

June 2016

This Tax Facts is designed to explain how certain taxes apply to mobile, manufactured, modular, and sectional homes. This document does not affect or explain the property tax treatment of the home. 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 previously 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.

Definitions

A mobile home (built prior to 1977) is a portable unit, designed and constructed to be towed on its own chassis (comprised of frame and wheels), and designed to be connected to utilities for year round occupancy. Mobile homes are titled.

The term includes:

- (a) Units containing parts that may be folded, collapsed, or telescoped when being towed and that may be expanded to provide additional cubic capacity; and
- (b) Units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing. (SDCL 32-3-1(8))

A **manufactured (HUD) home** is a portable structure that sits on its own chassis (frames and wheels) and can be towed from one location to another. When it is in a stationary location, you can hook up utilities and live in it year-round.

Manufactured homes are built to Housing and Urban Development (HUD) standards and can be used for residential, commercial, educational, or industrial purposes. They might be one unit (like single-wides) or made up of several units (like double- or triplewides) that can be towed separately, connected to form a single structure, and then later disconnected and towed somewhere else. (SDCL 32-3-1(6))

A **sectional home** (UBC) means any home pre-built in part or in whole for the purpose of permanent placement on a foundation. A mobile home as defined by subdivision 32-3-1(8) and manufactured homes as defined in subdivision 32-3-1(6) are not sectional homes. (SDCL 10-45-2.1 and 10-46-5.1)

A **permanent foundation** is a continuous perimeter weight bearing foundation supporting a sectional home and engineered to resist the imposition of external forces such as rain, wind and snow.

The perimeter foundation walls shall be supported by footings placed

below the normal frost line. The sectional home shall be attached and physically secured to the foundation. (ARSD 64:06:03:63)

Manufactured (HUD) Homes

A mobile or manufactured home, built to HUD standards is subject to the 4% initial registration fee based on the purchase price, including installation, as established by a bill of sale. If a bill of sale is not available, the retail book value shall be used to establish the purchase price. No deduction is allowed for trade in allowances when calculating the 4% initial registration fee.

If a licensed dealer sells the home, it is the dealer's responsibility to register the home. The dealer collects the 4% initial registration fee from the buyer, if applicable, and remits that to the county treasurer within 30 days of the sale. If the manufactured (HUD) home is purchased from someone other than a licensed dealer, it is the purchaser's responsibility to register and title the home within 30 days of the sale.

Reciprocity may be granted if proof of a similar tax being paid can be provided by the applicant.

The sale of a manufactured (HUD) home that is delivered out-of-state is not subject to the South Dakota 4% initial registration fee.

Government or public entities specified in SDCL 32-5-42 and 32-5-42.1 are exempt from the 4% initial registration fee.

Receipts from the sale or installation of a new or used mobile or manufactured (HUD) home are exempt from sales, use, and contractors' excise tax. Installation may include blocking, skirting, tie-down, or placement on any type of foundation, including concrete piers or any type of foundation. All materials and services purchased to construct a manufactured (HUD) home may be purchased for resale. The dealer may purchase the manufactured (HUD) home without tax from the manufacturer.

Contractors hired to install or setup a mobile or manufactured home should document in the contract or invoice that the receipts are for the setup or installation of a mobile or manufactured (HUD) home. The contractor owes sales or use tax on the material they provide to setup or install the home.

Reservation Sales

A manufactured (HUD) home purchased by a Tribal member that will be located within a reservation in South Dakota is subject to 11.25% of the 4% initial registration fee.

Example

A HUD home that will be located on the Rosebud reservation that sells for \$100,000 is subject to \$450 initial registration fee (\$100,000 X 4% X 11.25%).

Moving a Mobile or Manufactured (HUD) Home

A transportation company's or house mover's receipts for moving a mobile or manufactured HUD home are not subject to sales tax or contractors' excise tax.

Permit Required

Any person who moves a mobile home or manufactured (HUD) home must obtain a permit from the county treasurer where the home is located. The permit is valid for a single trip from the point of origin to a point of destination with the state. Before the county treasurer may issue a permit, an affidavit must be obtained from the county treasurer stating that the current year's taxes are paid as described in SDCL 10-21-36 to 10-21-39 or 10-9-3. The permit fee for mobile homes and manufactured homes for use on the public highways is \$15.00.

A dealer must obtain from the department self-issued permits and must display a self-issued permit when moving a used or new mobile or manufactured home.

The department shall assess a monetary penalty on the following if the above permit is not obtained prior to moving the mobile or manufactured home.

