

CHAPTER 297A

GENERAL SALES TAX AND DISTRIBUTION

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297A.01 DEFINITIONS.

[For text of subs 1 and 2, see M.S.1986]

Subd. 3. A "sale" and a "purchase" includes, but is not limited to, each of the following transactions:

(a) Any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter.

(b) The production, fabrication, printing or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing or processing;

(c) The furnishing, preparing or serving for a consideration of food, meals or drinks, not including meals or drinks served to patients or persons residing at hospitals, sanatoriums, nursing homes or senior citizens homes, meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies, or churches or pursuant to any program funded in whole or part through 42 USCA sections 3001 through 3045, wherever delivered, prepared or served, meals and lunches served at public and private schools, universities or colleges. "Sales" also includes meals furnished by employers to employees at less than fair market value. Notwithstanding section 297A.25, subdivision 2, taxable food or meals include, but are not limited to, the following:

(i) heated food or drinks;

(ii) sandwiches prepared by the retailer;

(iii) single sales of prepackaged ice cream or ice milk novelties prepared by the retailer;

(iv) hand-prepared or dispensed ice cream or ice milk products including cones, sundaes, and snow cones;

(v) soft drinks and other beverages prepared or served by the retailer;

(vi) gum;

(vii) ice;

(viii) all food sold in vending machines;

(ix) party trays prepared by the retailers; and

(x) all meals and single servings of packaged snack food, single cans or bottles of pop, sold in restaurants and bars;

(d) The granting of the privilege of admission to places of amusement, recreational areas, or athletic events and the privilege of having access to and the use of amusement

devices, tanning facilities, reducing salons, steam baths, turkish baths, massage parlors, health clubs, and spas or athletic facilities;

(e) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;

(f) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service, intrastate toll service, and interstate toll service, if that service originates from and is charged to a telephone located in this state; the tax imposed on amounts paid for telephone services is the liability of and shall be paid by the person paying for the services. Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale;

(g) The furnishing for a consideration of cable television services, including charges for basic monthly service, charges for monthly premium service, and charges for any other similar television services;

(h) Notwithstanding subdivision 4, and section 297A.25, subdivision 9, the sales of horses including claiming sales and fees paid for breeding a stallion to a mare. This clause applies to sales and fees with respect to a horse to be used for racing whose birth has been recorded by the Jockey Club or the United States Trotting Association or the American Quarter Horse Association;

(i) The furnishing for a consideration of parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(j) The furnishing for a consideration of services listed in this paragraph:

(i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin-operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

(iv) services provided by detective agencies, security services, burglar, fire alarm, and armored car services;

(v) pet grooming services; and

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; arborist services; tree, bush, and shrub planting, pruning, bracing, spraying, and surgery; and tree trimming for public utility lines.

The services listed in this paragraph are taxable under section 297A.02 if the service is performed wholly within Minnesota or if the service is performed partly within and partly without Minnesota and the greater proportion of the service is performed in Minnesota, based on the cost of performance. In applying the provisions of this chapter, the terms "tangible personal property" and "sales at retail" include taxable services and the provision of taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable under this paragraph. Services performed by a corporation, partnership, or association for another corporation, partnership, or association are not taxable under this paragraph if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity.

(k) A "sale" and a "purchase" includes the transfer of computer software, meaning information and directions that dictate the function performed by data processing equipment. A "sale" and a "purchase" does not include the design, development,

writing, translation, fabrication, lease, or transfer for a consideration of title or possession of a custom computer program; and

(l) The granting of membership in a club, association, or other organization if:

(1) the club, association, or other organization makes available for the use of its members sports and athletic facilities (without regard to whether a separate charge is assessed for use of the facilities); and

(2) use of the sports and athletic facilities is not made available to the general public on the same basis as it is made available to members.

Granting of membership includes both one-time initiation fees and periodic membership dues. Sports and athletic facilities include golf courses, tennis, racquetball, handball and squash courts, basketball and volleyball facilities, running tracks, exercise equipment, swimming pools, and other similar athletic or sports facilities. The provisions of this paragraph do not apply to camps or other recreation facilities owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, for educational and social activities for young people primarily age 18 and under. The provisions of this paragraph do not apply to an association incorporated under section 315.44.

