

H. F. No. **1743**

(f) "Wholesaler" means any person making wholesale sales of sports memorabilia to purchasers in the state.

**Subd. 2. Imposition.** A tax is imposed on each sale at wholesale of sports memorabilia equal to ten percent of the gross revenues from the sale.

**Subd. 3. Estimated payments; annual return.** (a) Each wholesaler must make estimated payments of the tax for the calendar year to the commissioner in quarterly installments by April 15, July 15, October 15, and January 15 of the following calendar year. Estimated tax payments are not required if the tax for the calendar year is less than \$500. An underpayment of estimated installments bears interest at the rate specified in section 270C.40, from the due date of the payment until paid or until the due date of the annual return at the rate specified in section 270C.40. An underpayment of an estimated installment is the difference between the amount paid and the lesser of (1) 90 percent of one-quarter of the tax for the calendar year, or (2) the tax for the actual gross revenues received during the quarter.

(b) A taxpayer with an aggregate tax liability of \$10,000 or more during a fiscal year ending June 30, must remit all liabilities by funds transfer as defined in section 336.4A-104, paragraph (a), in the next calendar year. The funds-transfer payment date, as defined in section 336.4A-401, is on or before the first funds-transfer business day after the date the tax is due.

(c) The taxpayer must file an annual return reconciling the estimated payments by March 15 of the following calendar year.

(d) The estimated payments and annual return must contain the information and be in the form prescribed by the commissioner.

**Subd. 4. Compensating use tax.** If the tax is not paid under subdivision 2, a compensating tax is imposed on possession for sale or use of sports memorabilia in the state. The rate of tax equals the rate under subdivision 2, and must be paid by the possessor of the items.

**Subd. 5. Administrative provisions.** Unless specifically provided otherwise by this section, the audit, assessment, refund, penalty, interest, enforcement, collection remedies, appeal, and administrative provisions of chapters 270C and 289A that apply to taxes imposed under chapter 297A apply to taxes imposed under this section.

**Subd. 6. Disposition of revenues.** The commissioner shall deposit the revenues from the tax in the general fund.

**EFFECTIVE DATE.** This section is effective for sales made after June 30, 2013.

Sec. 2. Minnesota Statutes 2012, section 297A.61, subdivision 3, is amended to read:

Subd. 3. **Sale and purchase.** (a) "Sale" and "purchase" include, but are not limited to, each of the transactions listed in this subdivision.

(b) Sale and purchase include:

(1) any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, for a consideration in money or by exchange or barter; and

(2) the leasing of or the granting of a license to use or consume, for a consideration in money or by exchange or barter, tangible personal property, other than a manufactured home used for residential purposes for a continuous period of 30 days or more.

(c) Sale and purchase include the production, fabrication, printing, or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing.

(d) Sale and purchase include the preparing for a consideration of food. Notwithstanding section 297A.67, subdivision 2, taxable food includes, but is not limited to, the following:

(1) prepared food sold by the retailer;

(2) soft drinks;

(3) candy;

(4) dietary supplements; and

(5) all food sold through vending machines.

(e) A sale and a purchase includes the furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state.

(f) A sale and a purchase includes the transfer for a consideration of prewritten computer software whether delivered electronically, by load and leave, or otherwise.

(g) A sale and a purchase includes the furnishing for a consideration of the following services:

(1) the privilege of admission to places of amusement, recreational areas, or athletic events, including seat licenses, the rental of box seats, suites, sky boxes, and similar facilities in stadiums and arenas and the making available of amusement devices, tanning facilities, reducing salons, steam baths, Turkish baths, health clubs, and spas or athletic facilities;

(2) lodging and related services by a hotel, rooming house, resort, campground, motel, or trailer camp, including furnishing the guest of the facility with access to telecommunication services, and the granting of any similar license to use real property in a specific facility, other than the renting or leasing of it for a continuous period of 30 days or more under an enforceable written agreement that may not be terminated without prior

notice and including accommodations intermediary services provided in connection with other services provided under this clause;

(3) nonresidential parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(4) the granting of membership in a club, association, or other organization if:

(i) the club, association, or other organization makes available for the use of its members sports and athletic facilities, without regard to whether a separate charge is assessed for use of the facilities; and

(ii) use of the sports and athletic facility is not made available to the general public on the same basis as it is made available to members.

