

This fact sheet is designed to provide general guidelines and examples of situations that may occur when a business is making exempt sales. 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 & Regulation newsletters, press releases, Tax Facts, and other documents published by the department.

All sales of tangible personal property and services are subject to the 4% state sales tax, plus applicable municipal tax, unless exempt from sales tax.

There are three reasons why a sale may be exempt from sales or use tax:

- The product or service is specifically exempt.
- The purchaser is exempt.
- The product or service is used for an exempt purpose.

This tax facts explains these exemptions and the documentation needed to support an exempt sale.

Exemption Certificates

Before a seller may exempt a sale from tax, he must receive a properly completed exemption certificate from the purchaser. Sellers must keep exemption certificates in their records for three years. If the purchaser doesn't provide the seller with a properly completed exemption certificate, the seller must collect sales tax.

An exemption certificate may be issued for a single purchase or as a blanket certificate. If you make recurring purchases (at least one purchase within a period of twelve consecutive months) from the same seller, you may issue a blanket certificate. You do not need to provide an exemption certificate for future purchases if you claim exemption for the same reason. A blanket certificate continues in force until canceled by the purchaser.

The purchaser is responsible for assuring that the goods and services purchased exempt are of a type covered by the exemption certificate.

The seller is required to maintain proper records of exempt transactions and may need to provide those records, including a copy of this exemption certificate, to member states of the Streamlined Sales and Use Tax Agreement.

The seller is relieved of the responsibility for collecting and remitting sales tax on the sale or sales for which the purchaser provided an exemption certificate if all of the following conditions are met:

1. All fields on the exemption certificate are completed by the purchaser.
2. The fully completed exemption certificate is provided at the time of sale.

3. The state that is due the tax on the sale allows the exemption reason.
4. The seller does not fraudulently fail to collect the tax due or solicit customers to unlawfully claim an exemption.

A seller doing business in a state that is not a member of the Streamlined Sales and Use Tax Agreement must obtain documentation to support exempt transactions as required by that state.

Streamlined Member States are Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Oklahoma, Rhode Island, South Dakota, Vermont, West Virginia, Washington, and Wyoming. Streamline Associate Member States are Ohio, Tennessee, and Utah.

Misuse of exemption certificates

Any purchaser who knowingly and intentionally lists items for resale that he or she knows will not be resold, or provides an invalid exemption certificate with the intent to evade payment of the tax, must pay the use tax on these items and may be guilty of a Class I misdemeanor and fined up to 50% of the tax owed. The following example illustrates improper use of an exemption certificate:

Example

A paper products wholesaler sells items such as paper towels, receipt books, toilet paper, and napkins to businesses. Andy's Restaurant provides an exemption certificate to the wholesaler to purchase these products exempt from sales tax. Under South Dakota law Andy is the user of the paper products and does not resell these products to customers. Andy's must pay the use tax on these items at the time of purchase and may be guilty of a Class 1 misdemeanor and fined up to 50% of the tax owed on these items.

If a business legitimately purchases an item for resale, but later uses that item, the purchaser is responsible for reporting and paying use tax on that item.

Properly completed certificate

The member states of the Streamlined Sales Tax Agreement developed a Certificate of Exemption that may be used in those states. The member states require that all fields on the certificate be completed for the certificate to be valid. South Dakota has replaced all exemption certificates with the Streamlined Exemption Certificate.

A properly completed exemption certificate has the following information:

The state exemption is claimed in. Some purchasers may wish to complete a single certificate for multiple states where they conduct business and make purchases from the same seller. A listing of Streamlined Member and Associate Member states has been added to the certificate. If you are doing business in multiple states, you

may enter your ID number and reason for exemption for each state on this form. If you do business in states that are not listed on this form, it is your responsibility to obtain or provide documentation for the exemption as required by that state.

Purchaser's name and address

Purchaser's Tax ID Numbers - The Streamlined Exemption Certificate requires an ID number. If you do not have a Tax ID number, then you should list your FEIN. If you do not have a Tax ID number or a FEIN, then you should list a driver's license or state ID number. The instructions for the certificate explain the ID number that should be provided based on the exemption reason.

Agricultural Exemptions – South Dakota does not require a Tax ID number for purchases of exempt agricultural products or services. However, because the purchaser may be from another state or the product may be delivered to a state that does require an ID number for documentation, the Department recommends the purchaser's FEIN or driver's license is obtained. The certificate may be requested to document the purchaser is using the product for agricultural purposes. Items that may be purchased under this exemption include repair and maintenance to farm and irrigation machinery used primarily for agricultural purposes.

