

This Tax Fact Sheet is designed to explain to financial institutions how sales and use tax applies to items and services they sell or purchase. 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 8-5CT.

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's newsletters, press releases, Tax Facts, and other documents published by the Department of Revenue.

Bank Franchise Tax

Financial institutions including banks, production credit, trust companies, savings and loan associations, mutual savings banks, mortgage lenders and brokers, money-lending businesses, and any person in the business of buying loans, notes, or other evidences of debt are subject to the bank franchise tax.

The bank franchise tax is an income tax imposed in lieu of other taxes with the following exceptions:

1. Taxes upon a financial institution's real property;
2. Taxes upon a financial institution's leased sites;
3. Tangible personal property not normally used in the extension of credit; and
4. The retail occupational sales or use tax on tangible personal property.

Federal Credit Unions are not subject to bank franchise tax or any state or municipal sales or use tax.

Money transmitter fees are subject to sales tax. A money transmitter must be licensed through Division of Banking but does not owe bank franchise tax. SDCL 51A-17 defines money transmission as the sale or issuance of payment instruments or stored value or of receiving money or monetary value for transmission to a location within or outside the United States by any means, including wire, facsimile, or electronic transfer. Please contact the department's Special Tax Division with questions concerning bank franchise tax at 605-773-3311.

Sales of Tangible Personal Property

The sale of tangible personal property is subject to the 4% state sales tax, plus applicable municipal tax based on where

the items are delivered.

Examples of taxable sales are:

- Consignment sales for others (cookbooks, books, decoration, etc.)
- Photocopies
- Premiums or incentives (toasters, blankets, etc.)
- Repossessed items (except items subject to motor vehicle excise tax) sold at retail or at auction, such as business equipment, business inventory, household goods, etc.
- Food and beverages sold in vending machines or cafeterias
- Check orders. When the check company bills the customer, the check company must remit the sales tax. When the financial institution collects payment from the customer, the financial institution must remit the sales tax.

Coins and Bullion

The gross receipts from the sale of coins, currency and bullion are exempt from sales tax. Bullion is any bar, ingot, or commemorative medallion of gold, silver, platinum palladium or any combinations of these metals. Coins or currency are any legal tender made of gold, silver, or other metal or paper which is or has been used as legal tender.

The exemption does not include any type of jewelry or tokens but does include collectible coins. If a coin is made into jewelry the coin loses its value and is no longer considered an exempt coin. The following chart explains some taxable and exempt items dealing with coin collection.

Item	Exempt	Taxable
Token		X
Gold & Silver	X	
Foreign coins	X	
World coins	X	
Commemorative medallions	X	
Bullion	X	
Coins issued by the US Mint	X	
Bar of gold	X	
Ingot	X	
Jewelry		X
Mark Twain Medallions	X	
Paper Currency	X	
Gold commemorative medals	X	
American Silver Eagles	X	
Foreign paper - legal tender	X	

Motor Vehicles

The sale of motor vehicles are not subject to sales tax. Financial institutions do not collect or report sales tax on repossessed vehicles when they are sold. The purchaser pays the motor vehicle excise tax on motor vehicles when the vehicle is registered.

Sales of Services

Receipts from services provided by a financial institution that is subject to bank franchise tax are not subject to sales tax and use tax.

The following financial services subject to bank franchise tax are specifically exempted from sales or use tax:

- Charges for administration of trusts
- Commission on travelers checks
- Exchange charges
- Interest charges
- Late payment charges
- Loan origination fees
- Nonsufficient fund check charges
- Points charged on loans
- Rental of safe deposit boxes
- Stop payment charges

Credit Bureaus

Credit bureaus do not owe sales tax on receipts from the sale of credit services to financial institutions.

Bank Holding Companies

Bank holding companies are not financial institutions and are not subject to the bank franchise tax. Businesses owned by a bank holding company may be subject to sales and use tax.

Tangible personal property and services sold by a bank holding company are subject to the 4% state sales tax, plus applicable municipal tax.

Related Corporations

The receipts for services sold by a related corporation for use by a financial institution or any service sold by a financial institution for use by a related corporation are exempt from sales and use tax. A related corporation includes a corporation which together with the financial institution is part of a controlled group of corporations as defined in 26 U.S.C. § 1563 as in effect on January 1, 1989, except that the 80% ownership requirements for a brother-sister controlled group are reduced to 51%.

Auctions

Auction clerk services are subject to the 4% state sales tax, plus applicable municipal sales tax. Financial institutions that are subject to bank franchise tax in South Dakota do not owe sales tax on their receipts from auction clerking services.

Tangible personal property sold at auction is subject to the 4% state sales tax, plus applicable municipal sales tax.

The auction clerk is responsible for remitting the sales tax on the gross receipts from each auction, after deducting allowable direct expense charges. For more information, view Auctions Tax Fact on our website at www.state.sd.us/drr.

Example

A bank forecloses on a small business. The business assets are sold at auction. The bank clerks the auction. The fees the bank charges for the clerking service are not subject to sales tax because this is a service provided by a financial institution that is subject to bank franchise tax. The bank owes sales tax on the taxable proceeds from the auction sale because they are the auction clerk.

