CHAPTER 272

TAXATION, GENERAL PROVISIONS

272.02 EXEMPT PROPERTY.

[For text of subds 1 to 9, see M.S.2000]

Subd. 10. **Personal property used for pollution control.** Personal property used primarily for the abatement and control of air, water, or land pollution is exempt to the extent that it is so used, and real property is exempt if it is used primarily for abatement and control of air, water, or land pollution as part of an agricultural operation, as a part of a centralized treatment and recovery facility operating under a permit issued by the Minnesota pollution control agency pursuant to chapters 115 and 116 and Minnesota Rules, parts 7001.0500 to 7001.0730, and 7045.0020 to 7045.1260, as a wastewater treatment facility and for the treatment, recovery, and stabilization of metals, oils, chemicals, water, sludges, or inorganic materials from hazardous industrial wastes, or as part of an electric generation system. For purposes of this subdivision, personal property includes ponderous machinery and equipment used in a business or production activity that at common law is considered real property.

Any taxpayer requesting exemption of all or a portion of any real property or any equipment or device, or part thereof, operated primarily for the control or abatement of air, water, or land pollution shall file an application with the commissioner of revenue. The Minnesota pollution control agency shall upon request of the commissioner furnish information and advice to the commissioner.

The information and advice furnished by the Minnesota pollution control agency must include statements as to whether the equipment, device, or real property meets a standard, rule, criteria, guideline, policy, or order of the Minnesota pollution control agency, and whether the equipment, device, or real property is installed or operated in accordance with it. On determining that property qualifies for exemption, the commissioner shall issue an order exempting the property from taxation. The equipment, device, or real property shall continue to be exempt from taxation as long as the order issued by the commissioner remains in effect.

[For text of subds 11 to 21, see M.S.2000]

Subd. 22. **Wind energy conversion systems.** (a) Small scale wind energy conversion systems installed after January 1, 1991, and used as an electric power source are exempt.

"Small scale wind energy conversion systems" are wind energy conversion systems, as defined in section 216C.06, subdivision 12, including the foundation or support pad, which (i) are used as an electric power source; (ii) are located within one county and owned by the same owner; and (iii) produce two megawatts or less of electricity as measured by nameplate ratings.

(b) Medium scale wind energy conversion systems installed after January 1, 1991, are treated as follows: (i) the foundation and support pad are taxable; (ii) the associated supporting and protective structures are exempt for the first five assessment years after they have been constructed, and thereafter, 30 percent of the market value of the associated supporting and protective structures are taxable; and (iii) the turbines, blades, transformers, and its related equipment, are exempt. "Medium scale wind energy conversion systems" are wind energy conversion systems as defined in section 216C.06, subdivision 12, including the foundation or support pad, which: (i) are used as an electric power source; (ii) are located within one county and owned by the same

owner; and (iii) produce more than two but equal to or less than 12 megawatts of energy as measured by nameplate ratings.

(c) Large scale wind energy conversion systems installed after January 1, 1991, are treated as follows: 25 percent of the market value of all property is taxable, including (i) the foundation and support pad; (ii) the associated supporting and protective structures; and (iii) the turbines, blades, transformers, and its related equipment. "Large scale wind energy conversion systems" are wind energy conversion systems as defined in section 216C.06, subdivision 12, including the foundation or support pad, which (i) are used as an electric power source; and (ii) produce more than 12 megawatts of energy as measured by nameplate ratings.

(d) The total size of a wind energy conversion system under this subdivision shall be determined according to this paragraph. Unless the systems are interconnected with different distribution systems, the nameplate capacity of one wind energy conversion system shall be combined with the nameplate capacity of any other wind energy conversion system that is:

(1) located within five miles of the wind energy conversion system;

(2) constructed within the same calendar year as the wind energy conversion system; and

(3) under common ownership.

In the case of a dispute, the commissioner of commerce shall determine the total size of the system, and shall draw all reasonable inferences in favor of combining the systems.

(e) In making a determination under paragraph (d), the commissioner of commerce may determine that two wind energy conversion systems are under common ownership when the underlying ownership structure contains similar persons or entities, even if the ownership shares differ between the two systems. Wind energy conversion systems are not under common ownership solely because the same person or entity provided equity financing for the systems.

[For text of subds 23 to 44, see M.S.2000]

Subd. 45. **Biomass electrical generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) be designed to utilize biomass as established in section 216B.2424 as a primary fuel source; and

(2) be constructed for the purpose of generating power at the facility that will be sold pursuant to a contract approved by the public utilities commission in accordance with the biomass mandate imposed under section 216B.2424.