Seller's name and address

Purchaser's Type of Business – The purchaser is required to indicate his type of business. A listing of various business types is provided. The purchaser should circle the category pertinent to his business type. Very broad categories are listed on the form such as Utilities, Mining, Retail trade, Business services. More detailed information concerning the purchaser's business is not required.

Purchaser's reason for exemption - Most exemption reasons require an ID number. The type of ID number and where it should be on this form is listed after the exemption reason. Common reasons for exemption are listed on the form. Some states do not offer all reasons listed. It is the purchaser's responsibility to know if the reason he is selecting is valid in the state that is due tax on that sale.

Purchaser's signature – An exemption certificate completed electronically does not need to be signed by the purchaser.

South Dakota businesses with permit numbers containing UT (use tax) or ET (contractors' excise tax) cannot buy products or services for resale.

If the purchaser is from a state that does not issue sales tax permits, the exemption certificate must still be completed documenting the purchaser is exempt or is buying products or services for an exempt use.

Example

The owner of a Montana antique store purchases antiques while traveling through South Dakota to resell at his business. The Montana storeowner does not have a sales tax permit. The storeowner must provide the South Dakota store with a completed exemption certificate to document that the purchases are for resale. Because Montana does not issue a tax permit, the business should list its FEIN or the owner's drivers license number.

Reason for Exemptions

The reason for exemption must be identified on the exemption certificate along with the required permit number or other identifying information. The following explains the various reasons that may be used for an exemption and the documentation required for each reason.

A. United States government agencies

Sales to the federal government and its agencies are not taxable. Purchases made by an employee who is reimbursed by the federal government are taxable. Federal government must state the name of the agency making the purchase

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.

B. State of South Dakota and local governments including:

- 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

Sales to the State of South Dakota and South Dakota public or municipal corporations are exempt from sales tax.

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 (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.

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.

The department issues some government entities exemption numbers. These agencies will include their exemption number on the exemption certificate. The exemption number for public schools contains the letters "RS." The exemption number for other governments contains the letters "RG."

C. Indian Tribes

Sales to any Indian tribe are exempt from sales tax.

Tribal government must state the name of the agency making the purchase.

Documentation may include a purchase order or a check stub.

D. Foreign diplomat

The U.S. Department of State's Office of Foreign Missions issues sales tax exemption cards to qualifying foreign diplomats and consular personnel stationed in the United States. The card contains the official's picture, name, description, individual tax exemption number and information about the extent of the exemption.

Check the information on the back of the card to see if the sale qualifies for exemption. Some cards will state that the official must pay sales tax on charges for hotel rooms or on purchases under a certain dollar amount. If the official qualifies for the exemption, write the individual tax exemption number from the back of the card on the exemption certificate. Keep this in your file as proof of exemption.

E. Charitable organizations

Non-profit Hospitals

The sale of products and services to non-profit hospitals is exempt from South Dakota sales and use tax if the following three criteria are

met:

- An authorized official of the non-profit hospital makes the purchase.
- Payment is made from non-profit hospital funds.
- The non-profit hospital retains title to the property.

Documentation Required - Non-profit hospitals must provide an exemption certificate listing their FEIN to the seller to purchase products and services exempt from sales and use tax.

Relief Agencies

The sale of products and services to relief agencies is exempt from South Dakota sales and use tax. Relief agencies are nonprofit organizations that devote their resources exclusively to the relief of the poor, distressed, or underprivileged, and are recognized as exempt organizations under 501(c)(3) of the Internal Revenue Code.

Documentation Required - In order to be exempt from sales and use tax, relief agencies must have a permit from the Department of Revenue & Regulation. The permit number contains the letters "RA". Relief agencies must provide an exemption certificate listing their tax permit number to purchase products and services exempt from sales and use tax.

F. Private or religious educational organization

Churches are NOT exempt from South Dakota sales or use tax.

However, the sale of products and services to private or religious educational institutions is exempt from South Dakota sales and use tax if the following three criteria are met:

- An authorized official of the private or religious educational institution makes the purchase.
- Payment is made from the private or religious educational institution's funds.
- The private or religious educational institution retains title to the property.

