

1.1 **Department of Revenue**

1.2 **Proposed Permanent Rules Governing Sales and Use Tax on Packaging Materials**
1.3 **Used in Agricultural and Industrial Production**

1.4 **8130.5500 AGRICULTURAL AND INDUSTRIAL PRODUCTION.**

1.5 [For text of subps 1 to 5a, see M.R.]

1.6 Subp. 6. **Packaging materials.** Sales of materials to persons engaged in agricultural
1.7 or industrial production for use in packaging, shipping, or delivering tangible personal
1.8 property produced or manufactured by them are exempt. Packaging material includes
1.9 nonreturnable containers, but does not include returnable containers except as otherwise
1.10 specified in this subpart.

1.11 Packaging materials do not include reusable containers, reusable pallets, or other
1.12 reusable materials that are used to ship tangible personal property between production
1.13 facilities, or for handling, storing, or moving materials within the confines of business
1.14 premises.

1.15 "Container" means the articles in which tangible personal property is placed for
1.16 shipment and delivery, such as cartons, cans, and bags. Container does not include
1.17 items that are used primarily to facilitate loading, unloading, handling, transportation, or
1.18 storage of products, such as bakery delivery carts, bread trays, skids, pallets, milk carts,
1.19 and milk crates.

1.20 Items A to M govern the tax status of specific packaging materials and containers.

1.21 A. Price tags, shipping tags and address labels, packing slip envelopes, invoices,
1.22 and advertising matter to be used in connection with the sale of property or to be enclosed
1.23 with property sold are not packaging materials.

1.24 B. Labels that are used to identify the contents of a package are exempt. For
1.25 example, a grocery store is engaged in production when it cuts and wraps meat or produce.
1.26 The content labels that are used on the meat or produce are not taxable because they

2.1 are packaging material. Price labels that do not contain any content information are not
2.2 packaging materials and are taxable.

2.3 C. Returnable containers constitute equipment and generally are not within the
2.4 scope of the exemption provided under Minnesota Statutes, section ~~297A.25, subdivision 9~~
2.5 297A.68, subdivision 2. However, purchases of returnable containers for use in packaging
2.6 food and beverage products are within the exemption by specific statutory authorization.
2.7 See Minnesota Statutes, section ~~297A.25, subdivision 9~~ 297A.68, subdivision 2.

2.8 D. Returnable containers are designed and ordinarily used for more than
2.9 one-time use as containers. They are customarily expected or required to be returned by
2.10 customers ~~to the vendor of the contents~~ for reuse. Vendors commonly require a deposit
2.11 or payment by the customer with the understanding that the amount of the deposit will
2.12 be refunded either in cash or in credit when the container is returned ~~to the vendor~~.
2.13 Regardless of the condition or appearance of the container, it is a returnable container if
2.14 the vendor requires a deposit or payment from the customer and if there is an express or
2.15 implied agreement that the deposit will be refunded upon return of the container.

2.16 E. Deposits that are charged to customers as security for the return of containers
2.17 are not subject to tax if separately stated on the invoice or billing.

2.18 F. Purchases of materials used to repair or recondition taxable returnable
2.19 containers by the owners of those containers are taxable.

2.20 G. Nonreturnable containers are considered packaging material. The sale of
2.21 nonreturnable containers used to package an article of tangible personal property for
2.22 sale is exempt.

2.23 H. Internal packaging materials are those used inside of packages and containers
2.24 in order to shape, form, preserve, stabilize, or protect the contents. All internal packaging
2.25 materials purchased for use in packaging food and beverage products are exempt.

3.1 I. If the internal packaging materials are not being used to package food and
3.2 beverage products, then the taxability of those packaging materials depends on whether
3.3 they are returnable to the vendor. If the materials are returnable, then they are treated as
3.4 machinery or equipment and are taxable. If the materials are not returnable, then they
3.5 are not taxable.

3.6 J. External packaging materials are those used under, outside of, and among
3.7 packages and containers to protect, brace, pad, or cushion the packages or containers
3.8 against damage, motion, shock, or breakage while being shipped. These materials are
3.9 commonly known as dunnage and are exempt when purchased for use in industrial
3.10 or agricultural production of tangible personal property and used to ship products to
3.11 customers. However, sales of these same items to vendors of transportation services are
3.12 taxable unless otherwise exempted by Minnesota Statutes, sections ~~297A.01~~ 297A.61 to
3.13 297A.45 297A.995. ~~If the external packaging materials are not being used to package~~
3.14 ~~food and beverage products, then the taxability of those packaging materials depends~~
3.15 ~~on whether they are returnable to the vendor.~~ If the materials are returnable, they are
3.16 equipment and are taxable. If the external packaging materials are not returnable, they
3.17 are not taxable.

3.18 K. External packaging materials do not include items that are used primarily
3.19 to facilitate loading, unloading, handling, transportation, or storage of products, such as
3.20 bakery delivery carts, bread trays, skids, pallets, milk carts, and milk crates.

3.21 L. The taxability of skids and pallets depends on whether they are returnable
3.22 ~~to the vendor. The rules that apply to containers, under items C to G, and to external~~
3.23 ~~packaging, under items J and K, also apply to skids and pallets.~~ If the skids and pallets
3.24 are returnable, they are equipment and taxable. If the pallets and skids are not returnable,
3.25 they are not taxable.

4.1 M. Sales of packaging materials, such as bags, wrapping paper, boxes, and
4.2 clothes hangers, to vendors of services are not exempt under Minnesota Statutes, section
4.3 ~~297A.25, subdivision 9~~ 297A.68, subdivision 2. Meat locker operators are vendors of
4.4 services when they cut meat furnished by their customers into smaller pieces, which they
4.5 wrap and place in cold storage for the customers' convenience. Sales of wrapping paper,
4.6 tape, and other materials to vendors for this purpose are taxable. However, meat locker
4.7 operators who also make retail sales as well as cutting meat furnished by their customers
4.8 may purchase wrapping materials exempt for resale and report and pay use tax on the
4.9 portion of the wrapping materials used in performing the cutting service.

4.10 [For text of subps 7 to 13, see M.R.]