

CHAPTER 297A

GENERAL SALES AND USE TAXES

297A.01	Repealed.	297A.2573	Repealed.
297A.02	Repealed.	297A.259	Repealed.
297A.022	Repealed.	297A.26	Repealed.
297A.023	Repealed.	297A.28	Repealed.
297A.03	Repealed.	297A.33	Repealed.
297A.04	Repealed.	297A.44	Repealed.
297A.041	Repealed.	297A.46	Repealed.
297A.06	Repealed.	297A.47	Repealed.
297A.065	Repealed.	297A.48	Repealed.
297A.07	Repealed.	297A.61	Definitions.
297A.09	Repealed.	297A.66	Jurisdiction to require collection and remittance of tax by retailer.
297A.10	Repealed.		Sourcing of sale; situs in this state.
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297A.16	Repealed.	297A.75	Collection of sales and use taxes.
297A.17	Repealed.	297A.77	Taxes in other states; offset against use tax.
297A.18	Repealed.	297A.80	Aircraft; flight equipment; payment of taxes; exemptions.
297A.21	Repealed.		Revocation of permits.
297A.211	Repealed.	297A.86	Direct payment by purchasers permitted.
297A.213	Repealed.	297A.89	Interstate motor carriers as retailers.
297A.22	Repealed.	297A.90	Seizure; court review.
297A.23	Repealed.	297A.92	Security.
297A.24	Repealed.	297A.94	Deposit of revenues.
297A.25	Repealed.	297A.99	Local sales taxes.
297A.2531	Repealed.	297A.995	Uniform Sales and Use Tax Administration Act.
297A.2545	Repealed.		
297A.255	Repealed.		
297A.256	Repealed.		
297A.2571	Repealed.		
297A.2572	Repealed.		

297A.01 Subdivision 1. [Repealed, 2000 c 418 art 1 s 45]

Subd. 2. [Repealed, 2000 c 418 art 1 s 45]

Subd. 3. [Repealed, 2000 c 418 art 1 s 45]

Subd. 4. [Repealed, 2000 c 418 art 1 s 45]

Subd. 5. [Repealed, 2000 c 418 art 1 s 45]

Subd. 6. [Repealed, 2000 c 418 art 1 s 45]

Subd. 7. [Repealed, 2000 c 418 art 1 s 45]

Subd. 8. [Repealed, 2000 c 418 art 1 s 45]

Subd. 9. [Repealed, 2000 c 418 art 1 s 45]

Subd. 10. [Repealed, 2000 c 418 art 1 s 45]

Subd. 11. [Repealed, 2000 c 418 art 1 s 45]

Subd. 12. [Repealed, 2000 c 418 art 1 s 45]

Subd. 13. [Repealed, 2000 c 418 art 1 s 45]

Subd. 14. [Repealed, 2000 c 418 art 1 s 45]

Subd. 15. [Repealed, 2000 c 418 art 1 s 45]

Subd. 16. [Repealed, 2000 c 418 art 1 s 45]

Subd. 17. [Repealed, 2000 c 418 art 1 s 45]

Subd. 18. [Repealed, 2000 c 418 art 1 s 45]

Subd. 19. [Repealed, 2000 c 418 art 1 s 45]

Subd. 20. [Repealed, 1997 c 231 art 7 s 46]

Subd. 21. [Repealed, 1997 c 231 art 13 s 20]

Subd. 22. [Repealed, 2000 c 418 art 1 s 45]

NOTE: The amendment to subdivision 5 by Laws 2001, First Special Session chapter 5, article 12, section 5, was recodified in section 297A.61, subdivision 5. Laws 2001, First Special Session chapter 5, article 12, section 5, instruction to revisor.

297A.02 Subdivision 1. [Repealed, 2000 c 418 art 1 s 45]

Subd. 2. [Repealed, 1998 c 389 art 8 s 47]

Subd. 3. [Repealed, 2000 c 418 art 1 s 45]

Subd. 4. [Repealed, 2000 c 418 art 1 s 45]

Subd. 5. [Repealed, 1997 c 231 art 7 s 46]

297A.022 [Repealed, 2000 c 418 art 1 s 45]

297A.023 [Repealed, 2000 c 418 art 1 s 45]

297A.03 [Repealed, 2000 c 418 art 1 s 45]

297A.04 [Repealed, 2000 c 418 art 1 s 45]

297A.041 [Repealed, 2000 c 418 art 1 s 45]

297A.06 [Repealed, 2000 c 418 art 1 s 45]

297A.065 [Repealed, 2000 c 418 art 1 s 45]

297A.07 Subdivision 1. [Repealed, 2000 c 418 art 1 s 45]

Subd. 2. [Repealed, 1994 c 510 art 3 s 13]

Subd. 3. [Repealed, 2000 c 418 art 1 s 45]

NOTE: The amendment to subdivision 3 by Laws 2001, First Special Session chapter 5, article 7, section 50, was recodified in section 297A.86, subdivision 2. Laws 2001, First Special Session chapter 5, article 7, section 50, instruction to revisor.

297A.09 [Repealed, 2000 c 418 art 1 s 45]

297A.10 [Repealed, 2000 c 418 art 1 s 45]

297A.11 [Repealed, 2000 c 418 art 1 s 45]

297A.12 [Repealed, 2000 c 418 art 1 s 45]

297A.13 [Repealed, 2000 c 418 art 1 s 45]

297A.135 [Repealed, 2000 c 418 art 1 s 45]

297A.14 Subdivision 1. [Repealed, 2000 c 418 art 1 s 45]

Subd. 2. [Repealed, 2000 c 418 art 1 s 45]

Subd. 3. [Repealed, 1996 c 471 art 9 s 16]

Subd. 4. [Repealed, 2000 c 418 art 1 s 45]

297A.141 [Repealed, 2000 c 418 art 1 s 45]

297A.15 Subdivision 1. [Repealed, 2000 c 418 art 1 s 45]

Subd. 2. [Repealed, 1988 c 719 art 10 s 20]

Subd. 3. [Repealed, 1990 c 480 art 1 s 45]

Subd. 4. [Repealed, 2000 c 418 art 1 s 45]

Subd. 5. [Repealed, 2000 c 418 art 1 s 45]

Subd. 6. [Repealed, 2000 c 418 art 1 s 45]

Subd. 7. [Repealed, 2000 c 418 art 1 s 45]

Subd. 8. [Repealed, 2000 c 418 art 1 s 45]

297A.16 [Repealed, 2000 c 418 art 1 s 45]

297A.17 [Repealed, 2000 c 418 art 1 s 45]

297A.18 [Repealed, 2000 c 418 art 1 s 45]

- 297A.21 [Repealed, 2000 c 418 art 1 s 45]
- 297A.211 [Repealed, 2000 c 418 art 1 s 45]
- 297A.213 [Repealed, 2000 c 418 art 1 s 45]
- 297A.22 [Repealed, 2000 c 418 art 1 s 45]
- 297A.23 [Repealed, 2000 c 418 art 1 s 45]
- 297A.24 Subdivision 1. [Repealed, 2000 c 418 art 1 s 45]
Subd. 2. [Repealed, 1996 c 471 art 9 s 16]
Subd. 3. [Repealed, 2000 c 418 art 1 s 45]
- 297A.25 Subdivision 1. [Repealed, 2000 c 418 art 1 s 45]
Subd. 2. [Repealed, 2000 c 418 art 1 s 45]
Subd. 3. [Repealed, 2000 c 418 art 1 s 45]
Subd. 4. [Repealed, 2000 c 418 art 1 s 45]
Subd. 5. [Repealed, 2000 c 418 art 1 s 45]
Subd. 6. [Repealed, 2000 c 418 art 1 s 45]
Subd. 7. [Repealed, 2000 c 418 art 1 s 45]
Subd. 8. [Repealed, 2000 c 418 art 1 s 45]
Subd. 9. [Repealed, 2000 c 418 art 1 s 45]
Subd. 10. [Repealed, 2000 c 418 art 1 s 45]
Subd. 11. [Repealed, 2000 c 418 art 1 s 45]
Subd. 12. [Repealed, 2000 c 418 art 1 s 45]
Subd. 13. [Repealed, 1987 c 268 art 4 s 25]
Subd. 14. [Repealed, 2000 c 418 art 1 s 45]
Subd. 15. [Repealed, 2000 c 418 art 1 s 45]
Subd. 16. [Repealed, 2000 c 418 art 1 s 45]
Subd. 17. [Repealed, 2000 c 418 art 1 s 45]
Subd. 18. [Repealed, 2000 c 418 art 1 s 45]
Subd. 19. [Repealed, 2000 c 418 art 1 s 45]
Subd. 20. [Repealed, 2000 c 418 art 1 s 45]
Subd. 21. [Repealed, 2000 c 418 art 1 s 45]
Subd. 22. [Repealed, 2000 c 418 art 1 s 45]
Subd. 23. [Repealed, 2000 c 418 art 1 s 45]
Subd. 24. [Repealed, 2000 c 418 art 1 s 45]
Subd. 25. [Repealed, 2000 c 418 art 1 s 45]
Subd. 26. [Repealed, 2000 c 418 art 1 s 45]
Subd. 27. [Repealed, 2000 c 418 art 1 s 45]
Subd. 28. [Repealed, 2000 c 418 art 1 s 45]
Subd. 29. [Repealed, 2000 c 418 art 1 s 45]
Subd. 30. [Repealed, 2000 c 418 art 1 s 45]
Subd. 31. [Repealed, 2000 c 418 art 1 s 45]
Subd. 32. [Repealed, 2000 c 418 art 1 s 45]
Subd. 33. [Repealed, 2000 c 418 art 1 s 45]
Subd. 34. [Repealed, 2000 c 418 art 1 s 45]
Subd. 35. [Repealed, 2000 c 418 art 1 s 45]
Subd. 36. [Repealed, 2000 c 418 art 1 s 45]
Subd. 37. [Repealed, 2000 c 418 art 1 s 45]
Subd. 38. [Repealed, 2000 c 418 art 1 s 45]

