

This fact sheet is designed to provide general guidelines to lodging establishments and campgrounds on how tax applies to items and services they sell. 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 previously 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's newsletters, press releases, Tax Facts, and other documents published by the Department of Revenue & Regulation.

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

State Sales and Use Tax.....	4%
Tourism Tax through June 30, 2009	1%
Tourism Tax from July 1, 2009 through June 30, 2011	1.5%
Municipal Sales and Use Tax .....	1 to 2%
Municipal Gross Receipts Tax .....	1%
Motor Vehicle Gross Receipts or Leasing Tax .....	4 ½%
Wireless Gross Receipts Tax .....	4%

### Definitions

The rentals of rooms or parking sites by lodging establishments or campgrounds are subject to the state sales tax, applicable municipal sales tax, municipal gross receipts tax, and tourism tax. Rentals of rooms or campgrounds to the same guest for 28 or more consecutive days are not subject to sales, use, or tourism tax.

A **lodging establishment** is any building, structure, property, or premise kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are furnished to transient guests.

A **campground** is any property or premise kept, used, maintained, advertised, or held out to the public to be a place where sites are available for the placing of tents, campers, trailers, mobile homes, or other mobile accommodations to transient guests.

A **transient guest** is any person who resides in a lodging establishment or campground less than twenty-eight consecutive days.

The casual or occasional rental of a sleeping accommodation or camping site is not subject to sales tax. **Casual or occasional** is the rental of a sleeping accommodation or camping site for ten or less days in a calendar year. Any establishment or campground that has a license is not offering the rental of lodging or campsites on a casual or occasional basis.

**Meeting rooms** are subject to the state sales tax, plus the municipal

sales tax. The municipal gross receipts tax and tourism tax do not apply to meeting rooms.

Charges for roll away beds or cribs are subject to the same tax rate as the rooms.

A deposit to guarantee a room is not subject to sales tax until the customer stays or the deposit is forfeited when the customer does not show. Fees to guarantee a room are subject to state sales, municipal sales and municipal gross receipts, and tourism tax. Sales tax may be refunded if the deposit is refunded to the customer.

General occupational taxes that may be imposed by a business improvement district are not included in the receipts subject to sales tax.

### Bed & Breakfast

Bed and Breakfasts are subject to state sales tax, applicable municipal sales tax, municipal gross receipts tax, and the tourism tax. The Bed and Breakfast must pay sales or use tax on all purchases including food.

### Free Rooms

A free night's stay that is given to a customer after they have stayed at the motel for a set number of nights is not subject to sales or use tax. Complimentary rooms are not subject to sales tax if no value is given in return for the complimentary room (Guest of the Day).

Travel clubs or franchisors may offer a free night's stay when a customer signs on with the travel club. If the motel receives reimbursement from the travel club, those receipts are subject to the state sales tax, municipal sales tax, municipal gross receipts tax, and tourism tax. Payments by a motel to a travel club or franchisor to participate in a "free nights" program is subject to the state sales tax plus municipal tax.

If a motel provides a room in exchange for a service or a product, the product or service received is considered payment for the room. The state sales tax, municipal sales tax, municipal gross receipts tax and tourism tax applies based on the normal charge for the room that is exchanged for a product or service. Example: A hotel may provide a room for a band in lieu of payment for the band's services. The motel owes tax on the room because the band's service is considered payment for the room.

### Franchise Operations

Royalties or service fees paid by a franchisee strictly for the privilege of engaging in business using the franchisor's name are not subject to sales or use tax. However, when a franchisor bundles its fee and the payment is for taxable and nontaxable items, the entire fee is subject to the state sales tax, plus applicable municipal sales tax.

Examples of taxable items that may be included with the royalty fee are training, accounting, reservation fees, marketing contributions, gift certificates, quality assurance inspections, consulting, advertising and promotions, and software. When taxable sales are included within the royalty fee, and not separately stated, the entire royalty payment is subject to state sales tax, plus applicable municipal sales tax.

Travel agency fees collected by a franchisor that are passed directly to the franchisee with no markup are not subject to tax.

## Reservation Services

Fees received by companies that provide reservation services to lodging and campground establishments are subject to the state sales tax, plus applicable municipal sales tax.

## Membership Organizations

Receipts from membership fees are exempt when paid to any lodging house and hotel membership organization operated for the benefit of its members. This exemption does not apply to any membership fee that represents payment for tangible personal property and services provided by the membership organization. Examples of taxable services and property include advertising or promotional services, inspections, and reservations services.

