

South Dakota Tax Facts

Lease and Rental

Sales Tax Fact Sheet #210

December 2000

This Tax Fact Sheet is designed to explain to the lease and rental business how sales and use tax applies to items and services they sell or lease. 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 8-6 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 of Revenue.

Lease and Rental Services

Gross receipts from the lease or rental of tangible personal property are subject to the 4% state sales tax rate, plus applicable municipal sales tax. Sales tax also applies to any buy-out payments at the end of a lease.



The state sales tax rate is 3% on the lease or rental of farm machinery used exclusively for agricultural purposes. The lease or rental of farm machinery is not subject to municipal sales tax.

Sales tax applies to the gross receipts from the lease or rental of tangible personal property regardless of the period of time covered by the agreement and regardless of whether or not the agreement contains a valid purchase option.

Businesses selling and leasing tangible personal property must keep their records and inventory separate.

Purchases Exempt from Sales Tax

A business that buys property to lease to others may purchase that property exempt from sales tax. The business purchasing the property must provide the seller with a complete resale certificate at the time of purchase.

A business that leases property with the intent of subleasing the same property must provide a resale certificate to the business from whom the property is originally leased. The business that is subleasing the property is responsible for remitting sales tax on the lease payments.

State law requires resale certificates to be complete and accurate. The buyer will be held responsible for properly completing a resale certificate. Resale certificates may be obtained from the department's website, www.state.sd.us/revenue, or by calling 1-800-TAX-9188.

Sales for resale

A lease and rental business may sell services or products for resale if the buyer provides a resale 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 resale certificate. For more information on sales for resale, view Tax Fact Sheet #285 on our website at www.state.sd.us/revenue or request a copy by calling the department at 1-800-TAX-9188.

Repair and Replacement Parts

A lease or rental business owes sales or use tax on all replacement parts, repair parts or maintenance items installed in its rental inventory.

Multi-state Transactions

Lease and rental businesses in South Dakota must remit sales tax from any lease or rental of tangible personal property when the customer takes possession of the property in this state. This includes tangible personal property leased or rented by out-of-state customers who take possession of property in South Dakota.

When out-of-state businesses lease or rent property to South Dakota customers, tax is based on where possession is taken. South Dakota sales tax applies if:

- The equipment is delivered to a location in South Dakota
- The equipment is in South Dakota when the lease is written or renewed

When leased equipment is brought in from another state that does not impose a sales tax on leases, South Dakota state and applicable municipal use tax applies. Lessees that take possession of tangible personal property in another state and later bring the equipment into South Dakota may have a South Dakota use tax liability. The lessor or lessee should contact the department at 1-800-TAX-9188 to determine if sales or use tax is due to the State of South Dakota.

Lease of Real Property

The lease or rental of real property is exempt from sales tax. However, leased or rented tangible personal property installed into real property may be subject to contractors' excise tax. Contractors' excise tax applies to lease payments when the contractor that installs the property is also receiving lease payments on the property. Examples of leased or rented tangible personal property that become real property subject to contractors' excise tax include burglar alarms, irrigation systems, restaurant equipment, security systems and signs.

Example:

A leasing company installs and leases a burglar alarm system. The lessor will owe use tax on the cost of the materials and contractors' excise tax on each lease payment.

A contractor sells and installs the property for a leasing company. The contractor is liable for use tax on the material and contractors' excise tax on their receipts. The leasing company will not owe sales or contractors' excise tax on the lease payments, because the tax has been paid by the contractor.

More information on contractors' excise tax may be found in the Contractors' Excise Tax-Tax Fact Sheet. View it online at www.state.sd.us/revenue or call 1-800-TAX-9188 for a copy.

Sale/leaseback

Lease or rental payments from a sale and leaseback contract are subject to sales tax. Tangible personal property purchased with the intent of entering into a sale and leaseback contract is exempt from sales tax. A complete resale certificate must be provided by the purchaser and retained by the seller.

Example:

Company B buys a bulldozer from Company A. Company B sells it to Company C. Company B then leases the bulldozer from Company C.

- The first transaction is exempt from sales tax if Company B gives a valid resale certificate to Company A.
- The second transaction is exempt from sales tax if Company C gives a valid resale certificate to Company B and signs a contract showing the sale/leaseback intent.
- Company C is responsible for sales tax on the gross receipts from the leaseback to Company B.

Tourism Tax

A 1% tourism tax applies to rentals of motor vehicles as well as recreation equipment. The tourism tax is in addition to any state and municipal sales tax that applies to the rental.

