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# Agricultural Products

The purpose of this Tax Fact is to explain how South Dakota state and local taxes apply to Agriculture Products. It is not intended to answer all questions that may arise. The information contained in this fact sheet is current as of the date of publication.

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South Dakota imposes sales or use tax on most products and services sold; however, certain products that are *only for agricultural purposes* are exempt.

## Taxable Agriculture Products

### Containers

- \* Containers used to hold products that *will not be sold* are subject to sales tax at the time of purchase.
- \* Containers used to package products that *will be sold* are exempt from sales or use tax.
- \* Use tax is due on the container if the product is not sold.

#### Examples of Containers

- Net Wrap
- Seed Bags
- Silage Bags
- Twine

#### Examples of Parasiticides

- Advantage
- Cydectin
- Dectomax
- Delice
- Flea and Tick Shampoos
- Frontline
- Insecticide Fly Tag
- Ivermectin
- Levasole
- Permethrin
- Rabon
- Taktic
- TBZ

### Endoparasiticides and Ectoparasiticides

- For livestock and pets is subject to sales or use tax.
- A parasiticide is a drug for external or internal use intended to prevent, destroy, repel, or mitigate parasites in or on animals.

### Medicines

- For livestock and pets is subject to sales or use tax.
- Medicines are applied directly to the animal by injection, orally, or other methods.
- Registered with the Department of Agriculture as a remedy.
- Veterinarians may purchase medicines for resale.
- Medicine mixed with feed or feed supplements prior to being sold are not registered as remedies, but as feed supplements. Feed supplements for livestock are exempt.

**“Agricultural purposes”** means the producing, raising, growing, or harvesting of food or fiber upon agricultural land.  
See definitions on last page.

### South Dakota Taxes and Rates

<b>State Sales and Use Tax</b> – applies to all sales or purchases of taxable products and service.	<b>4.5%</b>
<b>Municipal Sales and Use Tax</b> – 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.	<b>1 to 2%</b>

## **Exempt Agriculture Products - Used exclusively for agriculture purposes**

- Commercial fertilizers, either liquid or solid.
  - \* Must be 500 pounds or more in a single sale.
- Electricity used to power irrigation pumps and electric motors powering irrigation pumps.
- Motor fuel, including kerosene, tractor fuel, liquefied petroleum gas, natural and artificial gas, diesel fuels and distillate.
- Pesticides, including any product or substance used with the pesticide or the application process.
  - \* Must be registered with the Department of Agriculture.
  - \* Equipment for the application of pesticides is not exempt.
  - \* Gross receipts from the rental of devices primarily used to apply pesticides are exempt if tax was paid on the original purchase.
- Seed legumes, seed grasses, and seed grains (exemption includes seed for CRP land).
  - \* Must be 25 pounds or more in a single sale.

### **Examples of Pesticides**

- Fungicides
- Herbicides
- Insecticides
- Rodenticides

### **Items used with pesticide application**

- Adjuvants
- Ammonium Sulfate
- Drift Retardants
- Foam Dyes
- Foam Markers
- Inoculants
- Seed Treatments
- Surfactants
- Water Conditioners

## **Exempt Livestock/Animal Related Products**

- Live cattle, buffalo, sheep, goats, swine, poultry, ostriches, emus, rheas, and domesticated fur-bearing animals (*see definition on last page*).
  - \* Must be used as breeding or product stock.
  - \* When sales are part of a series of transactions to produce a finished product to be sold at retail.
- Live nondomestic animals regulated by the animal industry board (*see definition on last page*).
  - \* Must be used by a farmer or rancher who regularly breeds and raises such animals.
- Feeds and feed supplements for exempt animals.
  - \* Hay, bonemeal, salt, vitamins, etc.
- Horses and horse feed.
- Bedding for exempt animals. Only includes the following types:
  - \* Straw, corn stover, and bean straw
- Swine and cattle semen.

### **Exempt Animals Include:**

- Cattle
- Buffalo
- Sheep
- Goats
- Swine
- Horses
- Pheasants
- Partridges
- Quail
- Poultry
- Ostriches
- Emus
- Rheas
- Domesticated Fur-bearing Animals

## **Bundled Transactions**

If you sell multiple services or products as a package for a single price (i.e. the charge for each item is not separately stated or disclosed) and any of the products or services are subject to sales tax, then the full charge is subject to the state sales tax. If any item or service included in the package is subject to tourism tax, municipal tax or municipal gross receipts tax, the entire fee is subject to that tax in addition to the state sales tax.

If you separately state or disclose the charge for each product or service included in a package, taxes apply to each item as if sold separately.

*If you sell products or services in South Dakota, you must obtain a sales tax license from the South Dakota Department of Revenue.*

**Apply for a sales tax license online at  
[www.sd.gov/taxapp](http://www.sd.gov/taxapp).**

## Delivery and Handling Fees

The retailer's charge for delivery is subject to the same state and municipal 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 charges for transportation, shipping, postage, handling, crating, and packing.

If the retailer hires a transportation company and bills the customer for the transportation service, the retailer's receipts for the transportation charge are subject to the same rate as the product being 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 taxable 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.

### Example – Delivery and Handling

Jones Seeds sells and delivers the following items to Fred's Farm outside Pierre: five 50 pound bags of wheat for \$100 and two 50 pound bags of grass seed for Fred's lawn for \$100. Jones bills Fred \$200 plus \$20 delivery.

