

ARTICLE 64:06

SALES TAX

Chapter

64:06:01	Administration of program.
64:06:02	Services -- Interpretive rules.
64:06:03	Products -- Interpretive rules.

CHAPTER 64:06:01

ADMINISTRATION OF PROGRAM

Section

64:06:01:00	Definitions.
64:06:01:01	Armed services personnel and veterans.
64:06:01:01.01	Sales to or by the United States army and its instrumentalities upon military reservations.
64:06:01:01.02	Sales to governmental agencies.
64:06:01:01.03	Sales by United States government.
64:06:01:01.04	Public and municipal corporations.
64:06:01:02	Bond.
64:06:01:03	Repealed.
64:06:01:03.01	Bad checks.
64:06:01:03.02	Collection of a previously deducted bad debt or bad check.
64:06:01:04	Repealed.
64:06:01:05	Change in ownership.

64:06:01:06	Casual or occasional sales.
64:06:01:07	Issuance and use of permits restricted.
64:06:01:07.01	Application for tax permit.
64:06:01:07.02	Requirements for statewide tax permit.
64:06:01:07.03	Application for tax permit -- Streamline registration.
64:06:01:08	Exemption certificates.
64:06:01:08.01	Exemption certificates -- Forms accepted.
64:06:01:08.02	Services as components of other services.
64:06:01:08.03	Sale of service for resale.
64:06:01:08.04	Services performed on property held for sale.
64:06:01:09	Conditional sales contracts -- Assigned and repossessed merchandise.
64:06:01:09.01	Sale and leaseback contracts.
64:06:01:10	Consignment sales.
64:06:01:11	Repealed.
64:06:01:12	Defective merchandise.
64:06:01:13	Religious educational institutions.
64:06:01:14	Repealed.
64:06:01:15	Exemption certificates.
64:06:01:16	Repealed.
64:06:01:17	Federal corporations, sales to.
64:06:01:18	Repealed.
64:06:01:19	Fire and ambulance departments.

64:06:01:20	Forms.
64:06:01:21	Certain organizations not exempt from sales or use tax.
64:06:01:22	Repealed.
64:06:01:23	Intrastate sales -- Sale and delivery in South Dakota.
64:06:01:24	Interstate sales -- Originating in South Dakota.
64:06:01:25	Interstate sales -- Originating in other states.
64:06:01:26 to 64:06:01:28	Repealed.
64:06:01:29	Municipal tax -- Administration and reporting.
64:06:01:29.01 and 64:06:01:29.03	Repealed.
64:06:01:30	Municipal tax -- No special permit required.
64:06:01:31	Municipal tax -- Credit for tax previously paid.
64:06:01:32	Repealed.
64:06:01:33	Permit for each place of business in state.
64:06:01:33.01	Repealed.
64:06:01:34	Credit for tax previously paid.
64:06:01:35	Required records for sales, rentals, and leases.
64:06:01:35.01 and 64:06:01:35.02	Repealed.
64:06:01:35.03	Records to be preserved for three years -- Penalty for failure to maintain records.
64:06:01:35.04	Sample periods for audits.
64:06:01:35.05	Use of other records to verify audits.
64:06:01:36	Repealed.
64:06:01:37	Refunds to consumers.

64:06:01:38	Relief agencies.
64:06:01:39	Return of tax reports and telecommunications access fees.
64:06:01:39.01	Rate schedules.
64:06:01:39.02	Monthly filing.
64:06:01:39.03	Return and remittance -- Streamline volunteer registrations.
64:06:01:40	Preparation of return.
64:06:01:41	Returned merchandise.
64:06:01:42	Representing out of state dealers -- Extra permits.
64:06:01:43	Sales by loan or finance companies.
64:06:01:44	Sale of business permit not transferable.
64:06:01:45 and 64:06:01:46	Repealed.
64:06:01:47 and 64:06:01:48	Transferred.
64:06:01:49	Student sororities and fraternities.
64:06:01:50	Tax on gross receipts.
64:06:01:51	Repealed.
64:06:01:52	Transferred.
64:06:01:53	Reserved.
64:06:01:54	Temporary tax permits.
64:06:01:55	Temporary tax permit -- Application.
64:06:01:56	Bond -- Cancellation.
64:06:01:57	Transferred.
64:06:01:58	Reimbursement for expenditures.
64:06:01:59	Newspaper sales.

