

June 2016

This fact sheet is designed to provide general guidelines and examples of situations which may occur when a public or private non-profit university or school sells tangible personal property or 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 8:00 AM - 5:00 PM CST, Monday through Friday.

Information found in this document rescinds and replaces all previous written information on this subject. All users of this publication are responsible for keeping informed about changes in tax laws and regulations by reading department issued newsletters, press releases, Tax Facts, and other documents published by the Department of Revenue.

Taxes and Rates that may apply to a retail business.

State Sales and Use Tax.....	4.5%
Tourism Tax.....	1.5%
Municipal Sales and Use Tax	1 to 2%
Municipal Gross Receipts Tax	1%
Motor Vehicle Gross Receipts or Leasing Tax	4.5%
Wireless Gross Receipts Tax	4%

Sales to Public Universities

The sale of tangible personal property and services may be exempt from sales tax when sold to a public university if the payment is made with public funds. SDCL 10-45-10 exempts governmental entities from sales tax on their purchases. Public universities are governmental agencies and exempt from sales tax under this statute. South Dakota Vocational Institutions are also exempt from sales tax as a governmental agency. This exemption does not extend to purchases of tangible personal property for the personal use of officials, members or employees of such institutions.

Retailers must document sales and should retain a completed exemption certificate or proof of payment from the public university. The six public universities include:

1. Black Hills State University
2. Dakota State University
3. Northern State University
4. South Dakota School of Mines & Technology
5. South Dakota State University
6. University of South Dakota

The technical institutions are located in:

1. Mitchell
2. Rapid City
3. Sioux Falls
4. Watertown

Sales to Private Non-Profit Universities

The sale of tangible personal property and services may be exempt from sales tax when sold to a private non-profit university. SDCL 10-45-14 exempts sales to private non-profit education institutions that are exempt under section 501(c)3 of the Internal Revenue Code. These institutions must maintain a physical campus located within this state, must be accredited by the SD Department of Education and Cultural Affairs or the North Central Association of Colleges and Schools, and must be approved and licensed by the South Dakota Department of Revenue. This exemption does not extend to purchases of tangible personal property for the personal use of officials, members or employees of such institutions.

Foundations

Universities often have foundation accounts. A foundation is a separate and distinct entity from the university and is usually a non-profit organization. Examples include medical school foundations and law school foundations. The majority of the funds in a foundation account are the result of donations. Although the foundation is a non-profit organization, purchases made by a foundation are subject to sales tax since payment is not coming from the university. Retailers must charge sales tax on products or services sold to the foundation.

Sales made by Public and Private Non-Profit Universities

The sales tax exemption does not extend to sales of tangible personal property or services made by a university.

The sale of tangible personal property and non-educational services by a university or a technical institution are subject to the state sales tax plus applicable municipal tax, unless they are specifically exempt. A sale made by a university or technical institution may be exempt for the following reasons:

1. The product or service is specifically exempt by law.
2. The purchaser is exempt.
3. The product or service is used for an exempt purpose.

Examples of exempt services a university may sell:

- Health services (such as student health)
- Educational services (including tuition)
- Social services (such as day care)

Examples of exempt products:

- Agricultural products sold for resale
- Livestock
- Prescription drugs

Exempt Purchasers

Accredited schools, non-profit hospitals, approved relief agencies and government entities are exempt from sales and use tax. Purchases of food paid with food stamps or WIC coupons are also exempt from sales tax.

Accredited schools and relief agencies have tax identification numbers assigned by the department that should be provided to their vendors.

A completed exemption certificate or proof of payment from the governmental entities must be provided in order for the sale to be exempt from sales tax.

Exempt Use

State law exempts certain products or services from sales or use tax based on how the product or service is used. The most common exempt use is products or services purchased for resale. A business that purchases items to sell, rent, or lease to others may purchase those items exempt from sales tax.

Examples of Taxable Products/ Services Sold by Universities

Lab and Testing Services

A university or technical school may sell services to the public. These services may include lab testing and analyzing of agricultural products such as seed, feeds, water, soil, animal or other products. The fees for these services are subject to state and applicable municipal sales tax based on where the reports or results are delivered. Surcharges, University Fees and delivery charges are included in the receipts subject to sales tax.

