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This Tax Fact Sheet is designed to explain to dentists and those associated with dental laboratories, clinics and related businesses which items are sales taxable and which are not. Please refer to **Health Services, Drugs and Medical Devices Tax Fact** for additional information. If your specific question is not answered in this Tax Fact Sheet please call our toll-free helpline at 1-800-TAX-9188 weekdays from 8-5CT.

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.

## Medical Services

Health services provided by offices and clinics of dentists are exempt from state and municipal sales and use tax. Included in this exemption are services performed by: Dental surgeons; Dentists; Endodontists; Oral pathologists; Orthodontists; Periodontists; Prothodontists; Dental hygienists; and Dental X-ray laboratories.

Health services provided by Dental Laboratories are exempt from state and municipal sales and use tax. Dental laboratories are establishments primarily engaged in making dentures, artificial teeth, and orthodontic appliances to order for the dental profession.

## License Requirement

Dentists and other health service providers must have a South Dakota sales and use tax license.

Sales tax should be collected from customers on all sales of non-prescription items such as toothpaste, toothbrushes, mouthwash, and over-the-counter whitening kits.

## Exempt Products

Drugs, medical devices, prosthetic devices, durable medical equipment, and mobility enhancing equipment are exempt from the sales and use tax when prescribed, dispensed or administered by a licensed dentist for use on a single patient.

Sale of products, including tangible personal property, products transferred electronically and services to dentists, dental clinics, dental hygienists, for-profit hospitals, clinics, nursing homes, surgical centers, and healthcare staff are subject to sales tax unless the product is exempt because it will be prescribed or resold. Sales of products to nonprofit hospitals are exempt from sales tax.

A **prescription** means an order, formula or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner.

## **Drugs**

The sale of drugs for use by humans is not subject to sales or use tax if the drugs are prescribed, dispensed or administered by a physician, chiropractor, optometrist, dentist, podiatrist, or audiologist.

Drugs mean any compound, substance or preparation, and any component of a compound, substance or preparation, other than “food and food ingredients,” “dietary supplements” or “alcoholic beverages” that is:

- A. Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them; or
- B. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or
- C. Intended to affect the structure or any function of the body.

## **Drug Samples**

Samples of drugs given to a physician, chiropractor, optometrist, dentist, podiatrist, audiologist, clinic, or hospital are exempt from sales tax because these drugs must be prescribed, dispensed, or administered by a physician, chiropractor, optometrist, dentist, podiatrist, or audiologist.

## **Examples of drugs that are exempt when prescribed, dispensed, or administered by a Dentist are:**

- Antibiotics, anesthetics, and other analgesics
- CO2 and tank rental
- Disclosant tablets
- Liquid nitrogen
- Nitrous oxide and tank rental
- Oxygen and tank rental
- Prescription drugs
- Prescription fluoride
- Prophy paste
- Toothpaste - Must contain sodium fluoride or other substance requiring labeling as a drug.
- Whitening gels

### Prosthetic Devices

Prosthetic devices used by humans are exempt from sales tax when prescribed by a physician, chiropractor, optometrist, dentist, podiatrist, or audiologist.

Prosthetic device means a replacement, corrective, or supportive device worn on or in the body to:

- A. Artificially replace a missing portion of the body;
- B. Prevent or correct physical deformity or malfunction; or
- C. Support a weak or deformed portion of the body.

Prosthetic devices include the repair and replacement parts for the devices.

#### Examples of prosthetic devices are:

- Bonding agents
- Crowns
- Crown cement
- Crown forms
- Dental implants including prosthetic components
- Endodontic filling materials
- Filling materials such as gold, silver, amalgam, composite, cement adhesives, and luting cements
- Endodontic posts
- Orthodontic braces and appliances
- Partial dentures, bridges and dentures
- Temporary crowns
- Regenerative materials (graft materials, membranes)

### Medical Device

The sale of any medical device is exempt from sales tax when the medical device is prescribed by a dentist for use on a single patient.

A medical device is any instrument, apparatus, implement, contrivance, or other similar or related article, including a component, part, or accessory, that is prescribed for use on a single patient and that is:

1. Recognized in the official National Formulary, or the United States Pharmacopoeia, or any supplement to them;
2. Intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, detection, or prevention of disease, of the human body; or
3. Intended to affect the structure or any function of the human body, and that does not achieve any of its primary intended purposes through chemical action within or on the human body and that is not dependent upon being metabolized for the achievement of any

of its primary intended purposes. A medical device is not durable medical equipment, mobility enhancing equipment, or a prosthetic device.

**Medical devices that are usable on multiple patients or that are used for purposes other than on a single patient are subject to the 4% state sales tax, plus applicable municipal tax.**

Repairs and replacement parts for medical devices sold under a prescription are exempt from sales and use tax. If there is not a prescription for the original item sold or for the repairs or replacement parts, the repairs or replacement parts will be subject to 4% state sales tax, plus applicable municipal tax.

**Examples of medical devices that are exempt when they are prescribed and can only be used on a single patient are:**

- Alcohol wipes, pads, and swipes
- Cotton swabs, rolls, and sponges
- Burs
- Curettes
- Drapes, sheets, towels
- Dressings
- Elastics
- Endodontic files and reamers
- Finish Strips
- Fluoride Trays
- Gauze
- Impression trays and materials
- Matrix bands
- Napkins—Bibs
- Quick Tips
- Retention pins
- Rubber dams
- Saliva Ejectors
- Surgical instruments— (examples are):
  - (a) knife blades
  - (b) saw blades
  - (c) staple guns
- Syringes and needles
- X-Ray Film

Note: Any of these items that can be used on multiple patients are taxable.

