

This Tax Fact Sheet is designed to explain to photographers, photo developers, and related businesses how sales and use tax applies to items and services they sell. 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 8-5 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.

Photography Services and Sales

Photographers, photo developers and photo finishers are engaged in both the sale of tangible personal property and in supplying a service for their customers. The gross receipts resulting from either the sale of the photo services or tangible personal property are subject to the state's 4% sales tax, plus applicable municipal sales tax. Examples of services and items sold by photographers that are sales taxable:

- Cameras (film or digital) and accessories, software, photopaper, picture frames
- Equipment or prop rental
- Enlarging, retouching, tinting or color photographs
- Mileage and expense charges (including charges itemized or invoiced separately)
- Online photo storing and sharing services
- Online line photoprocessing and modifications
- Photo books, cards, stationery, calendars, etc.
- Photograph packages to students or members of organizations such as churches
- Photo discs or digital photo services
- Processing, developing, and printing of film or digital photos
- Reproducing documents, drawings, blueprints, or photographs
- Taking, reproducing, and selling photographs
- Videotaping charges

Sourcing

Rules for determining which taxing jurisdictions may impose the sales or use tax are called sourcing rules.

Tangible personal property and products transferred electronically are subject to state and applicable municipal sales tax where delivered.

Services are subject to sales tax where the service is received, generally where the service is first used.

- Sitting fees charged separately from the sale of photos is subject to sales tax where the photos are taken. Sitting fees for photos taken at multiple locations that also include the photographers studio are taxed at the studio's location
- The sale of pictures is subject to sales tax where they are delivered
- Packages that include sitting fees and pictures are subject to sales tax where the pictures are delivered.
- Products delivered electronically are subject to sales tax where delivered if known. If the delivery address is not known sales tax applies at the customer's address. If no address is on file for the customer, then sales tax applies at the address from which the digital good was first available for transmission by the seller.

Examples

1. A Sioux Falls photographer is hired to photograph a wedding in Iowa, but the pictures are picked up at the studio in Sioux Falls. South Dakota state sales tax, plus Sioux Falls municipal tax, applies because the customer receives the product in Sioux Falls.
2. A South Dakota attorney hires a Sioux Falls photographer to travel to Minnesota to videotape a deposition. The videotape is given to the attorney while in Minnesota. This service is not subject to South Dakota sales tax because the attorney receives the videotape in Minnesota. However, the attorney will owe use tax on the service if the tape is used in South Dakota. Credit will be given to the attorney for Minnesota tax paid to the photographer.
3. A Sioux Falls photographer is hired to videotape a wedding in Brookings and the wedding dance, which is held in Volga. The videotape is mailed to the customer's home in Brookings. State sales tax plus Brookings

Photographers

municipal tax applies because the customer receives the product in Brookings.

4. A Pierre photographer charges a sitting fee to take pictures in Pierre. This fee is charged at the time the pictures are taken. Additional charges are made for the pictures ordered. State sales tax plus Pierre municipal tax apply to the sitting fee because the service is received where the pictures were taken. Sales tax applies to the pictures based on where the customer receives them.

Purchases for Resale

Photographers and others providing photographic services may purchase items they will resell and items that will become a component of another item that will be sold.

Items a photographer might resell include:

- Mounts, frames, and matte paper
- Slides permanently transferred to a customer as part of a retail sale
- Camera and attachments
- Packaging materials used to hold merchandise sold by a photographer
- Camera film, memory cards, and videotape sold for the customer's use
- Chemicals used by the photographer to process film (i.e. developers, washes, fixers and stabilizers)
- Print paper and ink
- Film (i.e. videotape and colored transparencies) permanently transferred to a customer as part of a retail sale
- Film processing and developing and negative printing and enlarging done by an outside service provider for a specific customer

The buyer is responsible for providing a completed exemption certificate to the vendor. Exemption certificates may be obtained from the department's website, www.state.sd.us/drr, or by calling 1-800-TAX-9188.

Sales for Resale

A photographer may sell his or her 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 completed exemption certificate. For more information on sales for resale view the Exemption Certificates Tax Fact on our website at www.state.sd.us/drr or request a copy by calling the department at 1-800-TAX-9188.

Supplies and Materials

Photographers and others providing photographic services are the consumer of items that are used or consumed in providing photographic services. Retailers and other vendors selling such items to photographers must remit sales tax on the gross receipts from the sale of such items.

If sales tax is not paid to the photographer's supplier, the photographer must pay use tax on the cost of the items. Such items include, but are not limited to:

- Trays
- Film (other than film sold over the counter to retail purchasers)
- Props and other background equipment
- Darkroom equipment (i.e. enlargers, film and paper processors, easels, etc.)
- Lighting equipment (i.e. flashtubes, modeling bulbs, batteries, etc.)
- Cameras, lenses and accessories used by photographers
- Other consumed supplies such as paper towels, cleaners, compressed air, printed forms, pamphlets, masking tape, etc.
- Office supplies
- Legal and accounting services
- Film development, proofs and prints for the photographer's personal use or for promotional purposes (not for sale)

Examples

A photographer orders extra copies of a couple's wedding pictures to use for display and promotional purposes. The photographer would owe sales or use tax on the extra copies he uses.

A photographer sells her artistic photographs in her photo shop. She sends her film to be processed and receives proofs in return. She uses these proofs to decide which prints she will order and sell in her shop. The photographer owes sales or use tax on the proofs and processing services. The prints she orders to sell in her shop are exempt from sales tax, because they are for resale.

Use Tax

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

Tangible personal property delivered into South Dakota by

the supplier or by a transportation company hired by the customer, 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, such as film and cameras, taken out of retail inventory for the photographer's use. Use tax is due on these items in the filing period they are taken out of inventory.

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 on our website 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.

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.

Relief agencies and religious or private schools must provide an exemption certificate to purchase products and services exempt from sales and use tax.

Required Records

Photographers 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, must be kept for at least three years and be available for inspection during business hours.

Talk to Us!

If you have a tax problem or question, call the department 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
445 East Capitol Avenue
Pierre, SD 57501-3100**

Or, visit your nearest Department of Revenue 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 St., Suite 112
Mitchell, SD 57301-2600

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

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

Yankton Office
1900 Summit Street
Yankton, SD 57078-1951