

CHAPTER VI: TAXES & OTHER FORMS DISTRICTS NEED TO FILE

Section I: Required Forms

Income Tax: Form W-4 and MI-W4

Each Conservation District with one or more employees may be required to withhold and to pay income taxes to both the Internal Revenue Service and to the State of Michigan. Each employee must obtain and fill out a W-4 IRS form and MI-W4 form "Employee's Withholding Exemption Certificate." The amount of tax withheld will depend upon the total income and number of deductions. When withholding income taxes are required, the District should consult with the nearest Internal Revenue Service Office for an income tax identification number and tax payment forms. State of Michigan payment directions and forms are available from the Michigan Department of Treasury, Revenue Division, Income Tax Section, Lansing, Michigan 48933. Telephone: (800) 487-7000.

Form 941 and Form 8109

Districts need to withhold Michigan and federal income tax from each District employee. *If the District is covered under a section 218 agreement, Social Security should be withheld. If there is no section 218 agreement and the employee is not covered under a qualified pension, Social Security must be withheld.* Social Security and federal income tax are reported quarterly on Form 941. Deposits are made to an authorized depository on Form 8109. The amount of taxes you owe determines the frequency of deposits. Publication 15 provides information on depositing requirements. Forms for Michigan income tax and federal income tax withholdings are filed either monthly or quarterly.

W-2 Form, W-3 Form, and Form 1099-Misc.

A W-2 form must be filed annually with the W-3 form. W-2 copies are given to each employee on the payroll. The W-2 shows wages paid, Social Security wages, Social Security tax, Medicare tax, Michigan income tax withheld and federal income tax withheld from the employee. A 1099-Misc. form must be given to each independent contractor working with the District. The 1099-Misc. form only shows the amount of payments made for the calendar year. These forms can be obtained by calling the Internal Revenue Service at (800) 826-3676.

Form SS – 8

From the results of the SS-8 form, the IRS will determine if the person hired is a contractor or employee of the District. If the person is found to be an employee, a W-2 form has to be filed. For example, this form might be filed for tree packing labor, beach grass planting, no-till operator, etc.

Form 160 and Form 165

Provided by the State of Michigan, Department of Treasury, this form can be filled out online at the Michigan Department of Treasury website: www.michigan.gov/treasury. It contains worksheets for calculating both sales tax and Michigan Income Tax Withheld (MITW). You must also pay \$1.00 per year to renew your Sales Tax License (Form 160). These amounts are to be sent together. The combined amounts of Michigan income tax withholdings and sales tax determine if Form 165 is to be submitted annually, quarterly, or monthly.

MESC Form UC-1017e

This form is available on line at: <https://webacct.unemployment.state.mi.us>. Registration is required to use this service.

Form I-9

This Employment Eligibility Verification form must be completed by any person hired after November 6, 1986. It requires employers to verify that the employee is not an "unauthorized alien."

Section II: Board Members

Members of the board of directors of Michigan Conservation Districts are elected, government officials who make all major decisions with regard to a District's programs and activities. They are elected for terms of four years. They do not receive fees collected from individual residents of their Districts but are paid from funds of the general treasury.

Section 3401(c) of the Internal Revenue Code, pertaining to the Collection of Income Tax at Source on Wages, defines the term "employee" as including an officer, employee or elected official of the United States, a State or any political subdivision thereof.

Section 31.3401(c)-1(a) of the Employment Tax Regulations provides that the term "employee" includes officers and employees, whether elected or appointed, of a state or political subdivision thereof.

Accordingly, because the member is an elected official of a political subdivision of the State of Michigan, he/she is an employee within the meaning of section 3401(c) of the 44 Code and section 31.3401(c)-1(a) of the regulations. Therefore, the member's compensation is subject to federal income tax withholding and a Form W-2 should be filed.

The member's salary is subject to FICA taxes unless he/she is a member of a retirement system maintained by the District. Refer to Code sections 3121(b)(7) and 3121(u).

The member's salary is NOT subject to FUTA tax. Section 3306(c)(7) of the Code, pertaining to FUTA, provides that services performed in the employ of a state, political subdivision, or instrumentality thereof, are excepted from the definition of employment, therefore, no Form 940 need be filed.