- Subd. 39. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 40. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 41. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 42. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 43. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 44. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 45. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 46. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 47. [Expired]
- Subd. 48. [Expired]
- Subd. 49. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 50. [Repealed, 1995 c 186 s 60]
- Subd. 51. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 52. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 53. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 54. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 55. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 56. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 57. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 58. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 59. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 60. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 61. [Expired]
- Subd. 62. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 63. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 64. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 65. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 66. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 67. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 68. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 69. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 70. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 71. [Expired]
- Subd. 72. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 73. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 74. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 75. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 76. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 77. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 78. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 79. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 80. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 81. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 82. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 83. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 84. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 85. [Repealed, 2000 c 418 art 1 s 45]
- Subd. 86. [Repealed, 2000 c 418 art 1 s 45]

Subd. 87. [Expired]

Subd. 88. [Repealed, 2000 c 418 art 1 s 45]

Subd. 89. [Repealed, 2000 c 418 art 1 s 45]

Subd. 90. [Repealed, 2000 c 418 art 1 s 45]

NOTE: The amendments to subdivisions 3, 11, and 28, by Laws 2001, First Special Session chapter 5, article 7, sections 51 and 52, and article 12, section 6, were recodified in sections 297A.67, subdivision 7, 297A.70, subdivision 2, and 297A.68, subdivision 24, respectively. Laws 2001, First Special Session chapter 5, article 7, sections 51 and 52, and article 12, section 6, instructions to revisor.

297A.2531 [Repealed, 2000 c 418 art 1 s 45]

297A.2545 [Repealed, 2000 c 418 art 1 s 45]

297A.255 [Repealed, 2000 c 418 art 1 s 45]

297A.256 [Repealed, 2000 c 418 art 1 s 45]

297A.2571 [Repealed, 2000 c 418 art 1 s 45]

297A.2572 [Repealed, 2000 c 418 art 1 s 45]

297A.2573 [Repealed, 2000 c 418 art 1 s 45]

297A.259 [Repealed, 2000 c 418 art 1 s 45]

297A.26 Subdivision 1. [Repealed, 1990 c 480 art 1 s 45]

Subd. 2. [Repealed, 2000 c 418 art 1 s 45]

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

Subd. 4. [Repealed, 1990 c 480 art 1 s 45]

297A.28 [Repealed, 2000 c 418 art 1 s 45]

297A.33 Subdivision 1. [Repealed, 1990 c 480 art 1 s 45]

Subd. 2. [Repealed, 2000 c 418 art 1 s 45]

Subd. 3. [Repealed, 1990 c 480 art 1 s 45]

Subd. 4. [Repealed, 1990 c 480 art 1 s 45]

Subd. 5. [Repealed, 1990 c 480 art 1 s 45]

Subd. 6. [Repealed, 1982 c 523 art 2 s 49]

297A.44 Subdivision 1. [Repealed, 2000 c 418 art 1 s 45]

Subd. 2. [Repealed, 1990 c 480 art 1 s 45]

Subd. 3. [Repealed, 1969 c 399 s 51]

Subd. 4. [Repealed, 1994 c 587 art 2 s 22]

297A.46 [Repealed, 2000 c 418 art 1 s 45]

297A.47 [Repealed, 2000 c 418 art 1 s 45]

297A.48 [Repealed, 2000 c 418 art 1 s 45]

297A.61 DEFINITIONS.

[For text of subd 1, see M.S.2000]

Subd. 2. **Person.** (a) "Person" includes any individual or group and any combination of individuals, groups, or individuals and groups acting as a unit.

(b) Person includes a firm, partnership, joint venture, limited liability company, association, cooperative, social club, fraternal organization, municipal or private corporation whether or not organized for profit, estate, trust, business trust, receiver, trustee, syndicate, the United States, and a state and its political subdivisions.

(c) Person includes, but is not limited to, directors and officers of corporations, governors and managers of a limited liability company, or members of partnerships who, either individually or jointly with others, have the control, supervision, or responsibility of filing returns and making payment of the amount of tax imposed by this chapter.

(d) Person includes any agent or consignee of any individual or organization listed in this subdivision.

Subd. 3. **Sale and purchase.** (a) "Sale" and "purchase" include, but are not limited to, each of the transactions listed in this subdivision.

(b) Sale and purchase include:

(1) any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, for a consideration in money or by exchange or barter; and

(2) the leasing of or the granting of a license to use or consume, for a consideration in money or by exchange or barter, tangible personal property, other than a manufactured home used for residential purposes for a continuous period of 30 days or more.

(c) Sale and purchase include 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.

(d) Sale and purchase include the preparing for a consideration of food. Notwithstanding section 297A.67, subdivision 2, taxable food includes, but is not limited to, the following:

(1) prepared food sold by the retailer;

(2) soft drinks;

(3) candy; and

(4) all food sold through vending machines.

(e) A sale and a purchase includes the furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state.

(f) A sale and a purchase includes the transfer for a consideration of computer software.

(g) A sale and a purchase includes the furnishing for a consideration of the following services:

(1) the privilege of admission to places of amusement, recreational areas, or athletic events, and the making available of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, health clubs, and spas or athletic facilities;

(2) lodging and related services by a hotel, rooming house, resort, campground, motel, or trailer camp and the granting of any similar license to use real property other than the renting or leasing of it for a continuous period of 30 days or more;

(3) parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(4) the granting of membership in a club, association, or other organization if:

(i) 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

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

Granting of membership means 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; and

(5) services as provided in this clause:

(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) detective, security, burglar, fire alarm, and armored car services; but not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1, or services provided by a nonprofit organization for monitoring and electronic surveillance of persons placed on in-home detention pursuant to court order or under the direction of the Minnesota department of corrections;

(v) pet grooming services;

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor plant care; tree, bush, shrub, and stump removal; and tree trimming for public utility lines. Services performed under a construction contract for the installation of shrubbery, plants, sod, trees, bushes, and similar items are not taxable;

(vii) massages, except when provided by a licensed health care facility or professional or upon written referral from a licensed health care facility or professional for treatment of illness, injury, or disease; and

(viii) the furnishing of lodging, board, and care services for animals in kennels and other similar arrangements, but excluding veterinary and horse boarding services.

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. Services performed by a partnership or association for another partnership or association are not taxable if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of this section, "affiliated group of corporations" includes those entities that would be classified as members of an affiliated group under United States Code, title 26, section 1504, and that are eligible to file a consolidated tax return for federal income tax purposes.

(h) A sale and a purchase includes the furnishing for a consideration of tangible personal property or taxable services by the United States or any of its agencies or instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political subdivisions.

(i) A sale and a purchase includes the furnishing for a consideration of telecommunications services, including cable television services and direct satellite services. Telecommunications services are taxed to the extent allowed under federal law if those services:

(1) either (i) originate and terminate in this state; or (ii) originate in this state and terminate outside the state and the service is charged to a telephone number customer located in this state or to the account of any transmission instrument in this state; or (iii) originate outside this state and terminate in this state and the service is charged to a telephone number customer located in this state or to the account of any transmission instrument in this state; or

(2) are rendered by providing a private communications service for which the customer has one or more locations within Minnesota connected to the service and the service is charged to a telephone number customer located in this state or to the account of any transmission instrument in this state.

All charges for mobile telecommunications services, as defined in United States Code, title 4, section 124, are deemed to be provided by the customer's home service provider and sourced to the customer's place of primary use and are subject to tax based upon the customer's place of primary use in accordance with the Mobile Telecommunications Sourcing Act, United States Code, title 4, sections 116 to 126. All other definitions and provisions of the Mobile Telecommunications Sourcing Act as provided in United States Code, title 4, are hereby adopted.

