

This Tax Facts is designed to explain how sales and use tax applies to architect, engineer, and surveying 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 AM–5 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.

The gross receipts for architect, engineering, and surveying services are subject to state sales tax plus applicable municipal sales tax. Architect, engineering, or surveying services provided for projects located entirely outside of South Dakota are not subject to South Dakota sales tax.

Sourcing Rules

Rules for determining which jurisdiction may impose the sales or use tax are called sourcing rules.

Tangible personal property and products transferred electronically are subject to state and applicable municipal sales tax where delivered.

Services are subject to sales tax where the service is received, which means where the service is first used by the client. Generally, the service is first used where the client receives the report or results of the service. The client or customer is the person that hires the architect, engineer, or surveyor.

Sales tax applies to some services where the work is done, because the service provider cannot deliver the service to another location. Two such instances are:

Surveying services are subject to sales tax where the property surveyed is located.

Construction Management Services are subject to sales tax where the project managed is located.

Architects and engineers:

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

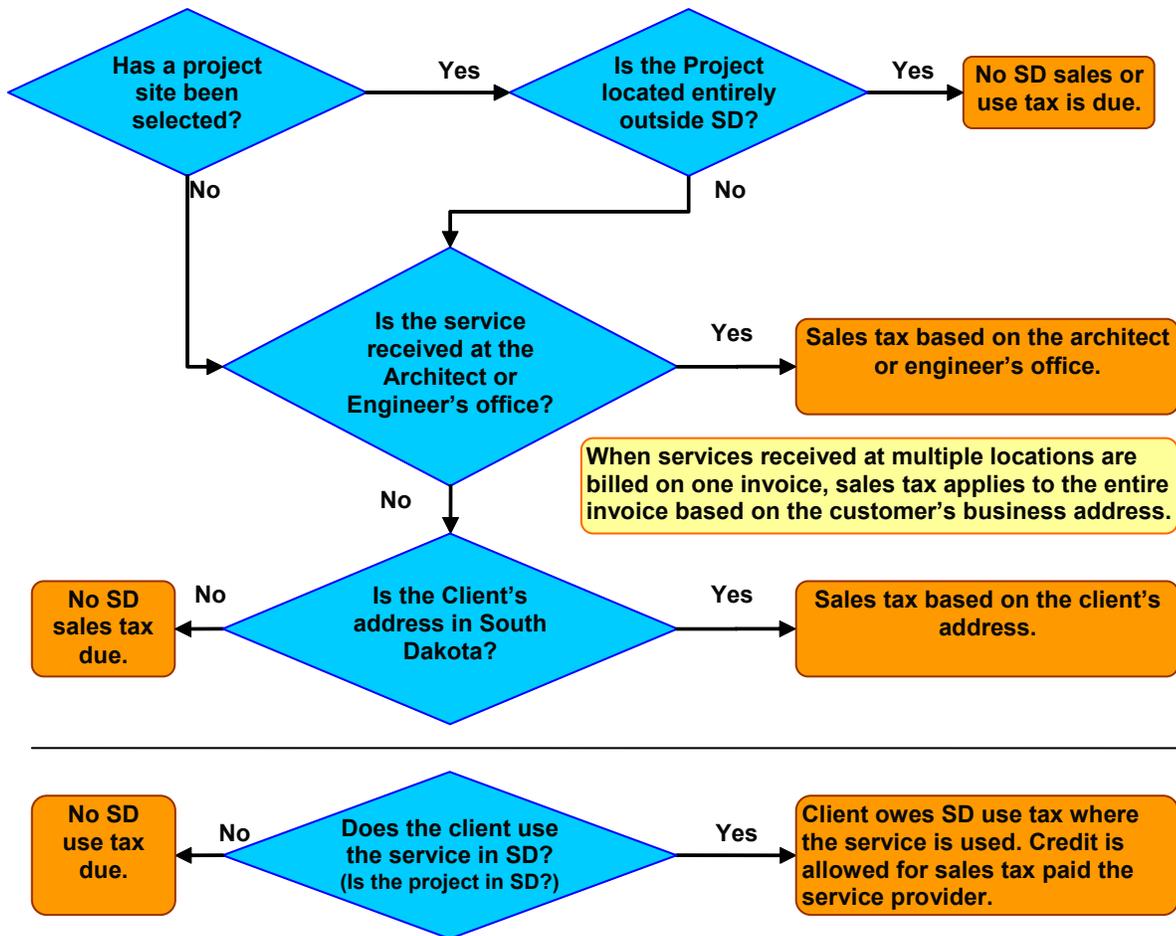
2. If the client does not receive the service at the architect or engineer's office, charge the sales tax rate at the customer's address.