A **private educational institution** must meet the following criteria:

1. Be an institution currently recognized as exempt under section 501(c)(3) of the Internal Revenue Code as in effect on January 1, 1995;
2. Maintain a campus physically located within this state; and
3. Be accredited by the South Dakota Department of Education and Cultural Affairs or the North Central Association of Colleges and Schools.

A **religious educational institution** must meet the following criteria:

1. The institution must be owned, leased, operated by, or affiliated with a religious society which meets the following requirements:
 - a. A religious society is a society which exists to worship God. The members of the religious society meet regularly to promote their religious beliefs;
 - b. The religious society is organized for religious purposes and is nonprofit;
 - c. The religious society is exempt under 26 U.S.C.S. § 501(c) or (d) of the Internal Revenue Code in effect on January 1, 1983;

2. One of the purposes of the institution is the promotion of its religious views through education; and
3. The educational institution has a definite physical location with a regular faculty, classes, and established course of study.

Documentation Required - Private or religious educational institutions must have a permit from the Department of Revenue & Regulation to be exempt from sales or use tax. The permit contains the letters "RS" or "RE." Private or religious educational institutions must provide an exemption certificate to the seller to purchase products and services exempt from sales and use tax.

Employee Purchases

The exemption from sales and use tax for governments, nonprofit hospitals, relief agencies, and religious or private schools does not extend to the purchase of products or services for the personal use of officials, members, or employees of such institutions.

Employees or representatives of an exempt entity cannot buy products or services without paying sales tax if they use a personal check or personal credit card. This is true even if the exempt entity later reimburses the employee. The exempt entity must pay the vendor from the exempt entity's funds. Payment may be made by the exempt entity's check or credit card.

G. Resale

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 in the normal course of their business may purchase those items exempt from sales tax. Businesses that purchase services for resale must meet specific criteria.

Businesses that purchase product or services for resale must provide an exemption certificate with their tax permit number to the vendor. If the business is from a state that does not issue sales tax numbers, the business should list its FEIN.

The following explains when a sale to the following businesses can be exempt from sales or use tax:

- Manufacturers
- Wholesalers
- Retailers
- Lessors
- Service Providers
- Contractors

Sales to Manufacturers

Manufacturers may purchase items for resale if the following criteria are met:

- The items are used in fabricating, compounding or manufacturing tangible personal property; and
- The items become part of the tangible personal property; and
- The final product will be sold at retail.

Services that are an integral, inseparable component of services involving the manufacture, fabrication, processing, or manipulation of tangible personal property can be purchased for resale if the following two criteria are met:

- The manufacturer, fabricator, processor, or manipulator does not use the service in any manner other than for resale; and
- The service is delivered or resold to the ultimate customer without any alteration or change.

Manufacturers, fabricators, processors, or manipulators are the consumer of manufacturing equipment and services used in the manufacturing process. Manufacturing equipment and services, such as product testing, engineering, designing, or janitorial services, cannot be purchased for resale and are subject to sales or use tax.

Manufacturers, fabricators, processors, or manipulators doing business in South Dakota must have a South Dakota tax permit. Manufacturers, fabricators, processors, or manipulators must provide an exemption certificate to the supplier to purchase items or services exempt from sales tax.

Examples

1. A manufacturer hires a painting service to paint lawnmower parts. The manufacturer must provide the painting service with an exemption certificate to purchase the painting service for resale. The manufacturer does not use the service and the service is resold to the customer without alteration.
2. A lawnmower manufacturer contracts with an engineer to design a new mower. The engineer's services are subject to sales tax. The manufacturer cannot purchase the engineering service for resale because the manufacturer uses the design to create the product. The design does not become a part of the mower.
3. A fabricator contracts with a company to test products. The testing company determines whether the product meets all standards and works properly. The testing company does not repair the product. The fabricator repairs or replaces products that do not pass inspection. The testing service is subject to sales tax. The fabricator cannot purchase the testing service for resale because the fabricator uses the service. The testing service is not a component part of the product.

Sales to Wholesalers

A wholesaler generally purchases products from a manufacturer or another wholesaler and resells them to a retailer. A wholesaler that sells products in South Dakota must have a South Dakota tax permit. The wholesaler must provide an exemption certificate to the supplier to purchase products exempt from sales tax.

Example

Ben's Distributing buys candy, chips, and display racks to sell to grocery stores. Ben's Distributing must provide an exemption certificate to his suppliers to purchase these items exempt from sales tax.