Subd. 4. A "retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business. Property utilized by the owner only by leasing such property to others or by holding it in an effort to so lease it, and which is put to no use by the owner other than resale after such lease or effort to lease, shall be considered property purchased for resale. Master computer software programs that are purchased and used to make copies for sale or lease are considered property purchased for resale. Sales of building materials, supplies and equipment to owners, contractors, subcontractors or builders for the erection of buildings or the alteration, repair or improvement of real property are "retail sales" or "sales at retail" in whatever quantity sold and whether or not for purpose of resale in the form of real property or otherwise. A sale of carpeting, linoleum, or other similar floor covering which includes installation of the carpeting, linoleum, or other similar floor covering is a contract for the improvement of real property. Aircraft and parts for the repair thereof purchased by a nonprofit, incorporated flying club or association utilized solely by the corporation by leasing such aircraft to shareholders of the corporation shall be considered property purchased for resale. The leasing of the aircraft to the shareholders by the flying club or association shall be considered a sale.

Leasing of aircraft utilized by a lessee for the purpose of leasing to others, whether or not the lessee also utilizes the aircraft for flight instruction where no separate charge is made for aircraft rental or for charter service, shall be considered a purchase for resale; provided, however, that a proportionate share of the lease payment reflecting use for flight instruction or charter service is subject to tax pursuant to section 297A.14.

[For text of subds 5 to 7, see M.S.1986]

Subd. 8. "Sales price" means the total consideration valued in money, for a retail sale whether paid in money or otherwise, excluding therefrom any amount allowed as credit for tangible personal property taken in trade for resale, without deduction for the cost of the property sold, cost of materials used, labor or service cost, interest, or discount allowed after the sale is consummated, the cost of transportation incurred prior to the time of sale, any amount for which credit is given to the purchaser by the seller, or any other expense whatsoever. A deduction may be made for charges for services that are part of the sale, including charges up to 15 percent in lieu of tips, if the consideration for such charges is separately stated, but no deduction shall be allowed for charges for services that are part of a sale as defined in subdivision 3, clauses (b) to (f). A deduction may also be made for interest, financing, or carrying charges, charges for labor or services used in installing or applying the property sold or transportation charges if the transportation occurs after the retail sale of the property only if the consideration for such charges is separately stated. There shall not be included in "sales price" cash discounts allowed and taken on sales or the amount refunded either in cash or in credit for property returned by purchasers.

[For text of subs 9 and 10, see M.S.1986]

Subd. 11. "Tangible personal property" means corporeal personal property of any kind whatsoever, including property which is to become real property as a result of incorporation, attachment, or installation following its acquisition.

Personal property does not include:

- (a) large ponderous machinery and equipment used in a business or production activity which at common law would be considered to be real property;
- (b) property which is subject to an ad valorem property tax;
- (c) property described in section 272.02, subdivision 1, clause (8), paragraphs (a) to (d);
- (d) property described in section 272.03, subdivision 2, clauses (3) and (5).

Tangible personal property includes computer software, whether contained on tape, discs, cards, or other devices.

[For text of subs 12 to 14, see M.S.1986]

Subd. 15. "Farm machinery" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in the production for sale, but not including the processing, of livestock, dairy animals, dairy products, poultry and poultry products, fruits, vegetables, forage, grains and bees and apiary products. "Farm machinery" includes

(1) machinery for the preparation, seeding or cultivation of soil for growing agricultural crops and sod, harvesting and threshing of agricultural products, harvesting or mowing of sod, and certain machinery for dairy, livestock and poultry farms;

(2) barn cleaners, milking systems, grain dryers, automatic feeding systems and similar installations, whether or not the equipment is installed by the seller and becomes part of the real property;

(3) irrigation equipment sold for exclusively agricultural use, including pumps, pipe fittings, valves, sprinklers and other equipment necessary to the operation of an irrigation system when sold as part of an irrigation system, except irrigation equipment which is situated below ground and considered to be a part of the real property; and

(4) logging equipment, including chain saws used for logging only if the engine displacement equals or exceeds five cubic inches.