3. If the bill to the client contains charges for multiple services, not all of which were received at the architect or engineer's office, then the entire bill is taxed based upon the client's address (if address of business is not on file, the billing address may be used).

When a service provider provides both surveying and engineering or architect services and the statement is itemized, sales tax applies to the surveying based where the property is located; sales tax on the engineering or architect services applies based on the above sourcing rules. If the statement is not itemized, then sales tax applies to the entire invoice based on the above sourcing rules for architect or engineering services.

Clients will have a use tax liability if they use the service in South Dakota and the architect, engineer, or surveyor did not collect South Dakota sales tax or if the tax paid in another state was a lower rate than the use tax due South Dakota. Credit will be given for sales tax collected that the architect, engineer, or surveyor owes another state. Use tax is not due on engineer, architect, or surveying services purchased for projects located entirely outside South Dakota.

Architects, Engineers, and Surveyors



Sourcing Examples:

1. An engineer electronically re-drafts or re-draws engineering drawings owned by their customer into computer readable electronic format. Customer retains title to the drawing and format. All work is performed in the engineer's office. The client picks up the completed package at the engineer's office. Sales tax applies based on the engineer's office. If the engineer mails or delivers the package electronically, sales tax would apply based on the delivery address.

2. A client in Wall hires an architect firm to design a motel that will be built in Wall, SD. There are meetings in the architect's office, client's location, and project site visits. Billings are sent as the project progresses. Each billing contains multiple services, which are not all received at the architect's office. Sales tax applies based on the client's address in Wall, SD.

3. An engineer from Wyoming enters into a contract with a company headquartered in Colorado to perform design and

specification services on buildings the client owns in South Dakota. The architect will travel to the South Dakota sites to inspect the buildings and complete the drawings and specifications, and will then send the drawings to the client in Colorado. Because the services are not received at the architect's office, sales tax applies based on the client's address, which is in Colorado. If sales tax does not apply in Colorado, the client will owe 4.5% state plus applicable municipal use tax based on project sites in South Dakota.

4. An electrical contractor has a contract to provide and install a fire alarm system. The contractor hires an engineering firm to design the system, supervise installation, and to test and certify the system once installed. The engineer provides drawings to the contractor detailing installation requirements. The electrical contractor performs the installation per the drawings. The engineer does no installation. Sales tax applies to the engineer's services at the project site because the supervision, testing and certification are taxed where performed.

Site Selection: If a specific project location has not been selected and a company is hired to review potential sites, sales tax applies where the reports are delivered to the client. Use tax is due on the portion of the service for reviewing potential locations in SD.

Examples

1. A company is hired to review three potential sites for a project. One location is in SD and two are out-of-state. Because the service is not received at the company's office, sales tax applies at the client's address. However, because the service is used to review a location in South Dakota, South Dakota sales tax applies to that portion of the fee. If the fees are not itemized, the fee may be prorated and use tax paid on 33% of the total fee.

2. A North Dakota corporation hires an engineer to do a site study for a prototype building on a lot located in South Dakota. The project is never constructed. Sales tax applies based on the client's location in North Dakota. However, the service is subject to South Dakota use tax because the research was for a specific site in South Dakota.

Equipment Design: Engineering services to design equipment for use at a new project site, services and designs are taxed where delivered (typically client's location). When designs are used to build equipment at the project site - use tax is due at the site location if applicable tax has not already been paid.

Reimbursable Expenses

Gross receipts subject to sales tax include charges or reimbursements for items such as plane tickets, car rentals, meals, or lodging, building permits, postage or delivery charges, and phone bills. The receipts for the reimbursable items are subject to sales tax even if billed separately from the actual services.