Construction of the facility must be commenced after January 1, 2000, and before December 31, 2002. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or facility.

Subd. 46. **Residential buildings on temporary sites.** A newly constructed building that is situated on real property is exempt if it is:

(1) intended for future residential occupancy;

(2) on a temporary foundation and intended to be moved;

(3) not used as a model or for any other business purposes;

(4) not connected to any utilities; and

(5) located on land that will not be sold with the building.

The exemption under this subdivision is allowable for only one assessment year after the date of the initial construction of the building.

Subd. 47. **Poultry litter biomass generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property

which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) be designed to utilize poultry litter as a primary fuel source; and

(2) be constructed for the purpose of generating power at the facility that will be sold pursuant to a contract approved by the public utilities commission in accordance with the biomass mandate imposed under section 216B.2424.

Construction of the facility must be commenced after January 1, 2000, and before December 31, 2002. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 48. **Waste tire cogeneration facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electric generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) be designed to utilize waste tires as a primary fuel source; and

(2) be a cogeneration electric generating facility of 15 to 25 megawatts of installed capacity.

Construction of the facility must be commenced after January 1, 2000, and before January 1, 2004. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 49. **Agricultural historical society property.** Property is exempt from taxation if it is owned by a nonprofit charitable or educational organization that qualifies for exemption under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 2000, and meets the following criteria:

(1) the property is primarily used for storing and exhibiting tools, equipment, and artifacts useful in providing an understanding of local or regional agricultural history. Primary use is determined each year based on the number of days the property is used solely for storage and exhibition purposes;

(2) the property is limited to a maximum of 20 acres per owner per county, but includes the land and any taxable structures, fixtures, and equipment on the land;

(3) the property is not used for a revenue-producing activity for more than ten days in each calendar year; and

(4) the property is not used for residential purposes on either a temporary or permanent basis.

History: *1Sp2001 c 5 art 3 s 16-21; art 7 s 13*

272.0211 SLIDING SCALE MARKET VALUE EXCLUSION FOR ELECTRIC POWER GENERATION EFFICIENCY.

Subdivision 1. **Efficiency determination and certification.** An owner or operator of a new or existing electric power generation facility, excluding wind energy conversion systems, may apply to the commissioner of revenue for a market value exclusion on the property as provided for in this section. This exclusion shall apply only to the market value of the equipment of the facility, and shall not apply to the structures and the land upon which the facility is located. The commissioner of revenue shall prescribe the forms and procedures for this application. Upon receiving the application, the commissioner of revenue shall request the commissioner of commerce to make a determination of the efficiency of the applicant's electric power generation facility. In calculating the efficiency of a facility, the commissioner of commerce shall use a definition of efficiency which calculates efficiency as the sum of:

(1) the useful electrical power output; plus

(2) the useful thermal energy output; plus

(3) the fuel energy of the useful chemical products,

all divided by the total energy input to the facility, expressed as a percentage. The commissioner must include in this formula the energy used in any on-site preparation of materials necessary to convert the materials into the fuel used to generate electricity. such as a process to gasify petroleum coke. The commissioner shall use the high heating value for all substances in the commissioner's efficiency calculations, except for wood for fuel in a biomass-eligible project under section 216B.2424; for these instances, the commissioner shall adjust the heating value to allow for energy consumed for evaporation of the moisture in the wood. The applicant shall provide the commissioner of commerce with whatever information the commissioner deems necessary to make the determination. Within 30 days of the receipt of the necessary information, the commissioner of commerce shall certify the findings of the efficiency determination to the commissioner of revenue and to the applicant. The commissioner of commerce shall determine the efficiency of the facility and certify the findings of that determination to the commissioner of revenue every two years thereafter from the date of the original certification.

Subd. 2. **Sliding scale exclusion.** Based upon the efficiency determination provided by the commissioner of commerce as described in subdivision 1, the commissioner of revenue shall subtract five percent of the taxable market value of the qualifying property for each percentage point that the efficiency of the specific facility, as determined by the commissioner of commerce, is above 35 percent. The reduction in taxable market value shall be reflected in the taxable market value of the facility beginning with the assessment year immediately following the determination. For a facility that is assessed by the county in which the facility is located, the commissioner of revenue shall certify to the assessor of that county the percentage of the taxable market value of the facility to be excluded.