- Jones charges state sales tax on \$110 (\$100 for the grass seed plus \$10 delivery).
- Determine the taxable delivery fee amount by dividing the taxable products by the total sale ( $\$100/\$200 = 50\%$ ). 50% of the delivery is taxable ( $\$20 \times 50\% = \$10$ ).

### Sales tax applies where the customer takes possession of the product.

- Products that are picked up at the seller's location are subject to the tax rate at that location.
- Products the seller delivers are subject to the tax rate at the delivery address.
- When a customer hires a shipping company, the tax rate is based on where the product is delivered. If delivery address is not available, then use the tax rate at the customer's address.
- No South Dakota sales tax if delivered out of state.

\* *The seller must have documentation showing the delivery address.*

## 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 a taxable item 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 do not owe use tax on items purchased to resell to customers.

Adding a charge to your bill to cover costs of the supplies you consume does not remove your use tax liability on the supplies you use in running your business. If you add a charge for these items, you will owe use tax on the supplies and you will owe sales tax on the amount you bill your customer.

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

**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 provide grass seed for the church lawn at no charge, you owe use tax on your cost of the seed; however, if you give the seed to a public school at no charge, you do not owe use tax.

### Example

XYZ Repair charges an additional 5% for shop supplies used on all repair invoices issued to customers to cover the cost of rags, cleaners, masking tape, etc.

- XYZ must pay sales tax on these supplies at the time of purchase and must report sales tax on the 5% charge to the customer.

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

It is **your responsibility** to identify taxable purchases when you provide an exemption certificate to a seller. You must either instruct 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 identify and account for the use tax due from taxable purchases made from licensed vendors you provided an exemption certificate to, may result in a penalty of 50% of the use tax due in accordance with SDCL 10-45-61. This penalty is in addition to any use tax, penalty and interest due to late reporting and paying.

## Definitions and Statutes

**Agricultural purposes** means the producing, raising, growing or harvesting of food or fiber upon agricultural land, including dairy products, livestock, and crops. The services of custom harvesters, chemical applicators, fertilizer spreaders, hay grinders, and cultivators are considered agricultural purposes. The harvesting of timber on land within the state is considered an agricultural purpose.

**Agricultural land** is defined under SDCL [10-6-31.3](#). For tax purposes, land is agricultural land if 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. 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. In addition, to be classified as agricultural land for tax purposes, the land shall meet one of the following criteria:

(1) In three of the previous five years, a gross income is derived from the pursuit of agriculture from the land that is at least ten percent of the taxable valuation of the bare land assessed as agricultural property, excluding any improvements. If there is a crop share arrangement or cash rent agreement, the gross income from the land of both the landlord and tenant shall be combined and used to meet this requirement. Alternatively, at least two thousand five hundred dollars of the owner's gross income is annually derived from the pursuit of agriculture; or

(2) The land consists of not less than twenty acres of unplatted land or is a part of a management unit of not less than eighty 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 one hundred sixty acres.

For the purposes of this section, the term, management unit, means any parcels of land, whether adjoining or not, under common ownership located within this state and managed and operated as a unit for one or more of the principal uses listed in this section. No parcel of land within a management unit may be more than twenty air miles from the nearest other parcel within the management unit. If requested by the director of equalization, the owner shall provide supporting documentation of the land contained in the management unit.

**Commercial fertilizer**, SDCL [38-19-1\(5\)](#) any substance, including manipulated manure, containing any recognized plant nutrient which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, lime sludge, sewage sludge, wood ashes, gypsum, compost, and other products excluded by rule.

**Exemption of sales of livestock, poultry, ostriches, emus, or rheas other than ultimate retail sale**, SDCL [10-45-18](#). No gross receipts from sales of livestock or live poultry, ostriches, emus, or rheas, if such sales are a part of a series of transactions incident to producing a finished product intended to be offered for an ultimate retail sale, are taxable under this chapter, except that an ultimate retail sale interrupting the series of transactions with an intended final use or consumption is taxable.

**Livestock** defined under SDCL [40-15-1.3](#). For purposes of this chapter, the term, livestock, means cattle, sheep, horses, mules, swine, goats, and buffalo.

**Domesticated fur-bearing animals** as defined under SDCL [40-35-1](#) are fur-bearing animals pen bred for more than two generations or all fur-bearing animals purchased from a breeder outside the state and brought into the state. All other fur-bearing animals are wild fur-bearing animals. Documentation is required for the possession of live fur-bearing animals as defined in subdivision [41-1-1\(11\)](#).

**Regulation of live nondomestic animals**, SDCL [40-3-26](#). Rules regulating breeding, raising, marketing, and transportation of certain captive nondomestic animals. The Animal Industry Board shall, by rules promulgated pursuant to chapter 1-26, regulate the breeding, raising, marketing, and transportation of any captive nondomestic animal of the mammalia class and the products thereof which is allowed in the state pursuant to § [40-3-25](#).

**Rules for bringing nondomestic mammals into state**, SDCL [40-3-25](#). The Animal Industry Board shall promulgate rules pursuant to chapter 1-26 to allow to be brought into the state any nondomestic mammals which the board determines would be safe to the public and to the free-roaming animals of the state. Before such rules may be adopted, the Animal Industry Board shall consult with the Game, Fish and Parks Commission.

### Contact Us

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

**Call toll-free:** 1-800-829-9188

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