

**March 2011**

**This fact sheet is designed to provide general guidelines and examples of situations which may occur when an exempt entity buys or sells tangible personal property or services. If this Tax Facts does not answer your specific question, please call the department's toll-free helpline at 1-800-TAX-9188 between 8:00 AM - 5:00 PM CST, Monday through Friday.**

**Information found in this document rescinds and replaces all previous written information on this subject. All readers and users of this publication are responsible for keeping informed about changes in tax laws and regulations by reading the Department of Revenue newsletters, press releases, Tax Facts, and other documents published by the department.**

**State law exempts certain entities from having to pay sales or use tax on their purchases. These entities include:**

- Governments, including SD public schools
- Non-profit hospitals
- Religious educational institutions
- Non-profit accredited private educational institutions (must be registered with the Department of Revenue)
- Non-profit charitable hospitals licensed by the Department of Health
- Non-profit charitable relief agencies recognized by the federal government and the S.D. Department of Revenue

The governments from other states or the District of Columbia are exempt from sales tax if the law in that state provides a similar exemption for South Dakota governments. Governments providing a similar exemption are Colorado, Indiana, Iowa (motels and hotels are not exempt), Minnesota (motels and hotels are not exempt), North Dakota, Ohio, and West Virginia. The governments from states without a sales tax are exempt from South Dakota sales tax. These states are Alaska, Delaware, Montana, New Hampshire, and Oregon.

## **Sales by Exempt Entities**

Exempt entities selling products or services subject to sales must have a sales tax permit. The U.S. Government is not required to collect sales tax on taxable sales.

## **Management of Revolving Loan Fund**

The receipts received by the State of South Dakota and any of its political subdivisions including multi-county planning and development districts established pursuant to Executive Order 70-7, or its successor, from management services provided to a

revolving loan fund operated by a nonprofit entity are exempt from sales and use tax.

## **Membership Organizations**

Membership organizations such as the YMCA, YWCA, Boy Scouts, Lions Club, or Jaycees are exempt from sales tax on gross receipts from sales of services made by them and from the sale of their membership fees.

However, gross receipts from sales of either services or tangible personal property made to such organizations are taxable and the gross receipts from sales of tangible personal property by such organizations are taxable.

## **Ambulance/Volunteer Fire Departments**

Gross receipts resulting from sales to municipal or volunteer fire departments and volunteer ambulance departments are exempt from sales or use tax, provided the items purchased are for use by the department and title to the property will be retained by the department.

## **Churches**

Churches are not exempt organizations; therefore, they are subject to sales tax on all purchases made for use by the church, its clergy and members.

## **Civic and Nonprofit Associations**

Certain gross receipts resulting from the sale of tangible personal property by civic and nonprofit associations are exempt from the state and local sales taxes. Sales to these associations are generally subject to the state and municipal sales tax. Exempt receipts include:

- Sales of tickets and admissions to the grounds and grandstand attraction of state, county, district and local fairs.
- Admissions to nonprofit historic sites and repertory theater performances operated by nonprofit organizations.
- Admissions to community-operated celebrations and shows sponsored by a Chamber of Commerce or other similar nonprofit organization are if the county, city or town in which the activity takes place officially sponsors the activity and no charge is made for the use of the county or city facilities or services.
- Admissions or receipts from activities sponsored and operated by colleges, elementary schools, high schools, or related clubs and supporting organizations when the entire net proceeds are spent for educational purposes. Sales tax must be paid on all purchases of items used or sold at the

event (i.e. If the junior class is selling concessions at a school event, it would not need a sales tax license if the sales tax was paid at the time the candy, pop or other items were purchased from the vendor.)

- Gross receipts from sales made by religious, benevolent, fraternal, youth or charitable activities when the net proceeds are used for religious, benevolent, fraternal or charitable purposes or for youth associations and the event is for not more than three consecutive days. Sales tax must be paid on items or services purchased by the organization for the organization unless the organization has obtained a sales tax license and is paying sales tax on the receipts resulting from the sale.
- Charges for entry fees for engaging in tournaments, contests, and league activities. However, receipts from the purchase of tangible personal property or services for use in the activity are subject to the sales tax.
- Certain fund raising activities to benefit homeless persons are exempt from the sales tax. To be exempt these must be admissions to events or receipts from activities sponsored and operated by religious, benevolent, or charitable organizations. The event or activity cannot exceed thirty days in any calendar year.

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

### 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.

### Contractors Tax Liability

If an exempt entity hires a contractor to perform construction services or realty improvement work for that entity, the contractor will owe excise tax on the gross receipts from that work. In addition, the contractor will owe sales or use tax on all materials they use in the project. The contractor must pay use tax and contractors' excise tax on materials supplied by the exempt entity for use in their work.

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

State law allows contractors to list their tax expense as a separate line item on all contracts and bills. The contractors' excise tax and the contractor's use taxes are part of the contractor's total bill and are collectible from all entities, both public and private.

### Unlicensed Contractors

Public corporations may not award contracts for the construction of any public improvement to unlicensed contractors. Please contact the Department of Revenue at 1-800-TAX-9188 to verify the contractor's license prior to letting bids.

Contractors must provide documentation to the public corporation that these licensing requirements are met before the public corporation can do business with them.

Retailers or contractors may obtain an application for a tax permit from our website at [www.state.sd.us/drr](http://www.state.sd.us/drr) or by calling 1-800-TAX-9188.

### Purchases by Exempt Organizations

Three things must occur before purchases of tangible personal property are exempt from sales tax. First, an exemption certificate or government voucher is presented at the time of the purchase by an authorized official of the exempt entity and maintained in the business records for three years. Second, payment is made from the entity's own funds. And third, title to the property is retained in the name of the entity. If an employee purchases items or services without an official voucher and is later reimbursed, those charges are sales taxable at the time of purchase.

All certificates and vouchers, except those furnished by the U.S. Government; the State of South Dakota; counties, cities, and townships; and nonprofit charitable hospitals should have the exemption number of the organization on the certificate. The exemption number will contain either an RG, RA, RS or RE (i.e. 0000-0000RA).

The department recommends that businesses review exemption certificates annually and request new forms when needed.

