

Highway Contractors

https://dor.sd.gov/ 1-800-829-9188

The purpose of this Tax Fact is to explain how South Dakota motor fuel taxes apply to motor fuel transactions. 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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Highway Contractors South Dakota Motor Fuel Tax Rates Gasoline The highway contractor license is used to keep track of the gallons of .28 fuel used for highway construction while working in the road right-of-**Undyed Diesel** .28 way. A highway contractor is any person engaged in the activity of highway .14 Ethanol construction work in this state. The term does not include any person who only owns and operates motor vehicles within the right-of-way LPG (Propane) .20 hauling gravel or concrete and does not own or operate off-road Visit https://dor.sd.gov/individuals/taxes/ machinery in the highway construction work. motor-fuel/ for a complete list of motor fuel Subcontractors performing work under the prime contractor only need tax rates. the highway contractor license if: They are using their own dyed fuel to complete the work; The prime requires them to have the license. **Highway Contractor** returns should be filed Highway contractors may be required to obtain a South Dakota Contractor's Excise Tax license or Sales Tax license. (See Contractor's Excise Tax Guide and Sales Tax Guide) quarterly electronically using Epath. Highway contractors may be required to obtain registration and plating for

motor vehicles used in South Dakota.

Highway construction work includes all work which is performed in any capacity to propel vehicles, machinery, or stationary equipment within the right-of-way in the construction, reconstruction, repair, or maintenance of public highways. Right-of-way is defined as a strip of land over which a public road is built. The boundaries for public highways and township roads are from fencepost to fencepost, while city streets are from curb to curb. Storm sewers, ditches and gutters are included within the road right-of-way.

Requires a Highway Contractor License	Does NOT Need a Highway Contractor License
Blading roads	Hauling gravel
Mowing ditches, seeding, laying sod	Hauling concrete
Erecting traffic signals or light poles	Construction of a parking lot
Spraying weeds	Any other off right-of-way construction
Picking up roadkill	 Boring to install utilities without tearing up road right-of -way
Road construction, including storm sewers, ditches, or gutters	Construction of airport runways
Construction/maintenance of public boat ramp parking	Snow removal of private roads
Snow removal of public roads	 Utility work performed in ditches that has nothing to do with maintenance of the actual roadway
Construction/maintenance of a rest stop	Construction/maintenance of private roads or driveways

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Dyed Diesel

Dyed diesel is a sales taxable commodity, however, when used in the road right-of-way, it becomes motor fuel taxable. On the highway contractor return, the filer is given credit for South Dakota state sales tax paid and charged South Dakota state motor fuel tax.

Examples:

- 1. A contractor is blading roads and fills up a road grader with dyed diesel at Quick Stop. He is charged sales tax on the fuel.
 - The contractor keeps track of the gallons purchased and is refunded the state sales tax on his highway contractor return and pays the difference for state motor fuel tax owed.
- 2. A contractor fills up with dyed diesel and pays sales tax at the time of purchase. The contractor uses the dyed diesel in a piece of stationary equipment.
 - The contractor will report those gallons on the highway contractor return. No additional tax is due as sales tax was paid to the vendor.
- 3. An out of state contractors brings in fuel from another state that is used to perform highway construction work.
 - The contractor reports and pays applicable South Dakota tax on their highway contractor return.

Dyed diesel can only be used in machinery that is hauled to the job site, not driven to the job site.

Record Keeping

Highway Contractors must keep detailed records of the information found in the list below. Highway Contractors are required to report quarterly. Records must be kept for the current year plus three preceding years.

Required records to keep include, but may not be limited to:

- Gallons used within the road right-of-way in moveable equipment and machinery
- Gallons used with the road right-of-way in stationary equipment and in off-road machinery
- Fuel inventory, beginning and end for each reporting period
- Total gallons imported (tax paid and unpaid)
- Total gallons exported
- Sales and purchase invoices for gallons purchased in South Dakota in the reporting period
- Total gallons on which sales tax has been paid
- Average fuel cost per gallon (only applies when sales tax was paid)
- Serial number and years of manufacture of all motor vehicles, machinery, and equipment to complete project or contract
- Bills of lading
- Drop load tickets
- Diversion tickets
- Machine hour listings and time sheets
- Average gallons per hour as per the manufacturer

Go online to <u>https://dor.sd.gov/businesses/taxes/motor-fuel/</u> for tax information that applies to your business.

Pierre, SD 57501

Please go to our website at <u>https://dor.sd.gov/</u>and search for our filing guides if you would like assistance filling out online returns.

Contact Us

If you have any questions, please contact the South Dakota Department of Revenue. Call toll-free: 1-800-829-9188 Motor Vehicle Division Email: sdmotorfuel@state.sd.us Website: https://dor.sd.gov/ Mailing address and office location: South Dakota Department of Revenue 445 East Capitol Ave