

FISHING & HUNTING SERVICES

South Dakota Department of Revenue | <http://dor.sd.gov/> | 1-800-829-9188 | June 2016

The purpose of this Tax Facts is to explain which South Dakota state and local taxes apply to fishing and hunting service providers, hunting preserves, and hunting lodges. It is not intended to answer all questions that may arise, but is intended to help you become familiar with the sales and use tax. The information contained in this fact sheet is current as of the date of publication.

This guide may change with updated information or added examples.

Overview

If you receive any payment for providing fishing or hunting services, you are operating a sales taxable business. You must obtain a sales tax license and report and pay sales tax to the South Dakota Department of Revenue.

The gross receipts from the following are subject to sales tax:

- Providing a fishing or hunting guide service
- Providing access to individuals or groups for fishing or hunting on property you own or operate
- Membership fees to hunting preserves or hunting clubs located in South Dakota
- The sale of any equipment and supplies
- The sale of lodging and camping
- The sale of meals, snacks, and beverages

If you sell taxable products or services in South Dakota, you must obtain a sales tax license from the South Dakota Department of Revenue. Apply for a sales tax license online at www.sd.gov/taxapp.

Payment need not be received in cash to be subject to sales tax – barter income is also taxable. Barter income includes any product or service you receive in exchange for providing fishing or hunting services.

Tax Rates

- **State sales and use tax is 4.5%.** All sales of taxable products and services, including fishing and hunting services, are subject to the state sales tax.

sale of any product or service at any hunting or shooting preserve.

Tourism tax does not apply when you are remitting use tax.

The following taxes may apply in addition to the state sales tax.

For a complete list of recreational services, see the Tourism Tax Facts.

- **Tourism tax is 1.5%.** Tourism tax applies to your receipts for guiding, lodging, or recreational services. Tourism tax also applies to the entire gross receipts from the

Report tourism tax on the state sales tax return under City/Special Jurisdiction Calculations using code 700-1.

- **Municipal sales tax is 1 to 2%.** Any municipality may impose a sales and use tax in addition to the state sales tax. If the customer receives a product or service subject to the state sales tax in one of these municipalities, that product or service is also subject to that municipality's sales or use tax.
- **Municipal gross receipts tax (MGRT) is 1%.** Any municipality may also impose a municipal gross receipts tax (MGRT) in addition to the municipal sales tax. The municipality may impose the MGRT on alcoholic beverages, eating establishments, lodging accommodations, and ticket sales

and admissions to places of amusement or athletic and cultural events when the item is sold or the event is within that municipality.

Municipal gross receipts do not apply when you are remitting use tax.

A list of municipal tax rates and reporting codes is available at <http://dor.sd.gov> by calling 1-800-829-9188.

Report municipal sales and use tax and municipal gross receipts tax under the City/Special Jurisdiction Calculations section of your return using the appropriate code for each city and each rate.

Resale Purchases

Products

As a provider of fishing or hunting services, you may purchase products you sell to your customers *in the regular course of your business* without sales tax. These are products the customer will own and may consume while at your business or may take with them. This includes products or services included as part of a package deal and optional products and services the customer may purchase.

Services

You may purchase services for a customer without sales tax if you deliver or resell the service to that customer unchanged. You cannot purchase services your business uses without sales tax.

Documentation: To purchase products or services without sales tax, you must provide an exemption certificate to the seller. Exemption certificates are available online at <http://dor.sd.gov>.

Occasional purchases for customers

You may make an occasional purchase of a product or service for a customer at the request of that customer. If you paid sales tax on a product and are reimbursed for the amount you paid for that product, you do not owe additional sales tax. However, any charges above what you paid for that product or service are subject to sales tax. You must keep purchase invoices to show you paid sales tax on the purchase. If you purchase these items for resale, sales tax is due on the full charge to the customer.

Example 1: You provide guide services for a client that forgot his hunting vest. The client is arriving late and will not have time to shop. You buy a vest for the client for \$75.00 plus the 6.5% sales tax. The client pays you the \$75.00 plus 6.5% sales tax.

- ✓ You do not owe additional sales tax on this transaction.

Examples of products or services you may purchase without sales tax when you intend to sell that product or service to a customer.