Reimbursable expenses paid on behalf of a customer that the customer is legally liable for are not included in the gross receipts subject to sales tax. Items a customer is legally liable for include property taxes and filing fees.

Example

Architect Jim flies from Minneapolis to meet client at project site in Rapid City. Jim bills client \$800 for services plus \$750 for airfare, car rental, and meals. Jim will owe sales tax on the total receipts of \$1550.

Resale

An architect, engineer, or surveyor may purchase any service for resale when the service is purchased on behalf of a client in the performance of a contract for that client. An exemption certificate must be issued to the seller as documentation.

Other service providers may purchase an engineer, architect or surveyor's service for resale if the service is purchased on behalf of a specific customer, is not used by the purchaser, and is passed on to the purchaser's customer unchanged.

Examples:

An engineer is testing soil. The lab bills the engineer for each test. The engineer may purchase the lab's service for resale as the lab test is used in the performance of a specific contract.

Another lab has a contract with an engineer to do unlimited testing for \$1000 per month. Because the service is not purchased for use in performance of a specific contract, the lab's service may not be purchased for resale.

Project or Construction Managers

Construction manager services are subject to sales tax based on where the project is located. Construction managers owe sales or use tax on all products and services they use in performing their service. Construction managers supervise or oversee construction projects; they do not provide any of the construction work. A construction manager does not enter into a realty improvement contract for construction services. The construction manager may oversee the hiring of contractors, however, the contractors enter into contracts with the owner and payment is made directly from the owner. If a construction manager has a contract for construction services or realty improvement work the contract is subject to contractors' excise tax.

Construction or Realty Improvements

Any person entering into a contract for construction services enumerated in Division C of the Standard Industrial Classification Manual of 1987 must have a South Dakota contractors' excise tax license. Any person engaging in services that includes the construction, building, installation, or repair of a fixture to real property must have a South Dakota contractors' excise tax license. All contractors must be licensed regardless of the amount of the receipts they have or the amount of tax due.

For further information on projects subject to contractors' excise tax please review the tax facts License Requirements for Sales, Use & Contractors' Excise Tax available online at <http://dor.sd.gov> or by calling 1-800-829-9188.

Architects, Engineers, and Surveyors

Soil and Water Testing and Cleanup

Soil and water testing is subject to state and city sales tax where the report is delivered. Monitoring of wells is subject to sales or use tax where the well is located.

Testing and monitoring services are subject to sales tax even if the testing company drills a hole to obtain a sample and puts a casing in the test hole. If a contractor is hired to drill the test hole, the contractor is subject to contractors' excise tax, the testing company cannot give them a resale or prime contractors' exemption certificate.

If the engineer sends the sample to a lab for analysis, the engineer can purchase the lab service for resale.

Cleanup of contaminated water is subject to state and city sales or use tax where the water is located.

Remediation or cleanup of soil is subject to contractors' excise tax. If the contract includes testing and cleanup, the entire charge is subject to contractors' excise tax.

If sales tax is not collected, the customer will owe use tax where the service is used. Testing of soil or water is used based on where the sample is from. Cleanup of water is subject to use tax where the water is located. No use tax is due on payments for construction services, such as remediation or cleanup of soil which is subject to contractors' excise tax.

Example:

An engineer does test borings with a drill rig to explore the subsurface soil and groundwater conditions. Soil samples obtained from the borings are sent to a lab to be tested. The data obtained from the lab is used to prepare written reports with recommendations for foundation support of buildings, structures, and pavements. The reports are sent to the client's address in Sioux Falls, SD. The engineer can purchase the lab service for resale. The engineer bills the client 4.5% state and Sioux Falls municipal sales tax based on the client's address.

Use Tax

Supplies, materials, or services purchased from an unlicensed business are subject to use tax.

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. The state use tax rate is 4.5%, plus applicable municipal use tax, and is payable in the filing period in which the supplies or services are received.

When a purchase is made out-of-state and possession is tak-

en 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 tax is owed.

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.

Records

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.

Technical Professions License Requirements are on the Department of Labor, South Dakota Board of Technical Professions website at <http://dlr.sd.gov/bdcomm/btp/>.

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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