

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

571L0553

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1122 - 02/08/2005**

Introduced by: Representatives Wick, Brunner, Cutler, Davis, Deadrick, Dykstra, Faehn, Frost, Garnos, Gassman, Glover, Hackl, Haley, Halverson, Hargens, Heineman, Jensen, Koistinen, Lange, Michels, Murschel, O'Brien, Rave, Schafer, Sebert, Tornow, Turbiville, Weems, and Willadsen and Senators Kelly, Abdallah, Bartling, Bogue, Broderick, Duenwald, Duniphan, Earley, Gant, Hansen (Tom), Hanson (Gary), Lintz, McCracken, Moore, Nesselhuf, Olson (Ed), Peterson (Jim), Schoenbeck, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to clarify that agents for property owners may make certain  
2 deductions from gross receipts.

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

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

6 In determining the amount of tax due under this chapter, an agent for one or more property  
7 owners may deduct from gross receipts amounts that represent charges for items purchased by  
8 the agent on behalf of any property owner. The sale of property or service by the agent to any  
9 property owner is not a sale for resale if this deduction is taken. This deduction, which is limited  
10 to the agent's cost of such items, may be taken only if the amount to be deducted represents an  
11 expense incurred for a particular property owner or group of property owners and the amount  
12 is itemized and separately billed as a reimbursement to the agent. The agent may also deduct



1 from its taxable gross receipts its actual disbursements for wages, salaries, payroll taxes, payroll  
2 deductions, workers' compensation costs, insurance premiums, welfare benefits, retirement  
3 benefits, or other employee benefits of employees of the agent performing services for a  
4 particular property owner or group of property owners if the amount is itemized and separately  
5 billed as a reimbursement to the agent. This section applies only to an agent performing  
6 management services for property owners, including hotels and restaurants, and does not permit  
7 a deduction for any markup by the agent on the cost of the items purchased by the agent or the  
8 agent's employee costs. The provisions of this section apply in determining the amount of tax  
9 due before and after the effective date of this section.