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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1781

04/16/2013 Authored by Hortman and Lenczewski
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; sales and use; providing an exemption for a
1.3 biopharmaceutical manufacturing facility; amending Minnesota Statutes 2012,
1.4 sections 297A.71, by adding a subdivision; 297A.75.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 297A.71, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 45. **Biopharmaceutical manufacturing facility.** (a) Materials and
1.9 supplies used or consumed in, capital equipment incorporated into, and privately
1.10 owned infrastructure in support of the construction, improvement, or expansion of a
1.11 biopharmaceutical manufacturing facility in the state are exempt if the following criteria
1.12 are met:

1.13 (1) the facility is used for the manufacturing of biologics;
1.14 (2) the total capital investment made at the facility exceeds \$50,000,000; and
1.15 (3) the facility creates and maintains at least 190 full-time equivalent positions at the
1.16 facility. These positions must be new jobs in Minnesota and not the result of relocating
1.17 jobs that currently exist in Minnesota.

1.18 (b) The tax must be imposed and collected as if the rate under section 297A.62,
1.19 subdivision 1, applied, and refunded in the manner provided in section 297A.75.

1.20 (c) To be eligible for a refund, the owner of the biopharmaceutical manufacturing
1.21 facility must:

1.22 (1) initially apply to the Department of Employment and Economic Development
1.23 for certification no later than one year from the final completion date of construction,
1.24 improvement, or expansion of the facility; and

2.1 (2) for each year that the owner of the biopharmaceutical manufacturing facility
 2.2 applies for a refund, the owner must have received written certification from the
 2.3 Department of Employment and Economic Development that the facility has met the
 2.4 criteria of paragraph (a).

2.5 (d) The refund is to be paid annually at a rate of 25 percent of the total allowable
 2.6 refund payable to date, with the commissioner making annual payments of the remaining
 2.7 refund until all of the refund has been paid.

2.8 (e) For purposes of this subdivision, "biopharmaceutical" and "biologics" are
 2.9 interchangeable and mean medical drugs or medicinal preparations produced using
 2.10 technology that uses biological systems, living organisms or derivatives of living
 2.11 organisms, to make or modify products or processes for specific use. The medical drugs or
 2.12 medicinal preparations include but are not limited to proteins, antibodies, nucleic acids,
 2.13 and vaccines.

2.14 **EFFECTIVE DATE.** This section is effective retroactively to investments entered
 2.15 into and jobs created after December 31, 2012, and effective retroactively for sales and
 2.16 purchases made after December 31, 2012, and before July 1, 2019.

2.17 Sec. 2. Minnesota Statutes 2012, section 297A.75, is amended to read:

2.18 **297A.75 REFUND; APPROPRIATION.**

2.19 Subdivision 1. **Tax collected.** The tax on the gross receipts from the sale of the
 2.20 following exempt items must be imposed and collected as if the sale were taxable and the
 2.21 rate under section 297A.62, subdivision 1, applied. The exempt items include:

2.22 (1) capital equipment exempt under section 297A.68, subdivision 5;

2.23 (2) building materials for an agricultural processing facility exempt under section
 2.24 297A.71, subdivision 13;

2.25 (3) building materials for mineral production facilities exempt under section
 2.26 297A.71, subdivision 14;

2.27 (4) building materials for correctional facilities under section 297A.71, subdivision 3;

2.28 (5) building materials used in a residence for disabled veterans exempt under section
 2.29 297A.71, subdivision 11;

2.30 (6) elevators and building materials exempt under section 297A.71, subdivision 12;

2.31 (7) building materials for the Long Lake Conservation Center exempt under section
 2.32 297A.71, subdivision 17;

2.33 (8) materials and supplies for qualified low-income housing under section 297A.71,
 2.34 subdivision 23;

3.1 (9) materials, supplies, and equipment for municipal electric utility facilities under
3.2 section 297A.71, subdivision 35;

3.3 (10) equipment and materials used for the generation, transmission, and distribution
3.4 of electrical energy and an aerial camera package exempt under section 297A.68,
3.5 subdivision 37;

3.6 (11) commuter rail vehicle and repair parts under section 297A.70, subdivision 3,
3.7 paragraph (a), clause (10);