Subd. 4. Retail sale. (a) A "retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent.

(b) A sale of property used by the owner only by leasing it to others or by holding it in an effort to lease it, and put to no use by the owner other than resale after the lease or effort to lease, is a sale of property for resale.

(c) A sale of master computer software that is purchased and used to make copies for sale or lease is a sale of property for resale.

(d) A sale 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 is a retail sale in whatever quantity sold, whether the sale is for purposes of resale in the form of real property or otherwise.

(e) A sale of carpeting, linoleum, or similar floor covering to a person who provides for installation of the floor covering is a retail sale and not a sale for resale since a sale of floor covering which includes installation is a contract for the improvement of real property.

(f) A sale of shrubbery, plants, sod, trees, and similar items to a person who provides for installation of the items is a retail sale and not a sale for resale since a sale of shrubbery, plants, sod, trees, and similar items that includes installation is a contract for the improvement of real property.

(g) A sale of tangible personal property that is awarded as prizes is a retail sale and is not considered a sale of property for resale.

(h) A sale of tangible personal property utilized or employed in the furnishing or providing of services under subdivision 3, paragraph (g), clause (1), including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(i) A sale of tangible personal property used in conducting lawful gambling under chapter 349 or the state lottery under chapter 349A, including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(j) A sale of machines, equipment, or devices that are used to furnish, provide, or dispense goods or services, including, but not limited to, coin-operated devices, is a retail sale and is not considered a sale of property for resale.

(k) In the case of a lease, a retail sale occurs when an obligation to make a lease payment becomes due under the terms of the agreement or the trade practices of the lessor.

(l) In the case of a conditional sales contract, a retail sale occurs upon the transfer of title or possession of the tangible personal property.

Subd. 5. Storage. "Storage" includes keeping or retaining tangible personal property in Minnesota for any purpose except sale in the regular course of business.

Subd. 6. Use. (a) "Use" includes the exercise of a right or power incident to the ownership of any interest in tangible personal property, or services, purchased from a retailer, other than the sale of that property in the regular course of business.

(b) Use includes the consumption of printed materials in the creation of nontaxable advertising that is distributed, either directly or indirectly, within Minnesota.

Subd. 7. Sales price. (a) "Sales price" means the measure subject to sales tax, and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- (1) the seller's cost of the property sold;
 - (2) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expenses of the seller;
 - (3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
 - (4) delivery charges;
 - (5) installation charges; and
 - (6) the value of exempt property given to the purchaser when taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.
- (b) Sales price does not include:
- (1) discounts, including cash, terms, or coupons that are not reimbursed by a third party and that are allowed by the seller and taken by a purchaser on a sale;
 - (2) interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; and
 - (3) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

[For text of subd 8, see M.S.2000]

Subd. 9. **Retailer and seller.** "Retailer" and "seller" means any person making sales, leases, or rentals of personal property or services.

Subd. 10. **Tangible personal property.** (a) "Tangible personal property" means corporeal personal property of any kind, including property that is to become real property as a result of incorporation, attachment, or installation following its acquisition.

(b) Tangible personal property includes, but is not limited to:

- (1) computer software, whether contained on tape, discs, cards, or other devices;
- and
- (2) prepaid telephone calling cards.

(c) Tangible personal property does not include:

- (1) large ponderous machinery and equipment used in a business or production activity which at common law would be considered to be real property;
- (2) property which is subject to an ad valorem property tax;
- (3) property described in section 272.02, subdivision 9, clauses (a) to (d); and
- (4) property described in section 272.03, subdivision 2, clauses (3) and (5).

[For text of subd 11, see M.S.2000]

Subd. 12. **Farm machinery.** (a) "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, trees and shrubs, plants, forage, grains, and bees and apiary products.

(b) Farm machinery includes:

- (1) machinery for the preparation, seeding, or cultivation of soil for growing agricultural crops and sod, for the harvesting and threshing of agricultural products, or for the harvesting or mowing of sod;
- (2) barn cleaners, milking systems, grain dryers, feeding systems including stationary feed bunks, 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, whether or not the equipment is installed by the seller and becomes part of the real property;

(4) logging equipment, including chain saws used for commercial logging;

(5) fencing used for the containment of farmed cervidae, as defined in section 17.451, subdivision 2;

(6) primary and backup generator units used to generate electricity for the purpose of operating farm machinery, as defined in this subdivision, or providing light or space heating necessary for the production of livestock, dairy animals, dairy products, or poultry and poultry products;

(7) aquaculture production equipment as defined in subdivision 13; and

(8) equipment used for maple syrup harvesting.

(c) Farm machinery does not include:

(1) repair or replacement parts;

(2) tools, shop equipment, grain bins, fencing material except fencing material covered by paragraph (b), clause (5), communication equipment, and other farm supplies;

(3) motor vehicles taxed under chapter 297B;

(4) snowmobiles or snow blowers; or

(5) lawn mowers except those used in the production of sod for sale, or garden-type tractors or garden tillers.

[For text of subd 13, see M.S.2000]

Subd. 14. **Leasing; lease.** "Leasing" includes all transfers of possession or the use of tangible personal property by the lessee for a consideration, if title remains with the lessor at the end of the lease. A lease of tangible personal property is a series of sales transactions that impose upon the lessee multiple payment obligations. "Leasing" does not include a transaction defined under subdivision 15.

[For text of subd 15, see M.S.2000]

Subd. 16. [Repealed, 1Sp2001 c 5 art 12 s 95]

Subd. 17. **Computer software.** "Computer software" means a computer program, either in the form of written procedures or contained on tapes, discs, cards, or another device, or any required documentation or manuals designed to facilitate the use of the computer program. For purposes of this subdivision:

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

(2) "Computer program" means information and directions that dictate the function performed by data processing equipment. It includes 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. Computer program includes 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.

[For text of subd 18, see M.S.2000]

Subd. 19. **For-hire carrier.** "For-hire carrier" means a person engaged in transportation for hire of tangible personal property.

[For text of subds 20 and 21, see M.S.2000]

Subd. 22. **Internal Revenue Code.** Unless specifically provided otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 2000.

Subd. 23. **United States Code.** Unless specifically provided otherwise, "United States Code" means the United States Code as amended through December 31, 2000.

Subd. 24. **Telecommunications services.** (a) "Telecommunications services" means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by or through any electronic, satellite, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission, conveyance, or routing.

(b) Telecommunications services includes the furnishing for consideration of access to telephone services by a hotel to its guests.

(c) Telecommunications services do not include:

- (1) services purchased with a prepaid telephone calling card;
- (2) private communication service purchased by an agent acting on behalf of the state lottery;
- (3) information services; and
- (4) purchases of telecommunications when the purchaser uses the purchased services as a component part of or integrates such service into another telecommunications service that is sold by the purchaser in the normal course of business.

(d) For purposes of this subdivision, "information services" means the offering of the capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information.

Subd. 25. **Cable television service.** "Cable television service" means the transmission of video, audio, or other programming service to purchasers, and the subscriber interaction, if any, required for the selection or use of the programming service, regardless of whether the programming is transmitted over facilities owned or operated by the cable service provider or over facilities owned or operated by one or more dealers of communications services. The term includes point-to-multipoint distribution services by which programming is transmitted or broadcast by microwave or other equipment directly to the subscriber's premises. The term includes basic, extended, premium, pay-per-view, digital, and music services.

Subd. 26. **Private communication service.** "Private communication service" means a communication service furnished to a subscriber which entitles the subscriber to:

- (1) exclusive or priority use of any communication channel or group of channels;
- (2) the use of an intercommunication system for the subscriber's stations, or regardless of whether the channel, group of channels, or intercommunication system may be connected through switching;
- (3) the switching capacity, extension lines and stations, or other associated services that are provided in connection with, and are necessary or unique to the use of, channels or systems described in clause (1); or
- (4) any combination of tunneling, encryption, authentication, and access control technologies and services used to carry traffic over the Internet, a managed Internet provider network or provider's backbone.

Subd. 27. **Direct satellite service.** "Direct satellite service" means programming transmitted or broadcast by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.

Subd. 28. **Purchase price.** "Purchase price" means the measure subject to the use tax and has the same meaning as "sales price."

Subd. 29. **State.** Unless specifically provided otherwise, "state" means any state of the United States and the District of Columbia.

Subd. 30. **Delivery charges.** "Delivery charges" means charges by the seller for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing.

Subd. 31. **Prepared food.** "Prepared food" means (i) food sold in a heated state or heated by the seller; (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or (iii) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. Prepared food does not include food that is sliced, repackaged, or pasteurized by the seller.

Subd. 32. **Soft drinks.** "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products; soy, rice, or similar milk substitutes; or greater than 50 percent vegetable or fruit juice by volume.

Subd. 33. **Candy.** "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation containing flour and must require no refrigeration.

