

AN ACT

ENTITLED, An Act to repeal the sales tax exemption for certain interstate telecommunication services and to declare an emergency.

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

Section 1. That § 10-45-6.1 be amended to read as follows:

10-45-6.1. Except as provided in § 10-45-6.2, there is hereby imposed a tax of four percent upon the gross receipts from providing any telecommunication service that originates or terminates in this state and that is billed or charged to a service address in this state, or that both originates and terminates in this state. However, the tax imposed by this section does not apply to:

- (1) Any eight hundred or eight hundred type service unless the service both originates and terminates in this state;
- (2) Any sale of a telecommunication service to a provider of telecommunication services, including access service, for use in providing any telecommunication service; or
- (3) Any sale of interstate telecommunication service provided to a call center that has been certified by the secretary of revenue to meet the criterion established in section 2 of this Act and the call center has provided to the telecommunications service provider an exemption certificate issued by the secretary indicating that it meets the criterion.

If a call center uses an exemption certificate to purchase services not meeting the criterion established in section 2 of this Act, the call center is liable for the applicable tax, penalty, and interest.

For the purposes of this section, the term, telecommunication service, is the transmission of signs, signals, writings, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, electromagnetic means.

Section 2. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as follows:

As used in section 1 of this Act, the term, call center, means any physical location where telephone calls are placed, or received, for the purpose of making sales, marketing, customer service, or technical support. The term does not include:

- (1) Any location where telephone calls are primarily placed to, or received from, the same taxpayer, or affiliates of the same taxpayer, that owns or operates the location; or
- (2) Any insurance, real estate, or brokerage company.

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

10-45-12.1. The following services enumerated in the Standard Industrial Classification Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and Budget, Office of the President are exempt from the provisions of this chapter: health services (major group 80); educational services (major group 82) except schools and educational services not elsewhere classified (industry no. 8299); social services (major group 83); agricultural services (major group 07) except veterinarian services (group no. 074) and animal specialty services, except veterinary (industry no. 0752); forestry services (group no. 085); radio and television broadcasting (group no. 483); railroad transportation (major group 40); local and suburban passenger transportation (group no. 411) except limousine services; school buses (group no. 415); farm product warehousing and storage (industry no. 4221); establishments primarily engaged in transportation on rivers and canals (group no. 444); establishments primarily engaged in air transportation, certified carriers (group no. 451); establishments primarily engaged in air transportation, noncertified carriers (group no. 452) except chartered flights (industry no. 4522) and airplane, helicopter, balloon, dirigible, and blimp rides for amusement or sightseeing; pipe lines, except natural gas (major group 46); arrangement of passenger transportation (group no. 472); arrangement of transportation of freight and cargo (group no. 473); rental of railroad cars (group no. 474); water supply (industry no. 4941); sewerage systems (industry no. 4952); security brokers, dealers and flotation companies (group no. 621); commodity contracts

brokers and dealers (group no. 622); credit counseling services provided by individual and family social services (industry no. 8322); construction services (division C) except industry no. 1752 and locksmiths and locksmith shops; consumer credit reporting agencies, mercantile reporting agencies, and adjustment and collection agencies (group no. 732), if the debt was incurred out-of-state and the client does not reside within the state. The following are also specifically exempt from the provisions of this chapter: financial services of institutions subject to tax under chapter 10-43 including loan origination fees, late payment charges, nonsufficient fund check charges, stop payment charges, safe deposit box rent, exchange charges, commission on travelers checks, charges for administration of trusts, interest charges, and points charged on loans; commissions earned or service fees paid by an insurance company to an agent or representative for the sale of a policy; services of brokers and agents licensed under Title 47; the sale of trading stamps; rentals of motor vehicles as defined by § 32-5-1 leased under a single contract for more than twenty-eight days; advertising services; services provided by any corporation to another corporation which is centrally assessed having identical ownership and services provided by any corporation to a wholly owned subsidiary which is centrally assessed; continuing education programs; tutoring; vocational counseling, except rehabilitation counseling; and motion picture rentals to a commercially operated theater primarily engaged in the exhibition of motion pictures.

Section 4. That § 10-45-6.2 be amended to read as follows:

10-45-6.2. There is hereby imposed a tax of four percent upon the gross receipts of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that originate and terminate in the same state and are billed to a customer with a place of primary use in this state or are deemed to have originated or been received in this state and to be billed or charged to a service address in this state if the customer's place of primary use is located in this state regardless of where the service actually originates or terminates. Notwithstanding any other provision of this chapter and

for purposes of the tax imposed by this section, the tax imposed upon mobile telecommunication services shall be administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

Section 5. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after May 1, 2003.

An Act to repeal the sales tax exemption for certain interstate telecommunication services and to declare an emergency.

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I certify that the attached Act originated in the

SENATE as Bill No. 63

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 63
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State