

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

339B0549

HOUSE BILL NO. 1231

Introduced by: Representatives Jorgensen, Apa, Barker, Crisp, Jaspers, Konold, Napoli, Schaunaman, and Weber and Senators Staggers, Flowers, Hutmacher, Lange, and Symens

1 FOR AN ACT ENTITLED, An Act to exempt transportation services from sales and use taxes.

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

3 Section 1. That § 10-45-12.1 be amended to read as follows:

4 10-45-12.1. The following services enumerated in the Standard Industrial Classification
5 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and
6 Budget, Office of the President are exempt from the provisions of this chapter: health services
7 (major group 80); educational services (major group 82) except schools and educational services
8 not elsewhere classified (industry no. 8299); social services (major group 83); agricultural
9 services (major group 07) except veterinarian services (group no. 074) and animal specialty
10 services, except veterinary (industry no. 0752); forestry services (group no. 085); radio and
11 television broadcasting (group no. 483); railroad transportation (major group 40); local and
12 suburban passenger transportation (group no. 411) ~~except limousine services; taxicabs (group~~
13 ~~no. 412); intercity and rural bus transportation (group no. 413); bus charter service (group 414);~~
14 school buses (group no. 415); trucking and courier services, except air (group no. 421); farm
15 product warehousing and storage (industry no. 4221); establishments primarily engaged in

1 transportation on rivers and canals (group no. 444); establishments primarily engaged in air
2 transportation, certified carriers (group no. 451); establishments primarily engaged in air
3 transportation, noncertified carriers (group no. 452) except chartered flights (industry no. 4522)
4 and airplane, helicopter, balloon, dirigible and blimp rides for amusement or sightseeing; pipe
5 lines, except natural gas (major group 46); arrangement of passenger transportation (group no.
6 472); arrangement of transportation of freight and cargo (group no. 473); rental of railroad cars
7 (group no. 474); water supply (industry no. 4941); sewerage systems (industry no. 4952);
8 security brokers, dealers and flotation companies (group no. 621); commodity contracts brokers
9 and dealers (group no. 622); credit counseling services provided by individual and family social
10 services (group no. 8322); construction services (division C) except industry no. 1752; consumer
11 credit reporting agencies, mercantile reporting agencies, and adjustment and collection agencies
12 (group no. 732), if the debt was incurred out-of-state and the client does not reside within the
13 state. The following are also specifically exempt from the provisions of this chapter: financial
14 services of institutions subject to tax under chapter 10-43 including loan origination fees, late
15 payment charges, nonsufficient fund check charges, stop payment charges, safe deposit box rent,
16 exchange charges, commission on travelers checks, charges for administration of trusts, interest
17 charges, and "points" charged on loans; commissions earned or service fees paid by an insurance
18 company to an agent or representative for the sale of a policy; services of brokers and agents
19 licensed under Title 47; the sale of trading stamps; rentals of motor vehicles as defined by
20 § 32-5-1 leased under a single contract for more than twenty-eight days; advertising services;
21 services provided by any corporation to another corporation which is centrally assessed having
22 identical ownership and services provided by any corporation to a wholly owned subsidiary
23 which is centrally assessed; continuing education programs, tutoring, vocational counseling,
24 except rehabilitation counseling and motion picture rentals to a commercially operated theater
25 primarily engaged in the exhibition of motion pictures; and charges made by a

1 telecommunications company for the origination, transmission, switching, reception or
2 termination of an interstate telephone or telegraph communication.