## Coin Operated Washers/Dryers

The receipts from coin operated washers/dryers are exempt from sales tax. The lodging facility or campground must pay an annual license fee for each washer or dryer in lieu of sales tax. This fee is paid to the Special Tax Division of the Department of Revenue & Regulation. The Coin Operated Washer and Dryer License Application may be obtained from our website at [www.state.sd.us/drr](http://www.state.sd.us/drr) or by calling 1-605-773-3311.

## Equipment Rentals

Charges by a hotel for equipment rental and services, including VCR's, computers, microphones, projectors, televisions, Internet access and service charges for convention groups are subject to sales tax, plus the applicable municipal sales tax.

Items purchased that the hotel owns and provides to conventions are subject to sales or use tax at the time of purchase. This may include tables, chairs, tablecloths, and presentation equipment.

Items purchased for a specific customer may be purchased for resale. Examples of products and services that can be purchased for resale are: entertainment, decorations, catering, and leased tablecloths.

Other taxable receipts include charges for electricity, safe rental, and amounts paid by customers for damages to property.

## Food/Drinks

The sale of food and drinks are subject to the state tax, applicable municipal sales tax, and municipal gross receipts tax.

Food and drinks provided to customers at no charge are subject to the state sales or use tax, plus the applicable municipal sales or use

tax at the time of purchase. Motels that have restaurants attached owe sales or use tax on food taken out of inventory or purchased to give away at the motel.

## Gift Shops

Sales made by gift shops are subject to the state sales tax, plus applicable municipal sales tax. The gift shop may also be subject to tourism tax if the shop is distinct from the business in which it is located.

A gift shop is distinct from the business in which it is located if:

1. The gift shop is physically separate from the other business. Being physically separate may include a separate cash register or walls separating the gift shop from the remainder of the business. In some hotels the gift shop is down the hall from the front desk and appears to the customer to be as separate as the hotel's restaurant; or
2. The gift shop is operated by a person other than the owner of the business in which it is located.

If the gift shop is distinct from the business and 50% or more of the gift shop's total receipts are during June through September, then the gift shop receipts from June through September are also subject to the 1% tourism tax. Items sold at the registration desk are not subject to tourism tax.

## Movies and Videos

Rentals of movies, VCRs, and DVDs are subject to the state sales tax, plus applicable municipal sales tax. Charges for movies offered via TV are subject to sales tax. The company that provides the equipment is responsible for use tax on all equipment that is furnished for use in the motel rooms. If the company sells or leases equipment to the motel and the motel collects for the movies, sales tax is due on the sale or lease of the equipment. The motel owes state plus applicable municipal sales tax on the receipts from the movie.

## Telephone

The telephone company charges the state sales tax, plus applicable municipal tax to the motel for its service. Charges by the motel to the guests for phone services are not subject to sales or use tax.

## Transportation

Intrastate transportation services are subject to the state sales tax. Receipts for shuttle services provided between the hotel and airport or other locations are subject to the state sales tax. Beginning January 1, 2006, municipal sales tax applies if the transportation both originates and terminates in the same city. Transportation services that originate or terminate outside South Dakota are not subject to sales tax.

## Tours

Bus tours are subject to the state sales tax, plus the 1% tourism tax. Beginning January 1, 2006, municipal sales tax applies to tours that begin, end, and are only to destinations within the same city. Tours to destinations outside the city in which the tour begins and ends are not subject to municipal sales tax. Bus tours to destinations outside South Dakota are not subject to sales tax.

When a lodging facility or campground sells a ticket for a scenic bus tour on behalf of the bus company, the commission retained by the lodging facility or campground is exempt from tax.

## Valet Services

Laundry and dry cleaning businesses must report tax on their charges for services to lodging establishments and customers of the lodging establishment even though payment is received from the lodging establishment. The lodging establishments are considered agents for laundry and dry cleaning businesses and do not report tax on receipts that are collected for a laundry or dry cleaner. The lodging establishment is responsible for sales tax on service fees charged that are in addition to the laundry or dry cleaning fee.

## Vending and Amusement Machines

The gross receipts from vending machines are subject to the state sales tax, plus applicable municipal sales tax. Gross receipts from vending machines that serve prepared food, such as hot soup, coffee, or hot chocolate, are also subject to the municipal gross receipts tax.

If a vending machine sells prepared food and other items, the municipal gross receipts tax will apply to all receipts unless documentation is kept to show the products sold. Gross receipts from vending machines located outside municipal limits are subject to the state sales tax only.

