

June 2016

This fact sheet is designed to educate taxpayers on gross receipts from providing entertainment services. Sales tax is also due on sales of merchandise such as T-shirts, CD's, posters and any other items or services. Since it's impossible to cover every conceivable situation, specific questions can be directed to the Department of Revenue's toll-free helpline at 1-800-829-9188.

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.

## Who needs a tax license?

If you receive payment in any form for providing entertainment services, you are operating a business and must obtain a sales tax license. The following list may be used as a guide to help determine whether you are performing entertainment services. This list is NOT inclusive:

- Actors and actresses
- Ballet
- Bands
- Clowns
- Comedians
- Dancing
- DJ's for special events
- Event announcers
- Exotic dancing
- Karaoke

## Who is responsible for paying tax?

Any person or business who receives payment for entertainment activities is responsible for paying the sales tax to the state. See the example:

### **Example**

A magician performs a magic act at a children's birthday party. He charges the parents \$50.00 for his performance. The magician owes 4.5% state sales tax plus applicable city tax on the \$50 received. The magician may figure the tax into the charge for his services by billing the customer \$52.25 (\$50.00 + \$2.25 state sales tax).

## What about tips and free drinks?

If an entertainer receives tips from customers (which are received entirely at the option of the customer), no sales tax is due. If an entertainer's contract states that drinks or meals will be provided, tax is due on the entire receipts for the engagement including the value of the meals, drinks and cash payment received.

## Exemption Certificates

An exemption certificate is a form given by a purchaser to the seller of goods or services that the purchaser intends to resell. An entertainer may accept an exemption certificate from a licensed business that intends to resell the entertainment services. Be sure the certificate is completed and signed.

A bar that charges admissions or a cover charge may provide an exemption certificate. When admissions or tickets are sold for an event such as a concert, the entertainer may accept an exemption certificate.

If the admissions or ticket sales to the event are not taxable, an exemption certificate may not be issued for the entertainer. This may include events at state, county or local fairs or fundraising events when the charitable organization is collecting the admissions or ticket sales. In these situations, sales or use tax is due on the entertainer's fees.

An exemption certificate from a bar or promoter only covers the charge for entertainment services; the entertainer is still responsible for collecting tax on sales of t-shirts and CD's and other items.

Exemption certificates may be obtained at <http://dor.sd.gov> or by calling 1-800-829-9188.

### **Examples**

Harry's Bar hires Rock Band to appear at Harry's on Saturday night. Harry charges his customers a \$5.00 cover charge to attend. Rock Band receives \$500 and a resale certificate from Harry. During a break, Rock Band receives \$200 for sales of t-shirts and CD's. Rock Band must remit sales tax on the \$200 in merchandise sales.

Southside Promotions hires five bands to play for a weekend music festival. Southside sells tickets for the event. Southside may provide an exemption certificate to the bands for their services. Each band is responsible for reporting and remitting tax on sales of their merchandise at the event.

## Use Tax

Equipment and supplies purchased by an entertainer are subject to sales tax when purchased. If the supplier does not charge sales tax, use tax is due. An example is a purchase made through the mail or the Internet. Use tax is reported on line 2 of the sales tax return. Here are some examples of items on which sales or use tax must be paid:

- Amplifiers
- Artwork
- Attorney fees
- Bookkeeping and accounting fees
- Consulting fees
- Costumes
- Internet access fees
- Musical instruments
- Production services
- Props
- Recording equipment
- Recording studio time
- Repair parts
- Sheet music
- Stagehands (except for W-2 employees)
- Uniforms
- Webpage design

## 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 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.

Tourism tax also applies to admissions and merchandise sales made at spectator events and visitor attractions.

Other publications you may wish to request:

- Exempt Entities Tax Facts
- Municipal Tax Information Bulletin
- Restaurant and Bar Tax Facts
- Exemption Certificate Tax Facts
- Tourism Tax Facts
- Use Tax Facts

## 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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