Subd. 34. **Food sold through vending machines.** "Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment.

History: 1Sp2001 c 5 art. 12 s 5,7-30

NOTE: The amendment to subdivision 5 by Laws 2001, First Special Session chapter 5, article 12, section 5, is effective for storage, use, or consumption occurring after June 30, 2001, but refunds, based on claims that meet the requirements of all other applicable provisions of law, shall be issued for and tax not imposed on tangible personal property stored in Minnesota after June 30, 1997, and before July 1, 2001, if (1) the property was kept or retained in a public warehouse or in a common carrier's or for-hire carrier's storage facility, (2) the property was shipped or brought into Minnesota by common carrier or for-hire carrier for the purpose of subsequently being transported outside Minnesota, and (3) the property is thereafter used solely outside Minnesota or in the course of interstate commerce. Laws 2001, First Special Session chapter 5, article 12, section 5, the effective date.

297A.66 JURISDICTION TO REQUIRE COLLECTION AND REMITTANCE OF TAX BY RETAILER.

Subdivision 1. **Definitions.** (a) "Retailer maintaining a place of business in this state," or a similar term, means a retailer:

(1) having or maintaining within this state, directly or by a subsidiary, an office, place of distribution, sales or sample room or place, warehouse, or other place of business; or

(2) having a representative, agent, salesperson, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary, for any purpose, including the repairing, selling, delivering, installing, or soliciting of orders for the retailer's goods or services, or the leasing of tangible personal property located in this state, whether the place of business or agent, representative, salesperson, canvasser, or solicitor is located in the state permanently or temporarily, or whether or not the retailer or subsidiary is authorized to do business in this state.

(b) "Destination of a sale" means the location to which the retailer makes delivery of the property sold, or causes the property to be delivered, to the purchaser of the property, or to the agent or designee of the purchaser. The delivery may be made by any means, including the United States Postal Service or a for-hire carrier.

[For text of subd 2, see M.S.2000]

Subd. 3. **Retailer not maintaining a place of business in this state.** (a) To the extent allowed by the United States Constitution and the laws of the United States, a retailer making retail sales from outside this state to a destination within this state and not maintaining a place of business in this state shall collect sales and use taxes and remit them to the commissioner under section 297A.77, if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state by:

(1) distribution, by mail or otherwise, of catalogs, periodicals, advertising flyers, or other written solicitations of business to customers in this state;

(2) display of advertisements on billboards or other outdoor advertising in this state;

(3) advertisements in newspapers published in this state;

(4) advertisements in trade journals or other periodicals the circulation of which is primarily within this state;

(5) advertisements in a Minnesota edition of a national or regional publication or a limited regional edition in which this state is included as part of a broader regional or national publication which are not placed in other geographically defined editions of the same issue of the same publication;

(6) advertisements in regional or national publications in an edition which is not by its contents geographically targeted to Minnesota but which is sold over the counter in Minnesota or by subscription to Minnesota residents;

(7) advertisements broadcast on a radio or television station located in Minnesota; or

(8) any other solicitation by telegraphy, telephone, computer database, cable, optic, microwave, or other communication system.

This paragraph (a) must be construed without regard to the state from which distribution of the materials originated or in which they were prepared.

(b) The location within or without this state of independent vendors that provide products or services to the retailer in connection with its solicitation of customers within this state, including such products and services as creation of copy, printing, distribution, and recording, is not considered in determining whether the retailer is required to collect tax.

(c) A retailer not maintaining a place of business in this state is presumed, subject to rebuttal, to be engaged in regular solicitation within this state if it engages in any of the activities in paragraph (a) and:

(1) makes 100 or more retail sales from outside this state to destinations in this state during a period of 12 consecutive months; or

(2) makes ten or more retail sales totaling more than \$100,000 from outside this state to destinations in this state during a period of 12 consecutive months.

History: *1Sp2001 c 5 art 12 s 33,34*

297A.668 SOURCING OF SALE; SITUS IN THIS STATE.

Subdivision 1. **Sourcing rules.** (a) The following provisions apply regardless of the characterization of a product as tangible personal property, a digital good, or a service; but do not apply to telecommunications services, or the sales of motor vehicles, watercraft, aircraft, modular homes, manufactured homes, or mobile homes. These provisions only apply to determine a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's sale of a product. These provisions do not affect the obligation of a seller as purchaser to remit tax on the use of the product.

(b) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(c) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the donee designated by the purchaser occurs, including the location indicated by instructions for delivery to the purchasers or the purchaser's donee, known to the seller.

(d) When paragraphs (b) and (c) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business, when use of this address does not constitute bad faith.

(e) When paragraphs (b), (c), and (d) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument if no other address is available, when use of this address does not constitute bad faith.

(f) When paragraphs (b), (c), (d), and (e) do not apply, including the circumstance where the seller is without sufficient information to apply the previous paragraphs, then the location is determined by the address from which tangible personal property was

shipped, from which the digital good was first available for transmission by the seller, or from which the service was provided.

Subd. 2. Multiple points of use. (a) Notwithstanding the provisions of subdivision 1, a business purchaser that is not a holder of a direct pay permit that knows at the time of its purchase of a digital good or service that the digital good or service will be concurrently available for use in more than one taxing jurisdiction shall deliver to the seller in conjunction with its purchase a multiple points of use exemption certificate disclosing this fact.

(b) Upon receipt of the multiple points of use exemption certificate, the seller is relieved of the obligation to collect, pay, or remit the applicable tax and the purchaser is obligated to collect, pay, or remit the applicable tax on a direct pay basis.

(c) A purchaser delivering the multiple points of use exemption certificate may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.

(d) The multiple points of use exemption certificate remains in effect for all future sales by the seller to the purchaser until it is revoked in writing.

(e) A holder of a direct pay permit is not required to deliver a multiple points of use exemption certificate to the seller. A direct pay permit holder shall follow the provisions of paragraph (c) in apportioning the tax due on a digital good or a service that will be concurrently available for use in more than one taxing jurisdiction.

Subd. 3. Definition of terms. For purposes of this section, the terms "receive" and "receipt" mean taking possession of tangible personal property, making first use of services, or taking possession of making first use of digital goods, whichever occurs first. The terms receive and receipt do not include possession by a carrier for hire on behalf of the purchaser.

History: 1Sp2001 c 5 art 12 s 35

297A.67 GENERAL EXEMPTIONS.

[For text of subd 1, see M.S.2000]

Subd. 2. Food and food ingredients. Food and food ingredients are exempt. For purposes of this subdivision, "food" and "food ingredients" mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients do not include candy, soft drinks, food sold through vending machines, and prepared foods. Food and food ingredients do not include alcoholic beverages, dietary supplements, and tobacco. For purposes of this subdivision, "alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume. For purposes of this subdivision, "tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. For purposes of this subdivision, "dietary supplements" means any product, other than tobacco, intended to supplement the diet that:

(1) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; and

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in items (i) to (v);

(2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(3) is required to be labeled as a dietary supplement, identifiable by the supplement facts box found on the label and as required pursuant to Code of Federal Regulations, title 21, section 101.36.

[For text of subs 3 to 6, see M.S.2000]

Subd. 7. **Medicines; medical devices.** (a) Prescribed drugs and medicine, and insulin, intended for internal or external use, in the cure, mitigation, treatment, or prevention of illness or disease in human beings are exempt. "Prescribed drugs and medicine" includes over-the-counter drugs or medicine prescribed by a licensed health care professional.

(b) Nonprescription medicines consisting principally (determined by the weight of all ingredients) of analgesics that are approved by the United States Food and Drug Administration for internal use by human beings are exempt. For purposes of this subdivision, "principally" means greater than 50 percent analgesics by weight.

(c) Prescription glasses, hospital beds, fever thermometers, reusable finger-pricking devices for the extraction of blood, blood glucose monitoring machines, and other diagnostic agents used in diagnosing, monitoring, or treating diabetes, and therapeutic and prosthetic devices are exempt. "Therapeutic devices" means devices that are attached or applied to the human body to cure, heal, or alleviate injury, illness, or disease, either directly or by administering a curative agent. "Prosthetic devices" means devices that replace injured, diseased, or missing parts of the human body, either temporarily or permanently.

Subd. 8. **Clothing.** (a) Clothing is exempt. For purposes of this subdivision, "clothing" means all human wearing apparel suitable for general use.

(b) Clothing includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; children and adult diapers, including disposable; car muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed boots; underwear; uniforms, athletic and nonathletic; and wedding apparel.

(c) Clothing does not include the following:

- (1) belt buckles sold separately;
- (2) costume masks sold separately;
- (3) patches and emblems sold separately;
- (4) sewing equipment and supplies, including but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles;
- (5) sewing materials that become part of clothing, including but not limited to, buttons, fabric, lace, thread, yarn, and zippers;
- (6) clothing accessories or equipment;
- (7) sports or recreational equipment; and
- (8) protective equipment.