Repair or replacement parts for farm machinery shall not be included in the definition of farm machinery.

Tools, shop equipment, grain bins, feed bunks, fencing material, communication equipment and other farm supplies shall not be considered to be farm machinery. "Farm machinery" does not include motor vehicles taxed under chapter 297B, snowmobiles, snow blowers, lawn mowers except those used in the production of sod for sale, garden-type tractors or garden tillers and the repair and replacement parts for those vehicles and machines.

[For text of subs 16 and 17, see M.S.1986]

Subd. 18. **Custom computer program.** "Custom computer program" means a computer program prepared to the special order of the customer, either in the form of written procedures or in the form of storage media on which, or in which, the program is recorded, or any required documentation or manuals designed to facilitate the use of the custom computer program transferred. It includes those services represented by separately stated charges for modifications to an existing prewritten program that are prepared to the special order of the customer. It does not include a "canned" or prewritten computer program that is held or existing for general or repeated sale or lease, even if the prewritten or "canned" program was initially developed on a custom basis or for in-house use. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification. For purposes of this subdivision:

(1) "Storage media" includes punched cards, tapes, discs, diskettes, or drums on which computer programs may be embodied or stored;

(2) "Computer" does not include tape-controlled automatic drilling, milling, or other manufacturing machinery or equipment; and

(3) "Computer program" means the complete plan for the solution of a problem, such as the complete sequence of automatic data processing equipment instructions necessary to solve a problem and includes both systems and application programs and subdivisions, such as assemblers, compilers, routines, generators, and utility programs.

History: 1987 c 268 art 4 s 1-6; 1987 c 400 s 52

297A.06 PERMIT.

After compliance with sections 297A.04 and 297A.28, when security is required, the commissioner shall issue to each applicant a separate permit for each place of business within Minnesota. A permit shall be valid until revoked but shall not be assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

History: 1987 c 384 art 2 s 73

297A.07 REVOCATION OF PERMITS.

Whenever any person fails to comply with any provision of sections 297A.01 to 297A.44 or any rule of the commissioner adopted under sections 297A.01 to 297A.44, the commissioner, upon hearing, after giving the person 30 days' notice in writing specifying the time and place of hearing and the reason for the proposed revocation and requiring the person to show cause why the permit or permits should not be revoked, may for reasonable cause, revoke or suspend any one or more of the permits held by such person. The notice may be served personally or by mail in the manner prescribed for service of notice of a deficiency. The commissioner shall not issue a new permit after revocation except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the aforementioned provisions and rules. The commissioner may condition the issuance of a new permit to such applicant on the supplying of such security in addition to that authorized by section 297A.28 as is reasonably necessary to insure compliance with the aforementioned provisions and rules.

Notwithstanding the provisions of section 297A.43, the commissioner may disclose information identifying the holder of a revoked permit and the basis for the revocation.

History: 1987 c 268 art 17 s 25

297A.14 USE TAX.

Subdivision 1. Imposition. For the privilege of using, storing or consuming in Minnesota tangible personal property, tickets or admissions to places of amusement and athletic events, electricity, gas, and local exchange telephone service purchased for use, storage or consumption in this state, a use tax is imposed on every person in this state at the rate of tax imposed under section 297A.02 on the sales price of sales at retail of the items, unless the tax imposed by section 297A.02 was paid on the sales price.

Subd. 2. Motor vehicles. A motor vehicle subject to tax under this section shall be taxed at its fair market value at the time of transport into Minnesota if the motor vehicle was acquired more than three months prior to its transport into this state.

History: 1987 c 268 art 4 s 7

297A.151 TAX ON LIQUOR AND BEER; DELINQUENCY.

Subdivision 1. Posting, notice. Notwithstanding sections 290.61 and 297A.43, the commissioner shall, by the 15th of each month, submit to the commissioner of public

safety a list of all taxpayers who are required to withhold or collect the tax imposed by section 290.92 or 297A.02 and who are 30 days or more delinquent in either filing a tax return or paying the tax. At least ten days before notifying the commissioner of public safety, the commissioner of revenue shall notify the taxpayer of the intended action.

