EPath go to: http://dor.sd.gov/EPath/

Paper Returns
Businesses filing paper returns are sent a tax return and worksheet for each reporting period.

It is your responsibility to contact the Department if you do not receive a return.

If you file electronically, you will not receive a paper return.

Filing an Amended Return
If you have an EPath account you may amended your returns one time through EPath. If you file by paper or are not able to amend the return through EPath, please call 1-800-829-9188 for amended return information.

Late Filing and Paying
A penalty of 10% (.10) of the tax liability is assessed if a return is not received within 30 days following the month the return is due. The minimum penalty is $10 and is assessed even if no tax is due.
Interest of 1.25% (.0125) of the tax liability is assessed each month or part thereof for any tax unpaid after the due date. The minimum interest assessed the first month is $5.

Due Dates for Returns and Payments

All Electronic returns are due the 23rd of the month.

Electronic payment for the current return is due the 2nd to last working day of the month.

ACH Debit payments are transferred from your account on the 2nd to last working day of the month.
ACH Credit payments must be sent from your bank to the Department by the 2nd to last working day of the month.

If you do not file or pay electronically, the due date changes to the due date for the paper return and payment.

Electronic payment of past due tax, penalty and interest maybe scheduled for any Friday or the 2nd to last working day of each month.

Paper Returns and Payments
Filing once a month – returns and payments are due the 20th of the following month.

All other filers - filing every other month, semi-annually, or on a seasonal basis – returns and payments are due the last day of the month following the reporting period.

If a due date falls on a Saturday, Sunday or legal holiday, the next business day is the due date.

Mail returns and payments to the:
Remittance Center
PO Box 5055
Sioux Falls, SD 57117

Collection Allowance

Beginning January 1, 2014, if you file and pay your sales tax return electronically and on time, you will receive a collection allowance. The filing allowance will be 1.5% of the tax due on the sales tax return, not to exceed $70 for each reporting period. No allowance is provided for contractors' excise tax returns or for licensees that have any past due return or amount due on their sales tax, contractors' excise tax, motor fuel tax, or 911 Surcharge account, or if they file or pay by paper.

Accounting Methods

When using the **accrual method,** taxes must be paid on all sales made during the reporting period, even if you have not received payment.

An exception is a **conditional sale.** When payments for the principal sum are extended over a period longer than 60 days from the date of the sale, only the payment received during each reporting period is subject to sales tax.

When you report using the accrual method, you may take credit for **bad debts** during the reporting period in which you write the bad debt off as uncollectible in your books and records and it is eligible to be deducted for federal income tax purposes.

When you use the **cash method** of accounting, you report gross receipts and pay tax as you receive payments. No bad debts are allowed on the cash basis.

Changes in accounting methods must be requested in writing.

Record Keeping

Record keeping is a responsibility of not only those paying sales tax or contractors' excise tax but also individuals paying use tax and any person purchasing products or services for storage, use or other consumption in the state.

Keeping accurate and complete records makes the job easier when it is time to fill out tax returns and other reports. It also helps us correctly determine your tax liabilities during an audit of business income, purchases, exemptions, and deductions. We may use the records to determine if you reported and paid your taxes correctly.

You must keep your records for a minimum of three years or longer if you are depreciating capital assets. This includes both paper and electronic records.

Records supporting the following are to be kept and presented upon request of the Department of Revenue:
1. The amount of gross receipts and sales from all sources, including barter.
2. The amount of all deductions, exemptions, or credits claimed.

Businesses should keep the following books and records:

- South Dakota sales, use, and contractors' excise tax returns and work papers
- Federal income tax returns for the business
- Summary accounting records and source journals, such as the check register, general ledger, sales journal, general journal, cash receipts journal, and any other records you use to record income and expenses
- Sales invoices
- Purchase invoices (accounts payable, receipts)
- Beginning and ending inventories
- Bills of lading
- Canceled checks
- Contracts
- Depreciation schedules listing all assets acquired or disposed of during the audit period along with purchase or sales invoices for those assets
- Exemption certificates for any sales for resale, sales to exempt entities, or other exemptions claimed
- Prime Contractor exemption certificates
- Supporting documentation for all deductions and exemptions.

Audits and Reviews

Any business, whether licensed or unlicensed, may be selected for an audit or review. Audits and reviews are a routine procedure used to determine if taxes were correctly reported and paid.

Our auditors and agents will do their best to minimize any disruption of your business during the audit or review.

Prior to the audit or review, an auditor or agent will contact you to set up a time to check your books and records. You will need records to allow the auditor or agent to confirm the accuracy of your tax returns.

If, after reviewing your books, an auditor determines that taxes are due, you will be assessed the additional tax and interest. The auditor will discuss both the procedures used and the differences identified. You will have an opportunity to review the results and discuss them with the auditor before any assessment is issued.

In occasional cases where the errors in filing a return were fraudulent, returns were not filed, no taxes were paid, or the law was otherwise broken, criminal charges may be filed in addition to the interest and penalties assessed.

Collections

What happens if you do not file returns due or pay the amount due?

1. Penalties and interest accrue on the unpaid tax until you pay the balance in full.
2. Any tax, penalty or interest due from a taxpayer is a lien in favor of the state on all real or personal property and rights to property belonging to the taxpayer. The Department may file a notice of the tax lien with the Register of Deeds in any county to preserve the State's lien priority against other creditors or entities. The tax lien is against real and personal property. The tax lien may affect your credit rating since most credit reporting agencies obtain this information from the Register of Deeds office.*
3. If you do not respond to notices and your account continues to be delinquent, it will be assigned to a Revenue Agent for collection. The Revenue Agent will attempt to contact you to resolve the delinquency.

