

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

400W0187

HOUSE BILL NO. 1019

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding exemptions from
2 sales and use taxation of farm machinery, attachment units, and irrigation equipment used
3 exclusively for agricultural purposes.

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

5 Section 1. That § 10-45-3.4 be amended to read as follows:

6 10-45-3.4. There are exempted from the provisions of this chapter and the tax imposed by
7 it, gross receipts from the sale of the following:

- 8 (1) ~~Parts or repairs and repair services on machinery or equipment which are clearly~~
9 ~~identifiable as used primarily for agricultural purposes, including irrigation~~
10 ~~equipment~~ farm machinery, attachment units, and irrigation equipment used
11 exclusively for agricultural purposes which are exempt from the tax imposed by this
12 chapter pursuant to § 10-45-3.5, if the part replaces a farm machinery, attachment
13 unit, or irrigation equipment part assigned a specific or generic part number by the
14 manufacturer of the farm machinery, attachment unit, or irrigation equipment; and
- 15 (2) Maintenance items and maintenance services used on ~~machinery or equipment which~~



1 ~~are clearly identifiable as used primarily for agricultural purposes, including~~
2 ~~irrigation equipment~~ farm machinery, attachment units, and irrigation equipment used
3 exclusively for agricultural purposes which are exempt from the tax imposed by this
4 chapter pursuant to § 10-45-3.5.

5 Section 2. That § 10-45-5 be amended to read as follows:

6 10-45-5. There is imposed a tax at the rate of four percent upon the gross receipts of any
7 person from engaging or continuing in any of the following businesses or services in this state:
8 abstracters; accountants; ancillary services; architects; barbers; beauty shops; bill collection
9 services; blacksmith shops; car washing; dry cleaning; dyeing; exterminators; garage and service
10 stations; garment alteration; cleaning and pressing; janitorial services and supplies; specialty
11 cleaners; laundry; linen and towel supply; membership or entrance fees for the use of a facility
12 or for the right to purchase tangible personal property, any product transferred electronically,
13 or services; photography; photo developing and enlarging; tire recapping; welding and all repair
14 services, except repair services for farm machinery, farm attachment units, or and irrigation
15 equipment repair services used exclusively for agricultural purposes; cable television; and
16 rentals of tangible personal property except leases of tangible personal property between one
17 telephone company and another telephone company, motor vehicles as defined ~~by~~ pursuant to
18 § 32-5-1 leased under a single contract for more than twenty-eight days and mobile homes.
19 However, the specific enumeration of businesses and professions made in this section does not,
20 in any way, limit the scope and effect of the provisions of § 10-45-4.

21 Section 3. That § 10-45-5.2 be amended to read as follows:

22 10-45-5.2. The following services enumerated in the Standard Industrial Classification
23 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and
24 Budget, Office of the President, are specifically subject to the tax levied by this chapter: metal

1 mining services (group no. 108); coal mining (major group 12); nonmetallic minerals (except
2 fuels) services (group no. 148); service industries for the printing trade (group no. 279); coating,
3 engraving and allied services (group no. 347); communication, electric and gas services
4 (division E except group nos. 483, 494 and 495); hotels, motels, and tourist courts (group no.
5 701); rooming and boarding houses (group no. 702); camps and recreational vehicle parks
6 (group no. 703); personal services (major group 72); business services (major group 73);
7 automotive repair, services, and parking (major group 75); miscellaneous repair services (major
8 group 76), except repair services for farm machinery, farm attachment units, or and irrigation
9 equipment repair services used exclusively for agricultural purposes; amusement and recreation
10 services (major group 79); legal services (major group 81); landscape and horticultural services
11 (group no. 078); engineering, accounting, research, management, and related services (major
12 group 87, except industry no. 8733); title abstract offices (group no. 654); consumer credit
13 reporting agencies, mercantile reporting agencies, and adjustment and collection agencies (group
14 no. 732); real estate agents and managers (group no. 653); funeral service and crematories
15 (group no. 726), except that purchases of goods or services with money advanced as an
16 accommodation are retail purchases and are not includable in gross receipts for funeral services
17 and fees paid or donated for religious ceremonies are not includable in gross receipts for funeral
18 services; loan brokers (industry no. 6163); repair shops and related services, not elsewhere
19 classified (industry no. 7699) but only locksmiths and locksmith shops; and floor laying and
20 other floor work not elsewhere classified (industry no. 1752). In addition, the following services
21 are also specifically subject to the tax levied by this chapter: livestock slaughtering services; dog
22 grooming services; airplane, helicopter, balloon, dirigible and blimp rides for amusement or
23 sightseeing; the collection and disposal of solid waste; and all appraiser's services. The services
24 enumerated in this section may not be construed as a comprehensive list of taxable services but

1 rather as a representative list of services intended to be taxable ~~under~~ pursuant to the provisions
2 of this chapter.

3 Section 4. That § 10-46-17.6 be amended to read as follows:

4 10-46-17.6. There are exempted from the provisions of this chapter and the tax imposed by
5 it, the use of the following:

- 6 (1) ~~Parts or repairs and repair services on machinery or equipment which are clearly~~
7 ~~identifiable as used primarily for agricultural purposes, including irrigation~~
8 ~~equipment~~ farm machinery, attachment units, and irrigation equipment used
9 exclusively for agricultural purposes which are exempt from the tax imposed by this
10 chapter pursuant to § 10-46-17.7, if the part replaces a farm machinery, attachment
11 unit, or irrigation equipment part assigned a specific or generic part number by the
12 manufacturer of the farm machinery, attachment unit, or irrigation equipment; and
- 13 (2) Maintenance items and maintenance services used on ~~machinery or equipment which~~
14 ~~are clearly identifiable as used primarily for agricultural purposes, including~~
15 ~~irrigation equipment~~ farm machinery, attachment units, and irrigation equipment used
16 exclusively for agricultural purposes which are exempt from the tax imposed by this
17 chapter pursuant to § 10-46-17.7.

18 Section 5. That § 10-46E-5 be amended to read as follows:

19 10-46E-5. Farm machinery ~~and, attachment units, other than replacement parts, and~~
20 ~~irrigation equipment, other than replacement parts,~~ sold at public auction shall be taxed pursuant
21 to § 10-46E-1 without regard to its intended use.

22 Section 6. That § 10-46E-13 be amended to read as follows:

23 10-46E-13. The amount of any use tax imposed with respect to the sale or lease of farm
24 machinery, attachment units, and irrigation equipment used exclusively for agricultural purposes

1 shall be reduced by the amount of any sales, use, or gross receipts tax previously paid by the
2 taxpayer with respect to the property on account of liability to another state or its political
3 subdivisions. If the sales, use, or gross receipts tax of the other state is less than the tax of this
4 state, the taxpayer is liable for the payment of the balance to this state. However, no credit may
5 be given under this section if that state does not reciprocally grant a credit for taxes paid on
6 similar tangible personal property.