

Chapter 35

Tax – Sales & Use

Section 35-1 Purpose.

The purpose of this ordinance is to provide additional needed revenue for the City of Menno, Hutchinson County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.

Section 35-2 Effective date and enactment of tax.

From and after the 1st day of July, 2005, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the City of Menno, Hutchinson County South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

Section 35-3 Exempt Sales

Tax will not be applied to items specifically exempt under SDCL 10-52-2.6, 10-52-11 and 10-52-12. Items exempted from municipal tax include: Farm Machinery and Irrigation Equipment, Parts or Repairs for Farm Machinery, Agricultural Animal Health Products and Medicine, Transportation Service, Collection and Disposal of Solid Waste, Veterinarian and Animal Specialty Services, and Air Transportation. **This section shall expire on January 1, 2006.**

Section 35-4 Use tax.

In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the city of tangible personal property or services purchased from and after the 1st day of July, 2005, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.

Section 35-5 Collection.

Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.

Section 35-6 Interpretation.

It is declared to be the intention of this ordinance and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

Section 35-7 Penalty.

Any person failing or refusing to make reports or payments prescribed by this ordinance and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

Section 35-8 Separability.

If any provision of this ordinance is declared unconstitutional or the application thereof to any person or circumstances held invalid the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.