

This fact sheet is designed to provide general guidelines and examples of situations which may occur when an exempt entity buys or 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-TAX-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 of Revenue newsletters, press releases, Tax Facts, and other documents published by the department.

State law exempts certain entities from having to pay sales or use tax on their purchases. These entities include:

- Governments, including SD public schools
- Non-profit hospitals
- Religious educational institutions
- Non-profit accredited private educational institutions (must be registered with the Department of Revenue)
- Non-profit charitable hospitals licensed by the Department of Health
- Non-profit charitable relief agencies recognized by the federal government and the S.D. Department of Revenue

The governments from other states or the District of Columbia are exempt from sales tax if the law in that state provides a similar exemption for South Dakota governments. Governments providing a similar exemption are Colorado, Indiana, Iowa (motels and hotels are not exempt), Minnesota (motels and hotels are not exempt), North Dakota, Ohio, and West Virginia. The governments from states without a sales tax are exempt from South Dakota sales tax. These states are Alaska, Delaware, Montana, New Hampshire, and Oregon.

Sales by Exempt Entities

Exempt entities selling products or services subject to sales must have a sales tax permit. The U.S. Government is not required to collect sales tax on taxable sales.

Management of Revolving Loan Fund

The receipts received by the State of South Dakota and any of its political subdivisions including multi-county planning and development districts established pursuant to Executive Order 70-7, or its successor, from management services provided to a

revolving loan fund operated by a nonprofit entity are exempt from sales and use tax.

Membership Organizations

Membership organizations such as the YMCA, YWCA, Boy Scouts, Lions Club, or Jaycees are exempt from sales tax on gross receipts from sales of services made by them and from the sale of their membership fees.

However, gross receipts from sales of either services or tangible personal property made to such organizations are taxable and the gross receipts from sales of tangible personal property by such organizations are taxable.

Ambulance/Volunteer Fire Departments

Gross receipts resulting from sales to municipal or volunteer fire departments and volunteer ambulance departments are exempt from sales or use tax, provided the items purchased are for use by the department and title to the property will be retained by the department.

Churches

Churches are not exempt organizations; therefore, they are subject to sales tax on all purchases made for use by the church, its clergy and members.

Civic and Nonprofit Associations

Certain gross receipts resulting from the sale of tangible personal property by civic and nonprofit associations are exempt from the state and local sales taxes. Sales to these associations are generally subject to the state and municipal sales tax. Exempt receipts include:

- Sales of tickets and admissions to the grounds and grandstand attraction of state, county, district and local fairs.
- Admissions to nonprofit historic sites and repertory theater performances operated by nonprofit organizations.
- Admissions to community-operated celebrations and shows sponsored by a Chamber of Commerce or other similar nonprofit organization are if the county, city or town in which the activity takes place officially sponsors the activity and no charge is made for the use of the county of city facilities or services.
- Admissions or receipts from activities sponsored and operated by colleges, elementary schools, high schools, or related clubs and supporting organizations when the entire net proceeds are spent for educational purposes. Sales tax must be paid on all purchases of items used or sold at the

event (i.e. If the junior class is selling concessions at a school event, it would not need a sales tax license if the sales tax was paid at the time the candy, pop or other items were purchased from the vendor.)

- Gross receipts from sales made by religious, benevolent, fraternal, youth or charitable activities when the net proceeds are used for religious, benevolent, fraternal or charitable purposes or for youth associations and the event is for not more than three consecutive days. Sales tax must be paid on items or services purchased by the organization for the organization unless the organization has obtained a sales tax license and is paying sales tax on the receipts resulting from the sale.
- Charges for entry fees for engaging in tournaments, contests, and league activities. However, receipts from the purchase of tangible personal property or services for use in the activity are subject to the sales tax.
- Certain fund raising activities to benefit homeless persons are exempt from the sales tax. To be exempt these must be admissions to events or receipts from activities sponsored and operated by religious, benevolent, or charitable organizations. The event or activity cannot exceed thirty days in any calendar year.

Exception: Admissions to rodeo and rodeo related events are always subject to sales tax.

Purchases by Exempt Organizations

Three things must occur before purchases of tangible personal property are exempt from sales tax. First, an exemption certificate or government voucher is presented at the time of the purchase by an authorized official of the exempt entity and maintained in the business records for three years. Second, payment is made from the entity's own funds. And third, title to the property is retained in the name of the entity. If an employee purchases items or services without an official voucher and is later reimbursed, those charges are sales taxable at the time of purchase.

All certificates and vouchers, except those furnished by the U.S. Government; the State of South Dakota; counties, cities, and townships; and nonprofit charitable hospitals should have the exemption number of the organization on the certificate. The exemption number will contain either an RG, RA, RS or RE (i.e. 0000-0000RA).

The department recommends that businesses review exemption certificates annually and request new forms when needed.

This exemption from sales tax does not extend to purchases for the personal use of officials, members, or employees of the exempt organization, or for purchases to be used in the operation of a taxable business located in an exempt institution.

Relief Agency

A **relief agency** is any nonprofit charitable organization which devotes its resources exclusively to the relief of the poor, distressed or underprivileged, and has been recognized as an exempt organization under § 501(c) (3) of the Internal Revenue Code. SDCL 10-45-10. The relief agency must be providing the actual services. Agencies and foundations that raise funds and distribute the monies or products to other agencies that provide the relief are not exempt from sales tax.

Contractors Tax Liability

If an exempt entity hires a contractor to perform construction services or realty improvement work for that entity, the contractor will owe excise tax on the gross receipts from that work. In addition, the contractor will owe sales or use tax on all materials they use in the project. The contractor must pay use tax and contractors' excise tax on materials supplied by the exempt entity for use in their work.

An exempt entity may NOT issue an exemption certificate to a contractor that is performing construction services or realty improvements for that entity.

State law allows contractors to list their tax expense as a separate line item on all contracts and bills. The contractors' excise tax and the contractor's use taxes are part of the contractor's total bill and are collectible from all entities, both public and private.

Unlicensed Contractors

Public corporations may not award contracts for the construction of any public improvement to unlicensed contractors. Please contact the Department of Revenue at 1-800-TAX-9188 to verify the contractor's license prior to letting bids.

Contractors must provide documentation to the public corporation that these licensing requirements are met before the public corporation can do business with them.

Retailers or contractors may obtain an application for a tax permit from our website at www.state.sd.us/drr or by calling 1-800-TAX-9188.