The gross receipts from amusement machines are subject to the tax, no municipal sales tax. Owners of coin-operated amusement machines pay an annual fee of \$12 per machine in lieu of paying municipal sales tax.

Owners of vending and amusement machines that place machines in another person's business are considered retailers. They must have a sales tax license, and report and pay tax on the gross receipts from these machines.

Businesses do not owe sales or use tax on commissions they receive from receipts of amusement or vending machines owned and operated by others.

The purchase of vending machines is subject to a state sales tax, plus the municipal sales tax. Mechanical or electronic amusement devices or machines are subject to the state sales tax, no municipal tax. Machines purchased and used in other states, then brought into South Dakota are subject to South Dakota use tax. Credit will be allowed for sales or use tax paid to the state in which the machine was previously used.

## Purchases for Resale

If lodging establishments and campgrounds are purchasing services or supplies for resale they must give an exemption certificate to their suppliers.

State law requires exemption certificates to be complete and accurate. The buyer will be held responsible for properly completing an exemption certificate.

## Sales for Resale

A lodging establishment or campground may sell services or products for resale if the buyer provides an exemption certificate. It is the buyer's responsibility to know when a service or product qualifies as a sale for resale. The seller is responsible for maintaining a complete exemption certificate.

## Use Tax

Supplies, materials, equipment or services used by the facility are subject to sales tax when purchased. If the supplier does not charge sales tax, use tax is due at the same tax rate as sales tax. The state use tax rate is 4%, plus applicable municipal use tax, and is payable to the Department of Revenue & Regulation in the filing period in which the lodging establishment or campground receives the supplies or services.

Tangible personal property delivered into South Dakota is subject to the South Dakota sales or use tax, even if the supplier charges another state's sales tax.

When a purchase is made out of state and possession is taken out of state the supplier may charge you that state's sales tax. If the other state's sales tax is the same or more than South Dakota's tax, no South Dakota tax is due.

If it is less than South Dakota's, the difference must be paid to South Dakota. The state plus applicable municipal taxes must be added together to determine if additional tax is owed.

Examples of commonly used items found in lodging establishments that are subject to use tax:

- beds
- bedding
- towels
- TVs
- drapes
- laundry bags
- ice bucket
- cups
- furniture
- soaps
- stationery
- paper bags
- ice machine
- shampoos
- pens
- pool supplies
- office supplies
- coffee pots
- shower caps
- toilet paper
- pillow mints
- cleaning supplies & equipment
- laundry supplies & equipment
- electronic lock systems

Examples of services subject to sales or use tax are:

- accounting
- computer
- consulting
- architectural
- engineering
- inspections
- linen & towel services
- laundry services
- snow removal

Use tax is also due on supplies taken out of retail inventory for the business' use. Use tax is due on these items in the filing period they are taken out of inventory.

## Exempt Entities

The sale of products and services to the following entities is exempt from South Dakota sales and use tax.

- Indian Tribes
- United States government agencies
- State of South Dakota
- Public or municipal corporations of the State of South Dakota
- Municipal or volunteer fire or ambulance departments
- Public schools, including K-12, universities, and technical institutes that are supported by the State of South Dakota or public or municipal corporations of South Dakota.
- Non-profit hospitals
- Religious or private schools
- Relief agencies

Governments from other states or the District of Columbia, including public schools and state universities, are exempt from sales tax if the law in that state provides a similar exemption for South Dakota governments. Purchases of lodging made directly by the governments from the following states are exempt from South Dakota sales tax: Colorado, Indiana, Ohio, North Dakota, West Virginia, Alaska, Delaware, Montana, New Hampshire, and Oregon.

### Documentation Required

Government entities must provide an exemption certificate to the vendor or the vendor must keep documentation to show the purchase was paid from government funds. Documentation may include a purchase order or a check stub.

- Government entities do not need to provide an exemption number on the exemption certificate.
- Non-profit hospitals must provide an exemption certificate to the seller.
- Relief Agencies and Religious or Private Schools must provide an exemption certificate with their South Dakota exempt permit number. The permit number should contain the letters "RA," "RS," or "RE." The purchase must be made directly from the exempt entity's funds.

When a purchase is made with a government credit card, an imprint or copy of the credit card must be kept as documentation.

## Federal Credit Cards

The federal government uses GSA SmartPay® 2 cards as described below. The taxable status of each card is explained in the description. The government credit card number must be kept as documentation if the purchase is exempt.