This exemption from sales tax does not extend to purchases for the personal use of officials, members, or employees of the exempt organization, or for purchases to be used in the operation of a taxable business located in an exempt institution.

## ***Contractor's Excise Tax (CET)***

A church is not exempt from contractor's excise tax if it hires a contractor to perform construction services or reality improvement work, the contractor will owe contractor's excise tax on the gross receipts from that work. In addition, the contractor will owe sales or use tax on all materials used in that project.

- A contractor is allowed to pass on contractor's excise tax and use tax obligations to a church if the contractor lists any applicable taxes on the project invoice.
- To learn more about Contractor's Excise Tax, see the [Contractor's Excise Tax Guide](#).

### **Examples**

1. A church hired an out-of-state engineering consultant that did not charge sales tax.
  - The church owes South Dakota state and applicable municipal use tax on consulting services based on the location of the church.
2. A church purchases computers, software, office equipment, and supplies from an out-of-state company. There is no tax charged on the invoice.
  - The church owes South Dakota state and applicable municipal use tax based on where the church uses the product.
3. A church hired a contractor to replace singles on a roof of a church building. The contractor included contractor's excise tax (CET) and use tax on the church's invoice.
  - The church owes CET and use tax because they are not exempt.
4. A church hired a contractor to secure pews to the church floor.
  - The contractor would owe CET on his gross receipts plus CET on the pews that the church furnished.
  - If the church was not charged sales tax on the pews when purchased, the church would need to report state and applicable municipal use tax on their annual sales and use tax return.

### **Contact Us**

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

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

**Business Tax Division Email:** [bustax@state.sd.us](mailto:bustax@state.sd.us)

**Website:** <http://dor.sd.gov/>

**Mailing address and office location:** South Dakota Department of Revenue  
445 East Capitol Ave  
Pierre, SD 57501

**July 2013**

**This Tax Facts is designed to explain how sales and use tax applies to Relief Agencies. If this Tax Facts does not answer your specific question, please call the Department's toll-free Helpline at 1-800-TAX-9188 between 8:00 AM – 5:00 PM CST, Monday through Friday.**

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## **Relief Agency Definition and Criteria**

**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.

Effective July 1, 2011, 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.

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

## **Applying for Exempt Status**

An agency may apply for exempt status using the "Sales Tax Exempt Status Application" found online at [www.state.sd.us/drr2/businesstax/forms/forms.htm](http://www.state.sd.us/drr2/businesstax/forms/forms.htm). This form, along with the required documentation, may be submitted by Email, fax or mail.

Prior to applying the agency must have received the 501(c) (3) status from the IRS. The application will not be approved

## Relief Agencies

until the Department receives 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 and a copy of IRS Form 1023, Application for 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.

If approved as a relief agency an exempt number is issued which contains the letters "RA". This number is active for five years and then subject to renewal. This number is used on exemption certificates furnished to suppliers to purchase products and services exempt from sales tax.

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.

**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 license fee and does not owe sales, use or gross receipts tax on receipts from the operation or ownership of coin operated washers and dryers placed and used in living accommodations provided by such organization 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 on line at [www.state.sd.us/taxapp](http://www.state.sd.us/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.

### **Fundraisers -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.

All purchases of tangible personal property, products transferred electronically, or services for use in the activity are subject to sales or use tax at the time of purchase. This includes products to be sold.

Agencies that are otherwise exempt from sales tax, will owe sales tax on purchases they use in these activities.

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.

**Church**

A church is not a relief agency and is not exempt from sales or use tax.

**Talk to Us!**

If you have a tax problem or question, call the South Dakota Department of Revenue toll-free at 1-800-TAX-9188. Visit us on the web at [www.state.sd.us/drr](http://www.state.sd.us/drr), email us at [bustax@state.sd.us](mailto:bustax@state.sd.us) or write us:

**South Dakota****Department of Revenue****445 East Capitol Ave.****Pierre, SD 57501-3100**

Aberdeen	Sioux Falls
14 South Main, Suite 1-C	300 S Sycamore, Suite 102
Aberdeen, SD 57401	Sioux Falls, SD 57110
Mitchell	Watertown
417 N. Main, Suite 112	715 S Maple
Mitchell, SD 57301	Watertown, SD 57201
Rapid City	Yankton
1520 Haines Avenue, Suite 3	1900 Summit Street
Rapid City, SD 57701	Yankton, SD 57078-1951

# Nonprofit Hospitals

South Dakota Department of Revenue | <http://dor.sd.gov/> | 1-800-829-9188 | June 2016

The purpose of this Tax Facts is to explain which South Dakota state and local taxes apply to nonprofit hospitals. It is not intended to answer all questions that may arise, but is intended to help you become familiar with the sales and use tax. The information contained in this fact sheet is current as of the date of publication.

*This guide may change with updated information or added examples.*

Nonprofit, charitable hospitals are exempt from paying South Dakota sales and use tax on purchases of products and services for use by the nonprofit hospital for hospital purposes. While a nonprofit hospital is exempt from sales tax on purchases of products and services, the nonprofit hospital will owe sales tax if it sells taxable products or services.

The purchase of products and services are exempt from sales and use tax when:

1. An authorized official of the nonprofit hospital makes the purchase,
2. Payment is made from the nonprofit hospital funds, and
3. The nonprofit hospital keeps title to the property.

A provider-based clinic that is part of a nonprofit hospital is also exempt from sales and use tax on its purchases when the following seven criteria are met:

1. The clinic applied for and received approval for provider based status from Medicare,
2. The clinic operates under the same state medical license as the hospital,
3. The clinic is located within 35 miles of the main campus of the hospital,
4. The clinic has ready access to the hospital's medical records and vice versa,
5. All Medicare patients are registered as hospital patients at the clinic and hospital,
6. Signage identifies the clinic as part of the hospital, and
7. The clinic is subject to the Emergency Medical Treatment & Labor Act.