Recreational Equipment:

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|------------------------|--------------------------------------|
| • All-Terrain Vehicles | • Recreational Gold Mining Equipment |
| • Beach Chairs | • Recreational Vehicles |
| • Bicycles | • Recreational Water Equipment |
| • Bumper Boats | • Rock Climbing Gear |
| • Bumper Cars | • Rollerblades |
| • Campers | • Saddle Horses |
| • Firearms | • Skis |
| • Fishing Equipment | • Snowboards |
| • Floatation Devices | • Snowmobiles |
| • Go-Carts | • Snowmobile trailers |
| • Golf Clubs | • Snowshoes |
| • Hunting Dogs | • Watercraft |
| • Hunting Equipment | • Watercraft Trailers |
| • Mopeds | |
| • Motor Coaches | |
| • Motorcycles | |



Motor Vehicle Rental

Motor vehicles rented in the state for 28 days or less are subject to the state sales tax (4%), the state gross receipts tax (4½%), and the state tourism tax (1%), plus applicable municipal sales tax. The total state tax on the rental of such motor vehicles is 9½% plus applicable municipal sales tax. This tax is based on the amount of the rental payments.



The additional 4½% gross receipts tax is in lieu of the 3% motor vehicle excise tax. This tax must be charged each time the motor vehicle or qualifying trailer is rented. No deductions may be taken for any expenses.

Trailers with an unladen weight of 9,000 pounds or more and which are rented for more than 28 days, but less than 6 months, are only subject to the gross receipts tax of 4½%. If these trailers are rented for less than 28 days, they are subject to the state sales tax, the gross receipts tax, tourism tax, and applicable municipal tax.

Report the 4½% gross receipts tax in the municipal tax section of the sales tax return, using the code 600-1. Report the 1% tourism tax also in the municipal tax section of the sales tax return with the code 700-1.

More information on leasing or renting motor vehicles may be found in the Motor Vehicle Sales and Repair Tax Fact Sheet. View it online at www.state.sd.us/revenue or call 1-800-TAX-9188 for a copy.

Exemptions to sales tax on lease/rentals

The following transactions are exempt from sales and use tax:

- Lease or rental of tangible personal property between telephone companies
- Lease or rental of mobile homes
- Lease or rental of real property
- Lease or rental of registered motor vehicles for more than 28 consecutive days
- Lease or rental of motel, hotel, campground site or other accommodations for more than 28 consecutive days
- Leases or rentals to exempt entities (Proper documentation must be on file to support this exemption.)
- Lease or rental of construction machinery with an operator to perform realty improvements (This transaction is subject to contractors' excise tax, unless a prime contractors' exemption certificate is provided. When the lease of equipment with an operator is NOT used on a realty improvement, the service is subject to sales tax.)

Use Tax

Supplies, materials, or services purchased without a resale certificate are subject to use tax, if appropriate sales tax was not paid at the time of purchase. The state use tax rate is 4%, plus applicable municipal use tax, and is payable to the Department of Revenue in the filing period in which the lease and rental business receives the supplies or services.

Tangible personal property **delivered into South Dakota** by the supplier 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 rate of the other state's sales tax is the same or more than South Dakota's tax rate, you do not owe any South Dakota use tax. If it is less than South Dakota's, you pay the difference in use tax. Add the state and any applicable city rates together to determine if you owe additional use tax.

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.



Municipal Tax

In South Dakota, more than 190 municipalities have an additional sales or use tax. If a business is located in one of these municipalities, the correct rate to apply to leases and rentals is the **municipality's general rate** plus the state rate of 4%. An asterisk (*) indicates a municipality's general tax rate in the Municipal Tax Information Bulletin which is available on our website at www.state.us.sd/revenue or by calling 1-800-TAX-9188.

Exempt Entities

Accredited schools, non-profit hospitals, approved relief agencies and government entities are exempt from sales and use tax.

Lease and rental businesses are required to keep proof of payment from the exempt purchaser. Accredited schools and relief agencies have numbers assigned by the department that should be provided to the **lease and rental business**.

Required Records

Lease and rental businesses 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, 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.

Have additional questions you'd like answered?

Call the Department's toll-free helpline.

1-800-TAX-9188

Or visit our website:

www.state.sd.us/revenue

Or visit us at:

**SD Dept. Of Revenue
Business Tax Division**
445 East Capitol Avenue
Pierre, SD 57501-3100

Aberdeen Area Office
419 Moccasin Drive
Aberdeen, SD 57401-5085

Mitchell Area Office
417 N. Main, Suite 112
P.O. Box 1103
Mitchell, SD 57301-7103

Rapid City Area Office
4447 S. Canyon Rd., Suite 6
Rapid City, SD 57702-1889

Sioux Falls Area Office
230 S. Phillips, Suite 301
Sioux Falls, SD 57104-6321

Watertown Area Office
1505 10th Ave. SE, Suite 1
Watertown, SD 57201-5300

Yankton Area Office
Kanner Building
3113 North Spruce Street
Suite 127
Yankton, SD 57078-5320