3.8 (12) materials, supplies, and equipment for construction or improvement of projects
3.9 and facilities under section 297A.71, subdivision 40;

3.10 (13) materials, supplies, and equipment for construction or improvement of a meat
3.11 processing facility exempt under section 297A.71, subdivision 41;

3.12 (14) materials, supplies, and equipment for construction, improvement, or expansion
3.13 of an aerospace defense manufacturing facility exempt under section 297A.71, subdivision
3.14 42;

3.15 (15) enterprise information technology equipment and computer software for use in
3.16 a qualified data center exempt under section 297A.68, subdivision 42; ~~and~~

3.17 (16) materials, supplies, and equipment for qualifying capital projects under section
3.18 297A.71, subdivision 44-; and

3.19 (17) materials, supplies, and equipment for construction, improvement, or expansion
3.20 of a biopharmaceutical manufacturing facility exempt under section 297A.71, subdivision
3.21 45.

3.22 Subd. 2. **Refund; eligible persons.** Upon application on forms prescribed by the
3.23 commissioner, a refund equal to the tax paid on the gross receipts of the exempt items
3.24 must be paid to the applicant. Only the following persons may apply for the refund:

3.25 (1) for subdivision 1, clauses (1) to (3), the applicant must be the purchaser;

3.26 (2) for subdivision 1, clauses (4) and (7), the applicant must be the governmental
3.27 subdivision;

3.28 (3) for subdivision 1, clause (5), the applicant must be the recipient of the benefits
3.29 provided in United States Code, title 38, chapter 21;

3.30 (4) for subdivision 1, clause (6), the applicant must be the owner of the homestead
3.31 property;

3.32 (5) for subdivision 1, clause (8), the owner of the qualified low-income housing
3.33 project;

3.34 (6) for subdivision 1, clause (9), the applicant must be a municipal electric utility or
3.35 a joint venture of municipal electric utilities;

4.1 (7) for subdivision 1, clauses (10), (13), (14), ~~and~~ (15), and (17), the owner of the
4.2 qualifying business; and

4.3 (8) for subdivision 1, clauses (11), (12), and (16), the applicant must be the
4.4 governmental entity that owns or contracts for the project or facility.

4.5 Subd. 3. **Application.** (a) The application must include sufficient information
4.6 to permit the commissioner to verify the tax paid. If the tax was paid by a contractor,
4.7 subcontractor, or builder, under subdivision 1, clause (4), (5), (6), (7), (8), (9), (10), (11),
4.8 (12), (13), (14), (15), ~~or~~ (16), or (17), the contractor, subcontractor, or builder must
4.9 furnish to the refund applicant a statement including the cost of the exempt items and the
4.10 taxes paid on the items unless otherwise specifically provided by this subdivision. The
4.11 provisions of sections 289A.40 and 289A.50 apply to refunds under this section.

4.12 (b) An applicant may not file more than two applications per calendar year for
4.13 refunds for taxes paid on capital equipment exempt under section 297A.68, subdivision 5.

4.14 (c) Total refunds for purchases of items in section 297A.71, subdivision 40, must not
4.15 exceed \$5,000,000 in fiscal years 2010 and 2011. Applications for refunds for purchases
4.16 of items in sections 297A.70, subdivision 3, paragraph (a), clause (11), and 297A.71,
4.17 subdivision 40, must not be filed until after June 30, 2009. Applications for refunds for
4.18 purchases of items in section 297A.71, subdivision 45, must not be filed until after June
4.19 30, 2016, and only one refund may be filed annually thereafter.

4.20 Subd. 4. **Interest.** Interest must be paid on the refund at the rate in section 270C.405
4.21 from 90 days after the refund claim is filed with the commissioner for taxes paid under
4.22 subdivision 1.

4.23 Subd. 5. **Appropriation.** The amount required to make the refunds is annually
4.24 appropriated to the commissioner.

4.25 **EFFECTIVE DATE.** This section is effective retroactively to investments entered
4.26 into and jobs created after December 31, 2012, and effective retroactively for sales and
4.27 purchases made after December 31, 2012, and before July 1, 2019.