Clothing also does not include apparel made from fur if a uniform definition of "apparel made from fur" is developed by the member states of the Streamlined Sales and Use Tax Agreement.

For purposes of this subdivision, "clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing. Clothing accessories include, but are not limited to, briefcases; cosmetics; hair notions, including barrettes, hair bows, and hairnets; handbags; handkerchiefs; jewelry; nonprescription sunglasses; umbrellas; wallets; watches; and wigs and hairpieces. "Sports or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. Sports and recreational equipment includes, but is not limited to, ballet and tap shoes; cleated or

spiked athletic shoes; baseball, bowling, boxing, hockey, and golf gloves; goggles; hand and elbow guards; life preservers and vests; mouth guards; roller and ice skates; shin guards; shoulder pads; ski boots; waders; and wetsuits and fins. "Protective equipment" means items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use. Protective equipment includes, but is not limited to, breathing masks; clean room apparel and equipment; car and hearing protectors; face shields; finger guards; hard hats; helmets; paint or dust respirators; protective gloves; safety glasses and goggles; safety belts; tool belts; and welders gloves and masks.

[For text of subs 9 to 22, see M.S.2000]

Subd. 23. Occasional sales. Isolated and occasional sales in Minnesota not made in the normal course of business of selling that kind of property or service are exempt. The storage, use, or consumption of property or services acquired as a result of such a sale is exempt. This exemption does not apply to sales of tangible personal property primarily used in a trade or business.

Subd. 24. Constitutional prohibitions. The sale of and the storage, use, or consumption in Minnesota of tangible personal property, or services, that the state of Minnesota is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of Minnesota, are exempt.

Subd. 25. Maintenance of cemetery grounds. Lawn care and related services used in the maintenance of cemetery grounds are exempt. For purposes of this subdivision, "lawn care and related services" means the services listed in section 297A.61, subdivision 3, paragraph (g), clause (5), item (vi), and "cemetery" means a cemetery for human burial.

Subd. 26. Trade allowance. The amount allowed as a credit against the sales price for tangible personal property taken in trade for resale is exempt.

Subd. 27. Sewing materials. Sewing materials are exempt. For purposes of this subdivision "sewing materials" mean fabric, thread, zippers, interfacing, buttons, trim, and other items that are usually directly incorporated into the construction of clothing, regardless of whether it is actually used for making clothing. It does not include batting, foam, or fabric specifically manufactured for arts and craft projects, or other materials for craft projects.

Subd. 28. Ambulance supplies, parts, and equipment. The following sales to or use by an ambulance service licensed under section 144E.10 are exempt:

- (1) supplies and equipment used to provide medical care; and
- (2) repair and replacement parts for ambulances.

Subd. 29. Energy efficient products. (a) A residential lighting fixture or a compact fluorescent bulb is exempt if it has an energy star label.

(b) The following products are exempt if they have an energyguide label that indicates that the product meets or exceeds the standards listed below:

- (1) an electric heat pump hot water heater with an energy factor of at least 1.9;
- (2) a natural gas water heater with an energy factor of at least 0.62; and
- (3) a natural gas furnace with an annual fuel utilization efficiency greater than 92 percent.

(c) A photovoltaic device is exempt. For purposes of this subdivision, "photovoltaic device" means a solid-state electrical device, such as a solar module, that converts light directly into direct current electricity of voltage-current characteristics that are a function of the characteristics of the light source and the materials in and design of the device. A "solar module" is a photovoltaic device that produces a specified power output under defined test conditions, usually composed of groups of solar cells connected in series, in parallel, or in series-parallel combinations.

(d) For purposes of this subdivision, "energy star label" means the label granted to certain products that meet United States Environmental Protection Agency and United States Department of Energy criteria for energy efficiency. For purposes of this

subdivision, "energyguide label" means the label that the United States Federal Trade Commissioner requires manufacturers to apply to certain appliances under United States Code, title 16, part 305.

Subd. 30. **Motor vehicles.** Motor vehicles taxable under the provisions of chapter 297B are exempt.

History: *1Sp2001 c 5 art 7 s 51; art. 12 s 36-44, 93*

NOTE: Subdivision 29, as added by Laws 2001, First Special Session chapter 5, article 12, section 44, is effective for sales and purchases made after July 31, 2001, and before August 1, 2005. Laws 2001, First Special Session chapter 5, article 12, section 44, the effective date.

297A.68 BUSINESS EXEMPTIONS.

[For text of subd 1, see M.S.2000]

Subd. 2. **Materials consumed in industrial production.** (a) Materials stored, used, or consumed in industrial production of personal property intended to be sold ultimately at retail are exempt, whether or not the item so used becomes an ingredient or constituent part of the property produced. Materials that qualify for this exemption include, but are not limited to, the following:

(1) chemicals, including chemicals used for cleaning food processing machinery and equipment;

(2) materials, including chemicals, fuels, and electricity purchased by persons engaged in industrial production to treat waste generated as a result of the production process;

(3) fuels, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating, cooling, or lighting is exempt if (i) it is in excess of the average climate control or lighting for the production area, and (ii) it is necessary to produce that particular product;

(4) petroleum products and lubricants;

(5) packaging materials, including returnable containers used in packaging food and beverage products;

(6) accessory tools, equipment, and other items that are separate detachable units with an ordinary useful life of less than 12 months used in producing a direct effect upon the product; and

(7) the following materials, tools, and equipment used in metalcasting: crucibles, thermocouple protection sheaths and tubes, stalk tubes, refractory materials, molten metal filters and filter boxes, degassing lances, and base blocks.

(b) This exemption does not include:

(1) machinery, equipment, implements, tools, accessories, appliances, contrivances and furniture and fixtures, except those listed in paragraph (a), clause (6); and

(2) petroleum and special fuels used in producing or generating power for propelling ready-mixed concrete trucks on the public highways of this state.

(c) Industrial production includes, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products (whether vegetable or animal), commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering, generating electricity and the production of road building materials. Industrial production does not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process.

Subd. 3. **Materials used in providing certain taxable services.** (a) Materials stored, used, or consumed in providing a taxable service listed in section 297A.61, subdivision 3, paragraph (g), clause (5), intended to be sold ultimately at retail are exempt.

(b) This exemption includes, but is not limited to:

(1) chemicals, lubricants, packaging materials, seeds, trees, fertilizers, and herbicides, if these items are used or consumed in providing the taxable service;

(2) chemicals used to treat waste generated as a result of providing the taxable service;

(3) accessory tools, equipment, and other items that are separate detachable units used in providing the service and that have an ordinary useful life of less than 12 months; and

(4) fuel, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating, cooling, or lighting is exempt if (i) it is in excess of average climate control or lighting, and (ii) it is necessary to produce that particular service.

(c) This exemption does not include machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture, and fixtures used in providing the taxable service.

[For text of subd 4, see M.S.2000]

Subd. 5. **Capital equipment.** (a) Capital equipment is exempt. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

“Capital equipment” means machinery and equipment purchased or leased, and used in this state by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail if the machinery and equipment are essential to the integrated production process of manufacturing, fabricating, mining, or refining. Capital equipment also includes machinery and equipment used to electronically transmit results retrieved by a customer of an online computerized data retrieval system.

(b) Capital equipment includes, but is not limited to:

(1) machinery and equipment used to operate, control, or regulate the production equipment;

(2) machinery and equipment used for research and development, design, quality control, and testing activities;

(3) environmental control devices that are used to maintain conditions such as temperature, humidity, light, or air pressure when those conditions are essential to and are part of the production process;

(4) materials and supplies used to construct and install machinery or equipment;

(5) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to machinery or equipment;

(6) materials used for foundations that support machinery or equipment;

(7) materials used to construct and install special purpose buildings used in the production process; and

(8) ready-mixed concrete trucks in which the ready-mixed concrete is mixed as part of the delivery process.

(c) Capital equipment does not include the following:

(1) motor vehicles taxed under chapter 297B;

(2) machinery or equipment used to receive or store raw materials;

(3) building materials, except for materials included in paragraph (b), clauses (6) and (7);

(4) machinery or equipment used for nonproduction purposes, including, but not limited to, the following: plant security, fire prevention, first aid, and hospital stations; support operations or administration; pollution control; and plant cleaning, disposal of scrap and waste, plant communications, space heating, cooling, lighting, or safety;

(5) farm machinery and aquaculture production equipment as defined by section 297A.61, subdivisions 12 and 13;

(6) machinery or equipment purchased and installed by a contractor as part of an improvement to real property; or

(7) any other item that is not essential to the integrated process of manufacturing, fabricating, mining, or refining.

(d) For purposes of this subdivision:

(1) "Equipment" means independent devices or tools separate from machinery but essential to an integrated production process, including computers and computer software, used in operating, controlling, or regulating machinery and equipment; and any subunit or assembly comprising a component of any machinery or accessory or attachment parts of machinery, such as tools, dies, jigs, patterns, and molds.

