

A bill for an act
relating to taxation; sales and use; making technical changes necessary to
conform to streamlined sales and use tax agreement; amending Minnesota
Statutes 2010, sections 297A.62, by adding a subdivision; 297A.63, by adding a
subdivision; 297A.668, subdivision 7, by adding a subdivision.

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

Section 1. Minnesota Statutes 2010, section 297A.62, is amended by adding a
subdivision to read:

Subd. 5. **Transitional period for services.** When there is a change in the rate of tax
imposed by this section, the following transitional period shall apply to the retail sale of
services covering a billing period starting before and ending after the statutory effective
date of the rate change:

(1) for a rate increase, the new rate shall apply to the first billing period starting
on or after the effective date; and

(2) for a rate decrease, the new rate shall apply to bills rendered on or after the
effective date.

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

Sec. 2. Minnesota Statutes 2010, section 297A.63, is amended by adding a subdivision
to read:

Subd. 3. **Transitional period for services.** When there is a change in the rate of
tax imposed by this section, the following transitional period shall apply to the taxable
services purchased for use, storage, distribution, or consumption in this state when the

service purchased covers a billing period starting before and ending after the statutory effective date of the rate change:

(1) for a rate increase, the new rate shall apply to the first billing period starting on or after the effective date; and

(2) for a rate decrease, the new rate shall apply to bills rendered on or after the effective date.

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

Sec. 3. Minnesota Statutes 2010, section 297A.668, subdivision 7, is amended to read:

Subd. 7. **Advertising and promotional direct mail.** (a) Notwithstanding other subdivisions of this section, the provisions in paragraphs (b) to (e) apply to the sale of advertising and promotional direct mail. "Advertising and promotional direct mail" means printed material that is direct mail as defined in section 297A.61, subdivision 35, the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a person, business, organization, or product. "Product" includes tangible personal property, a digital product transferred electronically, or a service.

(b) A purchaser of advertising and promotional direct mail ~~that is not a holder of a direct pay permit shall provide to the seller, in conjunction with the purchase, either a direct mail form or~~ may provide the seller with either:

(1) a fully completed exemption certificate as described in section 297A.72 indicating that the purchaser is authorized to pay any sales or use tax due on purchases made by the purchaser directly to the commissioner under section 297A.89;

(2) a fully completed exemption certificate claiming an exemption for direct mail; or

(3) information ~~to show~~ showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.

~~(1) Upon receipt of the direct mail form,~~ (c) In the absence of bad faith, if the purchaser provides one of the exemption certificates indicated in paragraph (b), clauses (1) and (2), the seller is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. ~~A direct mail form remains in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.~~ tax on any transaction involving advertising and promotional direct mail to which the certificate applies. The purchaser shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients of the mail, and shall report and pay any applicable tax due.

~~(2) Upon receipt of~~ (d) If the purchaser provides the seller information from the purchaser showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients, the seller shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered and shall collect and remit the applicable tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect any additional tax on any transaction for which the sale of advertising and promotional direct mail where the seller has collected tax pursuant sourced the sale according to the delivery information provided by the purchaser.

~~(b)~~ (e) If the purchaser of direct mail does not have a direct pay permit and does not provide the seller with either a direct mail form or delivery information, as required by paragraph (a), the seller shall collect the tax according to any of the items listed in paragraph (b), the sale shall be sourced under subdivision 2, paragraph (f). Nothing in this paragraph limits a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

~~(c) If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser is not required to provide a direct mail form or delivery information to the seller.~~

(f) This subdivision does not apply to printed materials that result from developing billing information or providing any data processing service that is more than incidental to producing the printed materials, regardless of whether advertising and promotional direct mail is included in the same mailing.

(g) If a transaction is a bundled transaction that includes advertising and promotional direct mail, this subdivision applies only if the primary purpose of the transaction is the sale of products or services that meet the definition of advertising and promotional direct mail.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2011.

Sec. 4. Minnesota Statutes 2010, section 297A.668, is amended by adding a subdivision to read:

Subd. 7a. Other direct mail. (a) Notwithstanding other subdivisions of this section, the provisions in paragraphs (b) and (c) apply to the sale of other direct mail. "Other direct mail" means printed material that is direct mail as defined in section 297A.61, subdivision 35, but is not advertising and promotional direct mail as described in subdivision 7, regardless of whether advertising and promotional direct mail is included in the same mailing. Other direct mail includes, but is not limited to:

4.1 (1) direct mail pertaining to a transaction between the purchaser and addressee,
4.2 where the mail contains personal information specific to the addressee including, but not
4.3 limited to, invoices, bills, statements of account, and payroll advices;

4.4 (2) any legally required mailings including, but not limited to, privacy notices,
4.5 tax reports, and stockholder reports; and

4.6 (3) other nonpromotional direct mail delivered to existing or former shareholders,
4.7 customers, employees, or agents including, but not limited to, newsletters and
4.8 informational pieces.

4.9 Other direct mail does not include printed materials that result from developing
4.10 billing information or providing any data processing service that is more than incidental to
4.11 producing the other direct mail.

4.12 (b) A purchaser of other direct mail may provide the seller with either a fully
4.13 completed exemption certificate as described in section 297A.72 indicating that the
4.14 purchaser is authorized to pay any sales or use tax due on purchases made by the purchaser
4.15 directly to the commissioner under section 297A.89, or a fully completed exemption
4.16 certificate claiming an exemption for direct mail. If the purchaser provides one of the
4.17 exemption certificates listed, then the seller, in the absence of bad faith, is relieved of all
4.18 obligations to collect, pay, or remit the tax on any transaction involving other direct mail
4.19 to which the certificate applies. The purchaser shall source the sale to the jurisdictions to
4.20 which the other direct mail is to be delivered to the recipients of the mail, and shall report
4.21 and pay any applicable tax due.

4.22 (c) If the purchaser does not provide the seller with a fully completed exemption
4.23 certificate claiming either exemption listed in paragraph (b), the sale shall be sourced
4.24 according to subdivision 2, paragraph (d).

4.25 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
4.26 June 30, 2011.