April 2002

South Dakota taxation news

Department of Revenue Gary Viken, Secretary

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Taxation News is published quarterly by the South Dakota Department of Revenue. Comments or suggestions should be sent to feedback@state.sd.us or to **Taxation News**, SD Department of Revenue; 445 East Capitol Avenue; Pierre, South Dakota 57501; telephone 1-800-TAX-9188. Look for your next issue of "Taxation News" coming in July!

Want to receive revenue news via e-mail? Please send your e-mail address (along with your tax license number) to webman@state.sd.us

2002 Legislative Update

During the recent 2002 Legislative Session, the Department of Revenue tracked 116 pieces of legislation, 53 of which became law. Following is a brief overview of several bills impacting business owners in South Dakota.

Streamlined Sales Tax Project Takes Another Step Forward

Three bills which would simplify South Dakota's sales tax system generated serious debate among the state's legislators this year before finally gaining approval. HB1001 adopted the Uniform Sales and Use Tax Administration Act and implemented the set of uniform standards a state must adopt to participate in the Streamlined Sales Tax Project. South Dakota is one of 39 states in the Project which have committed themselves to simplifying the administration and collection of sales and use tax by developing a uniform tax system.

Two companion bills, HB1002 and HB1003, which bring South Dakota into compliance with the Act's uniform standards also received legislative approval. HB1002 revamps the current Tourism Tax, creating a gross receipts tax on certain visitor-related businesses. HB1003 maintains the municipal tax system by authorizing a municipal gross receipts tax on certain lodging, alcoholic beverages, prepared foods, and admissions (bed, board and booze tax).

Taxing Cellular Phone Calls

Beginning August 1 of this year, South Dakota will impose its 4% state sales tax on intrastate cellular phone calls made by South Dakota residents in other states. The passage of SB36 brings the state into compliance with the federal Mobile Telecommunications Sourcing Act. The federal law limits a state's ability to tax cellular phone service, and without the passage of SB36, would have reduced state tax revenue by $300,000.

Tax Incentive Approved for Wind Energy Development Projects

Wind energy projects in South Dakota that generate more than 10 megawatts of electricity will pay less contractors' excise tax under SB167.

The legislation lowers the contractors' excise tax on such projects from 2% to 1%, and gives the developer five years to pay the tax. The developer would owe no tax the first year, and would pay the tax on each year's construction in four equal annual installments. The bill was one of three this Legislative Session which became law without Governor Janklow's signature.

SD QUEST Corner

"Last day of business". It's one of the boxes SD QUEST filers see on their screen when they file their tax returns. And it's one that tends to confuse many filers.

Some filers may think "Last day of business" refers to the last day on which they conducted business for the current reporting period. That's **NOT** the case! This box should only be completed if the filer has **GONE OUT OF BUSINESS** and the date they enter should reflect the actual last day of business. By incorrectly entering a date in this box, filers who are still in business may inadvertently cancel their tax license.

For more information on SD QUEST, call us toll-free at 1-800-TAX(829)-9188.

dates to remember

Schedule of Events

April

April 20 -- Paper returns and payments due for monthly filers.

April 23 -- SD QUEST returns due for monthly filers.

April 24-25 -- Business Workshop, Sioux Falls

April 29 -- SD QUEST electronic payments due.

May

May 7 -- MN/SD Border Issues Seminar, Sioux Falls

May 8 -- Business Workshop, Eagle Butte

May 9 -- ND/SD Border Issues Seminar, Watertown

May 15-16 -- IA/NE/SD Border Issues Seminar, Sioux City, IA

May 20 -- Paper returns and payments due for monthly filers.

May 22 -- Basic Tax Seminar, Sioux Falls

May 22-23 -- Business Workshop, Rapid City

May 23 -- SD QUEST returns due for monthly and bi-monthly filers.

May 27 -- Memorial Day. Revenue offices will be closed.

May 30 -- SD QUEST electronic payments due.

May 31 -- Paper returns and payments due for bi-monthly filers.