Product/Service	Taxes that apply when you sell the product separately or it is itemized in a package deal				
	State Sales Tax	Municipal Taxes		Tourism Tax	
		Municipal Sales Tax sold <u>inside</u> city limits	Municipal Gross Receipts Tax sold <u>inside</u> city limits	Sold on a Hunting Preserve	Not sold on a Hunting Preserve
Alcohol – <i>An Alcohol license is mandatory.</i>	X	X	X	X	No
Ammunition	X	X	No	X	No
Beverages – non alcoholic	X	X	X*	X	No
Clothing	X	X	No	X	No
Food – prepared by you	X	X	X*	X	No
Guiding	X	X	No	X	X
Lodging	X	X	X	X	X
Processing of customer's game birds	X	X	No	X	No
Repair parts for customer's products	X	X	No	X	No
Repair services for customer's products	X	X	No	X	No
Restaurant Meals	X	X	X*	X	No
Snacks – Prepackaged by manufacturer	X	X	No*	X	No
Souvenirs	X	X	No	X	No
Tackle	X	X	No	X	No
Taxidermist services	X	X	No	X	No

*See the **Prepared Food Tax Facts** to determine if MGRT applies to food and beverage.

Taxable Purchases

Persons providing fishing or hunting services must pay sales or use tax on all equipment, gear, and supplies used or consumed in providing such services. You may not use an exemption certificate to make these purchases without paying sales tax.

Use Tax

If you did not pay South Dakota state and applicable municipal sales tax on your purchase, you are responsible for remitting use tax directly to the Department. You do not owe the municipal gross receipts tax or tourism tax when reporting use tax on products or services. Use tax is due when you receive the product or service.

You owe use tax on items you purchased with the intent to resell when you remove it from inventory to use.

Sales or use tax is due on all equipment used in providing your fishing and hunting services.

All supplies and services purchased that are not being resold to a customer are subject to sales or use tax.

It is your responsibility to identify taxable purchases when an exemption certificate is used. You must either instruct your vendors to charge you tax on the taxable items or report the use tax on line 2 of your sales tax return at the time you make the purchase.

Failure to identify and account for the use tax due from taxable purchases made from licensed vendors you provided an exemption certificate to may result in a penalty of 50% of the use tax due in accordance with SDCL 10-45-61.

Products or Services subject to sales or use tax at time of your purchase.				
Product or Service (not being sold)	Taxes that applies to product or service			
	State Sales or Use Tax	Municipal Sales or Use Tax If purchased inside city limits	Municipal Gross Receipts Tax If purchased <u>inside</u> city limits (Only applies if the retailer collects the sales tax)	Tourism Tax (Only applies if the retailer collects the tax)
Food provided to staff (not sold)	X	X	No	No
Restaurant meals for staff (not sold)	X	X	X*	No
Alcohol provided to staff (if permitted by the alcohol license type)	X	X	X	No
Beverages provided to staff	X	X	X*	No
Promotional or souvenir items (caps, jackets, pens, bags, etc.)	X	X	No	No
Equipment – not sold to customer (binoculars, tents, decoys, etc.)	X	X	No	No
Tackle – not being resold	X	X	No	No
Ammunition – not being resold	X	X	No	No
Clay pigeons	X	X	No	No
Consumables provided for clients (soaps, lotions, toothpaste, etc.)	X	X	No	No
Food, snacks, drinks given (not sold) to customers	X	X	No	No
Lodge furnishings (furniture, bedding, rugs, lamps, etc.)	X	X	No	No
Bookkeeping or Accounting	X	X	No	No
Cleaning services	X	X	No	No
Magazine or Newspaper subscriptions	X	X	No	No
Eating utensils (including disposable), stir sticks, straws, napkins	X	X	No	No
Office supplies, paper, pens, computers, software	X	X	No	No
Pop machines, Popcorn machines	X	X	No	No
CO2 for dispensing beer and soda (CO2 used for dispensing soda that is being sold is not taxable.)	X	X	No	No
Signs, banners, posters	X	X	No	No

*See the **Prepared Food Tax Facts** to determine if MGRT applies to food and beverage.