The commissioner of public safety shall post the list in the same manner as provided in section 340A.318, subdivision 3. The list will prominently show the date of posting. If a taxpayer previously listed cures the delinquency by filing all returns and paying all taxes, the commissioner shall notify the commissioner of public safety within two business days that the delinquency was cured.

Subd. 2. **Sales prohibited.** Beginning the third business day after the list is posted, no wholesaler, manufacturer, or brewer may sell or deliver any product to a taxpayer included on the posted list.

Subd. 3. **Penalty.** A wholesaler, manufacturer, or brewer of intoxicating liquor or nonintoxicating malt liquor who violates subdivision 2 is subject to the penalties provided in section 340A.304.

History: 1987 c 268 art 17 s 26

297A.18 ADVERTISING NO TAX; MINIMUM TAX.

It shall be unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the use tax or any part thereof will be assumed or absorbed by the retailer, or that it will not be added to the sales price or that, if added, it or any part thereof will be refunded except that in computing the tax to be collected as the result of any transaction amounts of tax less than one-half of one cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent.

It is unlawful for a person to broadcast or publish, or arrange to have broadcast or published, an advertisement in a publication or broadcast media, printed, distributed, broadcast, or intended to be received in this state, that states that no sales or use tax is due under this chapter, when the person knows the advertisement is false.

History: 1987 c 268 art 4 s 8

297A.211 COMMON CARRIERS AS RETAILERS.

[For text of subd 1, see M.S.1986]

Subd. 2. (a) Such persons, when properly registered as retailers, may make purchases in this state, or import property into this state, without payment of the sales or use taxes imposed by this chapter at the time of purchase or importation, provided that such purchases or importations come within the provisions of this section and are made in strict compliance with the rules of the commissioner.

(b) Any person described in subdivision 1 may elect to pay directly to the commissioner any sales or use tax that may be due under this chapter for the acquisition of mobile transportation equipment and parts and accessories attached or to be attached to such equipment.

(c) The total cost of such equipment and parts and accessories attached or to be attached to such equipment shall be multiplied by a fraction, the numerator of which is the mileage operated during the past calendar year within the state of Minnesota and the denominator is the total mileage operated during the past calendar year. The amount so determined shall be multiplied by the tax rate to disclose the tax due.

In computing the tax under this section "sales price" does not include the amount of any tax, except any manufacturer's or importer's excise tax, imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer.

(d) Each such retailer shall make a return and remit to the commissioner the tax

due for the preceding calendar month in accordance with the provisions of sections 297A.26 and 297A.27.

[For text of subd 3, see M.S.1986]

Subd. 4. Notwithstanding subdivisions 1 to 3, the commissioner may enter into an agreement with the commissioner of public safety, whereby upon approval of both commissioners, the commissioner of public safety will collect the motor vehicle excise tax from persons defined in subdivision 1. For the purpose of collecting the tax, the commissioner of public safety shall act as the agent of the commissioner of revenue and shall be subject to all rules not inconsistent with the provisions of this chapter, that may be prescribed by the commissioner.

History: 1987 c 268 art 4 s 9,10

NOTE: Subdivision 4, as added by Laws 1987, chapter 268, article 4, section 10, is effective upon approval by the commissioner of revenue and the commissioner of public safety. See Laws 1987, chapter 268, article 4, section 26.

297A.212 RAILROAD ROLLING STOCK.

Railroad rolling stock used by a railroad operating in this state that is licensed as a common carrier by the Interstate Commerce Commission and used to transport persons or property in interstate or foreign commerce is subject to taxation under this chapter only to the extent provided in this section. The ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year of the carrier must be determined at the close of the carrier's fiscal year. This ratio must be applied each month to the purchase price of total purchases of rolling stock that are used in this state by the railroad to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter. "Railroad rolling stock" means all portable or moving apparatus and machinery of a railroad company and includes engines, cars, tenders, coaches, sleeping cars, and parts necessary for the repair and maintenance of the rolling stock.

