**64:06:02:32.  Florists and nursery operators.** Florists and nursery operators selling flowers, wreaths, plants, shrubs, roots, bulbs, trees, seeds, and other tangible personal property at retail are liable for tax on their gross sales, even if such merchandise is produced by the seller. If shrubbery, young trees, and similar items are sold and as part of the transaction the seller transplants them for the purchaser for a lump sum or flat rate, the entire receipts from the transaction are subject to the tax.

 If a South Dakota florist receives an order pursuant to which the florist sends instructions to a second florist for delivery of flowers to a point outside South Dakota, tax is due on total receipts of the sending florist.

 If a South Dakota florist receives telegraphic instructions from another florist, whether located within or outside South Dakota, for delivery of flowers, the receiving florist is not liable for tax on receipts which the florist may realize from the transaction. If orders originate in South Dakota, tax is due from the South Dakota florist who first received the order and gave telegraphic instructions to the second florist.

 **Source:** SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.

 **General Authority:** SDCL 10-45-47.1.

 **Law Implemented:** SDCL 10-45-2.