


SOUTH DAKOTA DEPARTMENT OF REVENUE

The Art of Sales Tax

South Dakota Sales Tax for Artists and Performers
April 6, 2023

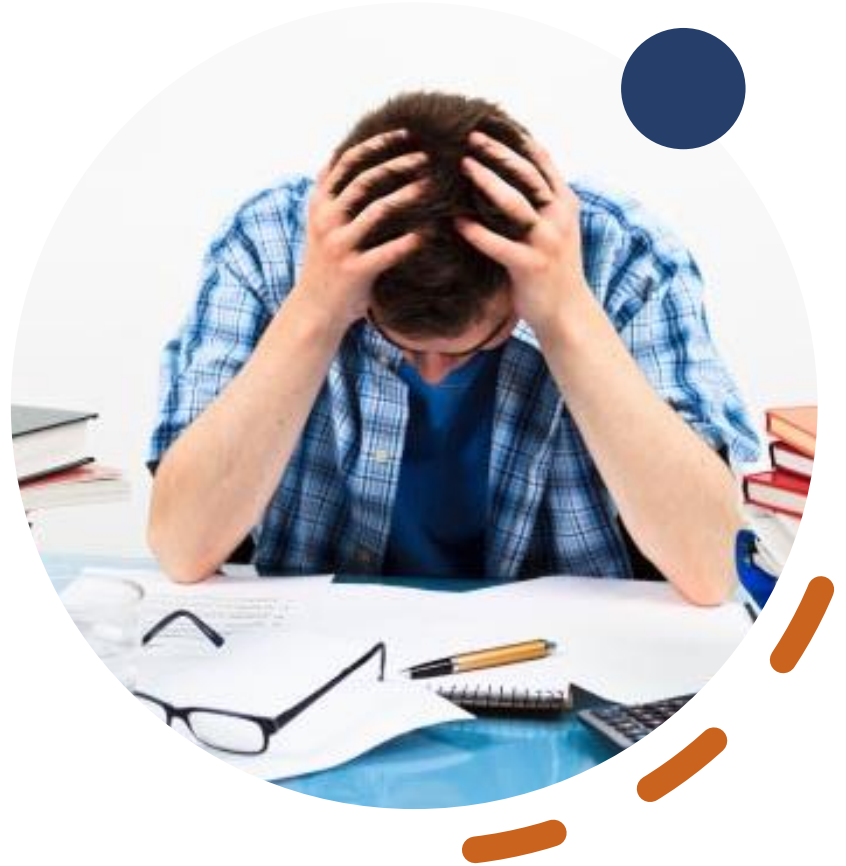




This presentation and the materials that accompany it do not constitute written advice to any specific taxpayer under SDCL 10-59-27.

When you own a creative business, you don't want to spend a second longer than you must dealing with stuff like sales tax.

LET US HELP!



The Basics of Sales Tax

Forty-six U.S. states and Washington D.C. all have a sales tax. States and local areas use sales tax to pay for budget items like schools and roads.

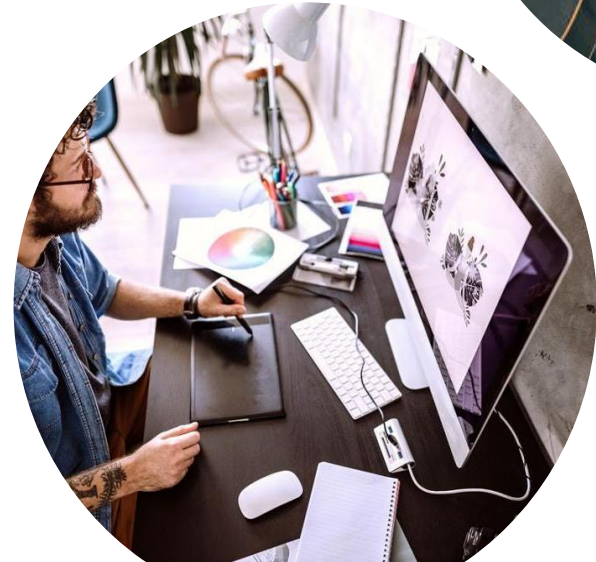
But states don't collect sales tax from citizens directly. They rely on business owners like you to collect it from your buyers and then remit it from time to time (usually monthly, quarterly or annually).



