



Frequently Asked Questions

501(c)(3)

Why are SWCD's not considered 'tax exempt' under 501(c)(3)?

Answer: According to the IRS Publication 557, in the *Organization Reference Chart* section [Chapter 3], the following is a description of 501(c)(3) organizations — *Religious, Charitable, Scientific, Testing for Public Safety, Literary, Educational, to Foster National or International Amateur Sports Competition, or Prevention of Cruelty to Children or Animals Organizations*. To qualify, the organization must be a corporation, community chest, fund, or foundation.

The IRS Publication 557 further states, under the Instrumentalities section that “if an organization is an integral part of the local government or possesses governmental powers, it does not qualify for exemption. A state or municipality itself does not qualify for exemption.” [See IRS Publication 557 for more information.]

1099 and W-2 Forms

1099 ~ Do I need to file a copy of the landowner's 1099 form with the Minnesota Department of Revenue?

Answer: Only if you had withholdings from the payment. See the MN Department of Revenue's website for more info: http://www.taxes.state.mn.us/withholding/tax_information/frequently_asked_questions/faq_wh_w2.shtml

1099 ~ Landowner's receiving Cost-Share assistance

We have a landowner asking about a 1099 form for the cost-share assistance we have paid them. Do we need to issue a 1099 for the state cost-share program?

Answer: Some states do issue 1099 forms to their landowners that receive cost-share assistance from the SWCD. Since the cost-share payment is a reimbursement for expenses the landowner, a 1099 form is not needed [see *IRS Publication 225 – Soil and Water Conservation Expenses – for further information*]. Your landowner should consult their accountant for more specific information (i.e. if they choose to report the project as a capital expense).

1099 ~ Landowner's receiving Incentive payments

We received a grant to pay landowners an incentive on a filter or buffer strip they install along a ditch. Do I need to issue a 1099 for these payments?

Answer: Yes, if your payment is over \$600.

1099 ~ More Information

Where can I find more information relating to 1099 forms?

Answer: The IRS website <http://www.irs.gov/>. Specifically, there is a “Public Employer Tax Guide” on the site, which gives information on required reporting for certain payments made to businesses or other persons.

W-2 ~ PERA amounts

I just printed my W-2's for employees. The amount deducted from the employee's paycheck from PERA is not shown anywhere on the W-2 form. Does it need to be?

Answer: The PERA amounts deducted from your employee's paychecks will not print on the W-2's. Box 14 on the W-2 form, labeled “other” is where employers *can report* PERA amounts, but this is not necessary. See the PERA

website/fact sheet for more information – under EMPLOYERS, Forms & Brochures, ‘How to Report PERS Contributions on a W-2’.

Change of Office Location (Headquarters)

Our office is planning a move in the near future. Who do we need to notify (if anyone)?

Answer: In the BWSR operational handbook [http://www.bwsr.state.mn.us/publications/SWCD_Ops-handbk.html] under the “Legal” section, page 2 talks about the change of office location and gives you directions on what to do. According to Minn. Statute 103C.221, BWSR must act on the change of office location. Contact your BWSR Board Conservationist for more information.

Checks

Signatures for checks

Who should be designated to sign checks for the SWCD, and how many signatures should be on the checks?

Answer: A good practice is to have at least two (2) people sign checks on behalf of the SWCD. This could mean the SWCD Board Treasurer, and District Manager, or any other authorized person(s). For more internal controls, your SWCD Treasurer should review the cancelled checks each month, and compare them with your list of payments. For more information about “avoiding pitfalls” see the State Auditor’s website for valuable information: <http://www.auditor.state.mn.us/default.aspx?page=pitfalls>.

Statement printed or stamped on the back

We have a stamp with a statement on it that I am supposed to stamp on the back of all checks before they are distributed. Is this necessary? The statement is:

“The undersigned payee, in endorsing this check declares that the same is received in payment of a just and correct claim against the District and that no part of it has heretofore been paid.”

-- OR --

“I declare under penalties of law that this account claim or demand is just and correct and that no part of it has been paid.”

Answer: Yes. Minnesota Statute 471.391 cites the declaration form that is required for public entities to place on their checks.

Elections

Oath of Office

We have Supervisors that took the Oath of Office at our January Board meeting. What do I do with these forms now?

Answer: SWCD Oath of Office should be filed with your County Auditor (Minnesota Statute 358.11).

Health Insurance Reimbursements

Incentive Payments/Reimbursements to Employees

Our SWCD does not provide health insurance to its employees. However, we have adopted a policy that the employees will receive \$100 per month to put towards their own health insurance policies. Is this considered taxable income [needs to be reported on a W-2 form] to the employees?

