

June 2016

This Tax Facts is designed to explain how sales and use tax applies to certain regional rural water system projects in South Dakota. If this Tax Facts does not answer your specific question, please call the Department's toll-free Helpline at 1-800-829-9188 between 8 AM – 5 PM CST, Monday through Friday.

Information found in this document rescinds and replaces all previous written information on this subject. All readers and users of this publication are responsible for keeping informed about changes in tax laws and regulations by reading the Department of Revenue newsletters, press releases, Tax Facts, and other documents published by the Department of Revenue.

Any contractors' excise tax paid for the construction of water development projects included in the state water resources management system whose cost exceeds the sum of twenty million dollars is deposited into the water and environment fund.

As projects are established a special excise tax code is assigned to each project. The excise tax due is reported using that code in the city/special jurisdiction section of the contractors' excise tax return. Tax reported under these codes is transferred to the water and environment fund for use on future water system projects.

Projects subject to special reporting:

Project Name	Code
Lewis and Clark Regional Water System	506-1
Oglala Sioux Rural Water Supply System (part of Mni Wiconi project) - see Special Jurisdictions, page 2	
Perkins County Rural Water	507-1
Rosebud Sioux (part of Mni Wiconi project) - see Special Jurisdictions, page 2	
Sioux Falls Flood Control	505-1
Southern Black Hills	508-2
West River Lyman Jones	502-2

## Tax Liability

The above projects, with exception of the Sioux Falls Flood Control, are subject to the alternative contractors' excise tax under SDCL10-46B. Gross receipts from the prime contractors and all subcontractors are subject to the 2% contractors' excise tax. No excise tax is due on the value of any material furnished by the project owner. In addition, all materials and services used are subject to the 4.5% state, plus applicable city sales or use tax.

The Sioux Falls Flood Control project is subject to contractors' excise tax under SDCL10-46A. For this project the prime contractor is responsible for the 2% contractors' excise tax on their receipts plus the value of any material (including sales or use tax) provided by the project owner. The prime should issue a prime contractors' exemption certificate to all subcontractors on this project. The prime and all subcontractors are responsible for sales or use tax on all materials and services they purchase and on all materials provided by the project owner.

SDCL 10-46-5 states a contractor is subject to sales or use tax on any materials used in the performance of a contract unless sales or use tax was previously paid on that material. This includes materials furnished by the contractor, project owner, subcontractor or any other person. Administrative Rule 64:09:01:16 states the prime contractor is liable for use tax due on all materials used, stored, or consumed in the performance of their contract including those portions of the contract performed by subcontractors.

The prime contractor should obtain written documentation showing that sales or use tax was paid on material the owner or subcontractors furnish.

## Subcontractor List

All prime contractors must provide a list of subcontractors to the department upon award of the project. The department will contact the subcontractors to explain their tax liability and special reporting for the project.

The prime contractor should verify that their subcontractors are licensed and have paid the applicable sales or use tax on the materials they furnished for this job.

## Reporting

To report contractors' excise tax due on these Water System Projects, include the gross receipts from the project in line 1, Gross Receipts, then deduct the receipts from the special water project under Line 3, Deductions. Under the City/Special Jurisdiction section of the return, write in the code assigned to that project and enter the gross receipts under Taxable. The contractors' excise tax rate for each project is 2%.

## State Water Resources Management Systems

**Example:** A contractor owes use tax on material they furnished and had payments from the Perkins County Rural Water System.

1. \$500,000 for work completed on the Perkins County Rural Water System.
2. \$100,000 material purchased without tax. (state use tax of 4.5% is due)

EXCISE TAX CALCULATIONS	GROSS	TAXABLE	RATE	TAX DUE
1. Gross Receipts	\$500,000.00			
2. Owner-Furnished Materials				
3. Deductions (Subcontractors Receipts, Out-of-state)	\$500,000.00			
4. Special Jurisdiction Receipts (Detail in City Section)				
5. Net State Excise Taxable (Line 1 plus Line 2, minus Line 3, minus Line 4)		\$0.00	x 2%	\$0.00
6. Net Sales and/or Use Taxable <b>beginning June 1, 2016</b>		\$100,000.00	x 4.5%	\$4,500.00
7. Net Sales and/or Use Taxable <b>through May 31, 2016</b>			x 4.0%	\$0.00
8. Total State Tax Due (Add lines 5, 6, and 7)				\$4,500.00
9. City & Special Jurisdiction Tax Calculation Detail:				
10. City/Special Jurisdiction Name	Code	Taxable	Rate	Tax Due
11. Perkins County Rural Water System	507-1	\$500,000.00	2.00	\$10,000.00
12.				\$0.00

### Special Jurisdictions

Contractors' excise tax reported for the Oglala Sioux Rural Water Supply System and Rosebud Rural Water System, which are both parts of the Mni Wiconi Rural Water System, are split with the tribal government prior to being distributed to the special fund. Contractors working on these projects must complete an additional form showing their receipts for work on Tribal land and work off Tribal land. This form is sent with the contractor's excise tax return directly to Department of Revenue's office in Pierre to ensure proper processing. Contractors working on these projects should contact the Department for reporting information.

### Talk To Us!

If you have a tax problem or question, call the South Dakota Department of Revenue toll-free at **1-800-829-9188**. Visit us on the web at <http://dor.sd.gov>, email us at [bustax@state.sd.us](mailto:bustax@state.sd.us) or write us:

**SD Department of Revenue**  
**445 East Capitol Ave.**  
**Pierre, SD 57501**