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# Use Tax - Business

*The purpose of this Tax Fact is to provide general guidelines to businesses on how to remit use tax on products and services in South Dakota. 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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## What is Use Tax?

The South Dakota use tax is the counterpart of the South Dakota sales tax. The two taxes apply to the sales of the same products and services, have the same tax rates, and have similar laws. The difference is in how the taxes are applied. Use tax applies when state and applicable municipal sales tax has not been paid on products and services (including products and services transferred electronically) that are used, stored, or consumed in South Dakota.

## When is Use Tax Owed?

Use tax is owed if:

- sales tax was not paid at the time of purchase; or
  - the sales tax paid to another state was less than South Dakota's sales tax rate. The difference is owed when the product enters or the service is used in South Dakota.
- ⇒ Credit is given for purchases with tax due and paid in another state. A receipt or invoice showing the amount of tax paid must be kept as documentation.

South Dakota Taxes and Rates	
<b>State Sales and Use Tax</b> – Applies to all sales or purchases of taxable products and service.	<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>
<b>Contractor's Excise Tax</b> — 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.	<b>2%</b>

Businesses should review all purchases of goods or services to determine if the vendor charged the proper sales tax.

- Businesses report use tax on their sales tax return.
- ⇒ Click [here](#) to submit a use tax payment online if the business does not have/or get a tax return.

Use tax is due on the full purchase price, including delivery charges, or other fees, where the product is received or removed from inventory. Applicable municipal sales and use tax rates are based on the location the product or service is received.

- Click [here](#) to find the sales and use tax rate for a given address.
- Use tax is due in the filing period in which the business buys the product or removes the item from inventory. There is a use tax liability plus penalty and interest if use tax is not reported in a timely manner.

Use tax is not due on payments to contractors for construction services.

- Realty improvements are subject to contractor's excise tax.
- Use tax may be due on the materials used for the project.

### Examples of Use Taxable Products

- Books
- Computers
- Leases of Equipment
- Meals Furnished for Employees
- Office Supplies
- Software
- Snow Removal

## When is Use Tax Owed? (cont.)

### Purchases from Out of State Businesses

Businesses using services in South Dakota owe use tax on those services, even if the service provider completes their work outside of the state.

- Services performed on products are subject to use tax where the service is received.

Products and services delivered to a business in South Dakota are subject to the South Dakota sales or use tax, even if the supplier charges another state's sales tax.

- A business may request a refund from the supplier for incorrectly charged tax.

### Examples:

1. *A South Dakota business hires an unlicensed Iowa accountant to do their monthly payroll. Everything is done through the mail or by phone.*
  - Use tax is owed on the payroll services.
2. *An unlicensed attorney from Nebraska provides legal advice to a South Dakota client on a parcel of land purchased in South Dakota. The attorney does not have a sales tax license.*
  - The South Dakota client will owe state use tax plus applicable municipal use tax based on where the client uses the service.

## Examples of Use Tax Liabilities

### Demonstration and Sample Items

Items withdrawn from inventory to be used for demonstration temporarily and then returned to inventory to be sold later are not subject to use tax.

Items withdrawn from inventory to be used for demonstration **ARE** subject to use tax if they are not returned to inventory. If a demonstration item is later sold, the sale is also subject to sales tax plus applicable municipal tax.

Samples owned by a business to display products and samples given to customers at no charge **ARE** subject to use tax.

### Donations

A business donating items, such as prizes for a contest or fundraiser, owes use tax on the cost of the donated item if sales tax was not already paid on the item.

- A business does **NOT** owe use tax on items donated to entities that are exempt from sales and use tax.  
⇒ To learn more about exempt entities, see the [Exempt Entities Tax Fact](#).

### Inventory Items for Other Use

Products withdrawn from inventory for purposes other than demonstration, such as personal or commercial use, **ARE** subject to state and applicable municipal use tax when withdrawn. The sale of the used product is subject to state and applicable municipal sales tax on the sale price without any deduction for use tax paid.

### Examples:

1. *A grocery store gives food samples to customers.*
  - The grocery store owes use tax on the cost of the food given away.
2. *A computer store displays computers for sale in their store.*
  - These computers are a display item and are not subject to use tax. If the computers are returned to inventory to be sold, the sale of the display computers are subject to sales tax.

### Example:

*A furniture store purchases computer desks exempt from tax to resell to customers. The store uses one of the desks in their office for three months.*

- The store owes use tax on the cost of the desk. When the desk is sold, sales tax is due on the selling price.

## Examples of Use Tax Liabilities (cont.)

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### **Equipment Brought into South Dakota from Another State**

New or used equipment brought into South Dakota is subject to sales or use tax on the purchase price. The business owes state and applicable municipal use tax if the vendor did not collect the sales tax.

Equipment less than seven years old: State and applicable municipal use tax is due on the fair market value of equipment brought into South Dakota that is less than seven years old **AND** was purchased for use in another state.

- Reciprocity (credit) is given for purchases with tax due and paid in another state. A receipt or invoice showing the amount of tax paid must be kept as documentation that tax was already paid.

Equipment older than seven years old: State and applicable municipal use tax is NOT due on equipment brought into South Dakota that is older than seven years old **AND** was purchased for use in another state.

- The equipment's age is determined by the manufacture date, if documented, or the date of the purchase by the individual bringing the equipment into South Dakota.

### **Example:**

*A Minnesota manufacturer moved to South Dakota June 1, 2019. Equipment brought into South Dakota on June 1, 2019 includes equipment that was purchased new in 2016 and no MN tax was paid, and equipment manufactured in 2010 that was purchased used in 2012.*

- The equipment purchased new in 2016 was less than seven years old when it was brought into South Dakota. South Dakota state sales tax and applicable municipal use tax is due on the fair market value of the equipment as of 2019.
- The equipment purchased used in 2012 was purchased for use in another state and over seven years old when brought into South Dakota. This equipment is not subject to South Dakota state sales tax and applicable municipal use tax.

## **Contact Us**

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

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