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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.

July 2023

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 |
| Water Investment in Northern South Dakota (WINS) | 509-1 |

South Dakota Taxes and Rates

| | |
|---|----------------|
| State Sales Tax and Use Tax – Applies to all sales or purchases of taxable products and services. | 4.2% |
| 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 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.

[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 Lewis and Clark Regional Water System.

1. \$500,000 for work completed on the Lewis and Clark Regional 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 Sales | \$500,000.00 | | | |
| 2. Owner-Furnished Materials | | | | |
| 3. Deductions (Subcontractors Receipts, Out-of-State) | \$500,000.00 | | | |
| 4. Special Jurisdiction Sales (Detail in City Section) | | | | |
| 5. Net State Sales Taxable (Line 1 plus Line 2, minus Line 3, minus Line 4) | | \$0.00 | × 2% | \$0.00 |
| 6. Net Sales and/or Use Taxable | | \$100,000.00 | × 4.2% | \$4,200.00 |
| 7. Total State Tax Due (Line 5 plus Line 6) | | | | \$4,200.00 |
| 8. City & Special Jurisdiction Tax Calculation Detail: | | | | |
| 9. City/Special Jurisdiction Name | Code | Taxable | Rate | Tax Due |
| 10. Lewis and Clark Regional Water System | 509-1 | \$500,000.00 | 2.00 | \$10,000.00 |

Contact Us

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

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

Business Tax Division Email: bustax@state.sd.us

Website: <https://dor.sd.gov/>

Mailing address and office location: South Dakota Department of Revenue
445 East Capitol Ave
Pierre, SD 57501