The exemption from sales or use tax for nonprofit hospitals does not apply to products or services purchased or used by:

- Nursing homes
- Clinics, other than provider-based clinics
- Surgical centers, unless it is a nonprofit hospital
- For profit hospitals

Sales tax applies to items bought for:

- The personal use of a hospital employee
- Use in a taxable business

## Hospital Defined

South Dakota law defines a hospital as "...any establishment with an organized medical staff with permanent facilities that include inpatient beds and is primarily engaged in providing by or under the supervision of physicians, to inpatients, and of the following services:

Diagnostic or therapeutic services for the medical diagnosis, treatment or care of injured, disabled or sick persons; obstetrical services including the care of the newborn or rehabilitation services for injured, disabled or sick persons. In no event may the inpatient beds include nursing facility beds or assisted living center beds unless the same are licensed as such pursuant to this chapter." (SDCL 34-12-1.1(5))

A nonprofit hospital should issue an exemption certificate to the supplier when buying products or services for the nonprofit hospital's use.

Hospital purposes relate to the services provided in the normal conduct of the hospital.

#### Examples

1. A nonprofit hospital buys computers for doctors in a clinic to communicate with the hospital. The hospital owns the computer. No sales or use tax is due. This only applies when the doctors use the computer strictly for hospital work and there is no charge for the computer use.
2. A nonprofit hospital purchases 100 hospital beds. Sixty beds remain in the hospital and 40 beds go to a nursing home owned by the hospital. Sales or use tax must be paid on the 40 beds that go to the nursing home because the beds are not used for hospital purposes.

## Related Corporations - Controlled Groups

A hospital may be part of a group of related entities that qualify as a controlled group. A controlled group may include exempt and taxable entities such as a nonprofit hospital, clinic, nursing home, or surgical center.

There are specific exemptions from sales and use tax for certain services provided between members of a controlled group.

- A controlled group member does not owe sales tax on services it provides for another member of the same controlled group.
- A controlled group member does not owe sales tax on payments from other members of that controlled group for services purchased from a third party. Sales or use tax must be paid on the service purchased from the third party.

**Occasional Sale of Products:** The occasional sale of products between members of a controlled group is subject to sales tax, unless sales or use tax was previously paid on that product.

**Transfer of Products:** Products transferred from a nonprofit hospital to a for-profit entity are subject to sales or use tax unless tax was previously paid on that product.

**Sharing Equipment:** A nonprofit hospital may own equipment that other members of its controlled group may also use. Use tax is due on the equipment when used by a taxable member of the control group. The value of the equipment may be allocated based on the percentage of use by the taxable and nontaxable entities.

#### Example

If the nonprofit hospital uses the equipment 75% of the time and a nursing home uses the equipment 25% of the time, 25% of the equipment value is subject to use tax.

#### Controlled Group Defined

As defined in SDCL 10-45-20.3., a controlled group is a group of related entities that are:

Able to file a consolidated federal income tax return under the Internal Revenue Code as in effect on January 1, 2002, or

Entitled to only a single surtax exemption for federal corporate income tax purposes under the Internal Revenue Code as in effect on January 1, 2002, and

Includes a controlled group of corporations as defined at 26 U.S.C. § 1563 as in effect on January 1, 2002.

A controlled group also consists of any subchapter S corporation, limited liability company, limited liability partnership, general partnership, or limited partnership with at least eighty percent common ownership as if the entity was converted to or taxed as a subchapter C corporation under the Internal Revenue Code as in effect on January 1, 2002.

**Sharing Services or Utilities:** When the service is for both taxable and exempt entities, only the portion the taxable entity uses is subject to sales or use tax.

#### Example

A nonprofit hospital buys electricity for the hospital and its connected nursing home. The utility company runs all service through the same meter. The hospital may use square footage to allocate the utility cost. If 30% of the combined square footage is for the nursing home, then 30% of the utility is subject to sales or use tax.

Allocations of products or services should be reasonable. Be prepared to support the basis for the allocation (i.e., square footage, census count, gross billings, etc.). If you do not document who uses the equipment or service, the entire fee is subject to sales or use tax.

#### Examples of products or services a taxable entity may owe use tax on:

- Attorney services
- Accountant services
- Cable TV
- Computer programming, support and maintenance
- Electricity
- Housekeeping supplies and equipment
- Internet Access
- Janitorial services
- Laundry supplies, equipment and services
- Maintenance supplies and services
- Marketing supplies
- Natural gas
- Office supplies
- Security services
- Telephone

## Cafeterias

### Meals

The sale of food is subject to sales or use tax.

The sale of food to non-patients is subject to the state and municipal sales tax and the municipal gross receipts tax.

Patient meals are subject to the state and municipal sales tax. Tax is calculated on \$9.66 per patient day. (this amount does not include newborn patients.) Municipal gross receipts tax does not apply to patient meals.

Sales or use tax does not apply to In-patient hospital meals paid for by the United States, South Dakota or a political subdivision of the state, Medicare, Medicaid, CHAMPUS, Indian Health Services, or county poor relief patients. (10-45-14.6)

Employee meals provided in lieu of salary are subject to sales tax based on \$69 per person per month.

### Cafeteria Equipment

A nonprofit hospital may purchase equipment to prepare food exempt from sales or use tax.

### Catering

Catering services are subject to the state and municipal sales tax and the municipal gross receipts tax based on the location of the catered event.

## Patient Comforts/Services

### Welcome Kits/Comfort Kits

Hospitals may provide patients items to use for personal grooming and hygiene, e.g., combs, toothbrushes, tissues, mouthwash, etc.

- If the hospital gives these items to the patient, use tax is due on the cost of the items, if sales tax was not paid when the items were purchased.
- If the hospital sells these items to the patient, sales tax is due on the amount charged to the patient.
- If a manufacturer gives these items to the hospital at no charge, the manufacturer is responsible for South Dakota use tax.

### **Accommodation Centers**

Receipts from sleeping rooms provided to non-patients are subject to state and applicable municipal sales tax.

A nonprofit hospital does not owe sales or use tax on services it supplies for use in its accommodation center such as housekeeping and security.

### **Telephones**

A nonprofit hospital does not owe sales or use tax on telephones purchased for patient, doctors, or staff use.

### **Televisions**

Receipts from the rental of televisions are subject to sales tax. A nonprofit hospital does not owe sales or use tax on its purchase of televisions, cable services, satellite dishes, etc. for staff or patient use.