Answer: YES, if the employee is not producing an invoice of the premiums paid to an insurance company. The incentive payment should be recorded as income, with applicable taxes taken out (Federal and State withholdings,

FICA, Medicare). However, if the employee produces a monthly statement showing the expense, this payment would *not* be taxable then.

There are also certain PERA guidelines you need to follow. See the *Third Quarter 2009 "PERAphrase"* Page 2, '**Salary Spotlight: Insurance Benefit Costs**' for more information. If you have additional questions, contact PERA!

Sales and Use Tax

CRP Trees

We have a landowner that ordered 1,000 trees to be planted in conjunction with their CRP contract. Do we have to charge sales tax on these trees?

Answer: No. These would be tax exempt, according to Minnesota Revenue – Agricultural Production Sales Tax Fact Sheet 100 states *"Federal and state programs: Feeds, seeds, trees, fertilizers, and herbicides purchased for use by farmers in a federal or state farm or conservation program are not taxable."* . For more sales tax fact sheets, visit the Minnesota Department of Revenue's website: <http://www.taxes.state.mn.us>.

License Plates on Vehicles

We have tax exempt plates on our SWCD vehicle. Why then did we have to pay sales tax when we purchased that vehicle, if there are tax exempt plates on it?

Answer: According to a Revenue Tax Specialist, your vehicles are exempt from registration tax, but sales tax on the purchase, lease or rental of your motor vehicles applies. The two types of taxes are just two different issues that the state has chosen to handle two different ways.

"Motor Vehicle Sales and Purchases – Fact Sheet 125" and "Sales to Governments – Fact Sheet 142" addresses the vehicle sales tax issues, and state government vehicle sales tax. Please refer to these publications for more information (<http://www.taxes.state.mn.us>).

No-Till Grass Drill Rentals to Landowners

Our SWCD has a no-till native grass drill that we rent out to landowners to use, mostly to seed their CRP contracts. Should we be charging sales tax to the landowners?

Answer: YES. There is no agriculture product being produced, so the landowner needs to be charged sales tax. Please refer to the "Farm Machinery – Sales Tax Fact Sheet 106" on the Minnesota Department of Revenue website.

No-Till Drill Rentals to inter-seed Soybeans, Alfalfa, etc. (*agricultural production*)

Our SWCD has a no-till drill that we rent out to landowners to use to plant soybeans into corn ground that has not yet been tilled (or to inter-seed alfalfa). Should we be charging sales tax to the landowners?

Answer: NO. The purchase or lease of farm machinery used directly and principally in "agricultural production" is exempt from sales tax. Please refer to the "Farm Machinery – Sales Tax Fact Sheet 106" on the Minnesota Department of Revenue website.

No-Till Drills – Delivery Charges

Our SWCD has a no-till native grass drill and/or a no-till drill. We charge a "delivery fee" to take it to the landowner. Is this taxable?

Answer: It depends. If the drill is used mainly for grasses (i.e. a CRP contract) then yes, you need to charge sales tax because there is no agriculture product being produced.

If your delivery charge is for the farmer to plant soybeans into un-tilled corn ground, or inter-seed alfalfa, then NO, you would not charge sales tax on the delivery. As long as the farm machinery is used directly and principally for "agricultural production," you don't need to charge sales tax. The landowner does need to fill out the ST3 form however.

Out of State Purchases

I recently ordered office supplies online, that came to me from out of state, and I wasn't charged sales tax. Do I need to pay any tax on them?

Answer: Yes, if you buy taxable items by mail order, from a shopping channel, over the internet, etc., and the seller doesn't collect Minnesota tax from you, you owe use tax (see "Minnesota Sales and Use Tax Instruction Booklet"). The booklet can be found on the Minnesota Department of Revenue's website: <http://www.taxes.state.mn.us/>.

Shipping and Handling Charges

I recently purchased something from a company in Minnesota. They charged me tax on the supplies, but didn't charge me tax for the shipping and handling. What should I do?

Answer: You can contact the company to adjust your invoice. If they don't charge you sales tax, YOU are responsible to pay use tax on that item. See Fact Sheet 155, Delivery Charges, for more information.

SWCD Purchases Equipment to Rent out to Landowners

Our SWCD recently purchased a piece of equipment (*i.e. tree planter, no-till drill, etc.*) that we will rent out to landowners to use. Should we be charged sales tax on that from the vendor we purchased it from?

Answer: NO. You can purchase all equipment that you lease to customers exempt of sales tax. Just give your equipment vendor an ST3 exemption certificate with "Type of business:" "**09 rental and leasing**" circled and "Reason for exemption:" "**G Resale**" circled. Your customers get charged the sales tax when applicable.