Granting of membership means both onetime initiation fees and periodic membership dues. Sports and athletic facilities include golf courses; tennis, racquetball, handball, and squash courts; basketball and volleyball facilities; running tracks; exercise equipment; swimming pools; and other similar athletic or sports facilities;

(5) delivery of aggregate materials by a third party, excluding delivery of aggregate material used in road construction; and delivery of concrete block by a third party if the delivery would be subject to the sales tax if provided by the seller of the concrete block; and

(6) services as provided in this clause:

(i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting services and pest control and exterminating services;

(iv) detective, security, burglar, fire alarm, and armored car services; but not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1, or services provided by a nonprofit organization for monitoring and electronic surveillance of persons placed on in-home detention pursuant to court order or under the direction of the Minnesota Department of Corrections;

(v) pet grooming services;

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor plant care; tree, bush, shrub, and stump removal, except when performed as part of a land

clearing contract as defined in section 297A.68, subdivision 40; and tree trimming for public utility lines. Services performed under a construction contract for the installation of shrubbery, plants, sod, trees, bushes, and similar items are not taxable;

(vii) massages, except when provided by a licensed health care facility or professional or upon written referral from a licensed health care facility or professional for treatment of illness, injury, or disease; and

(viii) the furnishing of lodging, board, and care services for animals in kennels and other similar arrangements, but excluding veterinary and horse boarding services.

In applying the provisions of this chapter, the terms "tangible personal property" and "retail sale" include taxable services listed in clause (6), items (i) to (vi) and (viii), and the provision of these taxable services, unless specifically provided otherwise.

Services performed by an employee for an employer are not taxable. Services performed by a partnership or association for another partnership or association are not taxable if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of the preceding sentence, "affiliated group of corporations" means those entities that would be classified as members of an affiliated group as defined under United States Code, title 26, section 1504, disregarding the exclusions in section 1504(b).

For purposes of clause (5), "road construction" means construction of (1) public roads, (2) cartways, and (3) private roads in townships located outside of the seven-county metropolitan area up to the point of the emergency response location sign.

(h) A sale and a purchase includes the furnishing for a consideration of tangible personal property or taxable services by the United States or any of its agencies or instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political subdivisions.

(i) A sale and a purchase includes the furnishing for a consideration of telecommunications services, ancillary services associated with telecommunication services, cable television services, and direct satellite services. Telecommunication services include, but are not limited to, the following services, as defined in section 297A.669: air-to-ground radiotelephone service, mobile telecommunication service, postpaid calling service, prepaid calling service, prepaid wireless calling service, and private communication services. The services in this paragraph are taxed to the extent allowed under federal law.

(j) A sale and a purchase includes the furnishing for a consideration of installation if the installation charges would be subject to the sales tax if the installation were provided by the seller of the item being installed.

(k) A sale and a purchase includes the rental of a vehicle by a motor vehicle dealer to a customer when (1) the vehicle is rented by the customer for a consideration, or (2) the motor vehicle dealer is reimbursed pursuant to a service contract as defined in section 59B.02, subdivision 11.

**EFFECTIVE DATE.** This section is effective for sales made after June 30, 2013.

Sec. 3. Minnesota Statutes 2012, section 297E.021, subdivision 2, is amended to read:

Subd. 2. **Determination of revenue increase.** By March 15 of each fiscal year, the commissioner of management and budget, in consultation with the commissioner, shall determine the estimated increase in revenues received from (1) taxes imposed under this chapter, and (2) the taxes imposed under section 295.61 and the amendments to section 297A.61, subdivision 3, under section 2 over (3) the estimated revenues under the February 2012 state budget forecast from the taxes imposed under this chapter for that fiscal year. For fiscal years after fiscal year 2015, the commissioner of management and budget shall use the February 2012 state budget forecast for fiscal year 2015 for the amount of taxes collected under this chapter as the baseline. All calculations under this subdivision must be made net of estimated refunds of the taxes required to be paid.

**EFFECTIVE DATE.** This section is effective the day following final enactment.