



## 2022 South Dakota Legislature

# House Bill 1327

Introduced by: **Representative** Karr

1 **An Act to reduce certain gross receipts tax rates and a use tax rate, and to repeal a**  
2 **conditional reduction of certain gross receipts tax rates.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 10-45-2 be AMENDED:**

5 **10-45-2.** There is hereby imposed a tax upon the privilege of engaging in business  
6 as a retailer, a tax of four ~~and one-half~~ percent upon the gross receipts of all sales of  
7 tangible personal property consisting of goods, wares, or merchandise, except as  
8 otherwise provided in this chapter, sold at retail in the State of South Dakota to consumers  
9 or users.

10 **Section 2. That § 10-45-5 be AMENDED:**

11 **10-45-5.** There is imposed a tax at the rate of four ~~and one-half~~ percent upon the  
12 gross receipts of any person from engaging or continuing in any of the following businesses  
13 or services in this state: abstracters; accountants; ancillary services; architects; barbers;  
14 beauty shops; bill collection services; blacksmith shops; car washing; dry cleaning;  
15 dyeing; exterminators; garage and service stations; garment alteration; cleaning and  
16 pressing; janitorial services and supplies; specialty cleaners; laundry; linen and towel  
17 supply; membership or entrance fees for the use of a facility or for the right to purchase  
18 tangible personal property, any product transferred electronically, or services;  
19 photography; photo developing and enlarging; tire recapping; welding and all repair  
20 services, except repair services for farm machinery, attachment units, and irrigation  
21 equipment used exclusively for agricultural purposes; cable television; and rentals of  
22 tangible personal property except leases of tangible personal property between one  
23 telephone company and another telephone company, motor vehicles as defined pursuant  
24 to § 32-5-1 leased under a single contract for more than twenty-eight days and mobile

1 homes. However, the specific enumeration of businesses and professions made in this  
2 section does not, in any way, limit the scope and effect of the provisions of § 10-45-4.

3 **Section 3. That § 10-45-5.3 be AMENDED:**

4 **10-45-5.3.** There is imposed, at the rate of four ~~and one-half~~ percent, an excise  
5 tax on the gross receipts of any person engaging in oil and gas field services (group no.  
6 138) as enumerated in the Standard Industrial Classification Manual, 1987, as prepared  
7 by the Statistical Policy Division of the Office of Management and Budget, Office of the  
8 President.

9 **Section 4. That § 10-45-6 be AMENDED:**

10 **10-45-6.** There is hereby imposed a tax of four ~~and one-half~~ percent upon the  
11 gross receipts from sales, furnishing, or service of gas, electricity, and water, including  
12 the gross receipts from such sales by any municipal corporation furnishing gas, and  
13 electricity, to the public in its proprietary capacity, except as otherwise provided in this  
14 chapter, when sold at retail in the State of South Dakota to consumers or users.

15 **Section 5. That § 10-45-6.1 be AMENDED:**

16 **10-45-6.1.** Except as provided in § 10-45-6.2, there is hereby imposed a tax of  
17 four ~~and one-half~~ percent upon the gross receipts from providing any intrastate, interstate,  
18 or international telecommunications service that originates or terminates in this state and  
19 that is billed or charged to a service address in this state, or that both originates and  
20 terminates in this state. However, the tax imposed by this section does not apply to:

- 21 (1) Any eight hundred or eight hundred type service unless the service both originates  
22 and terminates in this state;
- 23 (2) Any sale of a telecommunication service to a provider of telecommunication  
24 services, including access service, for use in providing any telecommunication  
25 service; or
- 26 (3) Any sale of interstate telecommunication service provided to a call center that has  
27 been certified by the secretary of revenue to meet the criterion established in § 10-  
28 45-6.3 and the call center has provided to the telecommunications service provider  
29 an exemption certificate issued by the secretary indicating that it meets the  
30 criterion.

1           If a call center uses an exemption certificate to purchase services not meeting the  
2           criterion established in § 10-45-6.3, the call center is liable for the applicable tax, penalty,  
3           and interest.

4           **Section 6. That § 10-45-6.2 be AMENDED:**

5           **10-45-6.2.** There is hereby imposed a tax of four ~~and one-half~~ percent upon the  
6           gross receipts of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as  
7           of January 1, 2002, that originate and terminate in the same state and are billed to a  
8           customer with a place of primary use in this state or are deemed to have originated or  
9           been received in this state and to be billed or charged to a service address in this state if  
10          the customer's place of primary use is located in this state regardless of where the service  
11          actually originates or terminates. Notwithstanding any other provision of this chapter and  
12          for purposes of the tax imposed by this section, the tax imposed upon mobile  
13          telecommunication services shall be administered in accordance with 4 U.S.C. §§ 116-126  
14          as in effect on July 28, 2000.

15          **Section 7. That § 10-45-8 be AMENDED:**

16          **10-45-8.** There is imposed a tax of four ~~and one-half~~ percent upon the gross  
17          receipts from all sales of tickets or admissions to places of amusement and athletic  
18          contests or events, except as otherwise provided in this chapter.

19          **Section 8. That § 10-45-71 be AMENDED:**

20          **10-45-71.** There is imposed a tax of four ~~and one-half~~ percent on the gross  
21          receipts from the transportation of passengers. The tax imposed by this section shall apply  
22          to any transportation of passengers if the passenger boards and exits the mode of  
23          transportation within this state.

24          **Section 9. That § 10-64-9 be REPEALED:**

25          ~~If the state is able to enforce the obligation to collect and remit sales tax on remote~~  
26          ~~sellers who deliver tangible personal property, products transferred electronically, or~~  
27          ~~services directly to the citizens of South Dakota, the additional net revenue from such~~  
28          ~~obligation shall be used to reduce the rate of certain taxes. The rate of tax imposed by~~  
29          ~~§§ 10-45-2, 10-45-5, 10-45-5.3, 10-45-6, 10-45-6.1, 10-45-6.2, 10-45-8, 10-45-71, 10-~~  
30          ~~46-2.1, 10-46-2.2, 10-46-58, 10-46-69, 10-46-69.1, 10-46-69.2, 10-46E-1, and 10-58-~~

1 ~~1 shall be reduced by one tenth percent on July first following the calendar year for which~~  
2 ~~each additional twenty million dollar increment of net revenue is collected and remitted~~  
3 ~~by such remote sellers. However, the rate of tax imposed by §§ 10 45 2, 10 45 5, 10~~  
4 ~~45 5.3, 10 45 6, 10 45 6.1, 10 45 6.2, 10 45 8, 10 45 71, 10 46 2.1, 10 46 2.2, 10~~  
5 ~~46 58, 10 46 69, 10 46 69.1, 10 46 69.2, 10 46E 1, and 10 58 1 may not be reduced~~  
6 ~~below four percent pursuant to the provisions of this section.~~