

June 2016

*This fact sheet is designed to explain to funeral directors and related businesses which items are taxable and which are not. Since it's not possible to cover every conceivable situation, specific questions may be directed to 1-800-829-9188 weekdays from 8 AM - 5 PM. CST.*

## Funeral Services

Funeral services are defined as the professional service of a funeral director and staff including, but not limited to: the care, preparation and transportation of the remains; the sale of funeral merchandise; providing of the memorial services; cremation, if desired; and the providing of other funeral-related services or merchandise.

Sales of funeral services in South Dakota are subject to South Dakota sales tax. The tax applies to both itemized services and package plans. Sales of tangible personal property are also subject to sales tax. Following are examples of goods and services sold by a funeral home which are subject to tax:

- Added staff and equipment for service outside of funeral home
- Caskets
- Costs of preparing and submitting an obituary
- Direct cremation
- Embalming
- Funeral or memorial service
- Graveside service
- Immediate burial
- Viewing or visitation periods
- Urns
- Use of cemetery tent and equipment
- Use of facilities for funeral ceremony or memorial service
- Use of facilities for viewing
- Use of hearse

## Accommodations

Accommodations are services or tangible personal property purchased by the funeral home on behalf of the client. If the item being purchased by the funeral home is normally subject to tax, the funeral home can either pay sales tax to the vendor or issue an exemption certificate.

If the funeral home paid sales tax at the time of purchase, the entire bill can be passed on to the customer without any additional sales tax due. If the bill is marked up when passed on to the customer, then this amount must be included in the gross receipts and subject to sales tax.

If the funeral home issues an exemption certificate, this amount must be included in the gross receipts subject to sales tax. Accommodations not included in the funeral home's taxable receipts are:

- Beautician's services (if sales tax is paid to the supplier)
- Clergy fees
- Commercial transportation charges including airfare (if listed separately on the bill)
- Copies of certified death certificates (if there is no mark-up passed on to the client)
- Flowers (if sales tax is paid to the supplier)
- Monument setting permit purchased directly from city
- Organist fees
- Vocalist fees

## Prepaid Plans

A funeral director must place at least 85% of the cost of the funeral plan in trust until the time of need. The funeral director does not pay sales tax until the money is withdrawn to be used for actual funeral expenses. At that time, all gross receipts, including interest earned, is subject to the tax. The remaining 15% (or less) which is not placed in the trust account is subject to the tax at the time of receipt from the client.

Penalties for broken contracts are subject to sales tax.

## Use Tax

Equipment and supplies used by a funeral home are subject to sales tax when purchased. If the supplier does not charge sales tax, use tax is due. The funeral home is not purchasing these supplies for resale, but is using them to provide a service. Use tax is the same rate as sales tax (4.5%) and both state and any applicable municipal taxes apply.

The following is a partial list of taxable items used or consumed by the funeral home in providing their service. If no sales tax is paid at the time of purchase, the funeral home is responsible for paying use tax on these items:

- Accounting/Bookkeeping services
- Body bags
- Cosmetics
- Embalming chemicals
- Equipment
- Gloves
- Gowns
- Legal fees
- Make-up
- Needles
- Office supplies and materials
- Pamphlets/brochures
- Syringes

## Purchases for Resale

A funeral director may present an exemption certificate to a supplier when tangible personal property or services are being purchased which will be resold to a customer. This certificate assures the supplier that the property or service will be resold and sales tax will be collected by the funeral director.

Exemption certificates need not be submitted for every purchase. The funeral director can supply one certificate to each supplier which will cover all purchases from that supplier. Certificates may be obtained by calling 1-800-829-9188 and may be photocopied.

The following is a partial list of items for which the funeral director should present an exemption certificate to the supplier. No tax is paid at the time of purchase, but these items are included in the funeral director's taxable gross receipts.

- Acknowledgment cards
- Caskets
- Delivery of vault or caskets by supplier
- Flowers
- Grave openings and closings
- Monuments
- Monument setting, place of
- Outer burial containers (vaults)
- Registry books
- Staking fees

State law requires that records such as purchase invoices and receipts be kept to verify tax payments to suppliers.

## Government Agencies

Sales billed to and paid by the Federal Government, State of South Dakota and South Dakota public or municipal corporations are exempt from sales 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 copy of a check.