(2) "Fabricating" means to make, build, create, produce, or assemble components or property to work in a new or different manner.

(3) "Machinery" means mechanical, electronic, or electrical devices, including computers and computer software, that are purchased or constructed to be used for the activities set forth in paragraph (a), beginning with the removal of raw materials from inventory through completion of the product, including packaging of the product.

(4) "Machinery and equipment used for pollution control" means machinery and equipment used solely to eliminate, prevent, or reduce pollution resulting from an activity described in paragraph (a).

(5) "Manufacturing" means an operation or series of operations where raw materials are changed in form, composition, or condition by machinery and equipment and which results in the production of a new article of tangible personal property. For purposes of this subdivision, "manufacturing" includes the generation of electricity or steam to be sold at retail.

(6) "Mining" means the extraction of minerals, ores, stone, or peat.

(7) "Online data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

(8) "Primarily" means machinery and equipment used 50 percent or more of the time in an activity described in paragraph (a).

(9) "Refining" means the process of converting a natural resource to a product, including the treatment of water to be sold at retail.

[For text of subs 6 to 10, see M.S.2000]

Subd. 11. Advertising materials. Materials designed to advertise and promote the sale of merchandise or services are exempt if these materials are mailed or transferred to a person outside the state for use solely outside the state. Mailing and reply envelopes and cards used exclusively in connection with these advertising and promotional materials are included in this exemption. The exemption applies regardless of where the mailing occurs. The storage of these materials in the state for the purpose of subsequently shipping or otherwise transferring the material out of state is also exempt if the other conditions in this subdivision are met.

[For text of subd 12, see M.S.2000]

Subd. 13. Outstate transport or delivery. (a) Tangible personal property is exempt if all of the following conditions are met:

(1) the property, without intermediate use, is shipped or transported outside Minnesota by the purchaser or is stored, processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property that is transported or shipped outside Minnesota; and

(2) the property is used in a trade or business outside Minnesota after being shipped or transported outside of Minnesota, and is not returned to Minnesota, except in the course of interstate commerce; and

(3) the property is either (i) not subject to tax in the state or country to which it is transported for storage or use, or (ii) to be used in other states or countries as part of a maintenance contract.

(b) For purposes of this subdivision, storage or processing, fabricating, manufacturing, attaching to, or incorporating into other property is not intermediate use.

Subd. 14. **Property in transit.** Tangible personal property is exempt if all of the following conditions are met:

- (1) it is shipped or brought into Minnesota by a for-hire carrier;
- (2) without use, it is kept in a public warehouse;
- (3) it is kept for the purpose of being later transported outside Minnesota; and
- (4) after storage, it is used solely outside Minnesota, except in the course of interstate commerce.

[For text of subs 15 to 17, see M.S.2000]

Subd. 18. **Custom computer software.** The design, development, writing, translation, fabrication, lease, or transfer for a consideration of title or possession of a custom computer program is exempt. "Custom computer program" means a computer program prepared to the special order of the customer, either in the form of written procedures or contained on tapes, discs, cards, or another device, 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.

Subd. 19. **Petroleum products.** The following petroleum products are exempt:

- (1) products upon which a tax has been imposed and paid under chapter 296A, and for which no refund has been or will be allowed because the buyer used the fuel for nonhighway use;
- (2) products that 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;
- (3) products purchased by a transit system receiving financial assistance under section 174.24, 256B.0625, subdivision 17, or 473.384;
- (4) products purchased by an ambulance service licensed under chapter 144E;
- (5) products used in a passenger snowmobile, as defined in section 296A.01, subdivision 39, for off-highway business use as part of the operations of a resort as provided under section 296A.16, subdivision 2, clause (2); or
- (6) products purchased by a state or a political subdivision of a state for use in motor vehicles exempt from registration under section 168.012, subdivision 1, paragraph (b).

[For text of subd 20, see M.S.2000]

Subd. 21. [Repealed; 1Sp2001 c 5 art 12 s 95]

[For text of subs 22 and 23, see M.S.2000]

Subd. 24. **Waste processing equipment.** Equipment used for processing solid or hazardous waste at a resource recovery facility, as defined in section 115A.03, subdivision 28, is exempt, including pollution control equipment at a resource recovery facility that burns refuse-derived fuel or mixed municipal solid waste as its primary fuel. An electric generation facility that processes and utilizes waste tires as its primary fuel is a resource recovery facility for the purposes of this section.

Subd. 25. **Sale of property used in a trade or business.** (a) The sale of tangible personal property primarily used in a trade or business is exempt if the sale is not made in the normal course of business of selling that kind of property and if one of the following conditions is satisfied:

- (1) the sale occurs in a transaction subject to or described in section 118, 331, 332, 336, 337, 338, 351, 355, 368, 721, 731, 1031, or 1033 of the Internal Revenue Code;

- (2) the sale is between members of a controlled group as defined in section 1563(a) of the Internal Revenue Code;
- (3) the sale is a sale of farm machinery;
- (4) the sale is a farm auction sale;
- (5) the sale is a sale of substantially all of the assets of a trade or business; or
- (6) the total amount of gross receipts from the sale of trade or business property made during the calendar month of the sale and the preceding 11 calendar months does not exceed \$1,000.

The use, storage, distribution, or consumption of tangible personal property acquired as a result of a sale exempt under this subdivision is also exempt.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) A "farm auction" is a public auction conducted by a licensed auctioneer if substantially all of the property sold consists of property used in the trade or business of farming and property not used primarily in a trade or business.

(2) "Trade or business" includes the assets of a separate division, branch, or identifiable segment of a trade or business if, before the sale, the income and expenses attributable to the separate division, branch, or identifiable segment could be separately ascertained from the books of account or record (the lease or rental of an identifiable segment does not qualify for the exemption).

(3) A "sale of substantially all of the assets of a trade or business" must occur as a single transaction or a series of related transactions within the 12-month period beginning on the date of the first sale of assets intended to qualify for the exemption provided in paragraph (a), clause (5).

[For text of subd 26, see M.S.2000]

Subd. 27. [Renumbered 297A.67 subd 30]

[For text of subs 28 to 34, see M.S.2000]

Subd. 35. Telecommunications equipment. (a) Telecommunications machinery and equipment purchased or leased for use directly by a telecommunications service provider primarily in the provision of telecommunications services that are ultimately to be sold at retail are exempt, regardless of whether purchased by the owner, a contractor, or a subcontractor.

(b) For purposes of this subdivision, "telecommunications machinery and equipment" includes, but is not limited to:

(1) machinery, equipment, and fixtures utilized in receiving, initiating, amplifying, processing, transmitting, retransmitting, recording, switching, or monitoring telecommunications services, such as computers, transformers, amplifiers, routers, bridges, repeaters, multiplexers, and other items performing comparable functions;

(2) machinery, equipment, and fixtures used in the transportation of telecommunications services, radio transmitters and receivers, satellite equipment, microwave equipment, and other transporting media, but not wire, cable, fiber, poles, or conduit;

(3) ancillary machinery, equipment, and fixtures that regulate, control, protect, or enable the machinery in clauses (1) and (2) to accomplish its intended function, such as auxiliary power supply, test equipment, towers, heating, ventilating, and air conditioning equipment necessary to the operation of the telecommunications equipment; and software necessary to the operation of the telecommunications equipment; and

(4) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to qualified machinery or equipment.

(c) For purposes of this subdivision, "telecommunications services" means telecommunications services as defined in section 297A.61, subdivision 24, paragraph (a), only.

History: 1Sp2001 c 5 art 12 s 6,45-54,93

297A.69 AGRICULTURAL EXEMPTIONS.

[For text of subd 1, see M.S.2000]

Subd. 2. **Materials consumed in agricultural production.** (a) Materials stored, used, or consumed in agricultural production of personal property intended to be sold ultimately at retail are exempt, whether or not the item becomes an ingredient or constituent part of the property produced. Materials that qualify for this exemption include, but are not limited to, the following:

- (1) feeds, seeds, trees, fertilizers, and herbicides, including when purchased for use by farmers in a federal or state farm or conservation program;
- (2) materials sold to a veterinarian to be used or consumed in the care, medication, and treatment of agricultural production animals and horses;
- (3) chemicals, including chemicals used for cleaning food processing machinery and equipment;
- (4) materials, including chemicals, fuels, and electricity purchased by persons engaged in agricultural production to treat waste generated as a result of the production process;
- (5) fuels, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating, cooling, or lighting is exempt if (i) it is in excess of the average climate control or lighting for the production area, and (ii) it is necessary to produce that particular product;
- (6) petroleum products and lubricants;
- (7) packaging materials, including returnable containers used in packaging food and beverage products; and
- (8) accessory tools and equipment that are separate detachable units with an ordinary useful life of less than 12 months used in producing a direct effect upon the product.

