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This fact sheet is designed to provide general guidelines and examples of what is included in a retailer's gross receipts. 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's newsletters, press releases, Tax Facts, and other documents published by the Department of Revenue.

Direct mail is printed material that meets the three following criteria:

- it is delivered or distributed by U.S. Mail or other delivery service;
- it is sent to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser; and
- the cost of the items is not billed directly to recipients of the mail.

Direct mail includes items supplied by the purchaser to include in the mailing, such as shampoo samples to be included with shampoo coupons.

Direct mail does not include multiple items of printed material delivered to a single address.

Advertising and promotional direct mail is used primarily to attract public attention to a product or service, person, business or organization, or to attempt to sell, popularize or secure financial support for a product, person, business or organization.

Other direct mail means any direct mail that is not advertising and promotional direct mail regardless of whether advertising and promotional direct mail is included in the same mailing. Other direct mail includes, but is not limited to:

(a) Transactional direct mail that contains personal information specific to the addressee including, but not limited to, invoices, bills, statements of account, payroll advices;

(b) Any legally required mailings including, but not limited

to, privacy notices, tax reports and stockholder reports; and

(c) Other non-promotional direct mail delivered to existing or former shareholders, customers, employees, or agents including, but not limited to, newsletters and informational pieces.

Other direct mail does not include the development of billing information or the provision of any data processing service that is more than incidental.

United States Postage

A direct mail service does not owe sales or use tax on their receipts for the cost of United States postage paid by such mailing service if:

1. The cost of the postage is listed as a separate line item on the customer's bill; and
2. The cost does not include any markup that is greater than reasonable and customary in the seller's industry.

The exemption on postage applies only to direct mail services. The exemption on postage does not apply to retailers that deliver products they sell.

Direct Mail Taxing Rules

Direct mail services are subject to the state and applicable municipal sales tax. Rules for determining which state may impose the sales or use tax are called sourcing rules. The application of sales tax for direct mail is as follows:

Advertising and promotional direct mail:

Sales or use tax is due based on the locations to which the advertising and promotional direct mail is delivered. However, the printer often does not have enough information to properly source the direct mail to the appropriate jurisdictions. The fact that the printer had possession of a mailing list to perform the mailing service is not sufficient to assume that the printer can properly source the direct mail. Most mailing lists are proprietary information belonging to a customer and printers are generally not allowed to keep the mailing lists once the printing job is completed.

The purchaser has two options regarding payment of tax for advertising and promotional direct mail purchases:

1. They may provide the printer with an Exemption Certificate claiming the direct mail exemption or the direct pay exemption along with their direct pay permit number. In this case, the printer does not charge any sales tax, and it is the purchaser's responsibility to pay use tax to the appropriate taxing jurisdictions.

Or

2. They may provide delivery information to the printer. Delivery information is documentation showing the taxing jurisdictions where the direct mail will be delivered. The printer must charge tax according to the delivery information provided. The purchaser must retain this information in their business records. However, if the printer is not registered or required to be registered to collect sales tax in the state(s) into which the items are shipped, it becomes the responsibility of the purchaser to pay use tax to these states

If the purchaser does not provide the printer with either of the items listed above, the printer must charge the rate of sales tax imposed in the location from which the mail was shipped.

Other direct mail:

The purchaser may provide the printer with a fully completed exemption certificate claiming the direct mail exemption or the direct pay exemption along with their direct pay permit number. In this case, the printer does not charge any sales tax, and it is the purchaser's responsibility to pay use tax to the appropriate taxing jurisdictions.

If the purchaser does not provide the printer with an exemption certificate, the printer must charge the rate of sales tax imposed in the location of the purchaser's business address.

Use tax on direct mail

Nothing in these rules limits a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered. The purchaser is responsible for reporting use tax to the taxing jurisdictions where the direct mail is delivered. South Dakota will allow credit for sales tax paid by the purchaser to the direct mail company, based on the sourcing rules.

Examples:

1. Home Real Estate sends holiday letters to their clients. Home Real Estate contracts with Zippy Mailing Service to print the letter, label and stuff envelopes, stamp, and mail

the letters. Home Real Estate tells Zippy that 125 letters are for clients in Sioux Falls, SD and 75 letters are for clients in Sioux City, IA. Zippy owes state and Sioux Falls municipal sales tax on the charge for the 125 letters mailed to Sioux Falls, less the cost of postage. Zippy does not owe South Dakota sales tax on the letters mailed to Sioux City, IA.

2. The next year, Home Real Estate provides Zippy Mailing Service with an exemption certificate claiming direct mail for the 200 holiday letters sent to their clients in Sioux Falls and Sioux City, IA. Zippy does not owe sales tax on this transaction. Home Real Estate owes state and Sioux Falls municipal use tax on the letters sent to Sioux Falls. No South Dakota use tax is due on the letters sent to Sioux City, IA.