## Telephone/Telegraph

Charges for telephone calls and telegraph messages are included in the funeral director's taxable gross. They are not considered a sale for resale but a cost of doing business. The tax paid to the telephone or telegraph company cannot be deducted from the taxable gross.

## Collection Agencies/Bad Debts

If a funeral home is on the cash method of accounting, sales tax is paid on all monies received from a collection agency. If the funeral home is on the accrual method, the funeral home pays sales tax when the services are performed. Taxpayers reporting on the accrual method may take credit for bad debts on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. If a taxpayer subsequently collects the debt in whole or in part, the tax on the amount collected shall be paid and reported on the next return due after the collection.

## Municipal Tax

Many South Dakota cities impose a sales tax in addition to the state tax. When a funeral home is located inside the city and the cemetery is outside the city limits, the entire amount of the funeral is subject to the municipal sales tax.

Vaults taken out of inventory inside the city and transported to a cemetery located outside the city are included in the measure of city tax. Vaults shipped directly from the supplier to a cemetery located outside the city are not subject to municipal tax **IF** the vault is sold separately and is not included with the funeral bill. In most cases, this cost is included in a package fee and the entire bill is subject to city sales tax.

A host funeral home may maintain and operate facilities in other cities under one sales tax license. The preparation of the body is done at the host facility, with the rest of the professional services conducted at one of their other facilities where the visitation and/or funeral take place. The Department will allow the host funeral home to remit city tax based on the location of where the majority of the services are conducted.

The city tax can be remitted based on the "local business location" as long as it is at one of the host funeral home's facilities. If the visitation and/or services are conducted at a location other than at one of the host funeral home's facilities, city tax will then apply to where the body was prepared.

## Rebates

Many casket companies give an end-of-the-year rebate on the sale of caskets and other supplies to a funeral home. Rebates from the manufacturer or wholesaler based on the quantities purchased by the funeral home are not subject to sales tax. Payments received from the manufacturer or wholesaler for discounts that are passed on to the customer that are also identified as a manufacturer or wholesaler discount are subject to sales tax.

## Cemetery Lots

The purchase of a cemetery lot is the purchase of real estate and is not taxable to the funeral home.

## Transportation Charges

**Funeral Homes:** Delivery or transportation is included in a funeral home's gross receipts. A funeral home may purchase services and delivery from another funeral home for resale. The funeral home that has receipts from the customer will owe sales tax on their total receipts, including delivery or transportation charges.

**Commercial transportation:** Transportation provided by a business that is not providing other services is exempt from sales tax. Commercial transportation is considered an accommodation item. Provided the funeral home itemizes the commercial transportation on the invoice to their customer, the charge for the commercial transportation is not subject to sales tax.

## Funeral Services

Transportation charges would not be included in the funeral director's taxable gross receipts if the tickets are billed directly to and paid by the person responsible for the funeral expenses.

**Airline air trays** are not considered shipping cartons and are subject to the sales tax. If the cost of the air tray is charged to the customer, sales tax must be paid. If the air tray is kept by the receiving funeral home, then use tax must be paid by the funeral home on their cost if sales tax was not previously paid.

**Vaults:** The sale of vaults, including delivery charges, is subject to sales tax. A funeral home may purchase the vault, including the delivery charge, for resale. The funeral home will owe sales tax on their receipts for the vault plus delivery charges.

### Out-of-State Clients

Because the majority of a funeral director's service consists of the preparation of the body, the sales tax applies at the point where the preparation of the body occurs. Municipal sales tax is based on the city in which the preparation takes place.

When the preparation of the body and the funeral service occur out-of-state but the burial is held in South Dakota, and the South Dakota funeral home is paid for the burial by the out-of-state funeral home, this is considered a sale for resale and no South Dakota sales tax is due. An exemption certificate should be obtained from the out-of-state funeral home.

#### **Example**

A person from Sioux Falls dies in Rapid City. A Rapid City funeral home prepares the body for shipment to a funeral home in Sioux Falls. The Sioux Falls funeral home may purchase the services from the Rapid City funeral home for resale. The charges for these services must be included in the Sioux Falls funeral home's gross receipts subject to sales tax. The same situation may apply when an out-of-state funeral home prepares a body for shipment into South Dakota. The key is who the customer is paying for the funeral services. If the customer hired an in-state funeral home to make all the arrangements, then the in-state funeral home could purchase the services from the out-of-state funeral home for resale.

### 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](mailto:bustax@state.sd.us) or write us:

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