History: 1987 c 268 art 4 s 11

297A.25 EXEMPTIONS.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. **Medicines; medical devices.** The gross receipts from the sale of prescribed drugs, prescribed medicine and insulin, intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings are exempt, together with prescription glasses, therapeutic, and prosthetic devices.

[For text of subds 4 to 6, see M.S.1986]

Subd. 7. **Petroleum products.** The gross receipts from the sale of and storage, use or consumption of the following petroleum products are exempt:

(1) products upon which a tax has been imposed and paid under the provisions of chapter 296, and no refund has been or will be allowed because the buyer used the fuel for nonhighway use, or

(2) products which are used in the improvement of agricultural land by constructing, maintaining, and repairing drainage ditches, tile drainage systems, grass waterways, water impoundment, and other erosion control structures.

[For text of subds 8 and 9, see M.S.1986]

Subd. 10. **Publications materials.** The gross receipts from the sale of and storage, use or other consumption in Minnesota of tangible personal property (except as provided in section 297A.14) which is used or consumed in producing any publication regularly issued at average intervals not exceeding three months, and any such publication are exempt. For purposes of this subdivision, "publication" as used herein shall include, without limiting the foregoing, a legal newspaper as defined by section 331.02,

and any supplements or enclosures with or part of said newspaper; and the gross receipts of any advertising contained therein or therewith shall be exempt. For this purpose, advertising in any such publication shall be deemed to be a service and not tangible personal property, and persons or their agents who publish or sell such newspapers shall be deemed to be engaging in a service with respect to gross receipts realized from such newsgathering or publishing activities by them, including the sale of advertising. The term "publication" shall not include magazines and periodicals sold over the counter. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures used in such publication and fuel, electricity, gas or steam used for space heating or lighting, are not exempt.

Subd. 11. **Sales to government.** The gross receipts from all sales, including sales in which title is retained by a seller or a vendor or is assigned to a third party under an installment sale or lease purchase agreement under section 465.71, of tangible personal property to, and all storage, use or consumption of such property by, the United States and its agencies and instrumentalities, and political subdivisions of the state are exempt. This exemption shall not apply to building, construction or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration or repair of a building or facility. This exemption does not apply to construction materials purchased by tax exempt entities or their contractors to be used in constructing buildings or facilities which will not be used principally by the tax exempt entities.

Subd. 12. **Occasional sales.** The gross receipts from the isolated or occasional sale of tangible personal property in Minnesota not made in the normal course of business of selling that kind of property, and the storage, use, or consumption of property acquired as a result of such a sale are exempt.

Subd. 13. [Repealed, 1987 c 268 art 4 s 25]

[For text of subds 14 to 34, see M.S.1986]

Subd. 35. **Food stamps.** The gross receipts from the sale of tangible personal property purchased with food stamps, coupons, or vouchers issued by the federal government under the Food Stamp Program are exempt. This exemption also applies to food purchased under the Special Supplemental Food Program for Women, Infants, and Children. The exemption provided by this subdivision is effective and applies only to the extent required by federal law.

Subd. 36. **Incoming, interstate wats lines.** The gross receipts from the sale of long distance telephone services are exempt, if the service consists of a wide area telephone line that permits a long distance call to an individual or business located in Minnesota to be made from a location outside of Minnesota at no toll charge to the person placing the call.

History: 1987 c 268 art 4 s 12-17; 1987 c 384 art 2 s 74

297A.254 [Repealed, 1987 c 268 art 8 s 8]

297A.256 EXEMPTIONS FOR CERTAIN NONPROFIT GROUPS.

Notwithstanding the provisions of this chapter, the following sales made by a "nonprofit organization" are exempt from the sales and use tax.