Food Service

Meal plans sold to students are subject to the state sales tax, the applicable municipal sales tax and municipal gross receipts tax. The tax is due at the time of the sale of the meal ticket. If additional food is purchased from the cafeteria or grill, state sales tax, applicable municipal sales tax and municipal gross receipts tax is due at the time of the purchase.

Meal plans that are included in the salary compensation of residence assistants and hall directors are subject to the state sales or use tax plus the general municipal tax. If the university has a contract with an independent food service provider, and they did not pay sales tax on this meal plan, the university would owe state use tax plus applicable municipal tax to the state.

Flex Dollars

Some universities offer flex dollars to their students. Flex dollars can be purchased by the students and used at any of the cafeterias on campus. These are generally issued in the form of a purchasing card. When the flex dollars are used to purchase food, they are subject to the state sales tax, municipal sales tax and municipal gross receipts tax on prepared food. Any amount the student forfeits at the end of the year, is unclaimed property.

Bookstore

The bookstore, whether operated by the university or by an independent operator, must have a South Dakota sales tax permit. Items sold by the bookstore are subject to the state sales tax plus municipal sales tax.

Room Rentals

The rental of dorm rooms to students enrolled in an accredited course of study is not subject to sales or use tax. The rental of dorm rooms to transient guests (for less than 28 days) is subject to the state sales tax, plus municipal sales tax, municipal gross receipts tax (lodging) and the tourism tax.

The rental of classrooms, gymnasiums, dining rooms and multipurpose rooms is not subject to sales tax. The receipts from any service offered for an additional fee to the renter are subject to the state sales tax plus applicable municipal sales tax, municipal gross receipts tax, and tourism tax.

For example, the dining room is rented for meetings, for an additional \$25 a plate, a meal may be served at the meeting. The \$25 a plate fee is subject to the state and municipal sales tax and municipal gross receipts tax. The rental of the room is not taxable.

Parking Fees

Fees for parking permits sold to the university's students and faculty are exempt from sales and use tax. Parking fees for guests are subject to the state sales tax plus the municipal sales tax.

Youth Camps

Youth camps sponsored and operated by universities are not subject to sales tax if the entire net proceeds are deposited into the University's accounts and are spent for educational purposes. Sales tax is due on all items sold at the camp unless sales tax is paid to the vendor at the time the items are purchased.

If the entire net income generated from the camp not spent for educational purposes, the entire registration fee is subject to the state sales tax, municipal sales tax and the tourism tax.

Universities

For example, if the net proceeds are paid to the faculty member in charge of the event, then the entire receipts from the camp is subject to tax.

This applies to all camps held by universities, such as athletic, academic, and fine arts camps.

- Volleyball
- Basketball
- Baseball
- Running
- Swimming
- Soccer
- Dance
- Theatre
- Music
- Drama
- Math
- Science
- Computer

Equipment Rental

Rental of athletic equipment such as kayaks, tennis rackets, and basketballs are subject to the state sales tax, the municipal sales tax and the tourism tax.

Sports Training Programs

Sports lessons without academic credit are subject to the state sales tax and municipal sales tax.

Examples of these lessons are:

- Aerobic lessons
- Tennis lessons
- Kayak lessons
- Karate lessons

Fitness Center Memberships

Membership fees for fitness centers are subject to the state sales tax plus municipal sales tax.

Weekly and daily passes to fitness centers are subject to the state sales tax plus applicable municipal sales tax.

Entertainment and Admissions

SDCL 10-45-13 (4) exempts the admissions to events or activities sponsored and operated by colleges, related clubs, or supporting organizations when the net proceeds are spent for educational purposes.

Admissions to entertainment sponsored by university organizations when the net proceeds are used for purposes other than education are subject to the state sales tax, municipal sales tax, municipal gross receipts tax and the tourism tax.

If an organization or association charges admission or a cover charge, they can purchase the entertainer's services as a sale for resale.

