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# Manufacturing

November 2021

The purpose of this Tax Fact is to provide an overview of how South Dakota sales or use tax applies to manufacturing. 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.

## South Dakota Taxes and Rates

<b>State Sales and Use Tax</b> – Applies to all sales or purchases of taxable products and services. Sales tax does not apply to products or vehicles subject to the motor vehicle excise taxes.	<b>4.5%</b>
<b>Municipal Sales and Use Tax</b> – 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.	<b>1 to 2%</b>

South Dakota’s sales and use tax, plus applicable municipal tax, applies to a wide variety of services and tangible personal property in manufacturing.

While many states have specific tax exemptions for manufacturing, South Dakota does not. Below are explanations of when and how to apply South Dakota sales and use tax.

## Component Parts and Services

**Component Parts:** Manufacturers, producers and processors of tangible personal property may purchase component parts exempt from sales tax if the following criteria are met:

- The items are used in fabricating, compounding, or manufacturing tangible personal property; and
- The items become part of the tangible personal property; and
- The final product will be sold at retail.

An exemption certificate must be given to the supplier of the component parts.

### Example:

*A manufacturer of a car engine can purchase gaskets, spark plugs, belts, hoses, etc for resale because these items become part of the item being manufactured for sale.*

- The welding machine the manufacturer uses does not become a part of the engine and is subject to tax at the time of purchase.

**Services:** Services that are an integral, inseparable component of services involving the manufacture, fabrication, processing, or manipulation of tangible personal property can be purchased for resale if the following criteria are met:

- The manufacturer, fabricator, processor, or manipulator does not use the service in any manner other than for resale; and
- The service is delivered or resold to the ultimate customer without any alteration or change.

### Examples:

1. *ABC Manufacturing builds garden tractors. It does not have the capacity to paint the finished product and hires Rainbow Paint Company to do so.*
  - The services of Rainbow are an integral part of the manufacturing process and may be purchased by ABC for resale, provided ABC furnishes an exemption certificate to Rainbow.
2. *Ace Mechanic contracts to repair a wrecked automobile. Ace repairs the damage except for the radiator, which is taken to Sam’s Radiator Service. Sam fixes the radiator and is paid by Ace. Ace then bills the owner of the vehicle for the repair work, with the charge paid to Sam’s Radiator Service included in the bill.*
  - No sales tax should be charged on the amount paid by Ace to Sam’s if Ace gave Sam’s an exemption certificate. The entire amount paid by the car owner to Ace is subject to tax.

## Tooling

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If tooling is performed in South Dakota for an out-of-state customer, South Dakota sales tax is due.

If any tooling charges are made by the manufacturer to modify the customer owned mold, the tooling charges are subject to sales tax.

## Dies

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A die is a specialized tool used in manufacturing industries to cut or shape material using a press. Dies are equipment used by the manufacturer and are subject to sales or use tax on the cost. Dies are generally customized to the item they are used to create. When a manufacturer creates their own dies, use tax is due on the cost of the raw material. Internal fabrication costs are not subject to use tax. If the manufacturer creates the die and sells it to a customer, sales tax is due on the selling price. No use tax is due on the materials. Manufacturers using dies that are furnished by the customer, will owe use tax if sales or use tax was not previously paid on the die.

## Molds

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Molds used by manufacturers are broken down in two categories and are taxed as follows:

**Molds owned by the Manufacturer:** These are molds owned (capitalized/depreciated) by the manufacturer that are used to produce a final product for its customer. Sales or use tax applies to the raw material costs going into the mold. Internal labor charges are exempt from sales and use tax as fabrication cost (no receipts to tax). Set-up and tooling charges (see definition) on capitalized molds are also exempt from sales or use tax as a fabrication cost (again, no receipts to tax). If the capitalized mold was made for the manufacturer by a third party, sales or use tax is due on the purchase price of the mold ([SDCL 10-46-5.3](#)).

**Molds sold to or owned by the Customer:** Molds created and sold to customers, are subject to sales tax. Sales tax applies to the total charge for the mold, including set-up charges and tooling charges to produce or modify a mold. If customer-owned molds are leased to a manufacturer or sold to a manufacturer, sales or use tax is due on the lease or purchase of the mold. If a customer provides a mold to the manufacturer to use, at no charge to the manufacturer, the manufacturer owes use tax on the fair market value of the mold if:

- The manufacturer does not have proof of sale; or
- Use tax was previously paid on the mold and the mold is less than 7 years old.

If any tooling charges are made by the manufacturer to modify the customer owned mold, the tooling charges are subject to sales tax.

### Set Up Charges for Molds & Prototypes

Material used to build the molds or prototypes is subject to sales or use tax. The manufacturer is the user of the prototype. Use tax is due on inventory parts pulled for prototypes to be used at trade shows, etc.