The installation of satellite dishes for a hospital or clinic is subject to contractors' excise tax. The contractor will owe use tax on equipment the nonprofit hospital furnishes for him to install.

### **Miscellaneous Items**

A hospital may provide services and products that are not related to healthcare. Charges for a service or product directly related to health services are exempt. For example, charges to a patient for use of a humidifier is health-related (environmental control), therefore the charge for the humidifier is exempt from sales tax. On the other hand, the hospital's charge for a TV or for personal laundry is not part of the health service and is subject to sales tax.

## **Other Services**

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### **Home Healthcare and Hospice Programs**

Receipts for home healthcare are exempt from sales and use tax. A nonprofit hospital does not owe sales or use tax on supplies, equipment, or other products bought for use in its home healthcare program.

### **Other Hospital Outreach Programs**

A nonprofit hospital does not owe sales or use tax on products and services bought for use in its alcohol and drug rehabilitation centers, schools of nursing, medical research libraries, and related programs.

### **Educational Classes**

Fees a hospital or a licensed health care professional receives for classes such as childbirth classes, quit smoking clinics, and athletic injury classes are exempt from sales and use tax.

## **Temporary Help**

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A hospital or an office or clinic of licensed healthcare practitioners does not owe sales or use tax on receipts from temporary health care services it provides on a contract or fee basis. Healthcare services include doctors, nurses, medical lab technicians, and pharmacists. See The Health Services, Drugs, and Medical Devices tax facts for further information on temporary help.

## Medical Records

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Charges for copying or the sale of medical records is subject to sales tax. Medical records sold to Medicaid or other exempt entities are exempt from sales and use tax.

For example, an attorney requests a copy of a client's medical records. The charge to the attorney for copying the records is subject to sales tax based on where the records are delivered to the attorney.

## Day Care Centers

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A nonprofit hospital may provide childcare services for employees, patient families, and others. Day care services are not subject to sales tax. However, the products and services purchased for the center's use may be subject to sales or use tax.

- If the center is for employee use only, no sales or use tax is due on products or services the center uses.
- If the center is only for non-employees, sales or use tax is due on products or services the center uses.
- If the center is for employees and non-employees, the tax due on products and services the center uses is based on the percent of non-employee to employee use. If 25% of the use is for non-employees, 25% of the value of the products and services is subject to use tax.

The day care center owes sales or use tax on food it provides to the children. The use tax may be computed based on \$9.66 per day, per child, or the hospital may pay use tax on the actual cost of the food.

## Wellness/Fitness Centers

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Wellness and Fitness Centers a nonprofit hospital owns and operates are taxed as follows:

- State and municipal sales tax applies to receipts from:
  - Membership fees
  - Fitness classes
  - Sales of products such as socks, t-shirts, fitness equipment
- Sales or use tax is due on equipment and supplies bought for the center. The tax due is based on the percent of use by members under doctor's orders to those that are not under doctor's orders. If 60% of the members are not under doctor's orders, 60% of the value of the equipment is subject to use tax.

## Exemption Certificates

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Nonprofit hospitals should issue an exemption certificate when buying products or services.

A taxable entity that buys items that exempt members of their controlled group will use should buy those items without sales tax.

Use tax is due on any product or service the taxable entity uses when sales tax was not paid at the time of purchase.

It is your responsibility to identify taxable items when an exemption certificate is used. You must either tell your vendors to charge you tax on the taxable items or report the use tax on your sales tax return at the time you make the purchase.

If you intentionally buy items for resale that you know will not be resold or you provide an exemption certificate with the intent to not pay the tax, you must pay the use tax on those items and you may be:

- charged a penalty of 50% of the use tax due
- charged with a Class 1 misdemeanor. (SDCL 10-45-61)

## Records

Hospitals are required to keep a list of all purchases that are exempt from sales and use tax. (SDCL 10-45-14) All businesses are required to keep records such as purchase and sales invoices, bills of lading, books of all receipts and sales, cash register receipts, and other pertinent papers and documents at least three years from the date the return is filed. These records must be available for inspection during business hours.

South Dakota Taxes and Rates	
<b>State Sales and Use Tax</b> – applies to all sales or purchases of taxable products and services.	4.5%
<b>The following taxes may apply <i>in addition</i> to the state sales tax:</b>	
<b>Municipal Sales and Use Tax</b> – applies to all sales of products and services that are subject to the state sales or use tax if the purchaser receives or uses the product or service in a municipality that imposes a sales or use tax.	1 to 2%
<b>Municipal Gross Receipts Tax (MGRT)</b> – May apply to the sale of alcoholic beverages, eating establishments, lodging accommodations, and ticket sales and admissions to places of amusement and cultural events when the item is sold or the event is within that municipality. MGRT is in addition to the municipal sales tax. MGRT does not apply when you are remitting use tax.	1%
<b>Tourism Tax</b> –applies to lodging and campgrounds, certain motor vehicle rentals, recreational equipment rentals, recreational services, spectator events, visitor attractions and visitor-intensive businesses. See the <a href="#">Tourism Tax Facts</a> for a full listing of services subject to tourism tax. Tourism tax does not apply when you are remitting use tax.	1.5%

## Contact Us

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

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

**Email:** [bustax@state.sd.us](mailto:bustax@state.sd.us)

**Website:** <http://dor.sd.gov/>

**Mailing address and office location:** South Dakota Department of Revenue  
445 East Capitol Ave  
Pierre, SD 57501

**July 2013**

**This Tax Fact Sheet is designed to explain to those associated or doing business with South Dakota school districts and school related organizations which items are taxable and which are not. If your specific question is not answered in this Tax Fact Sheet, please call our toll-free helpline at 1-800-TAX-9188 weekdays from 8-5 CT.**

**Information found in this document rescinds and replaces all previous written information on this subject. All readers and users of this publication are responsible for keeping informed about changes in tax laws and regulations by reading the Department of Revenue newsletters, press releases, Tax Facts, and other documents published by the department.**

Purchases by South Dakota school districts, including the technical schools, high school, and elementary schools, are exempt from sales tax if the purchase is for school use. **Private and religious educational institutions may apply for a tax exempt number.** For information on Universities please review the tax facts on Universities.

