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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4929

03/14/2024 Authored by Lislegard and Davids 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; modifying the exemption for data centers;
1.3 amending Minnesota Statutes 2022, sections 297A.68, subdivision 42; 297A.75,
1.4 subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2022, section 297A.68, subdivision 42, is amended to read:

1.7 Subd. 42. Qualified Data centers. (a) Purchases of enterprise information technology
1.8 equipment and computer software for use in a qualified data center, or a qualified refurbished
1.9 data center, or a qualified large-scale data center are exempt, except that computer software
1.10 maintenance agreements are exempt for purchases made after June 30, 2013. The tax on
1.11 purchases exempt under this paragraph must be imposed and collected as if the rate under
1.12 section 297A.62, subdivision 1, applied, and then refunded after June 30, 2013, in the manner
1.13 provided in section 297A.75. This exemption includes enterprise information technology
1.14 equipment and computer software purchased to replace or upgrade enterprise information
1.15 technology equipment and computer software in a qualified data center, or a qualified
1.16 refurbished data center, or a qualified large-scale data center.

1.17 (b) For a qualified data center or qualified refurbished data center, the tax on purchases
1.18 exempt under paragraph (a) must be imposed and collected as if the rate under section
1.19 297A.62, subdivision 1, applied, and then refunded after June 30, 2013, in the manner
1.20 provided in section 297A.75.

1.21 (c) For a qualified large-scale data center, the exemption under paragraph (a) applies at
1.22 the time of purchase.

2.1 ~~(b)~~ (d) Electricity used or consumed in the operation of a qualified data center or qualified
2.2 refurbished data center, or qualified large-scale data center is exempt.

2.3 ~~(e)~~ (e) For purposes of this subdivision, "qualified data center" means a facility in
2.4 Minnesota:

2.5 (1) that is comprised of one or more buildings that consist in the aggregate of at least
2.6 25,000 square feet, and that are located on a single parcel or on contiguous parcels, where
2.7 the total cost of construction or refurbishment, investment in enterprise information
2.8 technology equipment, and computer software is at least \$30,000,000 within a 48-month
2.9 period. The 48-month period begins no sooner than July 1, 2012, except that costs for
2.10 computer software maintenance agreements purchased before July 1, 2013, are not included
2.11 in determining if the \$30,000,000 threshold has been met;

2.12 (2) that is constructed or substantially refurbished after June 30, 2012, where
2.13 "substantially refurbished" means that at least 25,000 square feet have been rebuilt or
2.14 modified, including:

2.15 (i) installation of enterprise information technology equipment; environmental control,
2.16 computer software, and energy efficiency improvements; and

2.17 (ii) building improvements; and

2.18 (3) that is used to house enterprise information technology equipment, where the facility
2.19 has the following characteristics:

2.20 (i) uninterruptible power supplies, generator backup power, or both;

2.21 (ii) sophisticated fire suppression and prevention systems; and

2.22 (iii) enhanced security. A facility will be considered to have enhanced security if it has
2.23 restricted access to the facility to selected personnel; permanent security guards; video
2.24 camera surveillance; an electronic system requiring pass codes, keycards, or biometric scans,
2.25 such as hand scans and retinal or fingerprint recognition; or similar security features.

2.26 In determining whether the facility has the required square footage, the square footage
2.27 of the following spaces shall be included if the spaces support the operation of enterprise
2.28 information technology equipment: office space, meeting space, and mechanical and other
2.29 support facilities. For purposes of this subdivision, "computer software" includes, but is not
2.30 limited to, software utilized or loaded at a qualified data center or qualified refurbished
2.31 data center, or qualified large-scale data center, including maintenance, licensing, and
2.32 software customization.

3.1 ~~(d)~~ (f) For purposes of this subdivision, a "qualified refurbished data center" means an
3.2 existing facility that qualifies as a data center under paragraph (c), clauses (2) and (3), but
3.3 that is comprised of one or more buildings that consist in the aggregate of at least 25,000
3.4 square feet, and that are located on a single parcel or contiguous parcels, where the total
3.5 cost of construction or refurbishment, investment in enterprise information technology
3.6 equipment, and computer software is at least \$50,000,000 within a 24-month period.

