

SOUTH DAKOTA DEPARTMENT OF REVENUE

# Short Term Rental Properties

April 6, 2021  
Doug Schinkel



# Tourism Tax

- Tourism Tax is 1.5%
- Applies to the gross receipts of:
  - Hotels and place of lodging
  - Campgrounds
  - Motor vehicle rentals
  - Recreational services
  - Spectator events
  - Visitor attractions
  - Visitor-intensive business (50% or more of total annual gross receipts from the sale of TPP during June, July, August, and September)



For listings of specific products and services subject to Tourism Tax, review the Tourism Tax Facts.

# Spectator Events and Visitor Attractions

**Includes any business conducted on the site of the visitor attraction or spectator event.**

Tourism Tax applies to (list is not all inclusive):

- Admissions
- Parking
- Sales of products or services
- Sales of food and drinks
- Transportation



## Examples of Spectator Events:

- Auto Races
- Carnivals
- Craft shows
- Music Festivals
- Fairs
- Rodeos
- Sporting Events
- Stage Shows

## Examples of Visitor Attractions:

- Amusement Park
- Antique Exhibits
- Bumper Cars
- Animal Exhibit
- Miniature Golf
- Course
- Playhouses
- Racetracks
- Reptile Exhibits
- Shooting Preserves

# Recreational Services

## Recreational Equipment Rental

### Examples of Recreational Services:

- Amusement Rides
- Fishing Ponds
- Tours
- Fishing and Hunting Guides
- Shooting Ranges
- Trail Rides

### Examples of Recreational Equipment:

(rented for 28 days or less)

- Bicycles
- Firearms
- Campers
- Skis
- Watercraft



# Visitor Intensive Business

Tourism Tax applies on sales made during June, July, August, and September if 50% or more the total annual gross (all taxable sales) are from the sale of products (not services) during the months of June, July, August, and September.

## Visitor Intensive Businesses are:

- Antique Shop
- Book Store
- Candy Store
- Flea Market
- Gift Shop
- Indigenous Arts/Crafts Shop
- Jewelry
- Lapidary Shop (stones/jewelry)
- Leather Goods Shop
- Marina
- Novelty Shop
- Pottery Shop
- Rock Shop
- Souvenir Shop
- T-Shirt Shop

List includes all businesses listed in SDCL 10-45D-1(7) and can also be found in the Tourism Tax Fact.