The sales tax exemption applies only to items purchased with school funds for use by the school. This exemption does not extend to purchases of products for the personal use of officials, members, or employees of the school.

**Example:**

- A laptop computer purchased with school funds that is taken home and used for personal use, instead of school work, is subject to sales or use tax

Taxable items include items purchased to sell or raffle as a fund-raiser and items to be sold at concession stands. If the supplier does not collect sales tax, the school is responsible for remitting sales or use tax directly to the state.

**Exempt Numbers - Documentation**

School districts in South Dakota have been issued exempt numbers containing the letters "RS" that are to be used when making tax exempt purchases. Private and religious educational institutions that apply and qualify for sales tax exemption are issued exemption numbers containing the letters "RE." A certificate of exemption with an authorized exemption number should be given to the vendor by the school. The business must keep the exemption certificate, purchase order, or copy of payment as proof that payment was made directly from the school funds.

**Exempt Purchases and Sales**

Purchases made with South Dakota school funds are exempt from South Dakota's sales tax if the purchase

is for the school's use. School funds refer to the school district's funds and do not include trust or agency accounts the school may manage for various organizations such as booster clubs, foundations, or student organizations and clubs.

**Examples of exempt purchases made by school funds are:**

- Books for use in the classroom or school library
- Desks, chairs, computers, printers
- Uniforms for sports or band
- Gym equipment
- Office supplies and equipment

**Student activity or class fees** for participation in school events or for classes or lessons given by the school are not subject to sales tax, even if no credit hours are given for the class, lesson, or activity. This includes charges for the use of equipment such as football uniforms and band instruments. Amounts paid directly from school funds to instructors for school events, classes, or lessons are exempt from sales tax. Fees paid directly to an instructor by a student are taxable, such as for music lessons. Tuition and activity fees collected by technical schools are not taxable.

**Admissions to school events** such as ball games, tournaments, concerts, and plays sponsored and operated by vocational, elementary or high schools, or related clubs or supporting organizations approved or supervised by a school are exempt from South Dakota sales tax when the entire net proceeds are spent for educational purposes.

Products purchased by the school or related organizations to be sold at school-sponsored events are subject to sales tax when purchased. If sales tax is not collected by the vendor the school or organization is responsible for remitting sales or use tax on its cost of the products purchased. This includes items such as pop, popcorn, candy, t-shirts, and sweatshirts.

**Classroom supplies** purchased by the school that the school provides or sells to students for use in the classroom are exempt from sales tax. Examples are wood for shop class, material for home economics, and paints for art class. Technical schools owe sales tax on textbooks and supplies sold to students for use in classrooms.

## Schools

**Items provided by the school** at no charge to students and teachers that were purchased directly from school funds or were donated to the school are not subject to sales tax. This may include t-shirts given to students or coaches or clothing provided to needy students. If the purchase is from foundation or club accounts and the item is then given to students or teachers, then sales tax applies.

**School Food Service Program** Schools may purchase the groceries and supplies for the operation of a school food service program exempt from sales tax. The school's receipts from the sale of food to students under the school food service program are not subject to sales tax.

Food items the school sells that are not part of the school food service program are not exempt from sales tax. If the supplier does not charge sales tax, the school owes use tax on the purchase price of these items. Examples of taxable items include pop, snacks, juice drinks, sports drinks, bottled water, catering for banquets or activities, and sales from vending machines that are not part of the school food service program.

Technical schools owe sales tax on food sold to students, staff or others, including the sales of meal plans.

Purchases of food by teachers or administrators for meetings or for their own use are subject to sales tax. School purchases of meals or snacks given at no charge to teachers or others are not subject to sales tax.

**Trophies and awards** given by the school at school events and for participating in school events are not subject to sales tax when purchased with school funds.

**Incentives and prizes** given to students, teachers, or parents for participating in school activities are not taxable when purchased directly from school funds.

**Yearbook sales** are exempt from sales tax as this is a school activity. Purchase of supplies to create yearbooks and the purchase of yearbooks from the printer are also exempt from sales tax when paid directly from school funds.

**Sports, fine arts, or education camps** sponsored and operated by school districts are not subject to sales tax if the entire net proceeds are deposited into the school district's accounts and are spent for educational purposes. Sales tax is due on all items sold at the camp unless sales tax is paid to the vendor at the time the items are purchased.

If the entire net income generated from the camp is not spent for educational purposes, the entire registration fee is subject to the state sales tax, municipal sales tax, and tourism tax. For example, if the net proceeds are paid to the faculty member in charge of the event, then the entire receipts from the camp are subject to tax.

This applies to all camps held by schools, such as athletic, academic, and fine arts camps.

Volleyball	Theatre	Basketball
Music	Baseball	Drama
Running	Math	Swimming
Science	Soccer	Computer
Dance		

## Taxable Transactions

Purchases by school related foundations, booster clubs, or student organizations are subject to sales tax. Any purchase that is not paid directly from school funds is subject to sales tax.

A school's purchase of products that will be sold, that are not for school use, is subject to sales tax.

If sales tax is not collected by the supplier, the school or school related organization is responsible for remitting sales or use tax directly to the state.

### **Examples of taxable purchases are:**

- Food and drinks for sale at concession stands
- Glasses, napkins, and utensils for use at concession stands
- School jackets, T-shirts, or uniforms sold to students
- The purchase of all fundraising items such as food for concession stands, candy, flowers, wrapping paper, and Christmas wreaths
- Books sold through book fairs
- Purchases of products or services for the personal use of officials, members, or employees of the school
- Purchase of any equipment, uniforms, or other items by a school related organization or club

**Foundations, booster clubs, or student organizations** are separate entities from the school. This may include sports or fine arts booster clubs, PTAs, rodeo or drama clubs, FFA, dance teams, student council, etc. These entities are subject to sales tax on their purchases. All licensed suppliers are responsible for sales tax on sales to these organizations.

Schools may administer the foundation, club, or organization's account and use checks that have the school name on it. Because the vendor does not know if payment is from school district funds or a foundation, club, or organization, the school should tell the vendor that the purchase is subject to sales tax. If sales tax is not charged, the foundation, club, or organization will owe use tax on all purchases except for items they give to the school for the school's use.

