

June 2016

This Tax Facts is designed to explain how sales and use tax applies to accounting services. If this Tax Facts does not answer your specific question, please call the Department's toll-free Helpline at 1-800-829-9188 between 8:00 AM – 5:00 PM CST, Monday through Friday.

Information found in this document rescinds and replaces all previous written information on this subject. All readers and users of this publication are responsible for keeping informed about changes in tax laws and regulations by reading the Department of Revenue newsletters, press releases, Tax Facts, and other documents published by the Department of Revenue.

Accounting Services

Accounting services are subject to the 4.5% state, plus applicable municipal sales tax. Based on ARSD 64:06:01:63 the following sourcing rules determine where sales tax applies to accounting services.

1. If the client receives the service at the accountant's office, charge the sales tax rate at the accountant's office location.

2. If the client does not receive the service at the accountant's office, charge the sales tax rate at the customer's address.

Services are subject to sales tax where the service is received, which means where the client first uses the service. Generally the service is first used where the client receives report or results of the service.

The following flow chart and examples are designed to help determine the proper tax to remit.

Examples:

A. Jim hires ABC Tax Preparer to complete his income tax return. The return is completed and sent electronically to the IRS. Jim receives a copy while he is in ABC's office in Huron.

- ABC will owe 4.5% state plus Huron municipal sales tax because Jim receives the completed return at ABC's office.

B. An accountant in Pierre receives a phone call from a Sioux Falls client. The client asks for advice concerning the sale of land outside Sioux Falls. The accountant explains the tax consequences and sends a letter to the client.

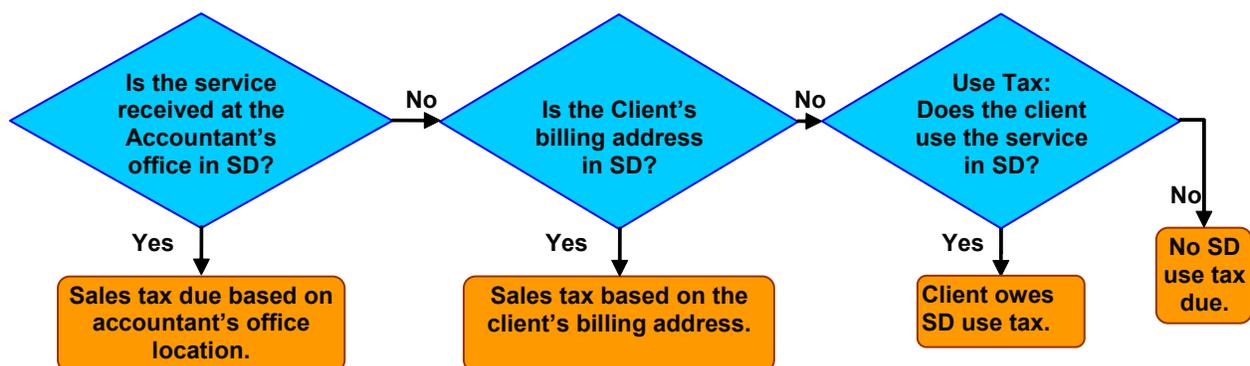
- In this case the service is not received at the accountant's office; it is received at the client's location in Sioux Falls. The accountant will owe 4.5% state plus Sioux Falls municipal sales tax.

C. Accountant Smith is auditing Jane's businesses in South Dakota, Nebraska, and Iowa. Jane is from Sioux Falls, SD. Smith meets with Jane at his office in Nebraska, reviews records at each business location, and works on the project in his office. Billings are sent as the work progresses and multiple items are included on each billing.

- Because the service is not received at Smith's office, sales tax applies based on Jane's address in Sioux Falls. Smith will owe 4.5% state plus Sioux Falls municipal sales tax.

D. Smith (who is not licensed as a Professional Employer Organization) does payroll services for Jane's business in South Dakota. The payroll is processed at Smith's office in Nebraska. The checks are sent to the employees' home addresses.

- Because the service is not received at the Smith's office, sales tax applies based on Jane's address in Sioux Falls. Smith will owe 4.5% state plus Sioux Falls municipal sales tax.



If the bill to the client contains charges for multiple services, not all of which were received at the accountant's office, then the entire bill is taxed based upon the client's billing address.

Use Tax on Accounting Services

Sales tax applies to accounting services at the accountant's office or the customer's address, based on the above sourcing rules. The seller is responsible for reporting and remitting the sales tax.

Use tax, on the other hand, is based on where the service is used. Use tax is due if the service is used in SD and no sales tax was collected, or if the sales tax collected is at a lower rate than the use tax due.