Sales to Retailers

A retailer purchases products from a manufacturer or wholesaler to resell to the consumer. A retailer that sells products in South Dakota must have a South Dakota tax permit. The retailer must provide an exemption certificate to the supplier to purchase products exempt from sales tax.

Example

A grocery store purchases candy, chips, and display racks from Ben's Distributing. The grocery store must provide Ben's Distributing with an exemption certificate to purchase candy and chips for resale. The grocery store is the user and consumer of the display racks. Ben's Distributing collects sales tax on the display racks, but not the candy and chips.

Sales to Lessors

A lessor is a person in the business of renting or leasing products to others. Lessors may purchase such products exempt from sales or use tax. A lessor that leases products in South Dakota must have a South Dakota tax permit. The lessor must provide an exemption certificate to the supplier to purchase products to rent or lease to others exempt from sales tax.

Lessors owe sales or use tax on the repair to or replacement parts for leased items. Lessors are the user and consumers of the repair or replacement parts they purchase for any item they lease to others.

For more information on leases view the Lease and Rental Tax Fact Sheet #210 on our website at www.state.sd.us/drr or request a copy by calling the department at 1-800-TAX-9188.

Sales to Service Providers

A service provider may purchase a service for resale if the following three criteria are met:

- The service purchased is on behalf of a current customer;
- The purchaser of the service does not use the service in any manner; and
- The service is delivered or resold to the customer without any alteration or change.

Example

Mel's Car Repair subcontracts a car repair to Bob's Repair Shop. Bob bills Mel, who in turn bills the customer. Mel can purchase Bob's service for resale since the repair:

1. is purchased for a current customer;
2. is not used by Mel's; and
3. is resold to the customer without change.

Mel must provide Bob with an exemption certificate to purchase Bob's service exempt from sales tax. Mel is responsible for collecting and remitting the sales tax on this repair.

State law allows engineers, architects, and surveyors to purchase services for resale when the purchases are made for a client and used in the performance of a contract even if the above three criteria are not met.

Example

Joe Smith, a professional engineer, is hired to inspect a structure. Joe discovers structural damage. Joe contracts with Arnie's Architectural Service to help redesign the structure. Joe purchases Arnie's service for resale because the service is for a specific customer. Joe must provide an exemption certificate to Arnie's.

A service provider that sells services in South Dakota must have a South Dakota tax permit. The service provider must provide an exemption certificate to the supplier to purchase products exempt from sales tax.

Sales to Contractors

Under state law contractors are the users and consumers of all material incorporated into a construction project. Businesses should charge sales tax on the sale, rental, or lease of all products to contractors.

However, some contractors also operate retail stores and must have a sales tax permit. Contractors with a sales tax permit may purchase merchandise for resale by providing an exemption certificate.

A contractor who subsequently uses such merchandise must pay use tax on their cost of the merchandise.

When a contractor pays sales tax on an item at the time of purchase and later resells that item to a retail customer, the contractor will owe sales tax on the selling price of the item. The contractor may deduct the sales tax initially paid on the purchase from the sales tax due when the item is resold.

Examples

1. Sam Jones is building a house. Sam purchases lumber from Lenny's Lumberyard. Sam cannot provide an exemption certificate for the lumber because he is using the lumber in the construction of a house.

2. Arnie's Plumbing sells items at retail and does plumbing work. Arnie has a sales tax permit and a contractors' excise tax permit. Arnie can provide an exemption certificate to purchase supplies to resell at the retail store exempt from sales tax. Arnie will owe use tax on any supplies taken from the retail store's inventory that are used on a plumbing job.

3. Contractor Sam Jones purchases a garage door for \$200 plus \$12 sales tax. Sam sells the garage door to a neighbor for \$250 plus \$15 sales tax. Because Sam paid \$12 sales tax on his purchase, he is only required to report the additional \$3 sales tax on his tax return.

Drop Shipments

Drop shipments occur when a retailer purchases an item from a vendor and the vendor delivers (or dropships) the product directly to the retailer's customer. The vendor must charge South Dakota sales tax on products delivered in South Dakota unless the retailer provides them with a properly completed exemption certificate. The retailers' tax permit number from their state is acceptable.

Example

Company A and Company B are located in Iowa. Company C is located in South Dakota. Company A sells goods to Company B. Company B resells the goods to Company C. Company A delivers the goods directly to Company C in South Dakota.

Company B should provide Company A with a properly completed exemption certificate. This certificate may include Company B's Iowa tax permit number. If Company B does not provide an exemption certificate to Company A, Company A is responsible for sales tax to South Dakota.