**Fund Raising Sales** Items purchased by the school or related organizations for sale as fund-raisers or as raffle items, such as food for concession stands, fruit, pizza, candy, wrapping paper, etc., are subject to sales tax when purchased. The school or organization does not owe sales tax on their profit from the sale of these products. If sales tax is not collected by the vendor, the school or organization is responsible for remitting use tax on the cost of the products purchased. The cost is the amount paid for the product, including shipping and handling charges.

**Items sold by the school, other than fund raising sales**, are subject to sales tax when sold. Items sold may include items that were built in a class, such as a garage or house built in shop class, services such as remodeling or repairs to motor vehicles, or sales of surplus items sold by the school district such as office equipment.

**Products purchased by a school that are in turn sold** to students, teachers, or others that are not for use in a class are subject to sales tax when purchased. If sales tax is not paid to the supplier, use tax is due on the school's purchase price of these items. This includes items such as uniforms, class rings, school jackets, school pictures, and refreshments in a teacher's lounge.

**Employee purchases** are not exempt from sales tax even if the school later reimburses the employee. The exempt entity must pay the vendor directly from the school's funds to be exempt. Payment may be made with the school's check or credit card.

**School Travel** Purchases of motel rooms and food made by teachers, coaches, administrators, students, etc. while on school trips are subject to sales tax when paid for by the individual, even if the individual is reimbursed by the school for the expenses. Payments made to the motel or restaurant directly from school funds, by a school check or school credit card, are exempt from sales tax.

**School "Parties"** Purchases made by "after-prom" committees or other school party committees are not exempt from sales tax. The committee must pay sales tax on all items, including refreshments and prizes purchased for

these special events.

## Technical Schools

Purchases by technical schools are not subject to sales tax. However, sales made by technical schools are subject to sales tax. Tax applies to products sold at the school's bookstore and their cafeterias. For further information, please review the Tax Facts on universities.

## Out-of-State Schools

Governments, including public schools, from other states or the District of Columbia are exempt from South Dakota sales tax if the law in that state provides a similar exemption for South Dakota governments. States providing a similar exemption are Colorado, Indiana, Iowa (lodging is not exempt), Minnesota (lodging and meals are not exempt), North Dakota, Ohio, and West Virginia. The governments from states without a sales tax are exempt from South Dakota sales tax. These states are Alaska, Delaware, Montana, New Hampshire, and Oregon.

South Dakota public school districts are exempt from sales tax in the above states, except for purchases noted. Public schools from the above states are exempt when making purchases in South Dakota, except for the purchases noted.

## Licensed Suppliers

School officials should tell suppliers to charge sales tax on fundraising items or items the school will resell to students, teachers, and others for personal use. If the business is not licensed, the school will owe use tax. Please contact the Department at 1-800-829-9188 to determine if a specific business is licensed.

## Construction Services

Contractors' excise tax of 2% applies on construction services such as new construction, remodeling, roof repair, painting, plumbing, heating or AC repairs, and concrete work. The contractors performing these services are responsible for contractors' excise tax on their receipts and will owe use tax on any material or supplies furnished by the school. Contractors may legally pass this tax on to the school.

An exemption certificate may not be used when purchasing realty improvement work that is subject to contractors' excise tax.

## Talk to Us!

If you have a tax problem or question, call the South Dakota Department of Revenue toll-free at 1-800-TAX-9188. Visit us on the web at [www.state.sd.us/drr](http://www.state.sd.us/drr), email us at [bustax@state.sd.us](mailto:bustax@state.sd.us) or write us:

**South Dakota  
Department of Revenue  
445 East Capitol Ave.  
Pierre, SD 57501-3100**

Aberdeen	Sioux Falls
14 South Main, Suite 1-C	300 S Sycamore, Suite 102
Aberdeen, SD 57401	Sioux Falls, SD 57110
Mitchell	Watertown
417 N. Main, Suite 112	715 S Maple
Mitchell, SD 57301	Watertown, SD 57201
Rapid City	Yankton
1520 Haines Avenue, Suite 3	1900 Summit Street
Rapid City, SD 57701	Yankton, SD 57078-1951

**June 2016**

**This fact sheet is designed to provide general guidelines and examples of situations which may occur when a public or private non-profit university or school sells tangible personal property or services. If this Tax Facts does not answer your specific question, please call the Department's toll-free helpline at 1-800-829-9188 between 8:00 AM - 5:00 PM CST, Monday through Friday.**

**Information found in this document rescinds and replaces all previous written information on this subject. All users of this publication are responsible for keeping informed about changes in tax laws and regulations by reading department issued newsletters, press releases, Tax Facts, and other documents published by the Department of Revenue.**

#### **Taxes and Rates that may apply to a retail business.**

State Sales and Use Tax.....	4.5%
Tourism Tax.....	1.5%
Municipal Sales and Use Tax .....	1 to 2%
Municipal Gross Receipts Tax .....	1%
Motor Vehicle Gross Receipts or Leasing Tax .....	4.5%
Wireless Gross Receipts Tax .....	4%

## **Sales to Public Universities**

The sale of tangible personal property and services may be exempt from sales tax when sold to a public university if the payment is made with public funds. SDCL 10-45-10 exempts governmental entities from sales tax on their purchases. Public universities are governmental agencies and exempt from sales tax under this statute. South Dakota Vocational Institutions are also exempt from sales tax as a governmental agency. This exemption does not extend to purchases of tangible personal property for the personal use of officials, members or employees of such institutions.

Retailers must document sales and should retain a completed exemption certificate or proof of payment from the public university. The six public universities include:

1. Black Hills State University
2. Dakota State University
3. Northern State University
4. South Dakota School of Mines & Technology
5. South Dakota State University
6. University of South Dakota

The technical institutions are located in:

1. Mitchell
2. Rapid City
3. Sioux Falls
4. Watertown

## **Sales to Private Non-Profit Universities**

The sale of tangible personal property and services may be exempt from sales tax when sold to a private non-profit university. SDCL 10-45-14 exempts sales to private non-profit education institutions that are exempt under section 501(c)3 of the Internal Revenue Code. These institutions must maintain a physical campus located within this state, must be accredited by the SD Department of Education and Cultural Affairs or the North Central Association of Colleges and Schools, and must be approved and licensed by the South Dakota Department of Revenue. This exemption does not extend to purchases of tangible personal property for the personal use of officials, members or employees of such institutions.