Machinery, equipment, implements, tools, accessories, appliances, contrivances, and furniture and fixtures, except those listed in this clause are not included within this exemption.

(b) For purposes of this subdivision, "agricultural production" includes, but is not limited to; horticulture, floriculture, maple syrup harvesting, and the raising of pets, fur-bearing animals, research animals, horses, farmed cervidae as defined in section 17.451, subdivision 2, llamas as defined in section 17.455, subdivision 2, and ratitae as defined in section 17.453, subdivision 3.

[For text of subds 3 to 7, see M.S.2000]

History: 1Sp2001 c 5 art 12 s 55

297A.70 EXEMPTIONS FOR GOVERNMENTS AND NONPROFIT GROUPS.

Subdivision 1. **Scope.** (a) To the extent provided in this section, the gross receipts from sales of items to or by, and storage, distribution, use, or consumption of items by the organizations listed in this section are specifically exempted from the taxes imposed by this chapter.

(b) Notwithstanding any law to the contrary enacted before 1992, only sales to governments and political subdivisions listed in this section are exempt from the taxes imposed by this chapter.

(c) "Sales" includes purchases under an installment contract or lease purchase agreement under section 465.71.

Subd. 2. **Sales to government.** (a) All sales, except those listed in paragraph (b), to the following governments and political subdivisions, or to the listed agencies or instrumentalities of governments and political subdivisions, are exempt:

- (1) the United States and its agencies and instrumentalities;

(2) school districts, the University of Minnesota, state universities, community colleges, technical colleges, state academies, the Perpich Minnesota center for arts education, and an instrumentality of a political subdivision that is accredited as an optional/special function school by the North Central Association of Colleges and Schools;

(3) hospitals and nursing homes owned and operated by political subdivisions of the state of tangible personal property and taxable services used at or by hospitals and nursing homes;

(4) the metropolitan council, for its purchases of vehicles and repair parts to equip operations provided for in section 473.4051;

(5) other states or political subdivisions of other states, if the sale would be exempt from taxation if it occurred in that state; and

(6) sales to public libraries, public library systems, multicounty, multitype library systems as defined in section 134.001, county law libraries under chapter 134A, state agency libraries, the state library under section 480.09, and the legislative reference library.

(b) This exemption does not apply to the sales of the following products and services:

(1) 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;

(2) 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;

(3) the leasing of a motor vehicle as defined in section 297B.01, subdivision 5, except for leases entered into by the United States or its agencies or instrumentalities; or

(4) meals and lodging as defined under section 297A.61, subdivision 3, paragraphs (d) and (g), clause (2), except for meals and lodging purchased directly by the United States or its agencies or instrumentalities.

(c) As used in this subdivision, "school districts" means public school entities and districts of every kind and nature organized under the laws of the state of Minnesota, and any instrumentality of a school district, as defined in section 471.59.

Subd. 3: Sales of certain goods and services to government. (a) The following sales to or use by the specified governments and political subdivisions of the state are exempt:

(1) repair and replacement parts for emergency rescue vehicles, fire trucks, and fire apparatus to a political subdivision;

(2) machinery and equipment, except for motor vehicles, used directly for mixed municipal solid waste management services at a solid waste disposal facility as defined in section 115A.03, subdivision 10;

(3) chore and homemaking services to a political subdivision of the state to be provided to elderly or disabled individuals;

(4) telephone services to the department of administration that are used to provide telecommunications services through the intertechnologies revolving fund;

(5) firefighter personal protective equipment as defined in paragraph (b), if purchased or authorized by and for the use of an organized fire department, fire protection district, or fire company regularly charged with the responsibility of providing fire protection to the state or a political subdivision;

(6) bullet-resistant body armor that provides the wearer with ballistic and trauma protection, if purchased by a law enforcement agency of the state or a political subdivision of the state, or a licensed peace officer, as defined in section 626.84, subdivision 1;

(7) motor vehicles purchased or leased by political subdivisions of the state if the vehicles are exempt from registration under section 168.012, subdivision 1, paragraph (b), exempt from taxation under section 473.448, or exempt from the motor vehicle sales tax under section 297B.03, clause (12);

(8) equipment designed to process, dewater, and recycle biosolids for wastewater treatment facilities of political subdivisions, and materials incidental to installation of that equipment; and materials used to construct buildings to house the equipment, if the materials are purchased after June 30, 1998, and before July 1, 2001; and

(9) sales to a town of gravel and of machinery, equipment, and accessories, except motor vehicles, used exclusively for road and bridge maintenance, and leases by a town of motor vehicles exempt from tax under section 297B.03, clause (10).

(b) For purposes of this subdivision, "firefighters personal protective equipment" means helmets, including face shields, chin straps, and neck liners; bunker coats and pants, including pant suspenders; boots; gloves; head covers or hoods; wildfire jackets; protective coveralls; goggles; self-contained breathing apparatus; canister filter masks; personal alert safety systems; spanner belts; optical or thermal imaging search devices; and all safety equipment required by the Occupational Safety and Health Administration.

Subd. 4. **Sales to nonprofit groups.** (a) All sales, except those listed in paragraph (b), to the following "nonprofit organizations" are exempt:

(1) a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes if the item purchased is used in the performance of charitable, religious, or educational functions; and

(2) any senior citizen group or association of groups that:

(i) in general limits membership to persons who are either age 55 or older, or physically disabled; and

(ii) is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders.

For purposes of this subdivision, charitable purpose includes the maintenance of a cemetery owned by a religious organization.

(b) This exemption does not apply to the following sales:

(1) 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;

(2) construction materials purchased by tax-exempt entities or their contractors to be used in constructing buildings or facilities that will not be used principally by the tax-exempt entities; and

(3) meals and lodging as defined under section 297A.61, subdivision 3, paragraphs (d) and (g), clause (2); and

(4) leasing of a motor vehicle as defined in section 297B.01, subdivision 5, except as provided in paragraph (c).

(c) This exemption applies to the leasing of a motor vehicle as defined in section 297B.01, subdivision 5, only if the vehicle is:

(1) a truck, as defined in section 168.011, a bus, as defined in section 168.011, or a passenger automobile, as defined in section 168.011, if the automobile is designed and used for carrying more than nine persons including the driver; and

(2) intended to be used primarily to transport tangible personal property or individuals, other than employees, to whom the organization provides service in performing its charitable, religious, or educational purpose.

(d) A limited liability company also qualifies for exemption under this subdivision if (1) it consists of a sole member that would qualify for the exemption, and (2) the items purchased qualify for the exemption.

[For text of subs 5 and 6, see M.S.2000]

Subd. 7. Hospitals and outpatient surgical centers. (a) Sales, except for those listed in paragraph (c), to a hospital are exempt, if the items purchased are used in providing hospital services. For purposes of this subdivision, "hospital" means a hospital organized and operated for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, and licensed under chapter 144 or by any other jurisdiction, and "hospital services" are services authorized or required to be performed by a "hospital" under chapter 144.

(b) Sales, except for those listed in paragraph (c), to an outpatient surgical center are exempt, if the items purchased are used in providing outpatient surgical services. For purposes of this subdivision, "outpatient surgical center" means an outpatient surgical center organized and operated for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, and licensed under chapter 144 or by any other jurisdiction. For the purposes of this subdivision, "outpatient surgical services" means: (1) services authorized or required to be performed by an outpatient surgical center under chapter 144; and (2) urgent care. For purposes of this subdivision, "urgent care" means health services furnished to a person whose medical condition is sufficiently acute to require treatment unavailable through, or inappropriate to be provided by, a clinic or physician's office, but not so acute as to require treatment in a hospital emergency room.

(c) This exemption does not apply to the following products and services:

(1) purchases made by a clinic, physician's office, or any other medical facility not operating as a hospital or outpatient surgical center, even though the clinic, office, or facility may be owned and operated by a hospital or outpatient surgical center;

(2) sales under section 297A.61, subdivisions 3, paragraph (d), and 16, paragraph (c);

(3) building and construction materials used in constructing buildings or facilities that will not be used principally by the hospital or outpatient surgical center;

(4) 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 hospital or outpatient surgical center; or

(5) the leasing of a motor vehicle as defined in section 297B.01, subdivision 5.

(d) A limited liability company also qualifies for exemption under this subdivision if (1) it consists of a sole member that would qualify for the exemption, and (2) the items purchased qualify for the exemption.