WHO NEEDS A TAX LICENSE?

Each state's laws regarding sales tax are a little different, but in general any "tangible personal property" is considered taxable.

- Physical artwork like sculpture, paintings, jewelry, and other crafts
- Digital artwork like books, music and downloadable patterns
- Services such as bands, dancers, DJs, karaoke



TYPES OF LICENSES

SALES

- For businesses that sell, rent, or lease any kind of tangible personal property (TPP), products transferred electronically, or provide any kind of service.

CONTRACTOR'S EXCISE

- For businesses that provide realty improvements or construction services.

MANUFACTURER'S

- For businesses that fabricate or manufacture items which are sold to other companies for resale and have a manufacturing facility in SD.

USE

- For businesses that purchase TPP, products transferred electronically, or services on which SD sales tax was not paid.

WHOLESALE

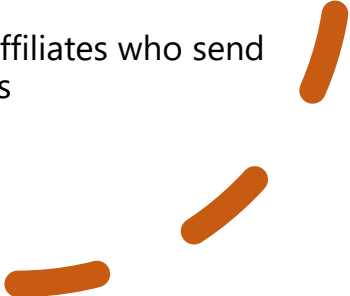
- For businesses that sell all products to other businesses for resale.

Sales Tax Nexus: Which customers should you charge sales tax?

You are only required to charge sales tax to buyers in states where you have sales tax nexus. Sales tax nexus is just a fancy way of saying a “significant presence” in a state.

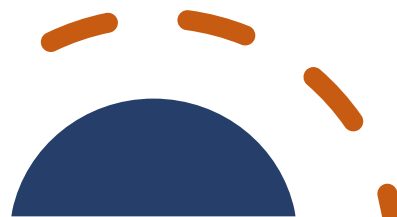
If you are an artist who primarily works from your home or studio, then you might only have sales tax nexus in your home state.

However, other business activities can create sales tax nexus, including:

- A location – a store, office, warehouse, factory or other location
 - An employee – employees, many contractors, salespeople, installers and repairers
 - A drop shipping relationship – Drop shipping can include using a 3rd party to print and send your designs
 - An affiliate – some states consider 3rd party affiliates who send customers to your online store to create nexus
 - Art shows or craft fairs
- 

HOW TO APPLY FOR A SALES, USE, OR CONTRACTOR'S EXCISE TAX LICENSE

- Apply online at <http://sd.gov/taxapp>
- Call 800-829-9188
- Visit one of our tax offices



SALES TAX

State Sales Tax Rate = 4.5%

Note Sales Tax rate decrease from 4.5% to 4.2% on July 1, 2023

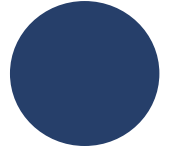
Sales tax applies to the gross receipts of the retail sale, lease, or rental of:



**Construction services are subject to Contractor's Excise Tax,
NOT Sales Tax.**

MUNICIPAL TAX

- Cities may impose municipal sales and use tax of up to 2%.
- Municipal tax applies to all products and services subject to state sales or use tax.
- Municipal tax applies when a product or service is used, stored, or consumed within a city that imposes a tax.



Additional tax may be due if a product or service is used, stored, or consumed in a different city that imposes a higher rate of tax than was previously paid.

