

1 Department of Revenue

2

3 Adopted Permanent Rules Relating to Sales Tax on Waste Disposal
4 and Collection Services

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6 Rules as Adopted

7 8130.2100 WASTE COLLECTION AND DISPOSAL SERVICES.

8 Subpart 1. General information. Public and private mixed
9 municipal solid waste collection and disposal services are
10 subject to sales or use tax pursuant to Minnesota Statutes,
11 section 297A.01, subdivision 3, clause (j), item (vii), and as
12 described in Minnesota Statutes, section 297A.45.

13 The total general sales and use tax rate is 6.5 percent.
14 This consists of a six percent rate imposed by Minnesota
15 Statutes, section 297A.02, combined with a .5 percent local
16 option sales tax imposed by Minnesota Statutes, section 297A.021.

17 Waste collection and disposal services are taxable whether
18 charged directly to customers by private or public haulers or
19 paid for through government imposed service fees or tax
20 assessments.

21 Pursuant to Minnesota Statutes, section 297A.44,
22 subdivision 1, paragraph (d), the revenues, including interest
23 and penalties, which are derived from the taxes imposed on solid
24 waste collection services are used to fund solid waste reduction
25 and recycling programs.

26 Subp. 2. Definitions. For purposes of this part, the
27 terms as defined in Minnesota Statutes, sections 115A.03 and
28 297A.01, apply.

29 A. "Collection" has the meaning given it in Minnesota
30 Statutes, section 115A.03, subdivision 5.

31 B. "Disposal" or "dispose" has the meaning given it
32 in Minnesota Statutes, section 115A.03, subdivision 9.

33 C. "Disposal facility" has the meaning given it in
34 Minnesota Statutes, section 115.03, subdivision 10.

35 D. "Generator" has the meaning given it in Minnesota

1 Statutes, section 115A.03, subdivision 12.

2 E. "Mixed municipal solid waste" has the meaning
3 given it in Minnesota Statutes, section 115A.03, subdivision 21.

4 F. "Political subdivision" has the meaning given it
5 in Minnesota Statutes, section 115A.03, subdivision 24.

6 G. "Recyclable materials" has the meaning given it in
7 Minnesota Statutes, section 115A.03, subdivision 25a.

8 H. "Recycling" has the meaning given it in Minnesota
9 Statutes, section 115A.03, subdivision 25b.

10 I. "Resource recovery" has the meaning given it in
11 Minnesota Statutes, section 115A.03, subdivision 27.

12 J. "Resource recovery facility" has the meaning given
13 it in Minnesota Statutes, section 115A.03, subdivision 28.

14 K. "Solid waste" has the meaning given it in
15 Minnesota Statutes, section 115A.03, subdivision 31.

16 L. "Waste" has the meaning given it in Minnesota
17 Statutes, section 115A.03, subdivision 34.

18 M. "Waste facility" has the meaning given it in
19 Minnesota Statutes, section 115A.03, subdivision 35.

20 Subp. 3. **Taxpayers.** The person responsible for collecting
21 and remitting the sales tax is the person who bills the customer
22 for the waste collection services.

23 A. Commercial haulers who provide waste collection
24 services and bill their customers must collect and remit the
25 sales tax.

26 B. A governmental entity which provides waste
27 collection services, either with its own vehicles or by contract
28 with a commercial hauler, or which operates a landfill facility,
29 and bills citizens directly for the cost of those services, must
30 collect and remit the sales tax. If a governmental entity does
31 not bill directly for these costs, the governmental entity must
32 pay the sales tax. For example, if a governmental entity bills
33 its citizens for the cost of waste collection or landfill
34 services as a general service fee, without stating what services
35 the fee arises from, the entity will be responsible for paying
36 the sales tax.

1 If a governmental entity contracts with a commercial hauler
2 for waste collection services and the amount paid by the
3 governmental entity is more than the amount charged to citizens
4 for those services, the governmental entity must pay the sales
5 or use tax on the amount of the difference. Also, all direct
6 and indirect expenses related to providing citizens with the
7 waste disposal services must be accounted for in determining the
8 cost of these services.

