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Realty Improvement for Sales Tax Exempt Entities

The purpose of this Tax Fact is to explain how South Dakota state and local taxes apply to Realty Improvement for Sales Tax Exempt Entities. It is not intended to answer all questions that may arise. The information contained in this fact sheet is current as of the date of publication.

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Sales Tax Exempt Entities Include

The U.S. Government

- Includes political subdivisions

The State of South Dakota

- Includes counties, cities, townships, and other political subdivisions

Indian tribes

- Accredited schools
 - ⇒ Includes public and private institutions
- Non-profit hospitals
- Relief Agencies

⇒ Needs approval from the South Dakota Department of Revenue. See the [Sales Tax Exempt Application](#) for more information.

⇒ Not all non-profit organizations, including churches, qualify for tax exemption as a relief agency.

South Dakota Taxes and Rates	
State Sales and Use Tax – Applies to all sales or purchases of taxable products and service.	4.5%
Municipal Sales and Use Tax – Applies to all sales of products and services that are subject to the state sales tax or use tax if the purchaser receives or uses the product or service in a municipality that imposes a sales tax or use tax.	1 to 2%
Contractor's Excise Tax — Imposed on the gross receipts of all prime contractors engaged in construction services or realty improvement projects in South Dakota. The gross receipts include the tax collected from the consumer.	2%

Apply for a tax license online at
<https://apps.sd.gov/rv23cedar/main/main.aspx>.

Doing Business in Multiple States?

Apply through the Streamlined Sales Tax System at www.streamlinedsalestax.org to obtain a license with the programs 24-member states.

Sales Tax Exempt Entities are Subject to Contractor's Excise Tax

All realty improvement projects are subject to contractor's excise tax on the gross receipts for all prime contractors.

Subcontractors' gross receipts are not subject to contractor's excise tax (except those performed for qualifying utilities). To be exempt, subcontractors must have a valid [Prime Contractor's Exemption Certificate](#) from the prime contractor for each specific job.

Realty improvement projects performed for qualified utility companies are subject to contractor's excise tax on the gross receipts of BOTH prime contractors and subcontractors. This does not include realty improvements by qualified utility companies. See the tax fact for [Qualified Utilities](#) for more information.

Gross receipts include the full amount received directly or indirectly for performing construction services or realty improvements in South Dakota. It can be in the form of money, credits, property, liquidated damages, or other money's worth.

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

Use Tax

Use tax is due on tangible personal property, products transferred electronically, or services bought without sales tax that are used, stored, or consumed in South Dakota.

Use tax also applies when a sales tax rate is paid that is lower than the South Dakota state and applicable municipal sales or use tax due where the product or service is used, stored, or consumed. Credit is given for tax legally paid to another state.

Contractors owe use tax on the cost of all materials, supplies, and equipment used for realty improvement or construction projects in South Dakota if sales tax was not paid at the time of purchase.

A sales tax exempt entity can purchase materials, supplies, or equipment exempt from sales tax. The contractor is considered the end consumer of all materials they install. They owe use tax on any items, including recycled materials, furnished to them that sales tax was not paid on when purchased. Applicable municipal tax is also due on any materials, supplies, or equipment used for realty improvement or construction projects within city limits.

Use tax is due when the product or service is received.

Public corporations *may not* award contracts for the construction of any public improvement projects to unlicensed contractors. Documentation must be provided by the contractor that licensing requirements have been met.

Owner Furnished Materials

The cost of any materials, including recycled materials, supplied to the contractor must be included in the amount subject to contractor's excise tax. This amount includes sales and use tax paid on the materials.

Owner furnished materials are not included in qualified utility projects. Use tax paid on materials still needs to be included in the gross receipts subject to the contractor's excise tax for all projects.

Gross receipts are reported on line 1 of the contractor's excise tax return and owner furnished materials are reported on line 2. Use lines 5 through 22 to report the state and applicable municipal sales and use taxes.

Example:

A contractor receives a contract for \$10,000 to repair a road for the city of Lemmon. The city supplies the contractor with \$5,000 worth of materials to complete the project (no sales tax paid on materials).

- The contractor has a use tax liability of \$325 ($5,000 \times 6.5\% = 325$ by using 4.5% state and 2% Lemmon city use tax).
- The contractor owes contractor's excise tax on the \$10,000 (gross receipts) plus \$5,325 (OFM and use tax).

Services Subject to Sales Tax - Not Contractor's Excise Tax

- The sale and installation of certain types of flooring. See the [Flooring](#) tax fact.
- The sale and installation of locks (locksmith services).
- Snow removal services.

A sales tax exempt entity would not be subject to tax for these services.

Contact Us

If you have any questions, please contact the **South Dakota Department of Revenue**.

Call toll-free: 1-800-829-9188

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