What happens if you do not respond or resolve the delinquency?

- The Department may issue an assessment of the estimated tax, penalty or interest, and demand payment from the taxpayer and then file a tax lien.
- The Department may issue a distress warrant directing the sheriff to seize property (bank accounts and personal property) to pay the debt.*
- The Department may refer any amount due to the State's collection agency for collection.*
- The Department may revoke the tax license. A business must have a tax license to operate legally in South Dakota. It is a Class 6 felony to engage in business after the Secretary of Revenue has revoked a tax license.
- The Department may file a criminal complaint. Failing to file and/or pay one return within sixty days of the due date is a Class 1 misdemeanor. Failing to do so twice within a twelve-month period is a Class 6 felony.*

The sentence for a Class 6 felony may be up to two years in prison and/or a $2,000 fine.

***If the business ownership is a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership, the Department may take these actions against any of the corporate officers, member-managers or managers of limited liability companies, or partners of partnerships.**

What can you do to avoid becoming delinquent?

- Know your tax responsibilities and plan for them.
- File electronically. Electronic filing reduces errors, saving you time and money.
- Pay careful attention to the due date on your tax return.
- Respond promptly to any Notice of Balance Due or Delinquency Notice sent to you.
- Open and read Department of Revenue correspondence sent to you; it may contain reporting instructions, due dates, changes in laws or tax rates or other important information that may affect your tax responsibilities.
- Set up a separate bank account and regularly deposit collected retail sales tax or other taxes you may owe. Withdraw the funds only when you pay the taxes.
- Promptly notify the Department of Revenue if your address and/or phone number changes.

Taxpayer's Bill of Rights

1. You have the right to confidentiality.
2. You have the right to tax information written in plain language.
3. You have the right of appeal.
4. You have the right to courteous, prompt, and accurate answers to your questions.
5. You have the right to be certain that performance goals or quotas do not influence collection procedures or assessments.
6. You have the right to rely on the written advice given to you by the Department of Revenue.
7. You have the right to be notified before the Department audits your records unless the Secretary of Revenue determines that a delay will jeopardize the collection of tax.
8. You have the right to clear and consistent policy regarding the deadlines for filing tax returns and making payments.
9. You have the right to seek a refund of any taxes you believe that you have overpaid within the last three years.
10. You have the right to a process requiring a person no lower in authority than the division director approve the seizure of your property for taxes.
11. You have the right to expect that a good-faith effort to comply with tax laws will be given consideration in disputed cases.
12. You have the right to a tax credit of interest or penalties that are determined to have been inappropriately levied.
13. You have the right to the removal of a lien on your property within 30 days after you have paid all tax, penalty and interest due.
14. You have the right to have the South Dakota Department of Revenue correct the public record.

South Dakota Streamlined Sales Tax Agreement

Certificate of Exemption

Warning to purchaser:

This is a multi-state form. Not all states allow all exemptions listed on this form. Purchasers are responsible for knowing if they qualify to claim exemption from tax in the state that is due tax on this sale. The state that is due tax on this sale may be notified that you claimed exemption from sales tax.

The purchaser will be held liable for any tax and interest, and possible civil and criminal penalties imposed by the member state, if the purchaser is not eligible to claim this exemption.

1. ☐ **Check if you are attaching the Multistate Supplemental form.**

☐ **If not, enter the two-letter abbreviation** for the state under whose laws you are claiming exemption.

2. ☐ Check if this certificate is for a **Single Purchase Certificate**. Invoice/purchase order #_____.

3. Print or type

A. Name of purchaser

B. Business address | City | State | Zip code

C. Purchaser's tax ID number | State of Issue | County of Issue

D. If no tax ID number, enter FEIN

E. If no ID number or FEIN, enter Driver's License Number/State Issued ID number | state of issue

F. Foreign diplomat number

G. Name of seller from whom you are purchasing, leasing or renting

H. Seller's address | City | State | Zip code

4. Circle type of business

Purchaser's Type of business. Circle the number that best describes your business.

01 Accommodation and food services
02 Agriculture, forestry, fishing, hunting
03 Construction
04 Finance and insurance
05 Information, publishing and communications
06 Manufacturing
07 Mining
08 Real estate
09 Rental and leasing
10 Retail trade
11 Transportation and warehousing
12 Utilities
13 Wholesale trade
14 Business services
15 Professional services
16 Education and health-care services
17 Nonprofit organization
18 Government
19 Not a business
20 Other (*explain*) _____

5. Circle reason for exemption

Reason for exemption. Circle the letter that identifies the reason for the exemption.

A Federal government (*Department*) _____
B State or local government (*Agency*) _____
C Tribal government
D Foreign diplomat
E Charitable organization
F Religious or educational organization
G Resale
H Agricultural
I Industrial production/manufacturing Does not apply in SD
J Direct pay permit
K Direct mail
L Other (*Explain*) _____

6. Sign here

I declare that the information on this certificate is correct and complete to the best of my knowledge and belief.

Signature of authorized purchaser | Print name here | Title | Date

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:

License #

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

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 _____

South Dakota
Department of
Revenue
445 EAST CAPITOL AVENUE
PIERRE, SD 57501-3185