The organization must have a sales tax license in order to issue an exemption certificate to the entertainer.

Museum Admissions and Sales

Admissions to university museums and science centers run by the universities are subject to the state sales tax, municipal sales tax, municipal gross receipts tax, plus the tourism tax.

All sales, including food items, gift shop items, and classes are subject to the state sales tax, municipal sales tax and tourism tax. Refer to the Municipal Tax Information Bulletin for the different municipal tax rates.

Donations are exempt from sales tax, but documentation must be kept for verification.

Concessions at Spectator Events

Concessions at spectator events put on by the universities are subject to the state sales tax, municipal sales tax, municipal gross receipts tax, and tourism tax. Examples of spectator events are sporting events, stage performances, concerts, expositions, and exhibitions.

Newspapers

The sale of newspapers is subject to the state sales tax and municipal sales tax.

Fees from Faculty and Students

When faculty and students provide research or consulting services, and charge for their services, they must have a sales tax license and remit sales tax on their fees. Research and consulting services are subject to the state sales tax plus municipal sales tax.

University Affiliated Organizations

Student Associations

Student associations or other organizations, such as booster clubs, business fraternities, or other academic clubs, are not exempt from sales tax on their purchases. Sales tax must be charged on all purchases made by these organizations.

Sororities and Fraternities

Student sororities and fraternities are not exempt from sales tax on purchases made with sorority or fraternity funds. Sales tax must be remitted on all purchases made by these organizations, unless they purchase the items as a sale for resale. See Entertainment and Admissions for additional information.

Fundraisers/Benefit Auctions

Student association clubs that are involved with fundraising must pay use tax on the items sold if sales tax was not charged by the seller. The clubs are required to maintain a list of items sold for fundraising, and provide a contact person with their address and telephone number.

Some student association clubs may need a sales tax license if they conduct regular fundraisers throughout the year. They should contact the Department of Revenue to get a sales tax license.

If all items are donated, the gross receipts from a benefit auction are not subject to sales tax. Retailers owe use tax on the cost of donated items that are taken from tax unpaid inventory. Items donated directly to exempt entities are not subject to use tax. Clerking and auctioneer services provided at no charge are not subject to sales tax.

Other Taxes

Tourism Tax

Tourism tax is a 1.5% tax in addition to the state sales tax and municipal taxes. This additional tax is used to promote travel to South Dakota. Tourism promotion tax applies to the gross receipts of the following:

- Hotels and Lodging Places, including renting of dorm rooms for less than 28 days
- Recreational Equipment Rental
- Food Concessions
- Sports Camps
- Museum Admissions & Sales of tangible personal property
- Recreational Services
- Spectator Events-Admissions to all non-college events

Contractors' Excise Tax

The repair or remodeling of existing real property or the construction of a completely new project or any construction service listed under Division C of the SIC Manual are all subject to contractors' excise tax.

Contractors are the end users of any goods or services they use to create or repair realty. They must pay sales or use tax on all these goods or services. The tax they pay becomes a cost that may be passed on to their customers as part of their expense. No one is exempt from contractors' excise tax and state law allows the contractor to pass on their tax expense.

Municipal Tax

Many municipalities in South Dakota have a sales and use tax in addition to the state sales 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 tax.

Municipalities may also have a 1% gross receipts tax. The municipal gross receipts tax (also referred to as the Bed, Board, and Booze tax) is a 1% tax that is in addition to the municipal sales tax. The municipal gross receipts tax can be imposed on alcoholic beverages, eating establishments, lodging accommodations, ticket sales, and admissions to places of amusement, or athletic and cultural events.

A list of municipal tax rates is available on our website at <http://dor.sd.gov> or by calling 1-800-829-9188.

Required Records

If universities sell tangible personal property or services, they must have a South Dakota sales tax permit. 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

For more information, please visit our website at <http://dor.sd.gov> or call our toll-free tax helpline at 1-800-829-9188.

**SD Dept. Of Revenue
Business Tax Division**
445 East Capitol Avenue
Pierre, SD 57501