3 Section 2. That § 10-45-70 be repealed.

4 ~~10-45-70. There is imposed a tax of four percent on the gross receipts from the~~
5 ~~transportation of tangible personal property. The tax imposed by this section shall apply to any~~
6 ~~transportation of tangible personal property if both the origin and destination of the tangible~~
7 ~~personal property are within this state.~~

8 Section 3. That § 10-45-71 be repealed.

9 ~~10-45-71. There is imposed a tax of four percent on the gross receipts from the~~
10 ~~transportation of passengers. The tax imposed by this section shall apply to any transportation~~
11 ~~of passengers if the passenger boards and exits the mode of transportation within this state.~~

12 Section 4. That § 10-45-72 be repealed.

13 ~~10-45-72. The tax imposed by §§ 10-45-70 to 10-45-81, inclusive, does not apply to any~~
14 ~~transportation service which the state is prohibited from taxing by federal law or the United~~
15 ~~States Constitution.~~

16 Section 5. That § 10-45-73 be repealed.

17 ~~10-45-73. The transportation of agricultural products by the agricultural producer thereof~~
18 ~~is exempt from the tax imposed by §§ 10-45-70 to 10-45-81, inclusive, if the producer transports~~
19 ~~such products in a mode of transportation which is owned, leased, or rented by the producer.~~
20 ~~However, if an agricultural producer transports another person's products for hire, such~~
21 ~~transportation is subject to the tax imposed by §§ 10-45-70 to 10-45-81, inclusive.~~

22 Section 6. That § 10-45-74 be repealed.

23 ~~10-45-74. Transportation services may only be sold for resale under the following~~
24 ~~circumstances:~~

25 ~~(1) A transportation company may sell its services for resale to another transportation~~

1 company; or

2 ~~— (2) — A retailer that regularly delivers a majority of the tangible personal property which it~~
3 ~~sells to its customers by truck or other mode of transportation owned, leased, or~~
4 ~~rented by such retailer may purchase for resale the services of a transportation~~
5 ~~company for the delivery of such retailer's tangible personal property.~~

6 Section 7. That § 10-45-75 be repealed.

7 ~~— 10-45-75. Terms used in §§ 10-45-76 to 10-45-78, inclusive, mean:~~

8 ~~— (1) — "Cargo vessel," a single transport truck as defined in subdivision 10-47B-3(47);~~

9 ~~— (2) — "Fuel," gasoline, ethanol, methanol, liquefied petroleum gas, petroleum distillates,~~
10 ~~lubricating oils and greases, glycol-based antifreezes, fuels used for off-highway~~
11 ~~racing, solvents such as, but not limited to, petroleum naphtha, mineral spirits, or~~
12 ~~stoddard solvents, and any other petroleum product delivered to a terminal by~~
13 ~~pipeline, truck, or rail, any other motor fuel as defined in subdivision 10-47B-3(27),~~
14 ~~and special fuel as defined in subdivision 10-47B-3(39);~~

15 ~~— (3) — "Fuel terminal transportation," the transportation of fuel from a terminal to a location~~
16 ~~in South Dakota at which the fuel is unloaded. Fuel terminal transportation does not~~
17 ~~include the transportation of fuel from a location other than a terminal;~~

18 ~~— (4) — "Terminal," as defined in subdivision 10-47B-3(42);~~

19 ~~— (5) — "Trip," the distance in road miles traveled by a cargo vessel from the fuel terminal at~~
20 ~~which it was loaded with fuel to the most distant location in South Dakota at which~~
21 ~~the fuel is unloaded, excluding miles not traveled within this state.~~

22 Section 8. That § 10-45-76 be repealed.

23 ~~— 10-45-76. In lieu of the tax imposed by §§ 10-45-70 and 10-46-57 on the transportation of~~
24 ~~fuel, a transportation company may elect to be taxed on the fuel terminal transportation services~~
25 ~~under the provisions of §§ 10-45-75 to 10-45-78, inclusive.~~

1 Section 9. That § 10-45-77 be repealed.

2 ~~10-45-77. There is imposed a tax on the imputed gross receipts of any transportation~~
3 ~~company engaged in fuel terminal transportation who elects to be taxed under this section. The~~
4 ~~tax imposed by this section shall be on the imputed gross receipts as provided in this section. The~~
5 ~~imputed gross receipts from fuel terminal transportation shall be calculated on the basis of the~~
6 ~~number of cargo vessels and distance traveled on each trip as follows:~~