H. Agricultural Exemptions

Farm Machinery, Attachment Units and Irrigation Equipment

Beginning April 1, 2006, farm machinery, attachment units, and irrigation equipment used exclusively for agricultural purposes are subject to 4% state tax, no municipal tax.

Agricultural purpose means the producing, raising, growing or harvesting of food or fiber upon agricultural land, including dairy products, livestock, and crops.

Purchasers of farm machinery, attachment units, and irrigation equipment purchased for agricultural purposes must complete an exemption certificate if there is doubt as to the intended usage.

A farm machine is a mechanical unit purchased and used directly and principally upon agricultural land for the purpose of producing agricultural products and includes those items commonly and usually referred to as farm machinery and attachment units. Machinery and attachment units do not include motor vehicles or equipment otherwise licensed or taxed by the State of South Dakota.

An attachment unit is any part or combination of parts having an independent function, other than a replacement part or parts, which when attached or affixed to a farm machine, motor vehicle, or other piece of agricultural equipment is used for agricultural purposes.

Irrigation equipment includes pumps, pipe fittings, valves, sprinklers, and other equipment necessary to the operation of an irrigation system.

A purchaser of an all-terrain vehicles of three or more wheels must complete an exemption certificate stating that the all-terrain vehicle will be used exclusively for agricultural purposes to be subject to the 4% state tax, no municipal tax.

Repair Parts and Service

The sale of parts or repairs on machinery or equipment, including irrigation equipment, which are clearly identifiable as used primarily for agricultural purpose are exempt from sales and use tax. To qualify as a part, the item must replace a farm machinery or irrigation equipment part that has a specific or generic part number assigned to it by the farm machinery or irrigation equipment manufacturer. Tires and batteries are parts when assigned a part number.

Maintenance items and maintenance services are exempt from sales and use tax when used on machinery or irrigation equipment that is clearly identifiable as used primarily for agricultural purposes.

From January 1 through March 2, 2006, sales and use tax was due on maintenance items such as oil, antifreeze, filters, detailing or clean-

ing services, windshield washer fluid and other fluids. Maintenance parts for farm machinery or irrigation equipment that replace parts that have a specific or generic part number assigned by the farm implement manufacturer are not subject to sales tax; however, the maintenance service is subject to sales tax.

Other exempt agricultural products and services

State law exempts certain products or services from sales or use tax based on how the product or service is used. Examples of common exemptions in the agricultural industry are:

- Seed sold in quantities of twenty-five pounds or more to be used exclusively for agricultural purposes.
- Commercial fertilizers, sold in quantities of five hundred pounds or more, to be used exclusively for agricultural purposes.
- Pesticides to be used for agricultural purposes.
- Motor fuel when used for agricultural purposes.
- Electricity used to power irrigation pumps for agricultural purposes.

For additional information on agricultural products and services review the Agricultural Tax Facts on our website at www.state.sd.us/drr or request a copy by calling the department at 1-800-TAX-9188.

J. Direct Payment Permit

A Direct Payment Permit is a permit issued by the department that allows the holder to accrue and pay the use tax on their purchases directly to the department. The Direct Payment Permit holder must provide an exemption certificate or provide a copy of their Direct Payment Permit to purchase tangible personal property or services without sales tax.

Businesses that receive acceptable evidence of a Direct Payment Permit from their customer are not required to pay sales tax on those sales, except on the following transactions:

- Purchases of taxable meals or beverages;
- Purchases of taxable lodging or services related thereto;
- Purchases of admissions to places of amusement, entertainment or athletic events, or the privilege of use of amusement devices;
- Purchases of motor vehicles, or other tangible personal property required to be licensed or titled with a taxing authority, taxed under Title 32;
- Purchases of any telecommunications services and utilities (gas, electricity, and heating fuel); or
- Such other purchases as may be agreed to between the holder of the Direct Payment Permit and the Department.

The above stated transactions are subject to the 4% state sales tax, plus applicable municipal tax, at the time of purchase even if the buyer presents a Direct Payment Permit.

To determine if your business meets the criteria to obtain a Direct Payment Permit review the Direct Payment Permit application that is available on our website at www.state.us.sd/drr or by calling 1-800-TAX-9188.

Documentation Required: The purchaser's direct pay permit number must be listed on the exemption certificate.