Use tax applies based on where the client is using the service. The use of service is where the customer's records are maintained or generated. In the case of a business, the location of the business determines the tax. In the case of an individual, their primary address determines the tax.

The accountant is responsible for sales tax in those states that tax accounting services. If the accountant's client receives the service in a state that does not tax the accountant's service, but the client will owe use tax, the accountant shall collect and remit the use tax on behalf of their client pursuant to SDCL 10-46-20. City use tax should be remitted using the tax rate applicable for the accountant's office.

The accountant will not be liable for the client's use tax if the accountant makes a good faith effort to collect the use tax but the client refuses to pay. In such case, the Department shall require payment directly from the client.

The purchaser or consumer is responsible for remitting the use tax. Businesses must review all purchases of services to determine if they owe use tax. Credit will be allowed for sales tax paid by the service provider based on where the customer receives the service.

Examples

A. An accountant in Sioux Falls completes quarterly tax returns for a client that lives and farms in rural Minnehaha County. Completed forms are mailed to the client.

- Because the service is not received at the accountant's office, 4.5% state sales tax applies based the client's address, which is outside city limits.
- No additional use tax is due because the service is used for a business outside city limits.

B. A Sioux Falls accountant completes tax forms for a business located in Sioux Falls. The completed forms are sent to the owner's address in rural Minnehaha County.

- Because the service is not received at the accountant's office, 4.5% state sales tax applies based on the client's address outside city limits.
- The client owes additional Sioux Falls use tax based on the Sioux Falls business location.

C. An accountant from Mitchell, SD, completes tax forms for a business in Platte, SD. The tax forms are mailed to the owner in Minneapolis.

Because the service is not received at the accountant's office, no South Dakota sales tax is due.

- If Minnesota does not tax accounting services, the accountant will owe South Dakota use tax because the client is using the service for their business in SD. The accountant should remit city tax based on the accountant's office.
- If Minnesota taxes accounting services, South Dakota will allow a credit for the tax paid to Minnesota, but if the Minnesota rate is lower than the use tax due for Platte, the business will owe additional use tax.

D. John, from Spencer, IA, owns three quick stops in Iowa and South Dakota. John hires an Iowa accountant that does not have a South Dakota tax license, to file their payroll taxes. Everything is done electronically, by mail or phone.

- The accountant owes Iowa sales tax based on John's address in Iowa.
- John owes South Dakota state use tax plus municipal use tax on the portion of the service attributable to the South Dakota locations. Credit will be allowed for sales tax the accountant collects and remits to Iowa.

Reimbursable Expenses

Accountants licensed in South Dakota pursuant to chapter 36 may deduct from their gross receipts amounts that represent charges to clients for tangible personal property or services purchased by the accountant on behalf of a client, if the following criteria are met:

1. The property or service is not purchased as a sale for resale;
2. The amount to be deducted represents an expense incurred for a particular client; and
3. The amount is itemized and separately billed as a reimbursable expense by the accountant.

If sales or use tax is not paid on the purchase, the receipts for the reimbursable expense are taxable. However, services or items exempt from sales tax, such as filing fees paid to a governmental entity, may be deducted as a reimbursable expense provided the above criteria are met.

If the accountant charges more for the item or service than the amount the accountant paid for the item or service, the entire receipts are subject to sales tax, even if sales or use tax was paid on the purchase.

Charges for reimbursable expenses should not be included in the gross receipts line of the sales tax return.

Expenses incurred in the day-to-day operation of an office are not reimbursable expenses and cannot be deducted from gross receipts even if they are itemized on the client's invoice.

Services provided by employees are not reimbursable expenses; these services are not purchased on behalf of a specific client.

Services contracted for a specific client may be taken as a

reimbursable expense. However, services contracted for use by many accountants or for use on work for multiple clients cannot be taken as a reimbursable expense.

Examples of items or services that can be taken as reimbursable expenses if the above criteria are met:

- Filing and recording fees
- Photocopying fees from a third party or in house*
- Postage
- Telephone and FAX charges if itemized by the phone company*
- Travel expenses including:
 - Airfare
 - Meals
 - Motels
- Mileage (Expense of own vehicle, not to exceed IRS allowed rate)
- Vehicle Rentals
- Temporary help agency services, only if purchased for a specific client

* If an average charge is used instead of actual expenses the average must be based on actual expense and is subject to audit by the Department.

