



## 2025 South Dakota Legislature

# House Bill 1027

*Introduced by: The Chair of the Committee on Taxation at the request of the Department of Revenue*

1 **An Act to repeal obsolete provisions pertaining to noncollecting retailers.**

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

3 **Section 1. That § 10-63-1 be REPEALED.**

4 Terms used in this chapter mean:

5 ~~(1) "De minimis online auction website," any online auction website that facilitates~~  
 6 ~~total gross sales in South Dakota in the prior calendar year of less than one hundred~~  
 7 ~~thousand dollars and reasonably expects South Dakota sales in the current~~  
 8 ~~calendar year will be less than one hundred thousand dollars;~~

9 ~~(2) "De minimis retailer," any noncollecting retailer that made total gross sales in~~  
 10 ~~South Dakota in the prior calendar year of less than one hundred thousand dollars~~  
 11 ~~and reasonably expects South Dakota sales in the current calendar year will be less~~  
 12 ~~than one hundred thousand dollars;~~

13 ~~(3) "Noncollecting retailer," any retailer, not currently registered to collect and remit~~  
 14 ~~South Dakota sales and use tax, who makes sales of tangible personal property,~~  
 15 ~~services, and products transferred electronically from a place of business outside~~  
 16 ~~of South Dakota to be shipped to South Dakota for use, storage, or consumption~~  
 17 ~~and who is not required to collect South Dakota sales or use taxes;~~

18 ~~(4) "Online auction website," a collection of web pages on the Internet that allows any~~  
 19 ~~person to display tangible personal property, services, or products transferred~~  
 20 ~~electronically for sale which is purchased through a competitive process where a~~  
 21 ~~participant places a bid with the highest bidder purchasing the property, service,~~  
 22 ~~or product when the bidding period ends;~~

23 ~~(5) "South Dakota purchaser," any purchaser that purchases tangible personal~~  
 24 ~~property, services, or products transferred electronically to be shipped or~~  
 25 ~~transferred to South Dakota.~~

26 **Section 2. That § 10-63-2 be REPEALED.**

1 Pursuant to this chapter, each noncollecting retailer shall give notice that South  
2 Dakota use tax is due on nonexempt purchases of tangible personal property, services, or  
3 products transferred electronically and shall be paid by the South Dakota purchaser. The  
4 notice shall be readily visible and contain the information as follows:

- 5 (1) The noncollecting retailer is not required, and does not collect South Dakota sales  
6 or use tax;
- 7 (2) The purchase is subject to state use tax unless it is specifically exempt from  
8 taxation;
- 9 (3) The purchase is not exempt merely because the purchase is made over the  
10 Internet, by catalog, or by other remote means;
- 11 (4) The state requires each South Dakota purchaser to report any purchase that was  
12 not taxed and pay tax on the purchase. The tax may be reported and paid on the  
13 South Dakota use tax form; and
- 14 (5) The use tax form and corresponding instructions are available on the South Dakota  
15 Department of Revenue website.

16 **Section 3. That § 10-63-3 be REPEALED.**

17 The notice required by ~~§ 10-63-2~~ on a website shall occur on a page necessary to  
18 facilitate the applicable transaction. The notice shall be sufficient if the noncollecting  
19 retailer provides a prominent linking notice that reads as follows: "See important South  
20 Dakota sales and use tax information regarding the tax you may owe directly to the State  
21 of South Dakota." The prominent linking notice shall direct the purchaser to the principal  
22 notice information required by ~~§ 10-63-2~~.

23 The notice required by ~~§ 10-63-2~~ in a catalog shall be part of the order form. The  
24 notice shall be sufficient if the noncollecting retailer provides a prominent reference to a  
25 supplemental page that reads as follows: "See important South Dakota sales and use tax  
26 information regarding the tax you may owe directly to the State of South Dakota on page  
27 \_\_\_\_." The notice on the order form shall direct the purchaser to the page that includes  
28 the principal notice required by ~~§ 10-63-2~~.

29 **Section 4. That § 10-63-4 be REPEALED.**

30 For any internet purchase made pursuant to this chapter the invoice notice shall  
31 occur on the electronic order confirmation. The notice shall be sufficient if the noncollecting  
32 retailer provides a prominent linking notice that reads as follows: "See important South  
33 Dakota sales and use tax information regarding the tax you may owe directly to the State

1 ~~of South Dakota." The invoice notice link shall direct the purchaser to the principal notice~~  
2 ~~required by § 10-63-2. If the noncollecting retailer does not issue an electronic order~~  
3 ~~confirmation, the complete notice shall be placed on the purchase order, bill, receipt, sales~~  
4 ~~slip, order form, or packing statement.~~

5 ~~For any catalog or phone purchase made pursuant to this chapter the complete~~  
6 ~~notice shall be placed on the purchase order, bill, receipt, sales slip, order form, or packing~~  
7 ~~statement.~~

8 **Section 5. That § 10-63-5 be REPEALED.**

9 ~~For any internet purchase made pursuant to this chapter, notice on the check-out~~  
10 ~~page fulfills both the website and invoice notice requirements simultaneously, the notice~~  
11 ~~shall be sufficient if the noncollecting retailer provides a prominent linking notice that~~  
12 ~~reads as follows: "See important South Dakota sales and use tax information regarding~~  
13 ~~the tax you may owe directly to the State of South Dakota." The check-out page notice~~  
14 ~~link shall direct the purchaser to the principal notice required by § 10-63-2.~~

15 ~~If a retailer is required to provide a similar notice for another state in addition to~~  
16 ~~South Dakota, the retailer may provide a consolidated notice so long as the notice includes~~  
17 ~~the information contained in § 10-63-2, specifically references South Dakota, and meets~~  
18 ~~the placement requirements of this section.~~

19 **Section 6. That § 10-63-6 be REPEALED.**

20 ~~A noncollecting retailer may not state or display or imply that no tax is due on any~~  
21 ~~South Dakota purchase unless the display is accompanied by the notice required by § 10-~~  
22 ~~63-2 each time the display appears. If a summary of the transaction includes a line~~  
23 ~~designated "sales tax" and shows the amount of sales tax as zero, this constitutes a display~~  
24 ~~implying that no tax is due on the purchase. This display shall be accompanied by the~~  
25 ~~notice required by § 10-63-2 each time it appears.~~

26 ~~Notwithstanding the limitation in this section, if a noncollecting retailer knows that~~  
27 ~~a purchase is exempt from South Dakota tax pursuant to South Dakota law, the~~  
28 ~~noncollecting retailer may display or indicate that no sales or use tax is due even if the~~  
29 ~~display is not accompanied by the notice required by § 10-63-2.~~

30 **Section 7. That § 10-63-7 be REPEALED.**

1           ~~With the exception of notification on an invoice, the provisions of this chapter apply~~  
2           ~~to online auction websites.~~

3           **Section 8. That § 10-63-8 be REPEALED.**

4           ~~A de minimis retailer and a de minimis online auction website are exempt from the~~  
5           ~~notice requirements provided by this chapter.~~

6           **Section 9. That § 10-63-9 be REPEALED.**

7           ~~No criminal penalty or civil liability may be applied or assessed for failure to comply~~  
8           ~~with the provisions of this chapter.~~