## **Foundations**

Universities often have foundation accounts. A foundation is a separate and distinct entity from the university and is usually a non-profit organization. Examples include medical school foundations and law school foundations. The majority of the funds in a foundation account are the result of donations. Although the foundation is a non-profit organization, purchases made by a foundation are subject to sales tax since payment is not coming from the university. Retailers must charge sales tax on products or services sold to the foundation.

## **Sales made by Public and Private Non-Profit Universities**

The sales tax exemption does not extend to sales of tangible personal property or services made by a university.

The sale of tangible personal property and non-educational services by a university or a technical institution are subject to the state sales tax plus applicable municipal tax, unless they are specifically exempt. A sale made by a university or technical institution may be exempt for the following reasons:

1. The product or service is specifically exempt by law.
2. The purchaser is exempt.
3. The product or service is used for an exempt purpose.

Examples of exempt services a university may sell:

- Health services (such as student health)
- Educational services (including tuition)
- Social services (such as day care)

Examples of exempt products:

- Agricultural products sold for resale
- Livestock
- Prescription drugs

### **Exempt Purchasers**

Accredited schools, non-profit hospitals, approved relief agencies and government entities are exempt from sales and use tax. Purchases of food paid with food stamps or WIC coupons are also exempt from sales tax.

Accredited schools and relief agencies have tax identification numbers assigned by the department that should be provided to their vendors.

A completed exemption certificate or proof of payment from the governmental entities must be provided in order for the sale to be exempt from sales tax.

### **Exempt Use**

State law exempts certain products or services from sales or use tax based on how the product or service is used. The most common exempt use is products or services purchased for resale. A business that purchases items to sell, rent, or lease to others may purchase those items exempt from sales tax.

## Examples of Taxable Products/ Services Sold by Universities

### **Lab and Testing Services**

A university or technical school may sell services to the public. These services may include lab testing and analyzing of agricultural products such as seed, feeds, water, soil, animal or other products. The fees for these services are subject to state and applicable municipal sales tax based on where the reports or results are delivered. Surcharges, University Fees and delivery charges are included in the receipts subject to sales tax.

### **Food Service**

Meal plans sold to students are subject to the state sales tax, the applicable municipal sales tax and municipal gross receipts tax. The tax is due at the time of the sale of the meal ticket. If additional food is purchased from the cafeteria or grill, state sales tax, applicable municipal sales tax and municipal gross receipts tax is due at the time of the purchase.

Meal plans that are included in the salary compensation of residence assistants and hall directors are subject to the state sales or use tax plus the general municipal tax. If the university has a contract with an independent food service provider, and they did not pay sales tax on this meal plan, the university would owe state use tax plus applicable municipal tax to the state.

### **Flex Dollars**

Some universities offer flex dollars to their students. Flex dollars can be purchased by the students and used at any of the cafeterias on campus. These are generally issued in the form of a purchasing card. When the flex dollars are used to purchase food, they are subject to the state sales tax, municipal sales tax and municipal gross receipts tax on prepared food. Any amount the student forfeits at the end of the year, is unclaimed property.

### **Bookstore**

The bookstore, whether operated by the university or by an independent operator, must have a South Dakota sales tax permit. Items sold by the bookstore are subject to the state sales tax plus municipal sales tax.

### **Room Rentals**

The rental of dorm rooms to students enrolled in an accredited course of study is not subject to sales or use tax. The rental of dorm rooms to transient guests (for less than 28 days) is subject to the state sales tax, plus municipal sales tax, municipal gross receipts tax (lodging) and the tourism tax.

The rental of classrooms, gymnasiums, dining rooms and multipurpose rooms is not subject to sales tax. The receipts from any service offered for an additional fee to the renter are subject to the state sales tax plus applicable municipal sales tax, municipal gross receipts tax, and tourism tax.

For example, the dining room is rented for meetings, for an additional \$25 a plate, a meal may be served at the meeting. The \$25 a plate fee is subject to the state and municipal sales tax and municipal gross receipts tax. The rental of the room is not taxable.

### **Parking Fees**

Fees for parking permits sold to the university's students and faculty are exempt from sales and use tax. Parking fees for guests are subject to the state sales tax plus the municipal sales tax.

### **Youth Camps**

Youth camps sponsored and operated by universities are not subject to sales tax if the entire net proceeds are deposited into the University's accounts and are spent for educational purposes. Sales tax is due on all items sold at the camp unless sales tax is paid to the vendor at the time the items are purchased.

If the entire net income generated from the camp not spent for educational purposes, the entire registration fee is subject to the state sales tax, municipal sales tax and the tourism tax.

## Universities

For example, if the net proceeds are paid to the faculty member in charge of the event, then the entire receipts from the camp is subject to tax.

This applies to all camps held by universities, such as athletic, academic, and fine arts camps.

- Volleyball
- Basketball
- Baseball
- Running
- Swimming
- Soccer
- Dance
- Theatre
- Music
- Drama
- Math
- Science
- Computer

### Equipment Rental

Rental of athletic equipment such as kayaks, tennis rackets, and basketballs are subject to the state sales tax, the municipal sales tax and the tourism tax.

### Sports Training Programs

Sports lessons without academic credit are subject to the state sales tax and municipal sales tax.

Examples of these lessons are:

- Aerobic lessons
- Tennis lessons
- Kayak lessons
- Karate lessons

### Fitness Center Memberships

Membership fees for fitness centers are subject to the state sales tax plus municipal sales tax.

Weekly and daily passes to fitness centers are subject to the state sales tax plus applicable municipal sales tax.

### Entertainment and Admissions

SDCL 10-45-13 (4) exempts the admissions to events or activities sponsored and operated by colleges, related clubs, or supporting organizations when the net proceeds are spent for educational purposes.