64:06:01:60	Gross receipts tax on visitor-related businesses -- No special permit required.
64:06:01:61	Application of sourcing rules.
64:06:01:62	Definition of terms used in sourcing rules.
64:06:01:63	General sourcing rules.
<u>64:06:01:63.01</u>	<u>Sourcing rules for attorney services.</u>
64:06:01:64	Sourcing rules for lease or rental of tangible personal property not included in § 64:06:01:65 or 64:06:01:66.
64:06:01:65	Sourcing rules for motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment.
64:06:01:66	Sourcing rules for transportation equipment -- Definition of transportation equipment.
64:06:01:67	Repealed
64:06:01:68	Sourcing rules for direct mailing.
64:06:01:68.01	Definition of terms used in direct mail sourcing rule.
64:06:01:69	Repealed.
64:06:01:70	Delivery charges.
64:06:01:71	Sourcing rules for computer maintenance contracts.
64:06:01:72	Sourcing software term license and subscriptions.
64:06:01:73	Definition of terms.
64:06:01:74	Sourcing rules of personal care services

64:06:01:62. Definition of terms used in sourcing rules. Terms used in §§ 64:06:01:61 to 64:06:01:65, inclusive, mean:

(1) "Receive,"

(a) the taking possession of tangible personal property;

(b) making first use of services; or

(c) taking possession of or making first use of any product transferred electronically, whichever comes first;

The term, receive, does not include possession by a shipping company on behalf of the purchaser;

(2) "Product," any tangible personal property, any product transferred electronically, including software delivered electronically, or services, whether sold, leased, or rented.

Source: 29 SDR 177, effective July 2, 2003; 30 SDR 211, effective July 1, 2004; 35 SDR 48, effective September 8, 2008.

General Authority: SDCL 10-45-108.

Law Implemented: SDCL 10-45-108.

64:06:01:63.01. Sourcing rules for attorney services. Notwithstanding § 64:06:01:62 and

64:06:01:63, the sale of attorney services is sourced to the attorney's office.

Source:

General Authority: SDCL 10-45-108

Law Implemented: SDCL 10-45-108

CHAPTER 64:06:02

SERVICES -- INTERPRETIVE RULES

Section

64:06:02:01 and 64:06:02:02	Repealed.
64:06:02:03	Advertising.
64:06:02:03.01	Advertising payments.
64:06:02:03.02	Advertising cooperatives.
64:06:02:04 to 64:06:02:06.01	Repealed.
64:06:02:06.02	Consignment sales are retail sales.
64:06:02:06.03	Auctioneer sales not casual or occasional sales.
64:06:02:07	Barber and beauty shops.
64:06:02:07.01	Independent contractors.
64:06:02:08	Blacksmiths and welders.
64:06:02:09	Repealed.
64:06:02:10	Campgrounds or trailer parks.
64:06:02:11	Concessions at carnivals, circuses, and show troupes.
64:06:02:12 to 64:06:02:14	Repealed.
64:06:02:15	Car washing.
64:06:02:16	Cleaners, dryers, and laundries.
64:06:02:17	Repealed.
64:06:02:18	Coin operated laundries -- Consumers.
64:06:02:19	Repealed.
64:06:02:20	Communication service -- Exempt charges.

64:06:02:20.01	Sale of telephone directories.
64:06:02:21	Communication service -- Billing and collection.
64:06:02:21.01 and 64:06:02:21.02	Repealed.
64:06:02:22	Communication service -- Radio stations.
64:06:02:22.01	Satellite systems.
64:06:02:23 to 64:06:02:26	Transferred.
64:06:02:26.01	Repealed.
64:06:02:26.02	Transferred.
64:06:02:27	Repealed.
64:06:02:28	Dentists and dental laboratories.
64:06:02:29 and 64:06:02:30	Repealed.
64:06:02:31	Exterminators -- Taxable services -- Consumers.
64:06:02:32	Florists and nursery operators.
64:06:02:32.01	Seeding and sodding.
64:06:02:33	Repealed.
64:06:02:34	Freight, delivery, and other transportation charges.
64:06:02:34.01 and 64:06:02:34.02	Repealed.
64:06:02:34.03	Chartered flights.
64:06:02:34.04 and 64:06:02:34.05	Repealed.
64:06:02:34.06	Transportation company defined.
64:06:02:34.07	Transportation service defined.
64:06:02:34.08 and 64:06:02:34.09	Repealed.
64:06:02:34.10	Resale of solid waste tipping fees.