K. Direct Mail

A purchaser of direct mail may provide the seller an exemption certificate for direct mail or information to show each jurisdiction to which the direct mail is delivered to the recipients.

A. If a direct mail form is received, the seller is relieved of all obligations to collect, pay, or remit the tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis.

B. If information is received showing the jurisdictions to which the direct mail is delivered to recipients; the seller shall collect the tax according to the delivery information provided by the purchaser.

C. If the purchaser does not provide the seller with a direct pay permit, a direct mail form, or a listing showing where the direct mail is delivered, the seller is responsible for remitting sales tax based on where the direct mail is sent from.

Direct mail means any printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. Direct mail includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. Direct mail does not include multiple items of printed material delivered to a single address.

Exempt Products & Services

State law exempts a variety of products and services from sales and use tax.

Examples of exempt services are:

- Health care services
- Educational services
- Agricultural services
- Social services
- Forestry services

Examples of exempt products are:

- Insulin
- Lottery Tickets
- Lease of licensed motor vehicles for more than 28 days
- Motor vehicles subject to motor vehicle excise tax under 32-5-1
- Boats taxed under 32-3A-50

Products and services listed as exempt by law do not need any further proof of why tax was not collected.

Contractors' Excise Tax

State law imposes a tax on construction and realty improvement contracts, including contracts with governments, non-profit hospitals, relief agencies, and religious or private schools.

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 contractors' use taxes are part of the contractor's total bill and are collectible from all entities, both public and private.

Additional Information

For more information on exempt organizations and exempt products or services view the following Tax Fact Sheets on our website at www.state.sd.us/drr or request copies by calling the department at 1-800-TAX-9188.

- Tax Facts #110 Agricultural Equipment and Services
- Tax Facts #216 County Governments
- Tax Facts #155 Exempt Entities
- Tax Facts #225 Health Services, Drugs, and Medical Devices
- Tax Facts #215 Municipalities
- Tax Facts #185 Nonprofit Hospitals
- Tax Facts #210 Lease and Rental
- Tax Facts #310 Tribal Governments

Talk to Us!

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

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

Or, visit your nearest Department of Revenue & Regulation Field Office:

Aberdeen Office
 419 Moccasin Drive
 Aberdeen, SD 57401-5085

Sioux Falls Office
 300 S. Sycamore, Suite 102
 Sioux Falls, SD 57110

Mitchell Office
 417 N. Main, Suite 1
 PO Box 1103
 Mitchell, SD 57301-7103

Watertown Office
 1505 10th Ave. SE, Suite 112
 Watertown, SD 57201-5300

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

Yankton Office
 1900 Summit Street
 PO Box 859
 Yankton, SD 57078

South Dakota Streamlined Sales Tax Agreement

Certificate of Exemption

Warning to purchaser:

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 is due tax on this sale. The state that is due tax on this sale may be notified that you claimed exemption from sales tax.

The purchaser will be held liable for any tax and interest, and possible civil and criminal penalties imposed by the member state, if the purchaser is not eligible to claim this exemption.

1. Check if you are attaching the Multistate Supplemental form.
- If not, enter the two-letter abbreviation for the state under whose laws you are claiming exemption.
2. Check if this certificate is for a **Single Purchase Certificate**. Invoice/purchase order # _____.

3. **Print or type**

A. Name of purchaser _____

B. Business address _____ City _____ State _____ Zip code _____

C. Purchaser's tax ID number _____ State of Issue _____ County of Issue _____

D. If no tax ID number, enter FEIN _____

E. If no ID number or FEIN, enter Driver's License Number/State Issued ID number _____ state of issue _____

F. Foreign diplomat number _____

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

H. Seller's address _____ City _____ State _____ Zip code _____

4. **Circle type of business**

Purchaser's Type of business. Circle the number that best describes your business.

01 Accommodation and food services	11 Transportation and warehousing
02 Agriculture, forestry, fishing, hunting	12 Utilities
03 Construction	13 Wholesale trade
04 Finance and insurance	14 Business services
05 Information, publishing and communications	15 Professional services
06 Manufacturing	16 Education and health-care services
07 Mining	17 Nonprofit organization
08 Real estate	18 Government
09 Rental and leasing	19 Not a business
10 Retail trade	20 Other (<i>explain</i>) _____

5. **Circle reason for exemption**

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

A Federal government (<i>Department</i>) _____	H Agricultural
B State or local government (<i>Agency</i>) _____	I Industrial production/manufacturing <u>Does not apply in SD</u>
C Tribal government	J Direct pay permit
D Foreign diplomat	K Direct mail
E Charitable organization	L Other (<i>Explain</i>) _____
F Religious or educational organization	
G Resale	

6. **Sign here**

I declare that the information on this certificate is correct and complete to the best of my knowledge and belief.