June

June 5-6 -- Business Workshop, Pierre

June 20 -- Paper returns and payments due for monthly and seasonal monthly filers.

June 23 -- SD QUEST returns due for monthly and seasonal monthly filers.

June 26-27 -- Business Workshop, Sioux Falls

June 27 -- SD QUEST electronic payments due.

April 2002

Sun	Mon	Tues	Wed	Thur	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May 2002

Sun	Mon	Tues	Wed	Thur	Fri	Sat
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5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

June 2002

Sun	Mon	Tues	Wed	Thurs	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23 / 30	24	25	26	27	28	29

seminars and workshops

Whether you're just opening a new business or you've been serving customers for 20 years, the Department of Revenue's free seminars and workshops offer a wealth of information on how to meet your business tax obligations. There's a full schedule of classes this spring at locations throughout the state. Sign up for one today!

Basic Tax Seminars

Basic Sales Tax, May 22, 2002, 8:00am - 12:00pm, Sioux Falls, SD

The Sales Tax Seminar covers such topics as how and when to apply for a tax license; exemptions from sales and use tax; exempt entities; local taxes; purchases for resale; use tax; and filing paper and electronic returns.

Basic Contractors' Excise Tax, May 22, 2002, 1:00pm - 5:00pm, Sioux Falls, SD

The Contractors' Excise Tax Seminar offers information on prime contractors and subcontractors; projects for qualifying utilities and government agencies; owner-furnished materials, and reservation projects.

Border Issues Seminars

Do you do business in South Dakota and Iowa, Minnesota, Nebraska, or North Dakota? Confused about which state taxes what goods and services? These seminars discuss many of the basic differences in the application and reporting of sales and use tax between South Dakota and bordering states.

All Border Issues seminars are free with the exception of the IA/NE/SD Seminar in Sioux City, IA; there is a $10 per person facility fee to attend those sessions.

MN/SD Border Issues Sales Tax Seminar
May 7, 2002
1:00pm - 4:30pm
Sioux Falls, SD

ND/SD Border Issues Sales Tax Seminar
May 9, 2002
9:00am - 12:00pm
Watertown, SD

ND/SD Border Issues Contractors' Excise Tax Seminar
May 9, 2002
1:00pm - 3:00pm
Watertown, SD

IA/NE/SD Border Issues Sales Tax Seminar
May 15, 2002
9:00am - 4:00pm
Sioux City, IA

IA/NE/SD Border Issues Contractors' Excise Tax Seminar
May 16, 2002
9:00am - 4:00pm
Sioux City, IA

Two-Day Business Workshops

This workshop is perfect for new or smaller businesses or as a refresher course. These sessions feature information from the Department of Revenue; Department of Labor; Internal Revenue Service; Social Security Administration; and OSHA. There is no cost to attend the business workshops but attendees are asked to bring a calculator.

April 24-25, 2002
9:00am - 4:00pm
Sioux Falls, SD

May 8, 2002
9:00am - 4:00pm
Eagle Butte, SD
(featuring Departments of Revenue and Labor, and IRS only)

May 22-23, 2002
9:00am - 4:00pm
Rapid City, SD

June 5-6, 2002
9:00am - 4:00pm
Pierre, SD

June 26-27, 2002
9:00am - 4:00pm
Sioux Falls, SD

July 10-11, 2002
9:00am - 4:00pm
Vermillion, SD

To register for any of these workshops and seminars, call our toll-free helpline at 1-800-TAX(829)-9188 or visit our website at www.state.sd.us/revenue

Taxing Bus Services: Knowing the When and Where

See the Black Hills greatest attractions by motorcoach. Join your fellow fans on a bus bound for a ballgame in the Twin Cities. Travel from one end of the state to the other on a regular bus route. Gone are the days when buses only hauled students to and from school. As "leave the driving to us" becomes a more popular option, the number of bus services being offered to consumers continues to increase. Which of these services are subject to sales tax?