MUNICIPAL GROSS RECEIPTS

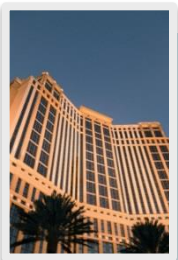
Cities may impose an additional 1% municipal gross receipts tax on any or all of the following:



Alcoholic beverages



Eating establishments



Lodging



Ticket sales or admissions to places of amusement, athletic, and cultural events

TOURISM TAX

- Tourism Tax is 1.5%
- Applies to the gross receipts of:
 - Hotels and place of lodging
 - Campgrounds
 - Motor vehicle rentals
 - Recreational services
 - **Spectator events**
 - **Visitor attractions**
- Visitor-intensive business (50% or more of total annual gross receipts from the sale of TPP during June, July, August, and September)



For listings of specific products and services subject to Tourism Tax, review the Tourism Tax Facts.

In Person Sales

Sales tax is due where customer receives the product.



Example: You sell your product out of your studio in Rapid City, SD.

Picked up at Studio in Rapid City, SD

Sales tax at 6.5%

4.5% State Tax
2% Rapid City Municipal Tax

Shipped to Customer in Sioux Falls, SD

Sales tax at 6.5%

4.5% State Tax
2% Sioux Falls Municipal Tax

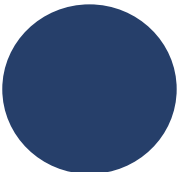
Shipped to Customer in Minneapolis, MN

No South Dakota Sales Tax

Need to check if Minnesota sales tax is due.

Shipping & Handling is taxed at the same rate as the product.

Note tax rate decrease from 4.5% to 4.2% on July 1, 2023



Find local tax rates:

Using the Sales Rate Lookup at <http://dor.sd.gov>

Clicking on Tax Rate Finder under the Business Tax tab

Using the Municipal Tax Information Bulletin in Publications Section under the Business Tax tab

http://dor.sd.gov/Taxes/Business_Taxes/Publications/Municipal_Tax.aspx

SOUTH DAKOTA: SALES TAX RATES BY ADDRESS
About Streamlined Sales Tax | Publications | Download Tables | Developers | DOR Home | SD Home

Search Tax Rate

Map | Help | Report Issue

Search:

Single Address ⓘ

Street Address:

City:

Zip:

Results:

Multiple Addresses ⓘ

No file chosen

Note: Files containing thousands of addresses may take several minutes to return.



Sales Tax Rate Lookup

Changes in municipal taxes are posted on the Department's website. Changes are effective January 1 and July 1.

Sales Tax at Festivals & Craft Fairs

In South Dakota, all sales at a special event are subject to sales tax.

- If you have a South Dakota sales tax license, you will report the special event sales on your next scheduled return.
- If you do not have a South Dakota sales tax license, you will file using the special event return the event organizer provides.

Example: You sell your product at Spearfish Festival in the Park

Picked up at Festival in Spearfish, SD	Shipped to Customer in Sioux Falls, SD	Shipped to Customer in Minneapolis, MN
Sales tax at 8%	Sales tax at 8%	No South Dakota Sales Tax
4.5% State Tax 2% Spearfish Municipal Tax 1.5% Tourism Tax	4.5% State Tax 2% Sioux Falls Municipal Tax 1.5% Tourism Tax	Need to check if Minnesota sales tax is due.

Note tax rate decrease from 4.5% to 4.2% on July 1, 2023



Exceptions:

- Sturgis Motorcycle Rally & South Dakota State Fair
If you operate at these events, be aware additional licensing is required.

Sales Tax when Selling Online

If you are located in South Dakota sales tax will apply the same way as in person store sales.

If you are located in another state, sales tax will apply

- If your South Dakota sales are greater than \$100,000
- If you enter the state



Marketplace Providers

Marketplace providers must collect and pay sales tax on all sales it facilitates into South Dakota if:

- Facilitates the sales of at least one marketplace seller that exceeds \$100,000 in gross sales into South Dakota in the previous or current calendar year

If you are located in South Dakota, you will still need your own sales tax license.

