

# Excluding Sales Tax on Capital Credits

A Prime Example of Doing the Right  
Thing for our Members

REMA CEO Conference

April 7, 2011

# Agenda

- Who are the “Sales Tax 16”?
- Time line
- What is tax court?
- Free Riders
- Risk

# The “Sales Tax 16” Appeal Participants

- Connexus
- Crow Wing
- Federated
- Kandiyohi
- Lake Region
- Lyon-Lincoln
- McLeod
- Meeker
- Mille Lacs
- Nobles
- Red River Valley
- Roseau
- Runestone
- Steele-Waseca
- Todd-Wadena
- Wright-Hennepin

# Timeline

## A very long time...

- January 2002
  - Sales tax law changes
  - From “Gross to Net”
- May 2004
  - Connexus engages Deloitte
- February 2005 to July 2006
  - Initial claims filed (back to 2002)
  - Refunds paid immediately
  - Later refunds for 2006 & 2007

# Time Line

- July 2007
  - Sales Tax Audit
- Sept 2007
  - Initial determination letter rejecting sales tax refunds
- November 2007 to October 2009
  - Correspondence & meetings between Deloitte and MN Department of Revenue

# Timeline

- March 2010
  - 17 coops receive final determination letter rejecting sales tax refund
- Summer 2010
  - 16 cooperatives agree to appeal
  - Tom Muck engaged
  - Joint Expense Sharing Agreement
  - Appeals filed
- March 2011
  - 16 cases consolidated
  - Judge assigned

# Timeline

- May 2011
  - Tentative trial date
  - Most likely – Fall 2011
- Summer 2011
  - Trial prep
  - Stipulation of facts
  - Statute of limitations
  - Negotiations with AG and DOR
- 2012 MN Supreme Court Appeal

# What is the Tax Court

- Minnesota Executive Branch State Court
- 3 judges
  - 1 judge per case
  - Travel around the state
- Appeals from
  - Department of Revenue
  - Assessment and taxation of property
- Appeals to
  - Minnesota Supreme Court

# Free Riders

16 coops are paying the legal bill....

- When we win in 2012
  - Sales Tax 16
    - Refunds back as far as 2002
    - Refunds going forward
  - Everyone else
    - Only 2009 to 2011 available for past refunds
    - Refunds going forward
    - Checks of thanks written to the Sales Tax 16
- If we settle
  - Agreements will only apply to Sales Tax 16

# What if we lose?

## Interest & Legal Fees

- Sales Tax is a pass thru
  - No affect on margins if we give it back
- Sales tax refunds are currently an interest free loan on our balance sheet
- Interest charged by MN DOR
  - 3% to 8% per year
- Legal fees
  - Refunds to members reduced by fees paid if we win
  - Fees reduce margins if we lose

# Questions