- Owners of a used mobile or manufactured home
- Regulated lenders who are repossessing a used mobile or manufactured home
- Transporters of a used mobile or manufactured home
- Manufacturer or licensed dealer who is moving, repossessing, trading, purchasing, or receiving onto the manufacturer's or licensed dealer's lot a used mobile or manufactured home

The transporter or dealer who was responsible for moving the mobile or manufactured home is liable for any property taxes due the county.

Monetary Penalties for failure to obtain the permit are:

\$250 for the first violation within a one-year period

\$500 for the second violation within a one-year period

\$1,000 for each subsequent violation within a one-year period.

Surrendering Titles

If a request to surrender a title of a mobile or manufactured home that is fixed to real property is made at the time the manufacturer's statement of origin is submitted, the following must also be submitted: a title application, \$5 title fee, 4% initial registration fee and an Affidavit of Declaration for a Manufactured Home Placed on Real Estate is required.

An owner of a titled manufactured home that is fixed to real property may request that the title be canceled and the record converted to real estate. The title and a current tax affidavit must be submitted, along with an Affidavit of Declaration for a Manufactured Home

Placed on Real Estate.

Obtaining a Title after Title is Surrendered

An owner of a mobile or manufactured home may choose to obtain a title on a mobile or manufactured home whose title was surrendered. Before the mobile or manufactured home is removed from real property, the owner shall submit the following to the department:

- A current tax affidavit from the county treasurer in which the mobile or manufactured home was located
- An affidavit stating that the home is no longer subject to real property mortgage or any other liens
- An independent report that lists the legal description of the real estate upon which the mobile or manufactured home is located and contains an affidavit stating a lien search was conducted of all records of the register of deeds, clerk of courts, the treasurer in the county where the mobile or manufactured home is located, and the secretary of state and shall describe any liens revealed by that search.

A) Any liens or encumbrances against the mobile or manufactured home or the real estate upon which the mobile or manufactured home is located must be released

B) The current owner of the mobile or manufactured home

If any liens or encumbrances exist against the mobile or manufactured home, the applicant shall obtain a release from each lien holder prior to issuance of a title. The department is not responsible for any mistakes in the issuance of the title resulting from documents provided pursuant to 32-3.

For information and forms needed for the titling and surrendering a title on a mobile or manufactured (HUD) home refer to the Motor Vehicles information on our website, <http://dor.sd.gov/> or call 605-773-3541.

Additional Information for HUD Homes

Furniture and Accessories

Furniture and accessories sold with a HUD home that is subject to the 4% initial registration fee are subject to the 4.5% state sales tax, plus applicable municipal sales tax. Furniture and accessories are not included in the amount subject to the 4% initial registration fee.

Some home sales include an allowance for furniture and accessories. If the dealer pays sales tax on the purchase of the furniture and accessories and the price is not increased when billed to the customer, the dealer does not owe additional sales tax. If the price is increased or if the items are purchased for resale, then the dealer owes sales tax on these items.

A dealer may purchase furniture and accessories for resale. Examples of furniture and accessories are: tables, chairs, sofas, washers and dryers.

Standard features such as a range or refrigerator and built-in items such as a furnace, water heater, dishwasher, air conditioner and electrical panel are a part of the home and are included in the price

Manufactured & Modular Homes

of the home subject to the 4% initial registration fee. Sales or use tax should be paid on the refrigerator and range when purchased to sell with a used home because the used home is not subject to the 4% initial registration fee.

Other Construction

Contractors that construct or install the following, but do not attach or setup the manufactured home, are subject to the contractors' excise tax plus sales or use tax on the material.

- Foundations or concrete piers
- Sidewalks and driveways
- Sheds
- Decks
- Garages

Repairs to Mobile or Manufactured Homes

Repair parts and services to mobile or manufactured homes that the dealer has for sale on the dealer's lot can be purchased for resale.

Repairs to mobile or manufactured homes for the home owner are subject to the 2% contractors' excise tax. All repair material and supplies are subject to the 4.5% state sales or use tax plus applicable municipal tax.

Examples

1. A dealer hires a contractor to replace ceiling tile that fell during the move to the customer's lot. Because this is part of the setup of the home, no use tax or contractors' excise tax is due. The dealer can issue the contractor an exemption certificate.

2. A dealer hires a contractor to replace a broken window on a manufactured home that is for sale. The dealer provides the replacement window. The dealer may purchase the window and the contractor's services for resale because the work is on tangible personal property that is held for sale on the dealer's lot.

3. A dealer hires a contractor to replace a furnace in a manufactured home on the dealer's lot. The dealer may purchase the furnace and labor for this project for resale because the work is on tangible personal property that is held for sale on the dealer's lot.

