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State Water Resources Management Systems

The purpose of this Tax Fact is to explain how sales and use tax applies to certain regional rural water system projects in South Dakota. It is not intended to answer all questions that may arise. The information contained in this fact sheet is current as of the date of publication.

June 2016

Contractor's Excise Tax

Any contractor's 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 contractor's 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 |

South Dakota Taxes and Rates

| | |
|---|----------------|
| State Sales Tax and Use Tax – Applies to all sales or purchases of taxable products and services. | 4.5% |
| Municipal Sales Tax and Use Tax – Applies to all sales of products and services that are subject to the state sales tax or use tax if the purchaser receives or uses the product or service in a municipality that imposes a sales tax or use tax. | 1 to 2% |
| Contractor's Excise Tax – Imposed on the gross receipts of all prime contractors engaged in construction services or realty improvement projects in South Dakota. The gross receipts include the tax collected from the consumer. | 2% |

Tax Liability

The above projects, with exception of the Sioux Falls Flood Control, are subject to the alternative contractor's excise tax under SDCL [10-46B](#). Gross receipts from the prime contractors and all subcontractors are subject to the contractor's 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 state, plus applicable city sales or use tax.

The Sioux Falls Flood Control project is subject to contractor's excise tax under SDCL [10-46A](#). For this project the prime contractor is responsible for the contractor's 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.

Tax Liability (cont.)

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 contractor's 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.

Reporting 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 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 beginning June 1, 2016 | | \$100,000.00 | x 4.5% | \$4,500.00 |
| 7. Net Sales and/or Use Taxable through May 31, 2016 | | | 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

Contractor's 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.

Contact Us

If you have any questions, please contact the **South Dakota Department of Revenue.**

Call toll-free: 1-800-829-9188

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