Package Deals

Bundled or One Non-Itemized Charge

If you sell multiple services or products as a package for a single price (i.e. the charge for each item is not separately stated or disclosed) and any of the products or services are subject to sales tax, then the full charge is subject to the state sales tax. If any item or service included in the package is subject to tourism tax, municipal tax or municipal gross receipts tax, the entire fee is subject to that tax in addition to the state sales tax.

Example 2 – Jerry’s Hunting Service offers a package deal that includes two days of guided fishing, overnight lodging accommodations in Winner, and two prepared meals per day for \$500. Jerry does not operate a hunting preserve.

In this case, Jerry’s will owe 9% tax on the \$500. This includes the following taxes:

- ✓ 4.5% state sales tax
- ✓ 2% Winner municipal sales tax
- ✓ 1% Winner municipal gross receipts tax
- ✓ 1.5% tourism tax

The total tax due is \$45.00 (9% of \$500)

Separately Stated or Disclosed Charges

If you separately state or disclose the charge for each product or service included in a package, taxes apply to each item as if you sold it separately.

Example 3 – Jane’s Hunting offers a package deal, but lists the price of each item. Jane does not operate a hunting preserve.

Because the charge for each item is stated, each item is subject to tax as shown on the table.

Example 3 Product or Service	Amount	Total Tax Rate	Tax Due	Taxes that apply
Guiding	\$ 250	6%	\$ 15.00	4.5% state sales tax 1.5% tourism tax
Meals (in Winner)	\$ 50	7.5%	\$ 3.75	4.5% state sales tax 2% Winner municipal sales tax 1% Winner municipal gross receipts tax
Lodging (in Winner)	\$ 200	9%	\$ 18.00	4.5% state sales tax 2% Winner municipal sales tax 1% Winner municipal gross receipts tax 1.5% tourism tax
Total	\$ 500		\$ 36.75	

Example 4 – Smith’s Hunting is a hunting preserve located outside Winner. They provide packages that include meals, lodging, and guiding. Customers may also purchase items at the preserve such as shirts, jackets, and caps. Lodging is at a motel in Winner. Smith provides meals at the preserve. Smith lists each charge on the invoice.

Example 4 Product or Service	Amount	Total Tax Rate	Tax Due	Taxes that apply
Guiding	\$ 250	6%	\$15.00	4.5% state sales tax 1.5% tourism tax
Meals (at the preserve)	\$ 50	6%	\$ 3.00	4.5% state sales tax 1.5% tourism tax
Lodging (in Winner)	\$ 200	9%	\$18.00	4.5% state sales tax 2% Winner municipal sales tax 1% Winner municipal gross receipts tax 1.5% tourism tax
Coat (at the preserve)	\$ 200	6%	\$12.00	4.5% state sales tax 1.5% tourism tax
Total	\$ 700		\$48.00	

Because the charge for each item is stated, each item is subject to tax as shown in the table.

Reminder: All sales of products or services at a hunting preserve are subject to the 1.5% tourism tax in addition to the state and applicable municipal sales tax.

Hunting Rights on Land

The sale of hunting rights on agricultural land is a taxable service. The landowner's charge for a person to hunt on his land is subject to the state sales tax. Tourism tax does not apply to hunting rights alone, with no accompanying service. If a landowner also offers guiding services, the entire fee is subject to state sales tax, tourism tax, and applicable municipal taxes.

A hunting guide who purchases hunting rights will owe use tax if the landowner does not charge sales tax.

Example 5 - A landowner charges \$100 per person to hunt on his/her property.

- ✓ The landowner must pay state sales tax on the entire fee.

Example 6 - A landowner charges \$150 per person to hunt on his/her property. As a part of the fee, the landowner will take the hunters to the field, point out the better hunting areas and provide lunch.

- ✓ The landowner must pay state sales tax and tourism tax on the entire fee.

Example 7 - A landowner charges a guide \$50 per person to hunt on his property. The guide charges \$250 a day to each person in his hunting party.

- ✓ The landowner must pay state sales tax on the \$50 per person fee. (The guide owes use on the \$50 per person fee paid to the landowner if the landowner does not collect the sales tax.)
- ✓ The guide also owes the state sales tax and tourism tax on the \$250 per person charge.