3.7 ~~(e)~~ (g) For purposes of this subdivision, "enterprise information technology equipment"
3.8 means computers and equipment supporting computing, networking, or data storage,
3.9 including servers and routers. It includes, but is not limited to: cooling systems, cooling
3.10 towers, and other temperature control infrastructure; power infrastructure for transformation,
3.11 distribution, or management of electricity used for the maintenance and operation of a
3.12 qualified data center or qualified refurbished data center, including but not limited to exterior
3.13 dedicated business-owned substations, backup power generation systems, battery systems,
3.14 and related infrastructure; and racking systems, cabling, and trays, which are necessary for
3.15 the maintenance and operation of the qualified data center ~~or~~, qualified refurbished data
3.16 center, or qualified large-scale data center.

3.17 (h) For purposes of this subdivision, a "qualified large-scale data center" means a facility
3.18 in Minnesota:

3.19 (1) that is comprised of one or more buildings connected to each other by fiber and
3.20 associated equipment required for operating a fiber transmission network between data
3.21 center buildings and Internet points for the purpose of providing redundancy and resiliency
3.22 for the data center services provided in each building that consist in the aggregate of at least
3.23 25,000 square feet, and that are located in one physical location or multiple locations; and

3.24 (2) for which the total cost of construction or refurbishment, investment in enterprise
3.25 information technology equipment, and computer software is at least \$250,000,000
3.26 collectively by the facility and its tenants within a 60-month period beginning after June
3.27 30, 2024.

3.28 ~~(f)~~ (i) A qualified data center or qualified refurbished data center may claim the
3.29 exemptions in this subdivision for purchases made either within 20 years of the date of its
3.30 first purchase qualifying for the exemption under paragraph (a), or by June 30, 2042,
3.31 whichever is earlier.

3.32 (j) A qualified large-scale data center may claim the exemption in this subdivision for
3.33 sales purchases qualifying for the exemption under paragraph (a) until July 1, 2059.

4.1 ~~(g)~~ (k) The purpose of this exemption is to create jobs in the construction and data center
4.2 industries.

4.3 ~~(h) This subdivision~~ (l) The exemption under this subdivision for qualified data centers
4.4 and qualified refurbished data centers is effective for sales and purchases made before July
4.5 1, 2042.

4.6 ~~(i)~~ (m) The commissioner of employment and economic development must certify to
4.7 the commissioner of revenue, in a format approved by the commissioner of revenue, when
4.8 a qualified data center has met the requirements under paragraph ~~(e)~~ (e), a qualified
4.9 refurbished data center has met the requirements under paragraph ~~(d)~~ (f), or a qualified
4.10 large-scale data center has met the requirements under paragraph (h). The certification must
4.11 provide the following information regarding each qualified data center ~~or~~, qualified
4.12 refurbished data center, or qualified large-scale data center:

4.13 (1) the total square footage amount;

4.14 (2) the total amount of construction or refurbishment costs and the total amount of
4.15 qualifying investments in enterprise information technology equipment and computer
4.16 software;

4.17 (3) for a qualified data center or qualified refurbished data center, the beginning and
4.18 ending of the applicable period under either paragraph ~~(e)~~ (e) or ~~(d)~~ (f) in which the qualifying
4.19 expenditures and purchases under clause (2) were made, but in no case shall the period
4.20 begin before July 1, 2012; ~~and~~

4.21 (4) for a qualified large-scale data center, the beginning and end of the applicable period
4.22 under paragraph (h) in which the qualifying expenditures and purchases were made, but in
4.23 no case shall the period begin before July 1, 2024; and

4.24 ~~(4)~~ (5) the date upon which the qualified data center first met the requirements under
4.25 paragraph ~~(e)~~ (e), or a qualified refurbished data center first met the requirements under
4.26 paragraph ~~(d)~~ (f), or a qualified large-scale data center met the requirements under paragraph
4.27 (h).