[For text of subds 3 and 4, see M.S.2000]

History: *1Sp2001 c 4 art 6 s 77*

272.028 PAYMENT IN LIEU OF PERSONAL PROPERTY TAX; WIND GENERATION FACILITIES.

A developer of a new or existing medium or large scale wind energy conversion system, as defined under section 272.02, subdivision 22, paragraphs (b) and (c), may negotiate with the city or town and the county where the wind energy conversion system is located to establish a payment in lieu of tax on personal property used to generate electric power. The in lieu payment is to provide fees or compensation to the host jurisdictions to maintain public infrastructure and services. The payment in lieu of personal property tax may be based on production capacity, historical production, or other factors agreed upon by the parties. The payment in lieu of tax agreement must be signed by the parties and filed with the commissioner of revenue and the county recorder. Upon execution and filing of the agreement, the personal property to which the in lieu payment applies shall be deemed exempt from tax under section 272.02, subdivision 22, paragraphs (b) and (c). This exemption shall be effective for the assessment year in which the in lieu payment is agreed upon and shall remain exempt for the same duration as the in lieu payments are in effect.

History: *1Sp2001 c 5 art 3 s 22*

272.483 DUTIES OF FILING OFFICER.

(a) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in clause (b) is presented to a filing officer who is:

(1) the secretary of state; the secretary shall cause the notice to be marked and indexed alphabetically and numerically in the computerized filing system maintained by the secretary of state;

(2) the county recorder; the county recorder shall endorse identification and the date and time of filing and file and enter it in an alphabetical index showing the name

and address of the person named in the notice, the date and time of filing, the file number of the lien, and the total amount appearing on the notice of lien.

Each county recorder shall enter the date and time of filing and the file number and shall index the names of the persons shown on the notice into the computerized database system maintained by the secretary of state.

For notices of federal tax liens on real property, the information in the computerized filing and database systems does not create, release, discharge, or recreate a notice of federal tax lien on real property in this state.

(b) If a certificate of release, nonattachment, or subordination of any lien is presented to the secretary of state for filing, the secretary shall:

(1) enter the information into the computerized filing system;

(2) cause a certificate of release or nonattachment to be marked and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, but the notice of lien to which the certificate relates may not be removed from the files until ten years and 30 days after the filing date of the lien; and

(3) cause a certificate of subordination to be marked and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.

(c) If a refiled notice of federal lien referred to in clause (a) or any of the certificates or notices referred to in clause (b) is presented for filing to any other filing officer specified in section 272.481, the officer shall enter the refiled notice or the certificate with the date and time of filing in any alphabetical lien index where the original notice of lien is entered.

(d) When a filing officer receives a request to search the records for the name of a particular person, the filing officer must issue a search certificate showing whether there is any notice of lien or certificate or notice of lien filed on or after ten years and 30 days before the date of the search. If a notice or certificate is on file, the search certificate must state the file or document number of the notice and the date and time of filing of each notice or certificate and the date and time the search certificate was issued. The fee for a certificate shall be that provided by section 336.9-525 or 357.18, subdivision 1, clause (3).

History: *2001 c 195 art 2 s 15*

272.484 FEES.

The fee for filing and indexing each notice of lien or certificate or notice affecting the lien is:

(1) for a lien, certificate of discharge or subordination, and for all other notices, including a certificate of release or nonattachment filed with the secretary of state, the fee provided by section 336.9-525, except that the filing fee charged to the district directors of internal revenue for filing a federal tax lien is $15 for up to two debtor names and $15 for each additional name;

(2) for a lien, certificate of discharge or subordination, and for all other notices, including a certificate of release or nonattachment filed with the county recorder, the fee for filing a real estate mortgage in the county where filed.

The officer shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents filed by them.

History: *2001 c 195 art 2 s 16*

272.488 COMPUTERIZED FILING OF TAX LIENS AND NOTICES.

[For text of subds 1 and 2, see M.S.2000]

Subd. 3. **Filing with secretary of state.** (a) Notices of federal tax liens, certificates, or revocations of certificates of release of federal tax liens, refiled notices of any of those items, and any other notices affecting federal tax liens that are required to be filed with the secretary of state, in a form prescribed by the Internal Revenue Service,

may be filed with the secretary of state by mail, personal delivery, or electronic transmission by the Secretary of the Treasury of the United States or a delegate into the computerized filing system of the secretary of state. The electronic record must be endorsed and indexed within the computerized database system as required by section 272.483.

(b) For filings made pursuant to section 272.481, paragraph (c), clause (1), with the secretary of state, when data entry is complete as required by subdivision 2, the original document is contained in the computerized filing system and is the official copy from which all official copies will be made. Reproductions of documents described in section 272.483, paragraph (a) or (b), which are contained in the computerized filing system will be in the same format as if the document had been filed on paper by the Internal Revenue Service.

[For text of subds 4 to 6, see M.S.2000]

History: *2001 c 195 art 2 s 17*