Internal labor used by a manufacturer in the manufacturing process is not subject to use tax. This includes internal labor to setup machines, create molds, or to modify molds. These charges are taxable when billed to the customer if the product sold is also taxable.

### Examples:

1. *A manufacturer creates a mold using their employees and raw material from non-taxed inventory. The manufacturer intends to sell the mold.*
  - The total selling price, including material and labor, is subject to sales tax.
2. *A manufacturer creates a mold and retains ownership.*
  - Use tax is due on the cost of the material used to create the mold. No use tax is due on the internal labor used to create the mold.
3. *A manufacturer uses their employees to prepare the equipment to produce a customer's product. The manufacturer itemizes the setup charge on the customer's invoice.*
  - The setup charge is taxed the same as the product, whether it is itemized or included in the price of the product.

## Packaging

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Packing material used or consumed by manufacturers, processors, or fabricators are considered raw material and can be purchased for resale as part of the products ([SDCL 10-45-14.4](#)).

Packing material purchased by retailers that becomes part of the packing of the product can be purchased for resale. Packing material includes boxes, Styrofoam forms or peanuts, plastic, dry ice, etc. ([SDCL 10-45-14.5](#)).

Pallets used by a manufacturer, processor, or fabricator are containers and can be purchased or leased without sales tax if used to transport product to the customer.

### Examples of packing material may include:

- Wrappers
- Containers
- Packing peanuts

## Inspections

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Inspections required by law and performed by the governmental entity requiring the inspection are exempt from sales tax. Inspections are subject to sales tax *where the client receives the report*. Use tax is due *where the service is used*.

- Inspections of real property are subject to sales tax where the property is located.
- Inspections of tangible personal property is taxed where the service is used.

If other services are performed on real property along with the inspection, such as cleaning, repairing, adjusting, or calibrating, all receipts are taxed where the work is performed. Receipts are subject to contractor's excise tax, instead of sales tax, if repairs are done to real property.

## Patents

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The fee paid for the right to use a technology or plan to create and sell products is not subject to sales tax. The ownership of the plans does not go to the person using the plan. This is not taxable, even if a plan or blueprint of the product or technology is provided to the user.

Any legal bills for patent work are subject to sales or use tax.

## Delay in Payments on Manufacturing Equipment

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The Secretary of the Department of Revenue may grant an extension of 6 months for remitting the tax to a qualifying business. The extension may apply to a business purchasing and installing equipment or machinery for direct use in a manufacturing, fabricating, or processing business, which is subject to sales or use tax ([SDCL 10-45-100](#)).

A delay in pay permit may be applied for when equipment is purchased without installation. Tax applies to this purchase as follows:

- The purchaser installs the equipment with their employees. Sales or use tax is due on the purchase price of the equipment, including delivery charges. No contractor's excise tax is due.
- The purchaser contracts with another party to install the equipment. Sales or use tax is due on the purchase price of the equipment, including delivery charges. The contractor owes contractor's excise tax on their receipts from the project. In addition, the contractor owes contractor's excise tax on the value of equipment and materials provided by the owner (owner furnished materials).

A delay in pay permit will not be approved when the equipment is purchased and the seller is responsible for installation. The seller is responsible for use tax on their cost of the material and contractor's excise tax on their total receipts. This installation may be done by the seller's employees or by contractors hired by the seller.

## Direct Pay Permit

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Retailers may use a direct pay permit. Application for a direct pay permit must be made to the Department of Revenue. Holders of this permit must accrue and pay the taxes directly to the department. Retailers making sales to a direct pay permit holder have no liability for sales tax on that sale provided they have written evidence of the permit.

## Use Tax

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### **Equipment**

Machinery, tools, bolts, and other equipment sold to a manufacturer or producer are subject to sales tax. If the supplier does not charge sales tax, use tax is due on the purchase price, including delivery. Use tax is due during the period the equipment enters the state.

Use tax is due during the reporting period when tangible personal property (TPP) is purchased in South Dakota or brought into South Dakota for use, storage, or consumption in South Dakota. If possession is not taken immediately, then use tax is due when the purchaser takes possession of the item.

**Fabricated Equipment:** A manufacturer owes use tax on the cost of material used when they fabricate their own equipment. If the equipment is fabricated out-of-state and brought into South Dakota, then use tax is due on the cost of the material when it enters the state.

**Installation of Manufacturing Equipment with a Crane:** When the crane is used to move the equipment into place, it is subject to contractor's excise tax if the crane operator's contract includes connections or installation to real property. If the crane operator's contract is just to move the item in a specific location, then sales tax applies, regardless of the size of the object being moved or placed.

### **Services**

*Taxable services may include, but are not limited to legal, consulting, computer services, repair services, janitorial or any accounting services.*

**Controlled Groups:** Services provided by a related corporation or reimbursement for third party services to a related corporation are not subject to sales tax.

### **Contact Us**

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

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