4.28 ~~(j)~~ (n) Any refund for sales tax paid on qualifying purchases under paragraph (b) ~~this~~
4.29 ~~subdivision~~ must not be issued unless the commissioner of revenue has received the
4.30 certification required under paragraph ~~(i)~~ (m) issued by the commissioner of employment
4.31 and economic development.

4.32 ~~(k)~~ (o) The commissioner of employment and economic development must annually
4.33 notify the commissioner of revenue of the qualified large-scale data centers that are projected

5.1 to meet the requirements under paragraph ~~(e)~~ and the qualified refurbished data centers that
 5.2 are projected to meet the requirements under paragraph ~~(d)~~ (h) in each of the next four years.
 5.3 The notification must provide the information required under paragraph ~~(i)~~ (m), clauses (1)
 5.4 to, (2), (4), and (5), for each qualified large-scale data center or ~~qualified refurbished data~~
 5.5 ~~center~~.

5.6 (p) Within three years after being placed in service, a qualified large-scale data center
 5.7 must certify to the commissioner of employment and economic development that the facility
 5.8 has attained certification under one or more of the following sustainable design or green
 5.9 building standards:

5.10 (1) BREEAM for new construction or BREEAM in-use;

5.11 (2) Energy Star;

5.12 (3) Envision;

5.13 (4) ISO 50001-energy management;

5.14 (5) LEED for building design and construction or LEED for operations and maintenance;

5.15 (6) green globes for new construction or green globes for existing buildings;

5.16 (7) UL 3223; or

5.17 (8) other reasonable standards approved by the commissioner of employment and
 5.18 economic development.

5.19 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
 5.20 30, 2024.

5.21 Sec. 2. Minnesota Statutes 2022, section 297A.75, subdivision 1, is amended to read:

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

5.25 (1) building materials for an agricultural processing facility exempt under section
 5.26 297A.71, subdivision 13;

5.27 (2) building materials for mineral production facilities exempt under section 297A.71,
 5.28 subdivision 14;

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

6.1 (4) building materials used in a residence for veterans with a disability exempt under
6.2 section 297A.71, subdivision 11;

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

6.4 (6) materials and supplies for qualified low-income housing under section 297A.71,
6.5 subdivision 23;

6.6 (7) materials, supplies, and equipment for municipal electric utility facilities under
6.7 section 297A.71, subdivision 35;

6.8 (8) equipment and materials used for the generation, transmission, and distribution of
6.9 electrical energy and an aerial camera package exempt under section 297A.68, subdivision
6.10 37;

6.11 (9) commuter rail vehicle and repair parts under section 297A.70, subdivision 3, paragraph
6.12 (a), clause (10);

6.13 (10) materials, supplies, and equipment for construction or improvement of projects and
6.14 facilities under section 297A.71, subdivision 40;

6.15 (11) materials, supplies, and equipment for construction, improvement, or expansion of
6.16 a biopharmaceutical manufacturing facility exempt under section 297A.71, subdivision 45;

6.17 (12) enterprise information technology equipment and computer software for use in a
6.18 qualified data center or qualified refurbished data center exempt under section 297A.68,
6.19 subdivision 42, paragraph (b);

6.20 (13) materials, supplies, and equipment for qualifying capital projects under section
6.21 297A.71, subdivision 44, paragraph (a), clause (1), and paragraph (b);

6.22 (14) items purchased for use in providing critical access dental services exempt under
6.23 section 297A.70, subdivision 7, paragraph (c);

6.24 (15) items and services purchased under a business subsidy agreement for use or
6.25 consumption primarily in greater Minnesota exempt under section 297A.68, subdivision
6.26 44;

6.27 (16) building materials, equipment, and supplies for constructing or replacing real
6.28 property exempt under section 297A.71, subdivisions 49; 50, paragraph (b); and 51;

6.29 (17) building materials, equipment, and supplies for qualifying capital projects under
6.30 section 297A.71, subdivision 52; and

7.1 (18) building materials, equipment, and supplies for constructing, remodeling, expanding,
7.2 or improving a fire station, police station, or related facilities exempt under section 297A.71,
7.3 subdivision 53.

7.4 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
7.5 30, 2024.