**Travel Cards** have a blue border and feature a U.S. flag and a large jet. The card is imprinted with: "For Official Government Travel Only." These cards can be used for meals, lodging, rental cars, and similar travel-related venues. Travel cards start with 4486, 4614, 5568, or 5565. Purchases made with Travel cards that have a *sixth digit of 1,2,3, or 4 are subject to sales tax*. Purchases made with Travel Cards that have a *sixth digit that start with 0, 6, 7, 8, or 9 are exempt from sales tax*.

**Fleet Cards** have a green border and feature a U.S. flag and highway. The card is imprinted with: "For Official Government Fleet Use Only." Fleet cards are usually used for fuel and maintenance of vehicles, planes, boats, and equipment. Fleet cards start with 8699, 5568, or 5565. Purchases made with Fleet cards are paid for directly by the federal government and are exempt from sales tax.

**Purchase Cards** have a red border and feature a U.S. flag and a keyboard. The card is imprinted with: "For Official US Government Purchases Only" and "US Government Tax Exempt." These cards are used for expenses such as computers, furniture, office supplies, services, etc. Purchase cards start with 4486, 4614, 4716, 5565, or 5568. Purchases made with these cards are paid for directly by the federal government and are exempt from sales tax.

**Department of Interior** GSA SmartPay 2® cards begin with 5568 26 and is an integrated card. The wording on the card indicates the card is for official transactions for the U.S. Government. These cards are used for purchases of supplies and services and travel-related transactions. All purchases with Department of Interior Integrated cards are paid for directly by the federal government and are exempt from sales tax.

### **State of South Dakota Purchasing Cards**

The state issues a purchasing card to certain state employees to make state purchases. Such cards are not for the personal use by the employee. Purchases with this card are tax exempt. Retailers need to keep a copy of the credit card transaction slip or some other proof of the exemption for documentation. This card is labeled Citibank Purchasing and contains the SD State Seal in the upper left-hand corner. The card contains the agency's initials such as DOT. There is also a credit card issued by Citibank to state employees, this is labeled Citibank The Business Card. This card is to an individual, even though it says State of South Dakota at the bottom, purchases with this card are taxable.

## Diplomatic Tax Exemption Program

The U.S. Department of State issues tax exemption cards to certain foreign government personnel. These cards may have restrictions on their use. Restrictions are printed at the bottom of the card, inside the colored band. For example, some include hotel rooms while others do not. Please keep a photocopy of the card as documentation of the exempt sale. For further questions regarding the diplomatic tax exemption program, contact the Office of Foreign Missions, Washington, DC.

## Municipal Tax

In South Dakota, more than 200 municipalities have an additional sales or use tax. If a business is located in one of these municipalities, the municipal tax will apply to lodging, services, and tangible personal property sold.

The municipality may also have an additional gross receipts tax on lodging, eating establishments, alcoholic beverages and ticket sales or admissions to places of amusement, athletic or cultural events. This is in addition to the state sales tax, the municipal sales tax and tourism tax. A list of municipal tax rates is available on the department's web site at [www.state.sd.us/drr](http://www.state.sd.us/drr) or by calling 1-800-TAX-9188.

## Tourism Tax

Tourism tax applies to hotels and lodging places, campgrounds, motor vehicle rentals, recreational equipment rentals, recreational services, spectator events, visitor attractions and visitor-intensive businesses. The tourism tax rate is 1% until July 1, 2009, and is in addition to the state sales tax and any applicable municipal taxes. From July 1, 2009, through June 30, 2011, the tourism tax rate is 1.5%.

Tourism tax does not apply to eating establishments, except for those that are on the grounds of a visitor attraction or spectator event.

## Required Records

Lodging accommodations and campgrounds must have a South Dakota sales tax license for each place of business within the state. Records, such as purchase and sales invoices, bills of lading, registration forms, 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!

If you have a tax problem or question, call the South Dakota Department of Revenue & Regulation 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 & Regulation**

**445 East Capitol Ave.**

**Pierre, SD 57501-3100**

Aberdeen 419 Moccasin Drive Aberdeen, SD 57401	Sioux Falls 300 S. Sycamore, Suite 102 Sioux Falls, SD 57110
Mitchell 417 N. Main, Suite 112 PO Box 1103 Mitchell, SD 57301	Watertown 1505 10th Ave. SE, Suite 1 Watertown, SD 57201
Rapid City 4447 S. Canyon Road, Suite 6 Rapid City, SD 57702	Yankton 1900 Summit Street PO Box 859 Yankton, SD 57078