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Relief Agencies

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The purpose of this tax fact is to explain how sales and use tax applies to relief agencies. 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.

Relief Agency Definition and Criteria

Not all non-profit organizations are considered a relief agency. A **relief agency** is any nonprofit charitable organization which devotes its resources exclusively to the relief of the poor, distressed, or underprivileged, and has been recognized as an exempt organization under § 501(c) (3) of the Internal Revenue Code (SDCL [10-45-10](#)). The relief agency must be providing the actual services. Agencies and foundations that raise funds and distribute the monies or products to other agencies that provide the relief are not exempt from sales tax.

A relief agency must maintain a physical location in South Dakota to be considered for a sales tax exempt status.

A relief agency may apply for sales tax exempt status with the South Dakota Department of Revenue. If approved, the agency can purchase products, services, and any product transferred electronically without sales tax. No sales or use tax is due on products or services the agency furnishes to others at no charge. However, the agency is responsible for collecting sales tax on any taxable products or services they sell such as sales of clothing or goods.

Pursuant to South Dakota administrative rule 64:06:01:38, the Department will review the following criteria to determine if an agency qualifies for the sales tax exemption:

1. The relief agency is organized and conducted solely for the benefit of the general public and for relief of the public burden;
2. A person who needs the services of the relief agency is not turned away because the person is not able to pay for services;
3. The relief agency does not provide for gain or profit of any private member of the agency except in the form of a salary;
4. Upon dissolution the assets of the agency are used for charitable purposes;
5. The relief agency does not present or appear to present any obstacles of any character, such as founders' fees, mandatory assignment of income or property, or minimum fees, to those who need the benefits of the agency;
6. The average cost of services of the relief agency exceeds the amount of fees actually collected;
7. A major source of income of the relief agency results from gifts, bequests, or donations, not current charges;
8. Allocation of facilities or services of the relief agency is not related in any way to ability to pay for such facilities or services; and
9. The relief agency has an exemption granted pursuant to section 501(c) (3) of the Internal Revenue Code.

South Dakota Taxes and Rates	
State Sales Tax and Use Tax – Applies to all sales or purchases of taxable products and services.	4.5%
Municipal Sales Tax 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%
Municipal Gross Receipts Tax (MGRT) – Imposed on alcoholic beverages, eating establishments, lodging accommodations, admissions to places of amusement, athletic, and cultural events. MGRT is in addition to municipal sales tax and use tax.	1%
Tourism Tax – Applies to the rental of certain motor vehicles. Tourism tax does not apply when remitting use tax.	1.5%
Motor Vehicle Gross Receipts Tax – Applies to the rental of motorcycles, cars, trucks, and vans for less than 28 days, and the rental of certain trailers for 6 months or less.	4.5%

A relief agency may provide services or products such as:

- Advocates for children
- Care, treatment, and rehabilitation services or facilities for people with addictions such as drug, alcohol, or gambling
- Employment services
- Food banks
- Food, clothing, and household items
- Headstart
- Homeless shelters
- Legal services
- Medical services for underprivileged
- Shelters for domestic violence victims
- Toys for underprivileged children
- Transportation
- Weatherization and energy assistance

A church may be considered a non-profit with the IRS but *a church is not a relief agency in South Dakota* and is therefore not exempt from sales or use tax. If a church has a unique activity, such as a soup kitchen or food pantry, they may qualify as a relief agency. For more information about churches, [click here](#).

Applying for Exempt Status

An agency may apply for exempt status using the "Sales Tax Exempt Status Application" found online at <https://sddor.seamlessdocs.com/f/2027>. This form, along with the required documentation, may be submitted online.

Prior to applying the agency must have received the 501(c)(3) status from the IRS. The application will not be approved without a copy of the IRS approval of the 501(c) (3) status.

The applicant must provide the following documentation for review by the Department:

- Bylaws
- Articles of Incorporation
- Constitution
- Articles of Association
- IRS 501(c) (3) exemption approval
- Copy of IRS Form 1023, Application for Recognition of Exemption
- Budget or financial statement

The Department requires a full explanation of services the agency provides and how it devotes its resources to the relief of the poor, distressed, or underprivileged. If the agency charges for services, they must provide an explanation as to when charges are made and the fee schedule. A relief agency should not provide different levels of services based on the ability to pay.

A budget or financial statement will help provide documentation on how funds are obtained and spent. Most of the income sources for the relief agency should be from gifts, donations, or grants and not from fees charged for services or products.

The exempt status of a relief agency must be renewed every five years. To complete this renewal, the agency must file a new application and submit the required documentation.

Documenting Exempt Purchases

When making purchases the relief agency must provide an exemption certificate complete with their exempt license number. The license number contains a "RA" to identify it as a relief agency. Payments for the purchase must be from the relief agency's funds. Purchases paid by individuals, even if accompanied by an exemption certificate, are subject to sales tax because the purchase was not made by the relief agency.

Gift certificates: purchases made with gift certificates purchased by a relief agency are subject to sales tax. The gift certificate is considered the same as cash and is not a direct payment by the relief agency. Gift certificates are exempt if identifiable as from the relief agency.

Vouchers: purchases with relief agency vouchers that will be paid directly by relief agency funds are exempt from sales tax.

Washers and Dryers

A relief agency is exempt from the annual washer and dryer license fee. No sales, use, or municipal sales tax on receipts from the operation or ownership of coin operated washers and dryers placed and used in living accommodations provided by such organizations to the poor, distressed, or underprivileged.

Sales by Exempt Relief Agencies

Some agencies may sell products or services to help raise funds to pay for the services they provide to the poor, distressed, or underprivileged. Agencies that sell products or services will need a sales tax license. Agencies can apply for a tax license online at <https://sd.gov/taxapp>. The relief agency can purchase equipment, supplies, and services, as well as products they will resell exempt from sales or use tax. Sales tax is due on receipts for taxable products and services sold.

Fundraising Receipts—Receipts exempt from sales tax include: receipts from religious, benevolent, fraternal, youth association, or charitable activities, including any bingo or lottery conducted pursuant to § 22-25-25, where the entire amount of such receipts after deducting all costs directly related to the conduct of such activities is expended for religious, benevolent, fraternal, youth association, or charitable purposes, when:

- The receipts are not a result of engaging in business for more than three consecutive days; or
- The receipts are not a result of engaging in business at a county fair for more than five consecutive days.
- There is no time restriction on bingo or lottery conducted pursuant to § 22-25-25.

To qualify as a fundraiser, all purchases of products used to conduct the fundraiser, products received electronically, or services for use in the activity are subject to sales tax at the time of purchase. If the retailer does not charge sales tax, the organization will owe use tax. This includes products to be sold as part of the fundraiser.

This applies to raffles, bake sales, concessions, and other fundraisers that meet the above criteria.

Exception: Admissions to rodeos and rodeo-related events are always subject to sales tax.

Example:

A Local Club sells t-shirts at a 2-day community event. All the money raised from the t-shirt sales, minus expenses, will go toward a charitable cause that the Local Club supports. The Local Club will pay sales tax on the t-shirts when they are purchased. The Local Club will not be required to collect and remit sales tax on the t-shirts when they are sold.

Contact Us

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

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