Exclusive Seasonal Rights to Fish or Hunt

A landowner that exclusively grants to another the right to fish or hunt on the landowner's property for an annual or seasonal fee is not subject to tax on that amount. The landowner must have a written agreement that contains the terms of the contract, including the price of the grant and a legal description of the property. The landowner and the purchaser of the rights must keep a copy of the written agreement as documentation of an exempt transaction.

Any service the landowner provides is subject to sales tax. If services and exclusive seasonal rights to fish or hunt are sold for a single fee (the fee for the services are not separately listed or disclosed) the entire fee is subject to sales tax, plus applicable tourism and municipal gross receipts tax.

Example 8 - A landowner agrees to lease land for exclusive hunting rights to ABC. The landowner and ABC sign a written agreement stating the fee charged, the description of the land, and the time hunting may occur. The landowner provides no other services.

- ✓ The landowner does not owe sales tax on the fees for this lease.

Example 9 - Another landowner also agrees to lease land for exclusive hunting rights to ABC. The written agreement states the fee charged, the description of the land, and the time hunting may occur. This landowner also agrees to release a certain number of birds during the hunt and to plant cover crops on the land. The release of the birds is subject to sales tax.

- ✓ If the landowner does not separately list the charges for the release of birds, the entire charge is subject to the state sales tax. If the landowner also provides guiding, the tourism tax will apply to the entire charge in addition to the state sales tax.
- ✓ If the landowner lists a charge for the lease of the land and a separate charge for the release of birds and planting the cover crops, then the charge for the lease of land and planting the cover crops is not subject to sales tax. The charge for the release of birds is subject to the state sales tax.

Alcohol Licenses

You must have an alcoholic beverage license to sell alcohol or provide alcohol as part of a package deal. Alcohol license types are:

- On-Off Sale Malt Beverage License
- On-Off Sale Wine License
- On-Off Sale Malt Beverage and South Dakota Farm Wines License
- On-Sale Retail Liquor License
- On-Sale Hunting Preserve Liquor License

Any hunting preserve facility may apply to the county auditor for an on-sale license if the facility has:

1. A shooting preserve operating permit issued pursuant to chapter 41-10; and
 2. A license issued by the Department of Health pursuant to chapter 34-18.
- ✓ The licensee may only sell alcoholic beverages for consumption on their premises during the shooting preserve season.
 - ✓ Alcoholic beverages may only be sold to guests as part of a hunting or shooting rental package for use of the shooting preserve's facilities and services.
 - ✓ The licensee may not sell any alcoholic beverages to the public or to employees.

Contact your county auditor for availability of licenses or with questions about obtaining any of these licenses.

Game Birds

The sale of live game birds is subject to sales tax. The sale of live game birds is exempt from sales tax when sold to:

- Commercial hunting operations who charge fees to hunt such birds; or
- Nonprofit organizations that release such birds.

If you are selling or raising game birds, you must also have a license through Game, Fish, and Parks.

Deposits and Prepayments

Deposits and prepayments are subject to sales tax when received. The same taxes that apply to the product or service sold will apply to the deposit.

Licenses

The sale of a state required fishing and hunting license is not subject to sales tax. You may purchase fishing and hunting licenses for your clients. You do not owe sales tax on the reimbursement for the cost of the license if you separately list that charge. Any fee you charge in addition to the license fee is subject to sales tax.

Tournaments

Entry fees for tournaments are not subject to sales tax. All goods or services purchased for use at a tournament are subject to sales tax.

Dogs

Receipts for dog boarding, selling, and training are subject to sales tax.

Record Requirements

You are required to keep 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 at least three years from the date the return is filed. These records must be available for inspection during business hours.

Other Licensing Requirements

Hunting lodges, guides, and preserves should contact the Game, Fish & Parks, the Department of Health, and the Fire Marshal offices to obtain the proper licenses and inspections.

Please contact the following offices with questions concerning health or fire inspections or questions concerning preserves or hunting regulations. Licensing and contact information is available on their website.

South Dakota Department of Health Office of Health Protection

<http://doh.sd.gov/food/>

State Fire Marshal Office

<http://dps.sd.gov>

Game Fish & Parks

<http://gfp.sd.gov>

If you have a tax question, please contact the **South Dakota Department of Revenue** toll-free at **1-800-829-9188**.

Website: <http://dor.sd.gov>

Email: bustax@state.sd.us

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