

Farmers and Use Tax

South Dakota Department of Revenue
<http://dor.sd.gov/> | 1.800.829.9188

May 2015

The purpose of this Tax Fact is to explain how South Dakota state and local sales or excise taxes apply to products and services you buy. 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.

Many farmers do not realize use tax may be due when they buy products or services without paying South Dakota's sales tax or excise tax.

For example, if a farmer buys a tractor from a dealer in a state that does not tax tractors, use tax is due.

Since farmers are not generally required to register with the Department of Revenue, many do not know they may owe use tax or may not know how to report the use tax.

What is use tax?

The purchaser or consumer owes use tax on the use of products and services in South Dakota when sales or excise tax is not paid. Use tax is the same rate as the sales or excise tax. Unless specifically exempt by law, all products and services, including farm machinery, attachment units and irrigation equipment, used in this state are subject to either the sales or excise tax.

When you buy new or used machinery and equipment from a dealer in South Dakota, you usually pay sales or excise tax to the dealer who, in turn, pays the tax to the Department of Revenue. However, there are many instances where sales or excise tax is not paid. In these situations, use tax is due.

Aren't farmers exempt from tax?

Farmers and ranchers are not exempt from sales or use tax on purchases of tools, equipment, and most tangible personal property. However, there are many exemptions that apply to agricultural services and products. Examples of exemptions are listed on page 3.

You may owe use tax if the seller did not collect sales tax in the following examples:

- You buy machinery and equipment in another state.
- You buy tools, supplies, and computer software through the Internet or from a mail order catalog.
- You buy machinery and equipment at an out-of-state auction.
- You buy services such as accounting, agronomy, or attorney services from an out-of-state provider.

How do I report and pay use tax?

Complete the form on the last page of this brochure.
Mail the form with payment to the address below the form.

What is the tax rate?

Farm machinery, attachment units, and irrigation equipment ***used exclusively for agricultural purposes*** are subject to:

- 4% state tax
- No municipal tax applies

Farm machinery, attachment units, or irrigation equipment that is ***not used exclusively for agricultural purposes*** are subject to:

- 4% state tax; and
- Municipal sales or use tax

Tools and shop supplies are subject to:

- 4% state tax; and
- Municipal sales or use tax

Municipal tax applies if the item is delivered to you in a city that imposes a sales or use tax.

Municipal tax is also due if you use, store, or consume a product in a city that imposes a sales or use tax.

You may owe additional use tax if you use items in a city that imposes a use tax rate higher than what you previously paid.

When is use tax due?

Use tax is due when the product is delivered to you in South Dakota or

when you bring the product into South Dakota to use, store, or consume.

How can I prove that sales or use tax was paid?

Sales receipts or purchase invoices, should separately state the sales tax from the selling price. To prove you have paid sales or use tax, keep your records for all items on which you paid the tax, such as your purchase invoice, a use tax return, and copy of your check.

Do I get credit for equipment traded-in?

Use tax is due on the trade difference.

For example, if the price of a tractor is \$275,000 and you receive \$125,000 credit for trading in a used tractor, use tax is due on \$150,000. ($275,000 - 125,000 = 150,000$).

Do I get credit for sales tax paid in another state?

If sales or use tax was previously due and paid in another state, you may take a credit for the amount of tax paid against the amount of use tax due South Dakota. To take the credit, you must have

documentation, such as an invoice, stating the amount of tax paid.

My farm is in another state, but I have some land in South Dakota. Do I owe use tax on equipment I bring into South Dakota to use on that land?

You will owe use tax on the equipment that is brought into South Dakota for use in South Dakota if sales or use tax was not previously paid. Please contact the Department to help you determine the use tax due on equipment used in more than one state.

Is use tax due when I buy equipment from another farmer?

If you buy equipment from a person who does not sell equipment on a regular basis and the equipment was not sold at an auction, you do not owe use tax on that purchase. This is an occasional sale and is exempt from sales or use tax.

Do I owe use tax on realty improvements?

You do not owe use tax on payments to contractors for construction services. However, you owe use tax on any material or equipment you purchase for the contractor to install. Examples of construction services are new buildings, remodeling, trenching or excavation and plumbing or electrical work.

Do you need a tax license?

If you frequently buy from out-of-state companies or over the Internet and are not paying sales tax on your taxable purchases, you should have a use tax license and should pay the use tax to the state on a regular basis. Depending on how much you purchase that may be every six months or once a year.

Apply for a sales or use tax license online at

<http://sd.gov/taxapp>

Definitions

Agricultural purposes mean the producing, raising, growing or harvesting of food or fiber upon agricultural land, including dairy products, livestock and crops. Agricultural purposes do not include commercial operations such as Christmas tree farms and flower nurseries.