(a) All sales made by an organization for fundraising purposes if that organization exists solely for the purpose of providing educational or social activities for young people primarily age 18 and under. This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(b) All sales made by an organization for fundraising purposes if that organization is a senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes and no part of the net earnings inure to the benefit

of any private shareholders. This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(c) The gross receipts from the sales of tangible personal property at, admission charges for, and sales of food, meals, or drinks at fundraising events sponsored by a nonprofit organization when the entire proceeds, except for the necessary expenses therewith, will be used solely and exclusively for charitable, religious, or educational purposes. This exemption does not apply to admission charges for events involving bingo or other gambling activities or to charges for use of amusement devices involving bingo or other gambling activities. For purposes of this clause, a "nonprofit organization" means any unit of government, corporation, society, association, foundation, or institution organized and operated for charitable, religious, educational, civic, fraternal, senior citizens' or veterans' purposes, no part of the net earnings of which inures to the benefit of a private individual.

If the profits are not used solely and exclusively for charitable, religious, or educational purposes, the entire gross receipts are subject to tax.

Each nonprofit organization shall keep a separate accounting record, including receipts and disbursements from each fundraising event. All deductions from gross receipts must be documented with receipts and other records. If records are not maintained as required, the entire gross receipts are subject to tax.

The exemption provided by this section does not apply to any sale made by or in the name of a nonprofit corporation as the active or passive agent of a person that is not a nonprofit corporation.

The exemption for fundraising events under this section is limited to no more than 24 days a year. Fundraising events conducted on premises leased or occupied for more than four days but less than 30 days do not qualify for this exemption.

History: 1987 c 268 art 4 s 18

297A.257 DISTRESSED COUNTIES; CAPITAL EQUIPMENT EXEMPTION.

Subdivision 1. Designation of distressed counties. (a) The commissioner of energy and economic development shall annually on June 1 designate those counties which are distressed. A county is distressed if it satisfies at least one of the following criteria:

(1) the county has an average unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; or

(2) the unemployment rate for the entire county was greater than 110 percent of the state average for the 12-month period ending the previous April 30, and 20 percent or more of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture; or

(3) for counties designated for periods beginning after June 30, 1986, but before July 1, 1988, at least 20 percent of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture and the total market value of real and personal property for the entire county for taxes payable in 1986, as determined by the commissioner of revenue, has decreased by at least 22 percent from the total market value of real and personal property for the entire county for taxes payable in 1984.

If, as a result of a plant closing, layoffs, or another similar event affecting a significant number of employees in the county, the commissioner has reason to believe that the average unemployment in the county will exceed ten percent during the one-year period beginning April 30, the commissioner may designate the county as distressed, notwithstanding clause (1).

(b) The commissioner shall designate a portion of a county containing a city of the first class located outside of the metropolitan area as a distressed county if:

(1) that portion of the county has an unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; and

(2) that portion of the county has a population of at least 50,000 as determined by the 1980 federal census.

(c) A county or the portion of a county designated pursuant to this subdivision shall be considered a distressed county for purposes of this section and chapter 116M.

(d) Except as otherwise specifically provided, the determination of whether a county is distressed must be made using the most current data available from the state demographer. The designation of a distressed county is effective for the 12-month period beginning July 1. A county may be designated as distressed as often as it qualifies.

(e) The authority to designate counties as distressed expires on June 30, 1989.

Subd. 2. Sales tax exemption. Purchase and use of capital equipment is exempt from the sales and use tax imposed by this chapter if the capital equipment is placed in service in connection with the construction of a new or an expansion of an existing manufacturing facility in a distressed county or in the taconite tax relief area defined in section 273.134. Purchase or use of equipment for use in an existing plant qualifies under this section and section 297A.01, subdivision 16, as an expansion if either the production capacity of the plant is increased by at least 20 percent as a result or if the total capital investments made within a 12-month period exceed \$25,000,000. Purchases of capital equipment are exempt under this section only to the extent that the purchases of capital equipment for the project during the calendar year exceed \$100,000. The county is a distressed county for purposes of this subdivision if it was designated as a distressed county for the time period during which the contract to purchase the equipment was executed.

A county meeting only the criteria in paragraph (a), clause (3), of subdivision 1 is a distressed county for purposes of this subdivision if it was designated as a distressed county for the time period during which sales and use tax on capital equipment purchased became due and payable.