Several factors determine whether sales tax is applied to bus services. Is it intrastate or interstate transportation? Are other services offered as part of the trip besides transportation? Is it a guided trip or just a regularly scheduled route?

In South Dakota, receipts from the intrastate transportation of passengers are subject to the 4% state sales tax. The tax applies if the passenger boards and exits the bus in South Dakota. For example, a bus line has a regular route from Sioux Falls to Rapid City with stops in Mitchell, Murdo, and Wall. A passenger buys a ticket to travel from Mitchell to Wall. Since he gets on and off the bus in South Dakota and the bus route doesn't go outside of South Dakota, the 4% state sales tax is applied.

State sales and use tax is not levied on bus services providing interstate transportation. Take the bus trip to the Twin Cities for the ballgame. Even though the trip starts and ends in South Dakota, the trip itself crosses state lines, making it interstate travel. Regularly scheduled, chartered, tour, or sightseeing bus trips to locations outside South Dakota are not subject to sales tax even if the trip starts and ends in South Dakota.

Tourism tax can also be applied to intrastate bus excursions if the tour or bus provides any service other than just transportation. Additional services may be a tour guide, tickets to places of amusement, meals, or lodging. A bus trip that's solely for transportation is not subject to the 1% tourism tax.

And as for municipal tax, no municipal tax applies to transportation services.

Federal Employee Credit Cards: How Tax Applies to Purchases

Depending on the type of business you operate, you may on occasion provide goods or services to federal employees. Many of these purchases may be paid for with federal employee credit cards. How does South Dakota sales tax apply to these credit card purchases?

South Dakota charges sales tax depending on the transaction. If the federal government pays for a purchase **directly** (central billing), the purchase is exempt from state sales tax. If the employee is billed and later seeks reimbursement from the government for the business expense, state and applicable municipal sales tax is applied.

Federal employee credit cards are issued through the General Services Administration's SmartPay program. There are two categories of SmartPay credit cards: 1. Cards that are the sole responsibility of the government and are billed directly to the government (centrally billed); and 2. Cards that are the sole responsibility of the employee and are billed to the employee.

Purchase cards and ***fleet cards*** fall into the first category. Federal employees can only use these cards for purchases from specific types of businesses, like gas stations and office supply stores. These cards are always centrally billed, and purchases made with them are exempt from state sales tax. Samples of the cards are shown below:

Purchase Card

Fleet Card

Travel cards and ***combined cards*** are in the second category and can be used at hotels, restaurants, and similar travel-related venues. Such purchases are billed directly to the employee and are subject to state sales tax. Here are samples of these cards:

Travel Card

Combined Card

Highway Contractors: Show Us Your License, Please!

Spring isn't the only season that hits South Dakota this time of year. With the warmer weather, the state's highway construction season will soon be in full swing. The Division of Motor Vehicles reminds highway contractors that before they can begin their highway construction projects, they **MUST** have a motor fuel highway contractor tax license.

In South Dakota, a highway contractor is defined as any person engaged in the activity of highway construction work in the state, including any person paid by public funds who does seeding, re-seeding, fencing, or other maintenance or construction work within the right-of-way. The only exception is an individual who only owns and operates motor vehicles within the right-of-way hauling gravel or concrete, and who doesn't own or operate off-road machinery in the highway construction work.

So, now that you know what a highway contractor is, what constitutes highway construction work? If your project is paid for with public funds and includes work performed within any capacity that uses vehicles, machinery, or equipment within the right-of-way to construct, reconstruct, repair or maintain a public highway, it qualifies as highway construction work and is taxable. And public highways are not only roads that can be driven on; they also include waterways and snowmobile trails, or any "way" that the public can use for vehicular, snowmobile, or watercraft travel.

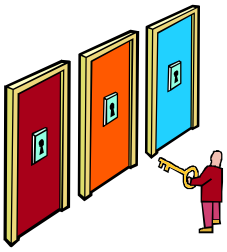
It's essential for businesses engaged in these types of projects to get and maintain their motor fuel highway contractor tax license. If you don't have one, you can't be awarded a public highway or street contract by any state, county, township, or municipality. These entities also may not award the contract if the highway contractor license isn't in good standing with the South Dakota Department of Revenue.

