

1 Department of Revenue

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3 Adopted Permanent Rules Relating to Sales and Use Tax;

4 Constitutional Exemptions

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6 Rules as Adopted

7 8130.4900 CONSTITUTIONAL EXEMPTIONS.

8 Subpart 1. **Applicable law.** Minnesota Statutes, section
9 297A.25, subdivision 4, exempts from the provisions of the Sales
10 and Use Tax Law, the gross receipts from the sale of, and the
11 storage, use, or other consumption in Minnesota of tangible
12 personal property, tickets or admissions, electricity, gas, or
13 local exchange telephone service which the state is prohibited
14 from taxing under the United States Constitution or the state
15 constitution.

16 Subp. 2. **Intergovernmental immunity.** The doctrine of
17 intergovernmental immunity developed by the federal courts in
18 their construction of the federal constitution precludes the
19 state of Minnesota from imposing a tax upon the federal
20 government, its agencies, and instrumentalities. For purposes
21 of this part, the federal government, its agencies, and
22 instrumentalities are referred to as the "federal government."

23 A. The following corporations are examples of
24 entities whose purchases are exempt from Minnesota sales and use
25 tax: Agricultural Credit Association, American Red Cross,
26 ~~Central-Bank-for-Cooperatives-and~~ Banks for Cooperatives,
27 Commodity Credit Corporation, Export-Import Bank, Farm Credit
28 Bank, Farm Security Administration, Farmers Home Administration,
29 Farmers Home Corporation, Federal Credit Union, Federal Crop
30 Insurance Corporation, Federal Deposit Insurance Corporation,
31 Federal Farm Mortgage Corporation, Federal Home Loan Bank,
32 Federal ~~Intermediate-Credit~~ Land Bank Association, Federal
33 Land Bank Credit Association, Federal National Mortgage
34 Association, Federal Reserve Bank, Federal Savings and Loan
35 Insurance Corporation, Government National Mortgage Association,

1 National Bank for Cooperatives, Production Credit Association,
2 Reconstruction Finance Corporation, Tennessee Valley Authority,
3 United States Housing Authority, and United States Maritime
4 Commission.

5 B. A federally chartered bank or savings and loan
6 association is not a federal instrumentality or corporation.
7 See subpart 6.

8 C. The fact that the expenses of an individual or
9 organization are reimbursed wholly or in part by the federal
10 government does not exempt the taxable items from sales or use
11 tax. Purchases must be billed to and paid for directly by the
12 federal government in order to be exempt. For example, meals
13 and lodging billed to and paid for by the federal government are
14 exempt. Meals and lodging billed to and paid for by a federal
15 employee who is subsequently reimbursed by the federal
16 government are taxable.

17 D. The federal government is not required to apply
18 for a certificate of exempt status in order to make exempt
19 purchases. Purchase orders, payment vouchers, or other evidence
20 which clearly establish governmental status are sufficient to
21 authorize an exempt purchase.

22 Subp. 3. Commerce clause. The commerce clause of the
23 federal constitution precludes the imposition of a sales or use
24 tax if the imposition of the tax unduly burdens interstate
25 commerce.

26 Subp. 4. Due process clause. The due process clause of
27 the 14th amendment of the federal constitution prohibits any
28 state from attempting to tax the sale or use of tangible
29 personal property when the sale or use occurs outside its
30 territorial jurisdiction.

31 Subp. 5. Foreign consuls. Neither sales or use tax
32 applies to the sale or use of tangible personal property sold to
33 foreign consular officers, employees, or members of their
34 families, to the extent that such persons are immune from the
35 tax. Only sales tax exemption cards issued by the United States
36 Department of State, Office of Foreign Missions, must be

1 accepted and no other proof of exemption may be honored. A
2 vendor making tax exempt sales to a consular official must enter
3 the name of the purchaser and the number of the identification
4 card on the invoice. This evidence must be retained by the
5 retailer to support any deduction claimed on a sales tax return
6 for sales to foreign consuls.

7 The extent of the exemption is determined by the exemption
8 the consular official's country provides to United States
9 personnel stationed there. A vendor making a sale must verify
10 that the purchase qualifies for the exemption by checking the
11 information given on the back of the card which indicates the
12 extent of the exemption.

13 Subp. 6. Credit unions, banks, and savings and loans.

14 A. Purchases made by federal credit unions are exempt
15 from sales and use tax. Purchases made by federally chartered
16 banks and savings and loans are subject to sales and use tax.
17 Sales made by federal credit unions and federally chartered
18 banks and savings and loans are taxable under the provisions of
19 the sales and use tax law.

20 B. Purchases made by state chartered credit unions,
21 banks, and savings and loans are subject to sales and use tax.
22 Sales made by state chartered credit unions, banks, and savings
23 and loans are taxable under the provisions of the sales and use
24 tax law.

25 Subp. 7. Sales by federal government. Sales of tangible
26 personal property or taxable services by the federal government
27 are subject to tax, except as they may be otherwise exempted.
28 Purchasers of tangible personal property or services from the
29 federal government must report and remit use tax on taxable
30 purchases if the sales tax was not collected.