Examples of items and services that cannot be deducted as a reimbursable expense are:

- Office supplies
- Employee services-secretarial
- Telephone monthly charges and local calls that are not itemized per call by the phone company
- Temporary help agency services, unless purchased for a specific client

Example

1. An accountant from Sioux Falls is auditing a business in Pierre. The accountant bills the client for his service, and the cost of the motel room and meals. Sales tax was paid on the purchase of the motel and meals.

The accountant does not include the motel or meals charges in his taxable receipts because the charges are itemized on the client's invoice and are not marked up.

2. An accountant hires a secretary from a temporary help agency for help on a specific case. Because the help is for a specific client, the accountant does not owe sales tax on the charge he makes to his client for the temporary secretary if sales tax is paid to the temporary help agency and the cost is passed on without being marked up.

Purchases for Resale

As a general rule an accountant cannot purchase supplies and services the accountant uses exempt from sales tax by issuing an exemption certificate. However, services can be purchased for resale if the following criteria are met:

1. The service is purchased for or on behalf of a current customer;
2. The purchaser of the service does not use the service in any manner; and
3. The service is delivered or resold to the customer without any alteration or change.

Accountants must give an exemption certificate to their suppliers to purchase services for a specific client exempt from sales tax.

Services and items purchased for resale for a specific customer **cannot** be taken as a reimbursable expense. The accountant owes sales tax on receipts for services and items purchased without sales or use tax.

State law requires exemption certificates to be complete and accurate. The seller is responsible for obtaining a completed exemption certificate. The buyer will be held responsible for properly completing an exemption certificate. Exemption certificates may be obtained from the department's website at <http://dor.sd.gov>, or by calling 1-800-829-9188.

Retainer Fees

Retainer fees are subject to the 4.5% state sales, plus applicable municipal tax. Retainers placed in a trust are subject to the 4.5% state sales tax, plus applicable municipal tax when the fees are withdrawn from the trust to pay for services.

Barter Fees

The value of real property, tangible personal property, or services received in exchange for accounting services represent the accountant's gross receipts and is subject to the 4.5% state sales tax, plus applicable municipal tax.

Example: An accountant bills a client for \$25,000 and receives \$5,000 cash plus 20 acres of land, valued at \$20,000. \$25,000, less applicable reimbursable expenses, is subject to sales tax.

Use Tax

Supplies, materials, or services purchased from an unlicensed business are subject to use tax. The state use tax rate is 4.5%, plus applicable municipal use tax, and is payable to the Department of Revenue in the filing period in which the accountant receives the supplies or services.

Tangible personal property delivered into South Dakota is subject to the South Dakota sales or use tax, even if the supplier charges another state's sales tax.

When a purchase is made out-of-state and possession is taken out-of-state the supplier may charge that state's sales tax. If the other state's sales tax is the same or more than South Dakota's tax, there is no South Dakota use tax due. If it is less than South Dakota's, the difference is due in use tax. The state use tax plus applicable municipal use tax must be added together to determine if additional

Accountants

tax is owed.

Examples of use taxable items are:

- Computers
- Software
- Office Supplies
- Paper
- Laminating and binding services
- Equipment
- Furniture
- Law Books
- Internet database services
- Maintenance Agreements

Municipal Tax

Many municipalities in South Dakota have a sales and use tax in addition to the state tax. If the customer receives a product or service in one of these municipalities, the product or service is subject to that municipality's sales or use tax. A list of municipal tax rates is available on our website at <http://dor.sd.gov> or by calling 1-800-829-9188.

It is the taxpayer's responsibility to remit the correct sales tax. If the taxpayer relies on the customer's representation of their taxing jurisdiction and that information is incorrect, the taxpayer will be responsible for any additional sales tax due.

TaxMatch, the department's Geographic Information System (GIS), will help users quickly find the correct tax rate and codes for locations throughout South Dakota. Users will enter any South Dakota address into the Tax Match system, the system will then provide all the applicable tax codes and rates for that address. For quick and easy access, look for the GIS icon on the department's web site at <http://dor.sd.gov>.

Exempt Entities

Accredited schools, non-profit hospitals, approved relief agencies, and government entities are exempt from sales and use tax.

Government entities must provide an exemption certificate to the vendor or the vendor must keep documentation to show the purchase was paid from government funds. Documentation may include a purchase order or a check stub.

Relief agencies and religious or private schools must provide an exemption certificate to purchase products and services exempt from sales and use tax.

Required Records

Accountants must have a South Dakota sales tax license for each place of business within the state. Records, such as purchase and sales invoices, bills of lading, books of all receipts and sales, cash register receipts, and other pertinent papers and documents, are required to be kept for at least three years and be available for inspection during business hours.

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 <http://dor.sd.gov>, email us at bustax@state.sd.us or write us:

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