Signature of authorized purchaser _____ Print name here _____ Title _____ Date _____

South Dakota Streamlined Sales and Use Tax Agreement

Certificate of Exemption: Multistate Supplemental

Name of Purchaser _____

State	Reason for exemption	Identification number (if required)
AR*	_____	_____
IA	_____	_____
IN	_____	_____
KS	_____	_____
KY	_____	_____
MI	_____	_____
MN	_____	_____
NC	_____	_____
ND	_____	_____
NE	_____	_____
NJ	_____	_____
NV	_____	_____
OH	_____	_____
OK	_____	_____
SD	_____	_____
TN*	_____	_____
UT	_____	_____
WV	_____	_____
WY	_____	_____

* SSUTA Direct Mail and MPU provisions are not in effect for Arkansas and Tennessee

A seller doing business in a state that is not a member of the Streamlined Agreement must obtain documentation to support exempt transactions as required by that state.

South Dakota Streamlined Sales and Use Tax Agreement Certificate of Exemption Instructions

Use this form to claim exemption from sales tax on purchases of otherwise taxable items. The purchaser must complete all fields on the exemption certificate and provide the fully completed certificate to the seller in order to claim exemption.

Warning to purchaser: You are responsible for ensuring that you are eligible for the exemption you are claiming. You will be held liable for any tax and interest, as well as penalties imposed by the member state due the tax on your purchase, if the purchase is not legally exempt.

Misuse of exemption certificates in South Dakota: Any purchaser who knowingly and intentionally purchases items for resale that he or she knows will not be resold, or provides an invalid exemption certificate with the intent to evade payment of the tax, must pay the use tax on these items and is guilty of a Class I misdemeanor and may be fined up to 50% of the tax owed. If a business legitimately purchases an item for resale, but later uses that item, the purchaser is responsible for reporting and paying use tax on that item.

Purchaser instructions for completing the exemption certificate

1. Some purchasers may wish to complete a single certificate for multiple states where they conduct business and regularly make exempt purchases from the same seller. If you do, check the box on the front of the SSUTA Certificate of Exemption to indicate that you are attaching the *Multistate Supplemental* form.

If you are not attaching the Multistate Supplemental form, enter the two-letter postal abbreviation for the state under whose laws you are claiming exemption. For example, if you are claiming an exemption from sales or use tax imposed by the state of Minnesota, enter "MN" in the boxes provided. If you are claiming exemption for more than one member state, complete the *SSUTA Certificate of Exemption: Multistate Supplemental* form.

2. **Single purchase exemption certificate:** Check this box if this exemption certificate is being used for a single purchase. Include the invoice or purchase order number for the transaction.

If this box is not checked, this certificate will be treated as a blanket certificate. A blanket certificate continues in force so long as the purchaser is making recurring purchases (*at least one purchase within a period of twelve consecutive months*) or until otherwise cancelled by the purchaser.

3. **Purchaser information:** Complete the purchaser and seller information section, as requested. You must include an identification number for you or your business. Include your state tax identification number and identify the state and/or country that issued the number to you. If you do not have a state tax identification number, enter the Federal Employers Identification Number (FEIN) issued to your business, or if no FEIN number is required, enter your personal driver's license number and the state in which it is issued. Foreign diplomats and consular personnel must enter the individual tax identification number shown on the sales tax exemption card issued to you by the United States Department of State's Office of Foreign Missions.

Multistate Purchasers: The purchaser should enter its headquarters address as its business address.

4. **Type of business:** Circle the number that best describes your business or organization. If none of the categories apply, circle number 20 and provide a brief description.
5. **Reason for exemption:** Circle the exemption that applies to you or your business and enter the additional information requested for that exemption. If the member state that is due tax on your purchase does not require the additional information requested for the exemption reason code circled, enter "NA" for not applicable on the appropriate line. If an exemption that is not listed applies, circle "M Other" and enter an explanation. The explanation for "M Other" must include a clear and concise explanation of the reason for the exemption claimed.