- You will not be responsible for sales tax on any sales made through a licensed marketplace.
- You will be responsible for sales tax on any sales you made on your own

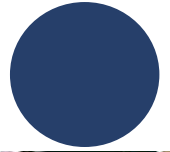
If you are not located in South Dakota

- The marketplace provider will handle sales tax on sales made into South Dakota.
- If you make sales on your own you may need a South Dakota sales tax license.

If you are not sure if a marketplace provider is licensed, contact the Department of Revenue to verify.



Sales on Consignment



Example:

You consign your product with a shop. Shop makes sale and collects the money.

Consignment Shop

- Collects sales tax on selling price of item
- Tax rate depends upon where customer receives the product
- Commissions received from the sale not subject to sales tax

Artist

- Does not collect sales tax on item
- If Artist has a South Dakota sales tax license, these sales will be deducted as non-taxable



Businesses with permit numbers containing UT (use tax) or ET (contractor's excise tax) cannot buy products or services for resale.

Exemption certificates are used to claim exemption for products or services:

- Keep exemption certificates in your records to document exempt transactions from the last 3 years.
- Exemption certificates do not expire unless the information on the certificate changes, but we recommend updating exemption certificates annually.
- If purchasers are from a state that does not issue sales tax permits, they may use their FEIN, driver's license number, or state issued ID number on the exemption certificate.





445 E. Capitol Ave. • Pierre, SD 57501

Streamlined Sales and Use Tax Agreement Certificate of Exemption

This is a multi-state form. Not all states allow all exemptions listed on this form. Purchasers are responsible for knowing if they qualify to claim exemption from tax in the state that would otherwise be due tax on this sale. The seller may be required to provide this exemption certificate (or the data elements required on the form) to a state that would otherwise be due tax on this sale.

The purchaser will be held liable for any tax and interest, and possibly civil and criminal penalties imposed by the member state, if the purchaser is not eligible to claim this exemption. A seller may not accept a certificate of exemption for an entity-based exemption on a sale made at a location operated by the seller within the designated state if the state does not allow such an entity-based exemption.

1. Check if you are attaching the Multi-State Supplemental form.
 If not, enter the two-letter postal abbreviation for the state under whose laws you are claiming exemption.

2. Check if this certificate is for a single purchase. Enter the related invoice/purchase order # _____

3. Please print

Name of purchaser: _____

Business Address: _____ City: _____ State: _____ Zip Code: _____

Purchaser's Tax ID Number: _____ State of Issue: _____ Country of Issue: _____

If no Tax ID Number, enter one of the following: FEIN: _____ Foreign diplomat number: _____

Driver's License Number/State Issued ID Number: _____ State of Issue: _____

Name of seller from whom you are purchasing, leasing or renting: _____

Seller's address: _____ City: _____ State: _____ Zip code: _____

4. Type of business. Circle the number that describes your business

- 01 Accommodation and food services
- 02 Agricultural, forestry, fishing, hunting
- 03 Construction
- 04 Finance and insurance
- 05 Information, publishing and communications
- 06 Manufacturing
- 07 Mining
- 08 Real estate
- 09 Rental and leasing
- 10 Retail trade

- 11 Transportation and warehousing
- 12 Utilities
- 13 Wholesale trade
- 14 Business services
- 15 Professional services
- 16 Education and health-care services
- 17 Nonprofit organization
- 18 Government
- 19 Not a business
- 20 Other (explain) _____

Reason: Circle the letter that identifies the reason for the exemption.

11. Agricultural production # _____ Does Not Apply in S.D.

EXEMPT ENTITIES INCLUDE:

- Governments, including SD public schools, municipal or volunteer fire or ambulance departments
- Tribal governments
- Non-profit hospitals
- Religious educational institutions *
- Non-profit accredited private educational institutions *
- Non-profit charitable relief agencies recognized by the federal government and the SD Department of Revenue *

* Must be registered with the SD Department of Revenue



Churches are NOT exempt

Remember!

Non profit does not always mean non taxable!