Agricultural land is defined under SDCL [10-6-31.3](#). Criteria for classification of land as agricultural. For tax purposes, land is agricultural land if it meets two of the following three criteria:

- (1) At least 33 1/3% of the total family gross income of the owner is derived from the pursuit of agriculture as defined in subdivision (2) of this section *or* it is a state-owned public shooting area or a state-owned game production area as identified in § 41-4-8 and it is owned and managed by the Department of Game, Fish and Parks;
- (2) Its principal use is devoted to the raising and harvesting of crops or timber or fruit trees, the rearing, feeding, and management of farm livestock, poultry, fish, or nursery stock, the production of bees and apiary products, or horticulture, all for intended profit pursuant to subdivision (1) of this section. Agricultural real estate also includes woodland, wasteland, and pasture land, but only if the land is held and operated in conjunction with agricultural real estate as defined and it is under the same ownership;
- (3) It consists of not less than 20 acres of unplatted land or is a part of a contiguous ownership of not less than 80 acres of unplatted land. The same acreage specifications apply to platted land, excluding land platted as a subdivision, which is in an unincorporated area. However, the board of county commissioners may increase the minimum acre requirement up to 160 acres.

An **attachment unit** is any part or combination of parts having an independent function which when attached or affixed to a farm machine or other piece of agricultural equipment is used for agricultural purposes. Attachments are not repair or replacement parts. Attachments are assigned a wholegoods number by the manufacturer instead of a part number, and they are subject to tax.

A **farm machine** is a mechanical unit used directly and principally upon agricultural land for the purpose of producing agricultural products. Machinery and attachment units do not include motor vehicles or equipment otherwise licensed or taxed by the State of South Dakota.

Irrigation equipment includes pumps, pipefittings, valves, sprinklers, and other equipment necessary to the operation of an irrigation system.

Here are some of the tax exemptions available to farmers and ranchers:

- ▶ Repair parts, repair service and maintenance supplies and service to farm machinery, attachment units and irrigation equipment that is used exclusively for agricultural purposes
- ▶ When used exclusively for agricultural purposes the following products are exempt from sales or use tax:
 - ♦ Seed sold in quantities of 25 pounds or more
 - ♦ Commercial fertilizers, sold in quantities of 500 pounds or more
 - ♦ Pesticides, which include herbicides, insecticides, fungicides, and rodenticides
 - ♦ Motor fuel when used in unlicensed vehicles for agricultural purposes
 - ♦ Electricity used to power irrigation pumps
- ▶ Services that involve the preparation of soil, crop planting, cultivating and protecting, crop harvesting, or crop preparation for market, including:
 - ♦ Custom harvesting services
 - ♦ Transportation services
 - ♦ Grain drying, cleaning, grinding, and fumigation services, including services provided by commercial operations
 - ♦ Fertilizing, including aerial application
 - ♦ Hay mowing, raking, baling, or chopping

Other items that are exempt from sales and use tax include:

- ▶ Livestock, live poultry, ostriches, emus or rheas, when the sale is part of a series of transactions to produce a finished product to be sold at retail
- ▶ Live cattle, buffalo, sheep, goats, swine, poultry, ostriches, emus, rheas, and domesticated fur-bearing animals defined in chapter 40-35, used as breeding or product stock
- ▶ Feeds and feed supplements for the above exempt animals, such as hay, bone meal, salt, vitamins
- ▶ Feed for pheasants, partridges and quail
- ▶ Live nondomestic animals regulated by the animal industry board under 40-3-26 if the animal is used by a farmer or rancher who is regularly engaged in the breeding and raising of such animals. Feed for these animals is also exempt.
- ▶ Horses and horse feed

Please complete this form and send with payment of tax due to the Department of Revenue at the address listed below.

Farmer's Use Tax Form			
South Dakota Department of Revenue			
<i>Do not use this form if you have a permanent tax license in South Dakota.</i>			
First Name	Last Name	Phone number	Date
Street Address/PO Box	City	State	Zip Code
Email Address	County		
	A. Equipment Description (Optional)	B. Amount Paid (include delivery and handling charges)	C. 4% State Tax Due
1.			
2.			
3.			
4.			
5.			
TOTAL Tax Due			

If you have more than five items to report, please complete additional forms and send together with one payment.
 If you owe municipal tax, please contact the Department for help.
 Please keep a copy for your records.

Contact Us

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

Call toll-free: 1.800.829.9188

Email: bustax@state.sd.us

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

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

Make checks payable to: South Dakota State Treasurer