3. Print and Pack prints advertising flyers for a South Dakota client and mails the flyers directly to the client's customers using the U.S. Postal Service. The client does not provide delivery information. Print and Pack can retain and use for sales tax purposes. Print and Pack pays U.S. Postage of \$340. Print and Pack prepares the flyers and mails them from Sioux Falls. Print and Pack bills the client \$500 for the flyers plus \$340 for postage.

Print and Pack owes state and Sioux Falls municipal sales tax on the \$500 because the flyers were mailed from Sioux Falls and the delivery locations are unknown. Print and Pack does not owe sales or use tax on the \$340 charge for postage as this charge was listed on the client's invoice and was the same amount paid to the U.S. Postal Service.

4. Corporation A, from Watertown, SD, contracts with Print and Pack to print and mail yearly shareholder reports to their shareholders who live throughout the US. Corporation A does not provide delivery information for Print and Pack to use for tax purposes. Print and Pack mails the items from Sioux Falls. Print and Pack owes state and Watertown municipal sales tax because the client's address is in Watertown, SD.

5. Print and Pack prints business cards and mails the cards directly to the client in Tea, SD, using the U.S. Postal Service. Print and Pack pays the U.S. Postal Service \$20 for postage. Print and Pack bills the client \$200 for the business cards plus \$20 for postage. Print and Pack owes state and Tea municipal sales tax on the \$220. This is not a direct mail service because the items are delivered to a single address. This is a sale of tangible personal property.

Direct Mail

Mailing Service

A mailing service prepares items to be mailed. A mailing service does not create or print the item being mailed. Mailing services and other services that prepare items to be mailed are subject to state and applicable municipal sales tax based on the location of the mailing service. A mailing service does not owe sales or use tax on their receipts for the cost of United States postage or other shipping charges paid by such mailing service if:

1. The cost of the postage is listed as a separate line item on the customer's bill; and
2. The cost does not include any markup that is greater than reasonable and customary in the seller's industry.

Sourcing. A mailing service is subject to state and applicable municipal tax at the location where the mailing service prepares the items to be mailed.

Companies that create or print the item AND prepare the item to be mailed are taxed as a direct mail company.

Example:

ABC Insurance takes 1,000 brochures to Zippy Mailing Service in Brandon, SD. Zippy prepares the brochures to be mailed by labeling, stamping, and tabbing the brochures. Zippy then takes the brochures to the U.S. Post Office. Zippy owes the 4.5% state sales tax, plus Brandon municipal tax on the charge for the service, less the cost of postage (see postage section).

The following are examples of taxable services a mailing service may provide.

- Address list or mailing lists
- Mailing list clean-up using NCOA (National Change of Address), merge-purge, automated or manual duplicate name elimination
- Presorting and address qualification for lowest postage rates
- CASS - Certified Address Standardization System, delivery point bar-coding, presorting for standard, first class, non-profit, periodical, saturation and walk-sequence rates
- Addressing
- Mail preparation services such as automated and hand inserting, bundling, metering, stamp affixing or tabbing
- Package preparation
- Mail Fast Forwarding

Purchases by a direct mail or mailing service

A direct mail or mailing service is the user or consumer of all equipment used in their service. All purchases are subject to the state sales tax, plus applicable municipal tax. Examples of taxable equipment are:

- Computers
- Collators
- Data/Document Shredders
- Folders and Inserters
- Mailroom Furniture
- Printing Machines
- Scales
- Tabbing and Labeling Equipment
- Tape Machines
- Postal Barcode Addressing Systems
- Computers

Direct mail or mailing services may purchase the following products for resale:

- Address Lists
- Envelopes
- Ink and toner
- Labels
- Paper
- Tabs

Items Supplied by Purchaser

The purchaser owes sales or use tax on any products they provide to the direct mail provider. Sales or use tax is due when they purchase the products or when products are removed from inventory. These products may include, but are not limited to, samples or promotional products.

Miscellaneous Services

E-mail services are taxable (information sent by e-mail instead of a paper mailing). When the delivery address is not known sales tax applies based on the customer's location.

Fax services are taxable (information sent by traditional fax or e-fax instead of a paper mailing). When the delivery address is not known sales tax applies based on the customer's location.

Data Processing services are subject to sales tax based on where the data is delivered. Services that process a client's data are subject to sales tax. Processing a client's data means developing information from data furnished by the customer

through processes such as summarizing, computing, extracting, sorting, and sequencing. Examples of taxable data processing services are:

- Payroll services
- Compiling bank statements
- Billing services for medical providers

Example: A billing company develops bills for a cell phone company. The billing company sends the bills directly to the customers. Fees charged for the portion of bills sent to addresses in SD are subject to state and municipal sales or use tax.

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, in addition to the state 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

Direct mail companies 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:

SD Department of Revenue
445 East Capitol Ave.
Pierre, SD 57501

Aberdeen
 14 South Main, Suite 1-C
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Sioux Falls
 300 S. Sycamore, Suite 102
 Sioux Falls, SD 57110

Mitchell
 417 N. Main, Suite 112
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Watertown
 715 S Maple
 Watertown, SD 57201

Rapid City
 1520 Haines Avenue, Suite 3
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Yankton
 1900 Summit Street
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