Admissions to entertainment sponsored by university organizations when the net proceeds are used for purposes other than education are subject to the state sales tax, municipal sales tax, municipal gross receipts tax and the tourism tax.

If an organization or association charges admission or a cover charge, they can purchase the entertainer's services as a sale for resale.

The organization must have a sales tax license in order to issue an exemption certificate to the entertainer.

### Museum Admissions and Sales

Admissions to university museums and science centers run by the universities are subject to the state sales tax, municipal sales tax, municipal gross receipts tax, plus the tourism tax.

All sales, including food items, gift shop items, and classes are subject to the state sales tax, municipal sales tax and tourism tax. Refer to the Municipal Tax Information Bulletin for the different municipal tax rates.

Donations are exempt from sales tax, but documentation must be kept for verification.

### Concessions at Spectator Events

Concessions at spectator events put on by the universities are subject to the state sales tax, municipal sales tax, municipal gross receipts tax, and tourism tax. Examples of spectator events are sporting events, stage performances, concerts, expositions, and exhibitions.

### Newspapers

The sale of newspapers is subject to the state sales tax and municipal sales tax.

### Fees from Faculty and Students

When faculty and students provide research or consulting services, and charge for their services, they must have a sales tax license and remit sales tax on their fees. Research and consulting services are subject to the state sales tax plus municipal sales tax..

## University Affiliated Organizations

### Student Associations

Student associations or other organizations, such as booster clubs, business fraternities, or other academic clubs, are not exempt from sales tax on their purchases. Sales tax must be charged on all purchases made by these organizations.

### Sororities and Fraternities

Student sororities and fraternities are not exempt from sales tax on purchases made with sorority or fraternity funds. Sales tax must be remitted on all purchases made by these organizations, unless they purchase the items as a sale for resale. See Entertainment and Admissions for additional information.

### Fundraisers/Benefit Auctions

Student association clubs that are involved with fundraising must pay use tax on the items sold if sales tax was not charged by the seller. The clubs are required to maintain a list of items sold for fundraising, and provide a contact person with their address and telephone number.

Some student association clubs may need a sales tax license if they conduct regular fundraisers throughout the year. They should contact the Department of Revenue to get a sales tax license.

If all items are donated, the gross receipts from a benefit auction are not subject to sales tax. Retailers owe use tax on the cost of donated items that are taken from tax unpaid inventory. Items donated directly to exempt entities are not subject to use tax. Clerking and auctioneer services provided at no charge are not subject to sales tax.

## Other Taxes

### **Tourism Tax**

Tourism tax is a 1.5% tax in addition to the state sales tax and municipal taxes. This additional tax is used to promote travel to South Dakota. Tourism promotion tax applies to the gross receipts of the following:

- Hotels and Lodging Places, including renting of dorm rooms for less than 28 days
- Recreational Equipment Rental
- Food Concessions
- Sports Camps
- Museum Admissions & Sales of tangible personal property
- Recreational Services
- Spectator Events-Admissions to all non-college events

### **Contractors' Excise Tax**

The repair or remodeling of existing real property or the construction of a completely new project or any construction service listed under Division C of the SIC Manual are all subject to contractors' excise tax.

Contractors are the end users of any goods or services they use to create or repair realty. They must pay sales or use tax on all these goods or services. The tax they pay becomes a cost that may be passed on to their customers as part of their expense. No one is exempt from contractors' excise tax and state law allows the contractor to pass on their tax expense.

### **Municipal Tax**

Many municipalities in South Dakota have a sales and use tax in addition to the state sales tax. If the customer receives a product or service in one of these municipalities, the product or service is subject to that municipality's sales tax.

Municipalities may also have a 1% gross receipts tax. The municipal gross receipts tax (also referred to as the Bed, Board, and Booze tax) is a 1% tax that is in addition to the municipal sales tax. The municipal gross receipts tax can be imposed on alcoholic beverages, eating establishments, lodging accommodations, ticket sales, and admissions to places of amusement, or athletic and cultural events.

A list of municipal tax rates is available on our website at <http://dor.sd.gov> or by calling 1-800-829-9188.

### **Required Records**

If universities sell tangible personal property or services, they must have a South Dakota sales tax permit. Records, such as purchase and sales invoices, bills of lading, books of all receipts and sales, cash register receipts, and other pertinent papers and documents, are required to be kept for at least three years and be available for inspection during business hours.

## Talk to Us

For more information, please visit our website at <http://dor.sd.gov> or call our toll-free tax helpline at 1-800-829-9188.

**SD Dept. Of Revenue  
Business Tax Division**  
445 East Capitol Avenue  
Pierre, SD 57501



<http://dor.sd.gov/>

1-800-829-9188

# Churches

*The purpose of this Tax Fact is to provide general guidelines on how South Dakota taxes apply to churches. 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.*

September 2018

## Sales and Use Tax

A church is not exempt from paying sales tax on purchases even though it may have a 501(c)(3) or other exempt status with the IRS.

- A church is not required to have a sales tax license for most activities, but it may be required to obtain a license if it sells taxable products or services.
  - ⇒ To apply for a South Dakota sales tax license, click [here](#).
- Use tax is due on purchases if no sales tax is paid at the time of purchase.
  - ⇒ Use tax is due on the purchase price, including shipping and handling charges.
  - ⇒ Use tax is due within the filing period the product or service is received.
  - ⇒ Use tax is due on supplies taken out of retail inventory for the business's use.
- A church is encouraged to obtain a use tax license. Use tax returns are sent out every June to report any use tax due.
  - ⇒ To submit a use tax payment online, click [here](#).

### Examples of Use Taxable Items and Services

- Books/Publications
- Candles
- Cleaning Supplies
- Computers
- Computer Software
- Furnishings
- Hymnals
- Interim Ministers
- Internet Access Fees
- Kitchen Supplies
- Lawn Mowing
- Music Downloads
- Musical Instruments
- Office Equipment
- Office Supplies
- Online Service Fees
- Pianos/Organs
- Printing Services
- Processing Fee for Electronic Donations
- Printing Services
- Shipping & Handling Charges
- Snow Removal
- Stereo Equipment

### 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>