If in doubt verify with the Department of Revenue



Entertainers

Any person or business who receives payment for entertainment activities is responsible for paying the sales tax to the State of South Dakota

Performer doesn't charge tax when:

- A venue that charges admissions or a cover charge may provide an exemption certificate.
- When admissions or tickets are sold for an event such as a concert, the entertainer may accept an exemption certificate.

Performer does charge sales tax when:

- If there are no admissions or ticket sales to the event, an exemption certificate may not be issued for the entertainer.
- In these situations, sales or use tax is due on the entertainer's fees.



LESSONS

- Music, sports, dance or other lessons are sales taxable.
- Sales tax rate will be based on the class location.
- Equipment used is taxable when purchased.



FILING AND PAYING RETURNS

Electronic filing, or EPath, is the preferred method

File a tax return each reporting period even if no business is conducted or income received.

Filing Schedule is determined when the license is issued and can be:

- Monthly
- Bi-Monthly
- Quarterly
- Semi-Annual
- Seasonal or on a custom basis





FILING AND PAYING RETURNS

Questions or assistance: 1-800-829-9188 (Option 1) or email to Epath@state.sd.us

Benefits

- Available 24/7
- One EPath account for same owner licenses (with same FEIN)
- Multiple payment options
- Allows additional user access to all or specific accounts
- System does all calculations
- Amend returns online
- Automatically save for later access and editing before sending
- Review file and pay history
- View pending payments and make changes to payment up to 2 days prior to settlement date
- Change password, security questions and email addresses
- Use bank account for one-time payment or save account information for future payments

YOU CAN NOW PAY WITH CREDIT CARD

(Visa, MasterCard, Discover)

Make your credit card payment at:



<http://dor.sd.gov>



Or

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



2.45% convenience fee charged for each credit card payment

Record Keeping Requirements

Any business subject to sales, use, or contractor's excise tax in this state must keep all business records for at least three years.

Gross Receipts:

- Sales & Billing Invoices
- General Ledger
- Cash Register Tapes
- Bank Deposit Slips & Statements
- Contracts
- Pricing & Portion Size Information / Menu Pricing

Deductions:

- Resale Certificates
- Proof of Exemption
- Bills of Lading or Proof of Delivery
- Credit Memos
- Bad Debts

Use Tax

- Purchase Invoices
- Check Registers
- Fixed Assets Schedule
- Inventory Withdrawals
- Depreciation Schedule

Machine-sensible records are those records that are generated and maintained in an electronic format. State regulation requires machine-sensible records to be available to the auditor upon request.

CONTACT US

- Call toll-free: 800-829-9188
- Email: bustax@state.sd.us
- Visit our website: <http://dor.sd.gov>
- Visit or call your local office
- Live chat



DEPARTMENT OF REVENUE FIELD OFFICES

Aberdeen:	420 S Roosevelt St, Aberdeen, SD 57401, 605.626.2218
Mitchell:	417 N. Main, Suite 112, Mitchell, SD 57301 605.995.8080
Pierre:	445 East Capitol Ave, Pierre, SD 57501 605.773.3311
Rapid City:	221 Mall Dr Ste 103, Rapid City, SD 57701 605.394.2332
Sioux Falls:	300 S. Sycamore Ave., Suite 102, Sioux Falls, SD 57110 605.367.5800
Watertown:	715 South Maple, Watertown, SD 57201 605.882.5188
Yankton:	1900 Summit St., Yankton, SD 57078 605.668.2939

Resources:

Information in this presentation taken from:

- Special Events Tax Fact Guide January 2022
- Entertainers Tax Fact Guide October 2018
- Exempt Entities Tax Fact Guide November 2021
- Tourism Tax Fact Guide October 2017
- Sales & Use Tax Guide January 2022
- Taxjar.com Blog – Sales Tax Guide for Artists

All Department of Revenue Publications can be found at: <https://sddor.seamlessdocs.com/sc/publications/>



Questions?



South Dakota
Department of Revenue



@SDRevenue



South Dakota DOR



Sign-up for our
E-Newsletter