Subd. 2a. Exemption for construction materials. Construction materials and supplies are exempt from the tax imposed under this chapter, regardless of whether purchased by the owner or a contractor, subcontractor, or builder, if:

(a)(1) the materials and supplies are used or consumed in constructing a new manufacturing facility or expanding an existing one in a distressed county; and

(2) the total capital investment made within a three-year period exceeds \$75,000,000;

or

(b)(1) the materials and supplies are used or consumed in constructing a new manufacturing facility or expanding an existing one within the taconite tax relief area defined in section 273.134; and

(2) the total capital investment made within a three-year period exceeds \$50,000,000.

A county is a distressed county for purposes of a project qualifying under this subdivision if it was designated as a distressed county at the time the initial contract to purchase the materials and supplies was executed.

Subd. 2b. Projects; continued exemption. If construction of a project is begun during a time period in which the county was designated as a distressed county and if the county ceases to be a distressed county, the provision of subdivisions 2 and 2a apply to the project as if the county were distressed for 12 months after the designation expired.

[For text of subd 3, see M.S.1986]

History: 1987 c 268 art 10 s 7-10

297A.26 TIME FOR PAYMENT TO COMMISSIONER; OFFSET AGAINST OTHER TAXES.

Subdivision 1. The taxes imposed by sections 297A.01 to 297A.44 shall be due and payable to the commissioner monthly on or before the 20th day of the month next

succeeding the month in which the taxable event occurred or succeeding such other reporting period as the commissioner may prescribe.

[For text of subd 2, see M.S.1986]

Subd. 3. *[Repealed, 1987 c 268 art 17 s 42]*

Subd. 4. When a retailer located outside of a city that imposes a local sales and use tax collects use tax to be remitted to that city, the retailer is not required to remit the tax until the amount collected reaches \$10.

History: 1987 c 268 art 4 s 19; art 17 s 27

297A.27 RETURNS.

Subdivision 1. Except as provided in section 297A.275, on or before the 20th day of each month in which taxes imposed by sections 297A.01 to 297A.44 are payable, a return for the preceding reporting period shall be filed with the commissioner in such form as the commissioner may prescribe, verified by a written declaration that it is made under the criminal penalties for willfully making a false return, and in addition shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid. Any person making sales at retail at two or more places of business may file a consolidated return subject to such rules as the commissioner may prescribe.

[For text of subs 1a to 3, see M.S.1986]

History: 1987 c 268 art 17 s 28

297A.275 ACCELERATED PAYMENT OF JUNE LIABILITY.

Every vendor having a liability of \$1,500 or more in May 1988 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June 20, 1988, or June 20 of each subsequent year, the vendor shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August 20, 1988, or August 20 of each subsequent year, the vendor shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is hereby imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

History: 1987 c 268 art 17 s 29

297A.39 PENALTIES.

Subdivision 1. **Failure to pay.** If any tax imposed by sections 297A.01 to 297A.44, or any portion thereof, is not paid within the time herein specified for the payment, or an extension thereof, or within 30 days after final determination of an appeal to the tax court relating thereto if the taxpayer is not required to pay the amount in dispute pending appeal under section 297A.391, there shall be added thereto a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Subd. 2. **Failure to file returns.** In case of any failure to make and file a return within the time prescribed by sections 297A.01 to 297A.44 or an extension thereof, there shall be added to the tax three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid for each additional 30 days or fraction thereof during which such failure continues, not exceed-

ing 23 percent in the aggregate. The amount so added to any tax under subdivisions 1 and 2 shall be collected at the same time and in the same manner and as a part of the tax and shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid, unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax or (b) \$50.

Subd. 2a. Combined penalties. Where penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined, other than the minimum penalty under subdivision 2, shall not exceed 38 percent in the aggregate.