Trees planted by the SWCD through State-Cost Share

A landowner has ordered trees through our SWCD, and the SWCD will be planting these trees for the landowner. Are these trees taxable?

Answer: No. According to the Minnesota Department of Revenue's Sales Tax Fact Sheet 100, Agricultural Production, states "*Federal and state programs: Feeds, seeds, trees, fertilizers, and herbicides purchased for use by farmers in a federal or state farm or conservation program are not taxable.*" The trees would be exempt from sales tax.

NOTE: If the SWCD is planting trees on land not in a "farm" program (CRP, State C/S or EQIP), then the SWCD is responsible to pay the "use" tax on the trees.

Trees

Emerald Ash Borer Information

Where can I go to find out more information on the Emerald Ash Borer?

Answer: There are numerous websites you can go to for more information.

<http://www.emeraldashborer.info/index.cfm>

<http://www.mda.state.mn.us/plants/pestmanagement/eabhomeowners.htm>

<http://www.dnr.state.mn.us/invasives/terrestrialanimals/eab/index.html>

Native/Invasive Species

We have been selling Amur Maple to landowners in our County for years now. Amur Maple is considered an "invasive Specie" but the landowners still want to order it from us. What is MASWCD's stand on SWCD's selling invasive species?

Answer: At the 2007 MASWCD Annual Convention, the following resolution was passed by the MASWCD members. MASWCD **does not** support SWCD's selling invasive species, please refer to the following resolution for more information:

WHEREAS, Soil and Water Conservation Districts (SWCDs) facilitate the distribution of millions of bare root tree and shrub seedlings and thousands of pounds of seed annually for the purposes of conservation and wildlife habitat development; and

WHEREAS, invasive and exotic tree, shrub and herbaceous species compromise wildlife habitat productivity by reducing ecological diversity; and

WHEREAS, there are many species native to Minnesota that can be substituted for invasive and exotic species while still providing the same function.

THEREFORE, BE IT RESOLVED, that the MASWCD will encourage the use of native species in tree sales and conservation plans and support policy to that effect; and

BE IT FURTHER RESOLVED, that the MASWCD will encourage that Natural Resources Conservation Service (NRCS) to continue efforts to develop, promote, and require the use of native plant alternatives.

PASSED: MASWCD Annual Convention, December 4, 2007

MISCELLENEOUS QUESTIONS

Education – Bulletin Inserts and other materials purchased for Churches

As one of our SWCD educational programs, my SWCD purchases bulletin inserts and Litanies for any of the interested churches in our County. Are we able to make these purchases?

Answer: NO. According to the Minnesota Constitution, under section 16, it states “....., nor shall any money be drawn from the treasury for the benefit of any religious societies or religious or theological seminaries.” The Minnesota Constitution can be viewed at <http://www.house.leg.state.mn.us/cco/rules/mncon/mncon.htm>. By providing these inserts to the churches in your county (*if the SWCD is paying for them*), you are violating the Minnesota State Constitution.

Job Postings

I have a job I’d like posted to the Minnesota Association of Conservation District Employee’s (MACDE) Website, what should I do?

Answer: First, send your posting to the Current MACDE President. The President will determine if the position should be posted to the MACDE website, and will then forward it on to the website Administrator.

Logos

Our District is thinking about developing a logo. Do you know of any good websites to go to?

Answer: One SWCD suggested the following website <http://99designs.com/>.

Seed Sales through the SWCD

Some of the SWCD’s in Minnesota sell seed to landowners. Are there any provisions that these SWCD’s should be aware of?

Answer: Yes. If SWCD’s are selling seed they need to be aware of the legal requirements as the retailer. The following link [<http://www.mda.state.mn.us/licensing/grainseed/fsmsrp.htm>] will bring up information on the subject. One fact sheet in particular to note is "Selling Seed in Minnesota." Within that fact sheet, it points out that the retailer can be held responsible if they sell unlawfully labeled seed, even though it was obtained that way from someone else. One of the first things to watch for is the test date and sell by date on labels. The second page of that fact sheet also outlines recordkeeping for retailers.

Also on that web page, is a list of contacts by County if SWCD’s have more questions, which will guide you directly to the Ag Advisor for your region.

Do you have something you’d like to see on this “Frequently Asked Questions” list? Contact your MACDE Area Director, or Felicia Brockoff, MACDE President at fbrockoff@co.carver.mn.us.

**** This FAQ sheet is merely a GUIDE for you to use and does not constitute legal advice. If in doubt, please refer to the statute listed, or Fact Sheets cited for the most current information, or consult your attorney, auditor, or tax advisor. ****