A toothbrush is a personal hygiene item, not a medical device, and is subject to sales or use tax.

**Taxable Medical Devices, Supplies and Equipment**

Medical devices, supplies, and equipment used by dentists, dental laboratories, and dental hygienists that are not prescribed for use on a single patient are subject to the 4% state sales tax, plus applicable municipal tax when purchased.

Gloves, gowns, and other protective gear worn by healthcare staff are subject to sales tax. Some medical devices purchased in bulk may be used by staff or prescribed for use on a single patient. If documentation is kept to identify the items prescribed for use on a single patient then those items are exempt from sales or use tax. Items used by staff are subject to sales or use tax.

Dentists who purchase equipment, services and other items from unlicensed suppliers without paying sales tax are subject to the use tax on the cost of the item or service. All products and services purchased are subject to sales tax at the time of purchase, unless purchased to resell, or are exempt items. You must pay use tax directly to the state if the supplier did not charge the applicable sales tax. Products removed from inventory to use in your business are also subject to use tax if sales or use tax was not previously paid.

**Examples of taxable durable medical equipment (not prescribed for use on a single patient) are:**

- Tools
- Burs (not prescribed for a single patient)
- Endodontic files and reamers
- Forceps
- Instruments
- Lab equipment
- Matrix bands
- Scissors
- Syringes

**Examples of taxable equipment and supplies are:**

- Balloons
- Candy
- Clear dip
- Computer hardware and software (both canned and custom)
- Personal Hygiene items given to patients such as toothbrushes, dental floss, and lip balm.
- Magazine subscriptions
- Masks, rubber gloves and other protective gear used by healthcare staff
- Office furniture
- Office supplies
- Operatory equipment
- Paper products
- Prescription blanks

- Samples of non-prescription items
- Sterilization products (pouches)
- Trays and tray covers
- Uniforms and Scrubs

**Examples of taxable services are:**

- Accountant
- Attorney
- Business consulting
- Computer
- Internet access fees
- Snow removal
- Grounds keeper
- Janitorial Services
- Dental software support service

**Dental Laboratories**

Laboratories and dentists that fabricate dentures or items for their patients may purchase the materials that become part of the product exempt from sales tax. Materials that do not become part of the finished product are subject to sales or use tax. Impression trays and impression material used on a single patient are exempt from tax. Office equipment and supplies, laboratory processing equipment, and tools used at the laboratory are subject to sales or use tax.

**Examples of taxable items:**

- Air cleaners and compressors
- Blasters
- Cameras
- Chisels
- Curing units
- Dust collectors
- Microscopes
- Mixers
- Polishers
- Scales
- Software
- Steam units
- Pressure vessels
- Vacuums
- Welders

**Use Tax**

All products and services purchased are subject to sales tax at the time of purchase unless purchased to resell or the product is an exempt item. You must pay use tax directly to the state if the supplier did not charge the applicable sales tax. The use tax rate is 4% plus applicable municipal use tax and is

payable to the department in the reporting period you receive the invoice for the product or service.

Products delivered into South Dakota by the supplier is subject to the South Dakota sales or use tax even if the supplier charges another state's sales tax. When a purchase is made out-of-state and possession is taken out-of-state the supplier may charge that state's sales tax. If the other state's sales tax is the same or more than South Dakota's tax, no South Dakota use tax is due. If it is less than South Dakota's, the difference is due in use tax. The state plus applicable municipal taxes must be added together to determine if additional tax is owed.

## 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. A list of municipal tax rates is available on our website at [www.state.us.sd/drr](http://www.state.us.sd/drr) or by calling 1-800-TAX-9188.

In an effort to ease the burden retailers may encounter trying to identify which South Dakota addresses are inside a city with a sales tax, the department created a Geographic Information System (GIS) called TaxMatch that is easily accessible by computer over the Internet.

It can help users quickly find the correct tax rate and city tax codes for locations throughout South Dakota. Users enter any South Dakota address into the Tax Match system; the system then provides all the applicable tax codes and rates for that address.

For quick and easy access, click on the State of South Dakota outline on the department's web site at [www.state.us.sd/drr](http://www.state.us.sd/drr).

## Exempt Entities

Accredited schools, non-profit hospitals, approved relief agencies, and government entities are exempt from sales and use tax. The seller must keep copies of payment documents received from the exempt purchaser in their records. Accredited schools and relief agencies have license numbers assigned by the department that should be provided to the seller.

## Required Records

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.

Businesses must keep adequate documentation to support that products are delivered outside city limits. Examples of documentation that shows delivery of products include: truck

driver log books; directions to delivery point; contract carrier bills of lading; and shipping invoices.

Other Tax Facts you may wish to request: Audits, Health Services, Drugs, and Medical Devices, and Use Tax.

## Talk to Us!

If you have a tax problem or question, call the South Dakota Department of Revenue toll-free at 1-800-TAX-9188. Visit us on the web at [www.state.us.sd/drr](http://www.state.us.sd/drr), email us at [bustax@state.us.sd](mailto:bustax@state.us.sd) or write us:

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