4. A dealer hired by the home owner to replace a window broken by hail owes use tax on the material and contractors' excise tax on their receipts.

Warranty

A. A warranty sold on a mobile or manufactured home is included in the amount subject to the 4% initial registration fee.

B. A warranty sold separately or on homes that are not subject to the 4% initial registration fee are subject to tax as follows:

1. If the warranty is for parts only or for sales taxable services, the warranty is subject to sales tax.
2. If the warranty is for labor construction services or realty improvement services, the warranty is subject to contractors' excise tax.

Modular, Sectional Homes and Houses Built on Blocks

The following explains the tax liabilities on the construction, sale, and installation of a modular or sectional home or a house on blocks built to Uniform Building Code (UBC) or other local building code standards. Such buildings are subject to sales or use tax and contractors' excise tax.

1. **Dealer sells a sectional home with installation.** Installation includes any one or combination of the following:

- connecting the home to the permanent foundation;
- connecting the electrical system; or
- connecting the plumbing.

The dealer is a prime contractor if their contract includes installation.

The dealer owes the following taxes:

- 4.5% state use tax plus municipal use tax on the cost of materials used to construct the home. Use tax is due based on where the dealer takes possession of the home. If the home is on the dealer's lot, use tax applies based on that location when the home is removed from inventory. Additional use tax may be due if the home is placed on a permanent foundation in another location that imposes a higher use tax.
- 2% contractors' excise tax if the home is installed in South Dakota. The contractors' excise tax is not due if the home is installed at a location outside South Dakota.

If the dealer does not have the contract to build the foundation, the dealer does not include the value of the foundation in their receipts subject to contractors' excise tax.

Examples

A. A dealer in Pierre sells, delivers, and installs a sectional home on a permanent foundation at a location outside city limits for \$85,000 plus tax. The cost of materials used to construct the home is \$42,000. The home is taken from the dealer's lot in Pierre. The dealer owes 4.5% state use tax, plus 2% Pierre municipal tax on the \$42,000 because the home is removed from dealer's inventory in Pierre. ($\$42,000 \times 6.5\% = \$2,730$)

The dealer also owes 2% contractors' excise tax on the total receipts, which include the use tax, from the sale and installation of the home. ($\$87,730 \times 2\% = \$1,754.60$)

B. A dealer sells a sectional home and connects the plumbing and electrical systems. The manufacturer delivers the home directly to the rural location. The cost of materials used to construct the home is \$42,000.

The dealer owes 4.5% state use tax on the \$42,000 because possession is outside city limits. ($\$42,000 \times 4.5\% = \$1,890$) The dealer also owes 2% contractors' excise tax on the total receipts, which include the use tax, from the sale and installation of the home. ($\$86,890 \times 2\% = \$1,737.80$)

C. A Rapid City dealer sells a home with installation and delivers the home to Wyoming for \$85,000 plus tax. The dealer removes the home from their lot in Rapid City. Because the dealer has the contract to install the home, he is the prime contractor.

The dealer owes the 4.5% state sales tax plus 2% Rapid City use tax on the cost of material used to construct the home because the home was removed from his inventory in Rapid City ($\$42,000 \times 6.5\% = \$2,730.00$).

The dealer does not owe contractors' excise tax, because the installation of the home is not in South Dakota.

2. Dealer sells a sectional home but does not include the installation.

The sale of the home without installation is a retail sale of tangible personal property subject to sales tax on the cost of the materials used to construct the home. Sales tax is due based on where the home is delivered to the customer. If the home is delivered to another state, South Dakota sales tax is not due.

The manufacturer of a modular or sectional home may sell the home for resale to a dealer. The manufacturer may purchase all materials and labor to construct a modular or sectional home for resale. The dealer is responsible for sales tax when the home is sold to the end consumer.

Example

A dealer sells and delivers a sectional home to Pierre for \$70,000; however, the dealer's contract does not include installation.

The dealer owes 4.5% state sales tax plus 2% Pierre municipal tax on the cost of the raw materials. ($\$42,000 \times 6.5\% = \$2,730$) The dealer bills the customer \$72,730.

3. Contractor is hired to install sectional home on a permanent foundation.

The contractor hired by the home owner to install the home on the permanent foundation is the prime contractor and owes the 2% contractors' excise tax on their total receipts. The prime contractor that installs a home that was purchased by the homeowner must include the homeowner's cost of the home as part of their receipts subject to the 2% contractors' excise tax. The home is reported as owner furnished material.

If no sales or use tax was paid on the purchase of the home by the homeowner or the contractor, the contractor is responsible for the 4.5% state use tax plus municipal use tax on the cost of the raw materials used to construct the home.