Multistate Purchasers: Attach the *SSUTA Certificate of Exemption – Multistate Supplemental Form* and indicate the applicable reason for exemption and identification number (if required) for each of the additional states in which the purchaser wishes to claim exemption from tax.

CAUTION: The exemptions listed are general exemptions most commonly allowed by member states. However, each state's laws governing exemptions are different. Not all of the reasons listed may be valid exemptions in the state in which you are claiming exemption. In addition, each state has other exemptions that may not be listed on this form. To determine what sales and use tax exemptions are allowed in a particular state refer to the state's web site or other information available relating to that state's exemptions.

Seller: You are required to maintain proper records of exempt transactions and provide those records, to Member states of the SST Governing Board, Inc., when requested. These certificates may be provided in paper or electronic format. Exemption certificates must be made available to Member states in the form it is maintained.

You are relieved of the responsibility for collecting and remitting sales tax on the sale or sales for which the purchaser provided you with this exemption certificate, even if it is ultimately determined that the purchaser improperly claimed an exemption, provided all of the following conditions are met:

1. All fields on the exemption certificate are completed by the purchaser;
2. The fully completed exemption certificate is provided to you at the time of sale;
3. The purchaser claims an entity-based exemption on a purchase made at a seller's location in a state that allows the exemption.
4. If a business purchaser claims a multiple points of use exemption reason code, the items being purchased are not tangible personal property other than computer software;
5. You do not fraudulently fail to collect the tax due; and
6. You do not solicit customers to unlawfully claim an exemption.

Reasons for Exemption - Additional Information for South Dakota Exemptions

- A.** Federal Government must indicate the agency name on the certificate.
- B.** State and local agencies include 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.

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 are not required to list an exemption number on the exemption certificate. Agencies that have exemption numbers should include that number on the certificate section 3, Line C. If they do not have a tax ID, enter their FEIN in Section 3, Line D. **Purchases made by an employee who is reimbursed by government funds are taxable.**

- C.** Tribal Government must indicate the agency name on the certificate. Enter FEIN in Section 3, line D.
- D.** Foreign diplomats will have a card that contains their identification and information about the extent of their tax exemption. If the official qualifies for the exemption, write the individual tax exemption number from the card on the exemption certificate, Section 3, Line F.
- E.** Charitable organizations include non-profit hospitals and relief agencies. Relief agencies must have a permit from the Department of Revenue & Regulation. Enter tax ID number in Section 3, line C.
- F.** Religious and private schools must have a permit from the Department of Revenue & Regulation. Enter tax ID number in section 3 line C. **Churches are NOT exempt from South Dakota sales or use tax.**

Employee Purchases - The exemption from sales and use tax for the above agencies does not extend to the purchase of products or services for the personal use of officials, members, or employees of such institutions. The exempt entity must pay the vendor from the exempt entity's funds. Payment may be made by the exempt entity's check or credit card.

- G.** Resale or Re-lease – **South Dakota tax permits that contain the letters "UT" or "ET" cannot purchase products for resale.** Enter tax ID number in section 3, line C.
- H.** Agricultural Products - Purchasers of products and services that are exempt when used exclusively by the purchaser for agricultural purposes must complete an exemption certificate if there is doubt as to the intended usage. **Repair, Repair Parts, and Maintenance Items and Services Tax Exemption** – Maintenance items, services and repairs, including parts, for farm machinery, farm machinery attachments units and irrigation equipment used primarily for agricultural purposes are exempt from sales and use tax. Exempt parts must replace a farm machinery, farm machinery attachment unit, or irrigation equipment part that has a specific or generic part number assigned to it by the farm implement manufacturer. **List the product or service that is being purchased exempt from tax.** South Dakota does not require a tax ID number when purchasing exempt agricultural products or services for Agricultural use. Purchasers from states other than SD should provide their FEIN (line D) or Drivers License (line E).
- I.** Industrial product/manufacturing – South Dakota does not exempt Industrial or manufacturing equipment.
- J.** Direct Payment Permit - The direct payment permit holder may purchase products without sales tax and remits use tax directly to the state. Enter tax ID number in section 3, line C.
- K.** Direct Mail – A purchaser of direct mail may provide the seller a direct mail form. The purchaser is responsible for remitting use tax. Enter Tax ID number in section 3, line C.
- L.** Other - Must include a clear and concise explanation of the reason for the exemption claimed.

For additional information please review the Exemption Certificate Tax Facts available at www.state.sd.us/drr or by calling 1-800-829-9188.