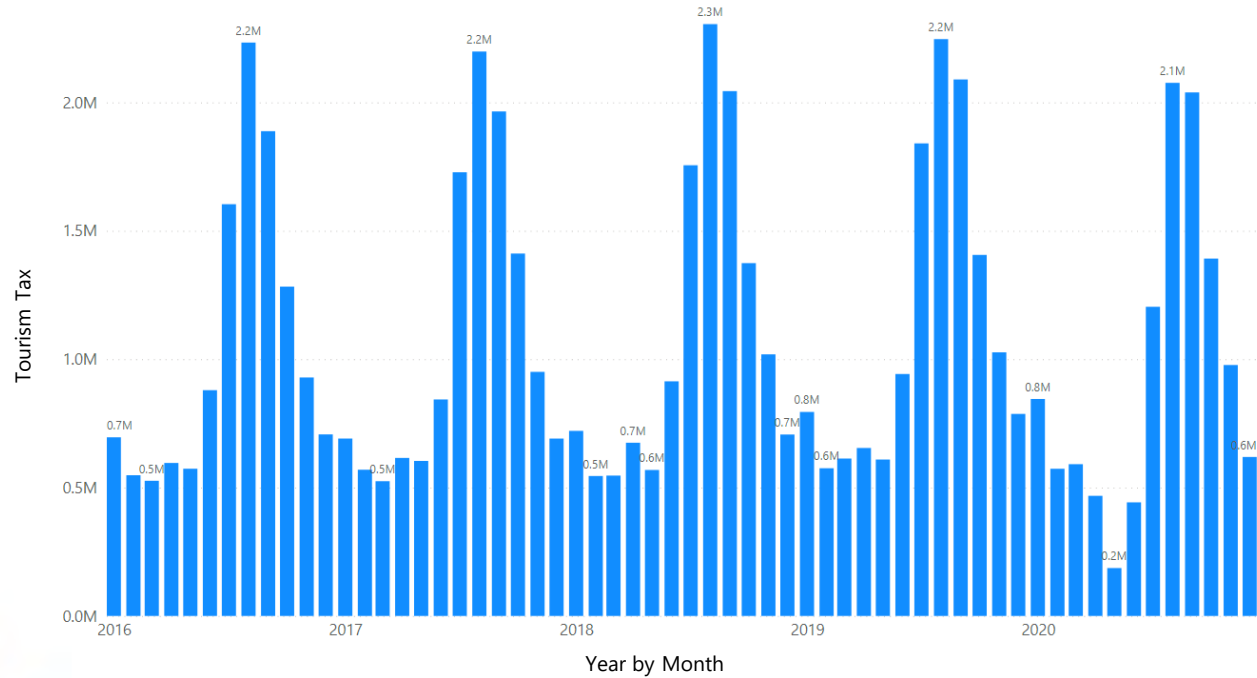
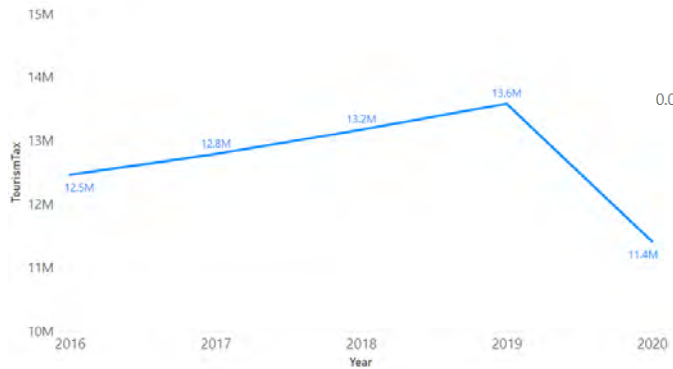
# Where Does The Money Go?

- Revenue collected from Tourism Tax is deposited in the Tourism Promotion Fund
- The Tourism Promotion Fund is used to advocate travel to South Dakota
- Tourism Tax is not necessarily a tax on tourists for the sake of revenue generation, but to facilitate the industry



# Tourism Tax Collected

Year	TourismTax
2016	12,462,653.02
2017	12,792,293.87
2018	13,173,898.04
2019	13,585,453.49
2020	11,414,388.27
<b>Total</b>	<b>63,428,686.69</b>



\*2020 Collections irregular due to COVID

# Lodging Tax

- SDCL 10-45-7
- Tax on room or parking site rentals to transient guests
  - 'a tax at the same rate as that imposed upon sales of tangible personal property in this state upon the gross receipts from rentals of rooms or parking sites by lodging establishments or campgrounds received from transient guests'



# Definitions

- **Lodging Establishment** - any building, structure, property or premise kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished to transient guests.
- **Campground** - any property or premise kept, used, maintained, advertised or held out to the public to be a place where sites are available for the placing of tents, campers, trailers, mobile homes or other mobile accommodations to transient guests.
- **Transient Guest** - any person who resides in a lodging establishment or campground less than twenty-eight consecutive days.

# Exemptions

- SDCL 10-45-7 does not apply to casual or occasional rental of rooms
  - Casual or occasional is defined as 10 or fewer days in a calendar year
- SDCL 10-45-7 does not apply to any rental that is 28 days or longer
- A licensed establishment is required to collect tax regardless of the number of days they rent a room or location

# How Tax Applies

Tax applies at the location of the home or rental property.

There are up to 5 taxes that may apply:

State Tax of 4.5%

Tourism Tax of 1.5%

City Tax up to 2%

Municipal Gross Receipts Tax of 1%

Sioux Falls Lodging Tax of 1%

# Example Return for Lodging:

Report Tourism Tax in the City and Special Jurisdiction Section on the state sales tax return using code 700-1



South Dakota Department of Revenue

Form: 2032

Business Tax Division

445 E. Capitol Ave.

Pierre, SD 57501-3100

## Sales and Use Tax Return

License #: 1000-0000-ST

If your address changed, please update below:

Name: Joe Taxpayer

Mailing Address: \_\_\_\_\_

Return: 02/2021 Reporting Period: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Return Due: 03/20/2021

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Out of Business? Last day of business: \_\_\_\_\_  
Please return your license card in to the Department.