Example

The homeowner hires a contractor to build a foundation and put the home on a permanent foundation in Pierre for \$15,000. The homeowner paid \$72,436 for the home. The contractor is responsible for the 2% contractors' excise tax on the \$15,000, plus the \$72,436 the owner paid for the home ($\$87,436 \times 2\% = \$1,748.72$).

4. Contractors are hired to connect the electric or plumbing systems.

Contractors hired by the homeowner to connect the electric or the plumbing systems are subject to the 2% contractors' excise tax on their charge for the service. In addition, they will owe use tax on any material install if sales or use tax was not previously paid. They do not owe contractors' excise tax on the value of the home.

Additional Information on Sectional Homes

Display Homes

Display models that are in inventory for sale are not subject to sales or use tax provided the sectional (UBC) home is not used for business purposes, such as office or storage space.

Contractors hired to setup a sectional home as a display model on the dealer's lot owe the 2% contractors' excise tax on their receipts, but do not include the value of the home in their taxable receipts.

If a sectional (UBC) model is used by the business for office or storage space use tax applies to the cost of the material used to construct the home. When the sectional (UBC) home is later sold without placement on a foundation, the dealer will owe sales tax on the cost of material used to construct the home. If the sale includes placement on a foundation, the dealer will not owe additional use tax on the material because they have already remitted the use tax.

Foundations

Contractors hired by the owner to build the foundation are subject to contractors' excise tax.

Garages, Sidewalks, and Decks

The installation or building of garages, sidewalks, and decks are subject to contractors' excise tax. Sales or use tax is due on all material used in the construction.

House Moving and Transportation Services

A transportation company's receipts for moving sectional (UBC) from the manufacturer to the dealer are not subject to sales tax or contractors' excise tax.

A house mover that moves a home that is on a permanent foundation is subject to the 2% contractors' excise tax. The house mover owes 2% contractors' excise tax on their receipts for the project. The house mover does not owe contractors' excise tax on the value of the home.

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Mobile Classrooms

Sectional buildings (UBC) used for classrooms or other purposes that are not placed on a permanent foundation are subject to sales tax based on where the structure is delivered. Sales tax is due on the cost of the raw materials used to construct the home. Sales of buildings (UBC) to schools in South Dakota that are not placed on a permanent foundation are exempt from sales tax.

The installation of a UBC building on a permanent foundation is subject to contractors' excise tax and use tax is due on the material. There are no exemptions when the contractor owes use tax and contractors' excise tax.

Platform deposits or carrier frames

Platforms or carrier frames are used to ship sectional homes. The deposit is subject to sales tax. The sales tax can be refunded when the deposit is returned.

Real Estate Sales

The sale of the home and land, when the home is not moved, is a sale of real estate and is not subject to sales, use or contractors' excise tax. Real estate brokers commissions received from the sale are subject to sales tax.

Speculative Builders

You may be a speculative builder and subject to contractors' excise tax if you sell a modular home that you have placed on land you own or if you buy, remodel and resell a modular home. See Tax facts on Speculative Builders for further information.

Reservation Sales

For information on the application of sales, use, and contractors' excise tax for sales and installation of sectional (UBC) homes delivered to a reservation or work done on a reservation, please review the Tribal Governments Tax Facts.

Trade In Allowance

No deduction is allowed for trade in allowances when calculating sales, use or contractors' excise tax due.

Example

A new home to be placed on a permanent foundation sells for \$75,000. A trade in is accepted for \$25,000 leaving a balance due of \$50,000. The sales or use tax is due on the cost of the material used to construct the home (material cost is \$45,000). Sales or use tax is due on the \$45,000. If the dealer's contract includes the installation, the dealer will owe contractors' excise tax on the full charge of \$75,000.

Warranty

Warranty charges separately stated on the invoice are subject to tax based on the items covered by the warranty.

A. Sales tax applies when the warranty is for parts only or for sales taxable services.

B. Contractors' excise tax applies when the warranty covers labor that is subject to the contractors' excise tax or labor and parts.

General Contractors' Excise Tax Information

For information on the application of sales, use, and contractors' excise tax please review the Sales Tax Guide and Contractors' Excise Tax Guides that are available on our website at <http://dor.sd.gov/> or by calling 1-800-829-9188.

Talk to Us!

For questions on titling and registration contact: Division of Motor Vehicles 605-773-3541, email us at motorv@state.sd.us

For questions on property tax, please contact: Division of Property and Special Taxes 605-773-3311, email us at proptaxin@state.sd.us

For questions on sales, use, and contractors' excise tax, please contact: Business Tax Division 1-800-829-9188, email us at bustax@state.sd.us

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