Mileage allowances paid to board members to attend monthly meetings are a commuting expense and therefore, should be included as a wage subject to all applicable taxes (FICA, Medicare and Withholding).

Section III: Workers' Compensation

Every District is responsible for carrying Workers' Compensation insurance on all employees. **This is mandatory** and every District must carry this insurance if it has any employees, whether they work one-half day per month or five days each week. **The position classification for regular District employee's position is clerical office 8810.** This classification should be used when applying for Workers' Compensation coverage. Workers' Compensation Insurance may be obtained from any insurance agency.

Districts that are unable to obtain Workers' Compensation Insurance from a local insurance agency should apply to: The Accident Fund Company, 232 South Capital Avenue, Lansing, Michigan 48933, Telephone: (517) 342-4200.

District directors are covered by the State of Michigan while fulfilling responsibilities as an elected official of a unit of government.

Section IV: State Sales Tax

Conservation Districts are responsible for the collection of sales tax and remitting it to the Michigan Department of Treasury on all retail sales. Conservation Districts must:

1. **Obtain a Michigan Sales Tax License:** The Michigan Department of Treasury "Application for Registration" must be filed with the Sales and Use Tax Division of the Michigan Department of Treasury. The sales tax license must be renewed annually using Form 160.
2. **Remit Sales Tax:** Michigan sales tax and Michigan Income Tax Withholding are to be sent together using Form 160. The Annual Return, using Form C-165 must be filed by February 28, even if no tax is due. Submit payment either:
 - a. **Annually** - Any District owing less than \$200 in sales tax and Michigan Income Tax withheld must remit once a year.
 - b. **Quarterly** - Any District owing from \$200 to \$2,400 in sales tax and Michigan Income Tax withheld must remit once a quarter.
 - c. **Monthly** - Any District owing over \$2,400 in sales tax and Michigan Income Tax withheld yearly must remit on a monthly and annual basis.
3. **Issue Receipts:** All retail sales must be receipted.
4. **Order Form for Tree Sale:** Order forms must contain the statement:
 - a. The price includes Michigan sales tax, or
 - b. Tree seedlings are subject to Michigan sales tax.

Section V: Sales Tax Exemption

Michigan's Conservation Districts need not pay sales tax on purchases of supplies and equipment. Since Department of Treasury auditors require proof of purchaser's exemption, a District should provide each of its suppliers with a Tax Exemption Certificate. This certificate should be on the District letterhead and signed by the chairperson of the board of directors. To obtain Form SS-4, Application for Employer Identification Number, contact the IRS at (800) 829-3676.

SUGGESTED CERTIFICATE FORM FOR SALES TAX EXEMPTION

The Michigan Department of Treasury, in a statement dated July 16, 1945, declared that it "recognizes a Michigan Conservation District to be an entity of government and as such, exempt from the payment of sales tax."

_____, Chairperson
(Signature)

_____ Conservation District

Section VI: Land Improvement

Tree seedlings sold for reforestation, erosion control, windbreaks, or wildlife are considered real estate improvements. Tree seedlings sold for those purposes are subject to Michigan sales tax. For more information, correspondence or questions concerning retail sales tax should be directed to:

Sales and Use Tax Division
Michigan Department of Treasury
Lansing, Michigan 48933
Telephone: (517) 373-3190.

Section VI: PI-184, Certificate of Inspection

A Certificate (PI-184) must be obtained annually for the purpose of selling nursery stock. This certificate is obtained from:

The Michigan Department of Agriculture
Pesticide and Plant Pest Management Division
Telephone: (517) 373-1087

You must obtain a copy of a "Sales Tax Exemption" statement from those entities that will be purchasing trees tax free (i.e. County Road Commissions).

Section VII: IRS Offices in Michigan & Where to Obtain Forms

Internal Revenue Service – For a list of offices in Michigan, visit the IRS local Contacts page at <http://www.irs.gov/localcontacts/article/0,,id=98287,00.html>.

State Forms - Michigan Department of Treasury, Treasury Building, Lansing, Michigan 48922. Telephone: (517) 373-3200. <http://www.mi.gov/treasury>