



Franchise Operations

<https://dor.sd.gov/> 1-800-829-9188

The purpose of this tax fact is to provide general information about how sales and use tax applies to franchise operations. It is not intended to answer all questions that may arise. The information contained in this fact sheet is current as of the date of publication.

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Sales Tax

South Dakota's sales tax applies to the sale of most services and tangible personal property. Sales tax applies to the sale of services provided by franchisers to franchisees and to the sale of equipment and supplies used in the operation of the franchisee's business.

Royalty Fees

Royalties or service fees paid by a franchisee strictly for the privilege of engaging in business using the franchiser's name are not subject to sales or use tax. However, royalty fees are taxable if the franchiser provides services or tangible personal property with the payment of the royalty fee. When taxable sales are included within the royalty fee, and not separately stated, the entire royalty payment is subject to sales and use tax.

South Dakota Taxes and Rates

State Sales Tax and Use Tax – Applies to all sales or purchases of taxable products and services.

4.2%

Municipal Sales Tax and Use Tax – Applies to all sales of products and services that are subject to the state sales tax or use tax if the purchaser receives or uses the product or service in a municipality that imposes a sales tax or use tax.

1 to 2%

Examples of taxable items that may be included with the royalty fee:

- Training
- Accounting
- Software

Taxable Products and Services

The following is a list of items and services sold by a franchiser to a franchisee that are subject to sales or use tax (this list is not inclusive):

- Accounting services
- Architectural services
- Camera ready advertising
- Computers
- Consulting services
- Customer service fees
- Equipment
- Franchise fee (if any service or property included)
- Furniture
- Initial fee (if any service or property included)
- Inspection services
- Instructional materials
- Management fee
- Menus
- Online help services
- Operations manuals
- Point of sale advertising materials
- Promotional materials
- Renewal fee (if any service or property included)
- Reservation system services
- Royalty fee (if any service or property included)
- Site location services
- Software
- Tableware
- Third party reservation fees
- Training—on site

Exempt Products and Services

The following items are exempt from sales or use tax when sold by a franchiser to a franchisee:

- Advertising which is prepared and placed in the media (TV, Radio)
- Items which are sold in the regular course of the franchisee's business
- Royalty fees if no services or property are included
- Travel agency fees that are passed directly to the franchisee with no markup

Franchisee Use Tax Liability

If sales tax is not charged by the franchiser on taxable services or on taxable tangible personal property, the franchisee owes state use tax, plus applicable municipal tax. If services are provided and the charges for those services are not separately stated from the franchise fee, the entire franchise fee is subject to use tax. The franchisee should contact the franchiser and request the franchiser collect sales tax and itemize the charges for any taxable products.

Advertising

Under South Dakota law, an advertising service is the preparation of an advertisement and the placement of the advertisement in the media. Advertising which is prepared and placed in the media is exempt. If the advertising fee charged by the franchiser to the franchisee is for a national or local media campaign, the advertising fee is exempt from sales or use tax. If the advertising fee contains charges for advertising in the media, and also for non-media advertising, only the portion of the fee directly attributable to the non-media advertising is taxable. If the fee is not divided by type of advertising service provided, the entire fee is subject to sales tax. Advertisements, brochures, and promotional materials received from the franchiser are taxable.

Contact Us

If you have any questions, please contact the **South Dakota Department of Revenue**.

Call toll-free: 1-800-829-9188

Business Tax Division Email: bustax@state.sd.us

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