Sales Tax Calculations	Gross	Taxable	Rate	Tax Due
1. Gross Sales	\$10,000.00			
2. Use Taxable	\$0.00			
3. Non-Taxable Sales	\$0.00			
4. Special Jurisdiction Sales (Detail in City Section)	\$0.00			
5. Net State Sales Taxable (Line 1 plus Line 2, minus Line 3, minus Line 4)		\$10,000.00	4.5%	\$450.00
City & Special Jurisdiction Tax Calculation Detail:				
City/Special Jurisdiction Name	Code	Taxable	Rate	Tax Due
6. Pierre - Municipal Tax	284-2	\$10,000.00	2.00%	\$200.00
7. Pierre - Municipal Gross Receipts Tax	284-1	\$10,000.00	1.00%	\$100.00
8. Tourism Tax	700-1	\$10,000.00	1.50%	\$150.00
9.				\$0.00
10.				\$0.00
11.				\$0.00
12.				\$0.00
13.				\$0.00
14.				\$0.00
15.				\$0.00
16.				\$0.00
17.				\$0.00
18.				\$0.00
19.				\$0.00
22. Total City/Special Jurisdiction Tax (Add Lines 6 through 19)				\$450.00
23. Total Tax Due (Line 5 plus Line 22)				\$900.00
24. Penalty/Interest				
25. Adjustment (Previous Credit/Balance Due)				
26. Total Due (Line 23 plus Line 24 plus Line 25)				\$900.00
27. Amount Remitted				

I declare under the penalties of perjury this return has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.

Date: \_\_\_\_\_ Preparer: \_\_\_\_\_

Date: \_\_\_\_\_ Licensee: \_\_\_\_\_ Email Address: \_\_\_\_\_

# SDCL 9-55 Business Improvement Districts

- Known as the BID or business improvement district tax
- The tax may be a per night charge, up to \$2.00 per night, imposed on the transient guest

**OR**

- The tax may be a special assessment imposed on the property owner
- All BID taxes are imposed and administered at the local level

**DOR does not administer or collect this tax**

# South Dakota v. Wayfair

- **2016:** SB 106 was passed which deliberately challenged the physical presence rule of *Quill Corp v. North Dakota*
- **2016 – 2018:** *South Dakota v. Wayfair* moved through the legal system
- **June 21, 2018:** The U.S. Supreme Court ruled in favor of South Dakota and overturned the physical presence rule.
- **September 12, 2018:** Special Legislative Session to speed up the implementation of the *South Dakota v. Wayfair* decision.
  - 2 bills were introduced and passed.

# Remote Seller Overview

- South Dakota remote seller threshold:
  - Gross sales into South Dakota exceeding \$100,000; or
  - 200 or more separate transactions into South Dakota
- Monthly remote seller reported sales tax amounts can be viewed on our website: [Remote Seller Stats](#)
- Monthly remote seller reported sales tax amounts broken down by city can be viewed on our website: [Historical Tax Statistical Reports](#)

# Other Requirements

- The South Dakota Department of Health has various license requirements depending on type of establishment
- Municipalities may require licensure, but would need to be contacted directly for any specific license requirements
- Potential local regulations:
  - Legality
  - Permits, licenses, and registration
  - Zoning
  - Advertising
  - Neighborhood notification
  - Building and housing standards



**For additional information on sales and use tax or questions concerning taxes:**

- **Call toll-free: 1-800-829-9188**
- **E-Mail: [bustax@state.sd.us](mailto:bustax@state.sd.us)**
- **Visit our website: [dor.sd.gov](http://dor.sd.gov)**
- **Visit or call your local Department of Revenue office**
- **Chat feature available on Business Tax Division page in bottom right corner of screen [http://dor.sd.gov/Taxes/Business\\_Taxes/](http://dor.sd.gov/Taxes/Business_Taxes/)**
- **Click on the Publications Tab under the Business Tax Tab on our website for Tax Facts and other information:  
[http://dor.sd.gov/Taxes/Business\\_Taxes/](http://dor.sd.gov/Taxes/Business_Taxes/)**



# Questions?



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