[For text of subd 3, see M.S.1986]

Subd. 4. Penalties; failure to file or pay. In addition to any other penalties prescribed, any person who willfully fails to make a return or willfully makes a false return or willfully fails to pay over taxes imposed by this chapter collected for or on behalf of the state, or attempts in any manner to evade or defeat the taxes imposed by this chapter is guilty of a gross misdemeanor unless the amount of the tax involved exceeds \$300, in which event the person is guilty of a felony. The term "person" as used in this subdivision includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member, or employee is under a duty to perform the act in respect to which the violation occurs. Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

[For text of subs 5 to 8, see M.S.1986]

History: 1987 c 268 art 17 s 30-33

297A.391 [Repealed, 1987 c 268 art 14 s 25]

297A.43 CONFIDENTIAL NATURE OF INFORMATION.

It shall be unlawful for the commissioner or any other public official or employee to divulge or otherwise make known in any manner any particulars disclosed in any report or return required by sections 297A.01 to 297A.44, or any information concerning the affairs of the person making the return acquired from the person's records, officers, or employees while examining or auditing under the authority of sections 297A.01 to 297A.44, except in connection with a proceeding involving taxes due under this chapter from the taxpayer making such report or return or to comply with the provisions of section 297A.431 or where a question arises as to the proper tax applicable, that is, sales or use tax. In the latter instance, the commissioner may furnish information to a buyer and a seller with respect to the specific transaction in question. Nothing herein contained shall be construed to prohibit the commissioner from publishing statistics so classified as not to disclose the identity of particular returns or reports and the contents thereof. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.

The commissioner may enter into an agreement with the commissioner or other taxing officials of another state for the interpretation and administration of the acts of their several states providing for the collection of a sales and/or use tax for the purpose of promoting fair and equitable administration of such acts and to eliminate double taxation.

Notwithstanding the above provisions of this section, the commissioner, in order to implement the purposes of this chapter, may furnish information on a reciprocal basis to the taxing officials of another state, or to the taxing officials of any municipality of the state of Minnesota which has a local sales and/or use tax. The commissioner may furnish to the Minnesota supreme court and the board of professional responsibility information regarding the amount of any uncontested delinquent taxes due under this chapter or a failure to file a return due under this chapter by an attorney admitted to practice law in this state under chapter 481. The commissioner may furnish information to taxing officials of another state where necessary in the administration of the laws of that state, to the extent that the state provides similar rights of examination or information to officials of this state, if the other state agrees to be subject to the confidentiality restrictions of this section.

In order to facilitate processing of returns and payments of taxes required by this chapter, the commissioner may contract with outside vendors and may disclose private and nonpublic data to the vendor. The data disclosed will be administered by the vendor consistent with this section.

History: 1987 c 268 art 4 s 20

297A.44 DEPOSIT OF REVENUES; COSTS OF ADMINISTRATION; APPROPRIATION.

Subdivision 1. (a) Except as provided in paragraphs (b) and (c) all revenues, including interest and penalties, derived from the excise and use taxes imposed by sections 297A.01 to 297A.44 shall be deposited by the commissioner in the state treasury and credited to the general fund.

(b) All excise and use taxes derived from sales and use of property and services purchased for the construction and operation of an agricultural resource project, from and after the date on which a conditional commitment for a loan guaranty for the project is made pursuant to section 41A.04, subdivision 3, shall be deposited in the agricultural resource loan guaranty fund. The commissioner of finance shall certify to the commissioner the date on which the project received the conditional commitment. The amount deposited in the loan guaranty fund shall be reduced by any refunds and by the costs incurred by the department of revenue to administer and enforce the assessment and collection of the taxes.

(c) All revenues, including interest and penalties, derived from the excise and use taxes imposed on sales and purchases included in section 297A.01, subdivision 3, paragraph (i), clauses (1) and (2), must be deposited by the commissioner of revenue in a separate and special fund, designated as the sports and health club sales tax revenue fund in the state treasury and credited as follows:

(1) first to the general obligation special tax bond debt service account in each fiscal year the amount required by section 16A.661, subdivision 3, paragraph (b); and

(2) after the requirements of paragraph (a) have been met:

(i) no more than the amounts specifically appropriated to operate and maintain facilities financed under Laws 1987, chapter 400, section 8, subdivision 3; must be credited to an amateur athletic facilities account set up for this purpose; and

(ii) the balance must be credited to the general fund.

[For text of subd 2, see M.S.1986]

History: 1987 c 400 s 53