

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

384I0538

## HOUSE BILL NO. 1216

Introduced by: Representatives Elliott, Fryslie, Hundstad, and Kroger and Senators Dennert and Napoli

1 FOR AN ACT ENTITLED, An Act to impose sales and use tax on certain advertising services.

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

3 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 There is hereby imposed a tax of four percent upon the gross receipts from advertising  
6 services. The department shall promulgate rules, pursuant to chapter 1-26, defining advertising  
7 services.

8 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 There is hereby imposed a tax of four percent upon the gross receipts from advertising  
11 services. The department shall promulgate rules, pursuant to chapter 1-26, defining advertising  
12 services.

13 Section 3. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 There are exempted from the provisions of this chapter and from the computation of the



1 amount of tax imposed by it, gross receipts resulting from the publication of any public or legal  
2 notice required by statute or administrative rule.

3 Section 4. That § 10-45-108 be amended to read as follows:

4 10-45-108. For purposes of the tax imposed by this chapter, a retailer shall source sales of  
5 tangible personal property and services to the location where the tangible personal property or  
6 service is received. The department shall promulgate rules, pursuant to chapter 1-26, defining  
7 the location of receipt. The rules promulgated pursuant to this section may provide an alternative  
8 method of sourcing telecommunication services and advertising services.

9 Section 5. That § 10-45-12.1 be amended to read as follows:

10 10-45-12.1. The following services enumerated in the Standard Industrial Classification  
11 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and  
12 Budget, Office of the President are exempt from the provisions of this chapter: health services  
13 (major group 80); educational services (major group 82) except schools and educational services  
14 not elsewhere classified (industry no. 8299); social services (major group 83); agricultural  
15 services (major group 07) except veterinarian services (group no. 074) and animal specialty  
16 services, except veterinary (industry no. 0752); forestry services (group no. 085); radio and  
17 television broadcasting (group no. 483); railroad transportation (major group 40); local and  
18 suburban passenger transportation (group no. 411) except limousine services; school buses  
19 (group no. 415); farm product warehousing and storage (industry no. 4221); establishments  
20 primarily engaged in transportation on rivers and canals (group no. 444); establishments primarily  
21 engaged in air transportation, certified carriers (group no. 451); establishments primarily engaged  
22 in air transportation, noncertified carriers (group no. 452) except chartered flights (industry no.  
23 4522) and airplane, helicopter, balloon, dirigible, and blimp rides for amusement or sightseeing;  
24 pipe lines, except natural gas (major group 46); arrangement of passenger transportation (group

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