9 C. Landfill and transfer station operators are
10 required to collect and remit the sales tax on all charges for
11 the disposal of mixed municipal solid waste at their facilities,
12 provided that commercial haulers who bill customers for waste
13 disposal services and for the sales tax, or who provide these
14 services pursuant to a contract with a governmental entity which
15 collects and remits the sales tax, are not required to pay the
16 sales tax to landfill operators if the hauler provides the
17 landfill operator with a completed Commercial Hauler's Exemption
18 Certificate.

19 Landfill and transfer station operators are not required to
20 collect and remit the sales tax on charges billed to
21 refuse-derived fuel plant operators for the disposal of waste
22 which was previously subjected to sales tax. Refuse-derived
23 fuel plant operators are required to provide landfill and
24 transfer station operators with a letter from the Department of
25 Revenue as proof of exemption from sales tax for disposal of
26 this waste.

27 Subp. 4. Customers required to pay sales tax. All
28 customers, except the federal government, are required to pay
29 the sales tax on garbage collection services. This includes
30 state and local government agencies, nonprofit organizations
31 such as churches and nursing homes which are otherwise exempt
32 from paying sales tax, and direct pay permit holders.

33 Haulers may not accept exemption certificates from
34 customers in lieu of payment for the sales tax on garbage
35 collection services. Sales to the federal government and its
36 agencies are exempt from sales tax when the agency is billed

1 directly and payment is made directly by the federal agency.

2 Subp. 5. Determining the amount of sales tax.

3 A. Surcharges or fees imposed by a city, town, or
4 county pursuant to Minnesota Statutes, section 115A.919 or
5 115A.921, which are separately stated on the customer's bill are
6 not subject to the sales tax. These surcharges and fees are
7 charged to operators of mixed municipal solid waste facilities
8 by a city, town, or county.

9 B. State landfill abatement fees imposed under
10 Minnesota Statutes, sections 115A.923 and 473.843, upon
11 operations of greater Minnesota and metropolitan mixed municipal
12 solid waste landfills are not subject to the sales tax. These
13 are fees used to fund the greater Minnesota and metropolitan
14 area landfill abatement funds.

15 C. Costs associated with the management and operation
16 of recycling enterprises are exempt from the sales tax according
17 to the guidelines in subitems (1) and (2).

18 (1) Charges for collecting and managing
19 recyclable materials that have been separated from other refuse
20 by the customer are exempt. When recyclable materials have not
21 been separated from mixed municipal solid waste by the customer,
22 the entire charge for garbage collection services is taxable to
23 the customer. Charges for collection and management include all
24 costs directly related to the service, including administrative
25 expenses, wages, and collection vehicles.

26 (2) Charges for the collection of waste from a
27 recycling facility which separates recyclable materials from
28 nonrecyclable wastes are not taxable. However, this exemption
29 only applies:

30 (a) if the volume of the nonrecyclable waste
31 has been reduced by at least 85 percent by the recycling
32 facility;

33 (b) to waste which is collected and disposed
34 of separately from other solid waste; and

35 (c) to entities which collect the combined
36 waste primarily for recycling purposes. This limitation

1 prevents customers of commercial haulers from claiming this
2 exemption if the haulers separate recyclables from other solid
3 waste as an incidental or de minimus part of their operations.

4 D. Resource recovery facilities are not included in
5 the exemption under item C.

6 Subp. 6. Administrative requirements.

7 A. All persons in subpart 4 who are required to
8 collect and remit the sales tax must obtain a sales tax permit
9 from the commissioner. If the person already holds a valid
10 sales tax permit, it is not necessary to obtain a new one.

11 B. The permit holder must remit the collected sales
12 tax to the office of the commissioner according to the reporting
13 requirements of part 8130.7300.

14 C. Sales tax returns must be reported either on a
15 cash method or accrual method basis using the same method of
16 accounting as used for income tax purposes. A change in
17 accounting methods may be required as described in part
18 8130.1800.

19 Subp. 7. Local sales tax. City or local general sales or
20 use tax does not apply to waste collection services. A retailer
21 is not required to register for the local sales tax unless the
22 retailer makes other taxable sales, such as sales or leases of
23 trash containers.