7	Length	Number of Cargo	Imputed Gross
8	of Trip	Vessels per Trip	Receipts from
9	Zone (in miles)	Transportation	
10	A 50 or Less	1	\$ 64.00
11	A 50 or Less	2 or more	\$ 88.00
12	B More than 50, but less than 100	1	\$120.00
13	B More than 50, but less than 100	2 or more	\$165.00
14	C 100 or more, but less than 150	1	\$176.00
15	C 100 or more, but less than 150	2 or more	\$242.00
16	D 150 or more, but less than 200	1	\$224.00
17	D 150 or more, but less than 200	2 or more	\$308.00
18	E 200 or more	1	\$280.00
19	E 200 or more	2 or more	\$385.00

20 Section 10. That § 10-45-78 be repealed.

21 ~~10-45-78. For the fuel terminal transportation subject to tax under §§ 10-45-75 to 10-45-77,~~
22 ~~inclusive, all subsequent transportation of that fuel is exempt from the tax imposed under this~~
23 ~~chapter.~~

24 Section 11. That § 10-45-79 be repealed.

25 ~~10-45-79. The provisions of § 10-45-22 shall also apply to any taxes imposed by §§ 10-45-75~~

1 to ~~10-45-77~~, inclusive, on transportation services regardless of any special reporting election the
2 taxpayer may have made.

3 Section 12. That § 10-45-81 be repealed.

4 ~~10-45-81. There are exempted from the provisions of this chapter and the tax imposed by it,~~
5 ~~the gross receipts from transportation services associated with timber sale contracts entered into~~
6 ~~prior to July 1, 1996, provided such contract has a duration of one year or less.~~

7 Section 13. That § 10-46-57 be repealed.

8 ~~10-46-57. There is imposed a tax of four percent on the privilege of the use of any~~
9 ~~transportation of tangible personal property. The tax imposed by this section shall apply to any~~
10 ~~transportation of tangible personal property if both the origin and destination of the tangible~~
11 ~~personal property are within this state.~~

12 Section 14. That § 10-46-58 be repealed.

13 ~~10-46-58. There is imposed a tax of four percent on the privilege of the use of any~~
14 ~~transportation of passengers. The tax imposed by this section shall apply to any transportation~~
15 ~~of passengers if the passenger boards and exits the mode of transportation within this state.~~

16 Section 15. That § 10-46-59 be repealed.

17 ~~10-46-59. The tax imposed by §§ 10-46-57 to 10-46-61, inclusive, does not apply to any~~
18 ~~transportation service which the state is prohibited from taxing by federal law or the United~~
19 ~~States Constitution.~~

20 Section 16. That § 10-46-60 be repealed.

21 ~~10-46-60. The transportation of agricultural products by the agricultural producer thereof~~
22 ~~is exempt from the tax imposed by §§ 10-46-57 to 10-46-61, inclusive, if the producer transports~~
23 ~~such products in a mode of transportation which is owned, leased, or rented by the producer.~~
24 ~~However, if an agricultural producer transports another person's products for hire, such~~
25 ~~transportation is subject to the tax imposed by §§ 10-46-57 to 10-46-61, inclusive.~~

1 Section 17. That § 10-46-61 be repealed.

2 ~~10-46-61. There are exempted from the provisions of this chapter and the tax imposed by it,~~
3 ~~the use of transportation services associated with timber sale contracts entered into prior to July~~
4 ~~1, 1996, provided such contract has a duration of one year or less.~~

5 Section 18. That § 10-52-11 be amended to read as follows:

6 10-52-11. Veterinarian services (group no. 074) and animal specialty services except
7 veterinary (industry no. 0752) as enumerated in the Standard Industrial Classification Manual,
8 1987, as prepared by the Statistical Policy Division of the Office of Management and Budget,
9 Office of the President are exempt from the provisions of this chapter. ~~In addition, there are~~
10 ~~specifically exempted from the provisions of this chapter and the computation of the tax imposed~~
11 ~~by it, gross receipts from transportation services and the collection and disposal of solid waste.~~