Automatic Teller Machines (ATM)

Fees charged for the use of ATM machines (surcharge fee) are subject to state and applicable municipal sales tax where the machine is located. Financial institutions that are subject to bank franchise tax do not owe sales tax on receipts from ATM machines.

Fees to service machines such as maintaining the cash supply or providing maintenance on the machine are subject to sales tax. This is taxable whether paid to the owner or to a service company.

Fees charged by service companies to process transactions are not subject to sales tax. Credit card or debit card processing services are exempt from sales tax. Processing companies may also provide taxable services such as maintenance, inventory, or training. If the processing company's fee is for taxable services and exempt processing services, the entire fee is subject to sales tax. The fee for processing services must be separately stated to be exempt from sales tax.

Processing companies may contract out services they provide. Provided the contract is for a specific customer and not used by the processing company, these services may be purchased for resale.

Interchange fees are fees paid by the "network", which is the

credit card company or bank, to the processing company. The interchange fee is for the processing of the transactions and is exempt from sales tax.

The sale of an ATM machine is subject to state and applicable municipal sales tax where delivered. The installation of an ATM as part of the real property (into a wall) is subject to contractors' excise tax.

Fees paid by the ATM owner to a retailer for the placement of an ATM in their business are not subject to sales or use tax.

Leases

Receipts from the lease or rental of tangible personal property are subject to the 4% state sales tax, plus applicable municipal tax. Sales tax also applies to any buyout payments at the end of a lease.

Financial institutions that are subject to bank franchise tax do not owe sales tax on leases of tangible personal property to others.

Service providers that lease tangible personal property to a financial institution are subject to the 4% state sales tax, plus applicable municipal tax. However, financial institutions that are subject to bank franchise tax do not owe use tax on leases of tangible personal property if the service provider does not charge the financial institution South Dakota sales tax. For more information, view Leases and Rental Tax Fact on our website at www.state.sd.us/drr.

Use Tax

Tangible Personal Property

Supplies or materials purchased without an exemption certificate are subject to use tax if sales tax was not paid at the time of the purchase. The state use tax rate is 4%, plus applicable municipal use tax, and is payable to the South Dakota Department of Revenue in the filing period in which the bank receives the supplies. 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 that state's sales tax. If the other state's sales tax is the same or more than South Dakota's tax, there is no South Dakota tax due. If it is less than South Dakota's, the difference must be paid to South Dakota. The state sales tax, plus applicable municipal taxes, must be added together to determine if additional tax is owed.

Use tax is also due on supplies taken out of retail inventory for use by the business. Use tax is due on these items in the

filing period in which they are taken out of inventory.

Examples

1. A South Dakota bank buys calendars, pens, and paper pads with their bank logo printed on them to give to customers. These items are purchased from a mail order company. The bank owes the 4% state use tax, plus applicable municipal tax on the purchase price, including delivery charges.
2. A South Dakota bank purchases a new computer from a business in Florida. The Florida business does not have a South Dakota sales tax license. The South Dakota bank owes the 4% state use tax, plus applicable municipal tax on the purchase price, including delivery charges.

Services

Service providers that are doing business in South Dakota owe the 4% state sales tax, plus applicable municipal tax on receipts from services sold to financial institutions. Financial institutions that are subject to bank franchise tax do not owe use tax on purchases of services if the service provider does not charge South Dakota sales tax.

Examples

1. ABC Training provides customer service training at a bank in Sioux Falls. ABC Training must have a South Dakota sales tax permit and owes the 4% state sales tax, plus applicable municipal tax on their receipts.
2. Bank Consulting consults with a South Dakota bank concerning personnel issues. Bank Consulting does not come to South Dakota. All consulting is done by phone, mail, or computer. Bank Consulting does not have sufficient nexus or contact in South Dakota to require a sales tax license and does not charge sales tax on their services. The South Dakota bank does not owe use tax on the consulting service.

Sales for Resale

A financial institution may sell their 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. For more

Financial Institutions

information, view Exemptions Tax Fact on our website at www.state.sd.us/drr.

Purchases for Resale

Financial institutions must give an exemption certificate to their suppliers in order to purchase services and supplies for resale, which are exempt from sales tax.

State law requires exemption certificates to be complete and accurate. The buyer will be held responsible for properly completing an exemption certificate. Exemption certificates may be obtained online at www.state.sd.us/drr.

Municipal Tax

Many municipalities in South Dakota have a sales and use tax in addition to the state sales tax. If the customer receives a product or service in one of these municipalities, the product or service is subject to that municipality's sales tax. A list of municipal tax rates is available online at www.state.us.sd/drr 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.

The financial institution is 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 financial institution.

Required Records

A single use tax license may be issued to a financial institution with multiple locations provided that all records and accounting are done at that central location. If each financial institution does its own purchasing and accounting for their purchases, each location must have a use tax license.

Records, such as purchase and sales invoices, bills of lading, books of all receipts and sales, cash register receipts, and other pertinent papers and documents, are required to be kept for at least three years and be available for inspection during business hours.

Talk to Us

For more information please visit us on the web at www.state.sd.us/drr or call our toll-free tax helpline at 1-800-TAX-9188.

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