64:06:02:35 to 64:06:02:37	Repealed.
64:06:02:38	Garage and service stations.
64:06:02:38.01	Tax on towing services.
64:06:02:39	Garage and service stations -- Resale.
64:06:02:40	Janitorial supplies and services.
64:06:02:41	Jewelers and watch repair.
64:06:02:42	Linen and towel supply.
64:06:02:43	Machine work.
64:06:02:44	Mattress rebuilding.
64:06:02:45	Oculists and ophthalmologists.
64:06:02:46 to 64:06:02:49	Repealed.
64:06:02:50	Pawnbrokers.
64:06:02:51	Pet grooming.
64:06:02:52	Photographers, photo developers, and finishers.
64:06:02:53	Practitioners in healing arts.
64:06:02:54 to 64:06:02:56	Repealed.
64:06:02:57	Printers, engravers, multigraphers, and mimeographers.
64:06:02:58	Repair services.
64:06:02:59	Retirement and nursing homes.
64:06:02:60	Shoe repairers.
64:06:02:61 and 64:06:02:62	Repealed.
64:06:02:63	Tire treading.
64:06:02:64	Upholsterers.

64:06:02:65	Sales to veterinarians.
64:06:02:66 to 64:06:02:69	Repealed.
64:06:02:70	Amusement devices -- Mechanical.
64:06:02:71	Repealed.
64:06:02:72	Hospitals -- Taxable charges and subsistence.
64:06:02:73	Hospitals -- Nontaxable charges.
64:06:02:74	Hospitals -- License required -- Purchases for members or employees taxable.
64:06:02:75	Lodging establishments.
64:06:02:76	Specialty cleaners.
64:06:02:77	Reserved.
64:06:02:78	Computer services -- Software.
64:06:02:79	Computer services -- Software -- Prewritten programs.
64:06:02:80	Computer services -- Computer programming.
64:06:02:81	Repealed.
64:06:02:81.01	Taxability of nonresident attorneys performing services <u>attorney services used</u> in South Dakota.
64:06:02:82	Accessories, equipment, and repair or replacement parts on motor vehicles.
64:06:02:83	Rental facilities.
64:06:02:84	Hunting and fishing rights.
64:06:02:85	Real estate brokers.
64:06:02:86	Marina defined.

64:06:02:87	Taxation of persons providing medical expert testimony or consulting services.
64:06:02:88	Travel agency reservation services.
64:06:02:89	Professional employer organization -- Definition of co employment relationship.
64:06:02:89.01	Application for a professional employer organization permit.
64:06:02:90	Definition of terms.
64:06:02:91	Default sourcing rule for telecommunications services.
64:06:02:92	Rules for sourcing specific telecommunications services.
64:06:02:93	Exemption of continuing education programs.
64:06:02:94	Repairs to rental inventory.
64:06:02:95 to 64:06:02:97	Repealed.
64:06:02:98	Application of municipal gross receipts tax to fitness clubs.
64:06:02:99	Application of tourism tax to fitness clubs.

64:06:02:81.01. Taxability of nonresident ~~attorneys performing services~~ attorney services used in South Dakota. ~~The gross receipts of a nonresident attorney performing legal services pursuant to SDCL 16-18-2 are subject to sales tax based on SDCL 10-45-108.~~ Any person using services in South Dakota that are provided by ~~an unlicensed~~ a nonresident attorney is liable for use tax on the cost of the services if sales tax is not paid.

Source: 16 SDR 76, effective November 1, 1989; 21 SDR 219, effective July 1, 1995; 24 SDR 180, effective July 1, 1998; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 10-45-47.1(3), 10-46-35.1(3).

Law Implemented: SDCL 10-45-4, 10-45-4.1, 10-45-5.2, ~~10-45-12.3~~, 10-45-108, 10-46-2.1, 10-46-18.1.

Examples:

(1) Carl Client hires Linda Lawyer, an Iowa attorney, to represent Carl in a South Dakota lawsuit. Linda does not have a license to practice law in South Dakota but, pursuant to SDCL 16-18-2, is admitted to represent Carl in Carl's lawsuit. Linda must obtain a South Dakota sales tax permit. Linda ~~must~~ does not pay sales tax on gross receipts from the services provided by Linda to Carl ~~based on Carl's address~~ because Linda's office is in Iowa. ~~If Carl's billing address is not in South Dakota, Linda owes South Dakota use tax~~ Carl will owe use tax because the service is used for a lawsuit in South Dakota.

(2) Ivana Inventor, a South Dakota resident, hires Adam Attorney, a Minnesota attorney, to obtain a patent for Ivana. Adam is not licensed to practice law in South Dakota and is not required to comply with SDCL 16-18-2. Adam's legal services to obtain the patent are used by Ivana in South Dakota and Ivana is liable for use tax.