If you need to apply for a motor fuel highway contractor tax license or for more information, ask to speak to a Division of Motor Vehicle Motor Fuel Agent in our Pierre office at 605-773-3311 or 1-800-TAX(829)-9188, or call our Rapid City office at 605-394-2332.

Did You Know?

If you engage in the wholesale or retail sale of motor fuel or special fuel, you must be licensed as a **MARKETER** with the Department of Revenue's Motor Fuel Tax Section. A separate license is required for each business location within the state. For more information or to obtain an application, please contact the Motor Fuel Section at (605)773-5335 or visit our website at www.state.sd.us/revenue.

Applying Sales Tax to Mini-Storage Businesses



As consumers accumulate more goods than they can fit into their homes, many are relying on mini-storage facilities to house the overflow. While such facilities may seem like low-maintenance, easy-to-operate business ventures, owners of mini-storage businesses need to be aware of how sales tax applies to their operations.

Most mini-storage facilities provide exactly what the name implies: storage space. If that's all the business supplies, a secure space for storage purposes, the service is subject to the 4% state sales tax plus any applicable municipal tax (depending on where the facility is located). Any security deposits or insurance costs the storage facility may charge its customers are also subject to sales tax and need to be included in the business's gross receipts when their tax returns are filed.

Some storage facilities offer additional services besides just storage space. If the storage charge also includes moving or handling services, then the storage charge is subject to the 4% state sales tax but no additional municipal tax.

To find out more about moving and storage services, take a look at Tax Facts #240 - Moving and Storage. You can request a copy by calling the Department of Revenue's toll-free phone center at 1-800-TAX(829)-9188 or download a copy from our website at www.state.sd.us/revenue.

Department of Revenue
445 East Capitol Avenue
Pierre, SD 57501

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Bustax@state.sd.us

or call

1-800-TAX-9188

We're on the web!
www.state.sd.us/revenue

insights...from the Secretary of Revenue

The most important tax news coming out of the 2002 legislative session centers around passage of legislation that allows South Dakota to join some twenty-five or more other states in streamlining the sales tax so that it will work equitably among retailers in the midst of increasing sales by out-of-state catalog companies and remote Internet sellers. While the actual tax changes contained in the legislation do not become effective until January 1, 2006, our state has positioned itself to work with a growing number of other states in convincing Congress that sales taxes should apply equally to traditional retail sales and to those made by remote sellers using the Internet or catalogs. The legislation should have positive and far-reaching effects on achieving sales tax equity among sellers while preserving the state's sales tax base. The state's business community and cities worked very hard to make passage of the streamlined sales tax legislation a reality this year.

More and more businesses are filing their tax returns using SD QUEST, an easy-to-use electronic process that enables taxpayers to file returns either by Internet or telefile. If you have not yet tried this service, we encourage you to give it a try...we know you'll like it. Call our toll-free number, 1-800-TAX-9188, contact any of our local offices across the state, or visit our website to learn more. If you have suggestions on how our department can do a better job of serving taxpayers like yourself, we would love to hear from you.

All of us at the Department of Revenue join in wishing you an enjoyable and prosperous Spring.

Q & A

Churches NOT Exempt from Sales Tax

Q: We own a local grocery store that occasionally makes sales to several area churches. If the church gives us their exempt IRS number, does that mean we don't charge them sales tax on their purchases?

A: No. Under state law, churches are **NOT** exempt organizations; they're subject to sales tax on all purchases made for use by the church, its clergy, and its members. For more information on exempt entities, check out Tax Facts #155 - it's available on our website or by calling 1-800-TAX(829)-9188.

Mail your questions to SD Department of Revenue, Attn: Taxation News Editor, 445 East Capitol Ave., Pierre, SD 57501-3100 or fax to 605-773-6729.