Subd. 8. Regionwide public safety radio communication system; products and services. Products and services including, but not limited to, end user equipment used for construction, ownership, operation, maintenance, and enhancement of the backbone system of the regionwide public safety radio communication system established under sections 473.891 to 473.905, are exempt. For purposes of this subdivision, backbone system is defined in section 473.891, subdivision 9. This subdivision is effective for purchases, sales, storage, use, or consumption occurring before August 1, 2003, in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

[For text of subd 9, see M.S.2000]

Subd. 10. Nonprofit tickets or admissions. (a) Tickets or admissions to an event are exempt if all the gross receipts are recorded as such, in accordance with generally accepted accounting principles, on the books of one or more organizations that provide an opportunity for citizens of the state to participate in the creation, performance, or appreciation of the arts, and provided that each organization is either:

(1) an organization described in section 501(c)(3) of the Internal Revenue Code in which voluntary contributions make up at least the following percent of the organization's annual revenue in its most recently completed 12-month fiscal year, or in the current year if the organization has not completed a 12-month fiscal year:

(i) for sales made after July 31, 2001, and before July 1, 2002, for the organization's fiscal year completed in calendar year 2000, three percent;

(ii) for sales made on or after July 1, 2002, and on or before June 30, 2003, for the organization's fiscal year completed in calendar year 2001, three percent;

(iii) for sales made on or after July 1, 2003, and on or before June 30, 2004, for the organization's fiscal year completed in calendar year 2002, four percent; and

(iv) for sales made in each 12-month period, beginning on July 1, 2004, and each subsequent year, for the organization's fiscal year completed in the preceding calendar year, five percent; or

(2) a municipal board that promotes cultural and arts activities.

The exemption only applies if the entire proceeds, after reasonable expenses, are used solely to provide opportunities for citizens of the state to participate in the creation, performance, or appreciation of the arts.

(b) Tickets or admissions to the premises of the Minnesota zoological garden are exempt, provided that the exemption under this paragraph does not apply to tickets or admissions to performances or events held on the premises unless the performance or event is sponsored and conducted exclusively by the Minnesota zoological board or employees of the Minnesota zoological garden:

[For text of subs 11 and 12, see M.S.2000]

Subd. 13. Fundraising sales by or for nonprofit groups. (a) The following sales by the specified organizations for fundraising purposes are exempt, subject to the limitations listed in paragraph (b):

(1) all sales made by an organization that exists solely for the purpose of providing educational or social activities for young people primarily age 18 and under;

(2) all sales made by an organization that is a senior citizen group or association of groups if (i) in general it limits membership to persons age 55 or older; (ii) it is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes; and (iii) no part of its net earnings inures to the benefit of any private shareholders;

(3) the sale or use of tickets or admissions to a golf tournament held in Minnesota if the beneficiary of the tournament's net proceeds qualifies as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code; and

(4) sales of gum, candy, and candy products sold for fundraising purposes by a nonprofit organization that provides educational and social activities primarily for young people age 18 and under.

(b) The exemptions listed in paragraph (a) are limited in the following manner:

(1) the exemption under paragraph (a), clauses (1) and (2), applies only if the gross annual receipts of the organization from fundraising do not exceed \$10,000; and

(2) the exemption under paragraph (a), clause (1), does not apply if the sales are derived from admission charges or from activities for which the money must be deposited with the school district treasurer under section 123B.49, subdivision 2, or be recorded in the same manner as other revenues or expenditures of the school district under section 123B.49, subdivision 4.

(c) Sales of tangible personal property are exempt if the entire proceeds, less the necessary expenses for obtaining the property, will be contributed to a registered combined charitable organization described in section 309.501, to be used exclusively for charitable, religious, or educational purposes, and the registered combined charitable organization has given its written permission for the sale. Sales that occur over a period of more than 24 days per year are not exempt under this paragraph.

(d) For purposes of this subdivision, a club, association, or other organization of elementary or secondary school students organized for the purpose of carrying on sports, educational, or other extracurricular activities is a separate organization from the school district or school for purposes of applying the \$10,000 limit.

Subd. 14. **Fundraising events sponsored by nonprofit groups.** (a) Sales of tangible personal property at, and admission charges for fundraising events sponsored by, a nonprofit organization are exempt if the entire proceeds, less the necessary expenses for the event, will be used solely and exclusively for charitable, religious, or educational purposes. Exempt sales include the sale of food, meals, and drinks at the fundraising event.

(b) This exemption is limited in the following manner:

(1) it 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;

(2) all gross receipts are taxable if the profits are not used solely and exclusively for charitable, religious, or educational purposes;

(3) it does not apply unless the organization keeps a separate accounting record, including receipts and disbursements from each fundraising event that documents all deductions from gross receipts with receipts and other records;

(4) it 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;

(5) all gross receipts are taxable if fundraising events exceed 24 days per year; and

(6) it does not apply to fundraising events conducted on premises leased for more than five days but less than 30 days.

(c) For purposes of this subdivision, a "nonprofit organization" means any unit of government, corporation, society, association, foundation, or institution organized and operated for charitable, religious, educational, civic, fraternal, and senior citizens' or veterans' purposes, no part of the net earnings of which inures to the benefit of a private individual.

[For text of subs 15 and 16, see M.S.2000]

History: 1Sp2001 c 5 art 7 s 52; art 12 s 56-64; 1Sp2001 c 8 art 2 s 63; 1Sp2001 c 13 s 16

297A.71 CONSTRUCTION EXEMPTIONS:

[For text of subd 1, see M.S.2000]

Subd. 2. [Repealed, 1Sp2001 c 5 art 12 s 95]

[For text of subs 3 to 5, see M.S.2000]

Subd. 6. **Business incubator and industrial park.** Building materials and supplies for construction of a facility that includes a business incubator and industrial park are exempt if the facility:

(1) is owned and operated by a nonprofit charitable organization that qualifies for tax exemption under section 501(c)(3) of the Internal Revenue Code;

(2) is used for the development of nonretail businesses, offering access to equipment, space, services, and advice to the tenant businesses, for the purpose of encouraging economic development and job creation in the area served by the organization, and emphasizes development of businesses that manufacture products from materials found in the waste stream, or manufacture alternative energy and conservation systems, or make use of emerging environmental technologies;

(3) includes in its structure systems of material and energy exchanges that use waste products from one industrial process as sources of energy and material for other processes; and

(4) makes use of solar and wind energy technology and incorporates salvaged materials in its construction.

A limited liability company also qualifies for exemption under this subdivision if (1) it consists of a sole member that would qualify for the exemption, and (2) the items purchased qualify for the exemption.

[For text of subs 7 to 15, see M.S.2000]

Subd. 16. [Repealed, 1Sp2001 c 5 art 12 s 95]

[For text of subs 17 to 22, see M.S.2000]

Subd. 23. **Construction materials for qualified low-income housing projects.** (a) Purchases of materials and supplies used or consumed in and equipment incorporated into the construction, improvement, or expansion of qualified low-income housing projects are exempt from the tax imposed under this chapter if the owner of the qualified low-income housing project is:

- (1) the public housing agency or housing and redevelopment authority of a political subdivision;
- (2) an entity exercising the powers of a housing and redevelopment authority within a political subdivision;
- (3) a limited partnership in which the sole general partner is an authority under clause (1) or an entity under clause (2); or
- (4) a nonprofit corporation subject to the provisions of chapter 317A, and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended.

This exemption applies regardless of whether the purchases are made by the owner of the facility or a contractor.

(b) For purposes of this exemption, "qualified low-income housing project" means:

- (1) a housing or mixed use project in which at least 20 percent of the residential units are qualifying low-income rental housing units as defined in section 273.126;
- (2) a federally assisted low-income housing project financed by a mortgage insured or held by the United States Department of Housing and Urban Development under United States Code, title 12, section 1701s, 1715l(d)(3), 1715l(d)(4), or 1715z-1; United States Code, title 42, section 1437f; the Native American Housing Assistance and Self-Determination Act, United States Code, title 25, section 4101 et seq.; or any similar successor federal low-income housing program;
- (3) a qualified low-income housing project as defined in United States Code, title 26, section 42(g), meeting all of the requirements for a low-income housing credit under section 42 of the Internal Revenue Code regardless of whether the project actually applies for or receives a low-income housing credit; or
- (4) a project that will be operated in compliance with Internal Revenue Service revenue procedure 96-32.

Subd. 24. **Construction materials and equipment; agricultural processing facility.** Materials and supplies used or consumed in, and machinery and equipment incorporated into the construction, improvement, or expansion of a soybean oilseed processing facility are exempt if:

- (1) the facility is owned and operated by a cooperative organized under chapter 308A; and
- (2) the facility is located in a county that has a population of less than 21,000 according to the most recent decennial census.

Subd. 25. **Poultry litter and other biomass generation facility construction materials and equipment.** Materials and supplies used or consumed in, and equipment incorporated into, the construction, improvement, or expansion of a facility using biomass to generate electricity are exempt if:

(1) the facility is designed to utilize poultry litter biomass or other biomass as established in section 216B.2424, as a primary fuel source; and

(2) the facility generates power that will be sold under a contract approved by the public utilities commission in accordance with the biomass mandate imposed under section 216B.2424.

Subd. 26. Disaster relief; construction materials; Yellow Medicine county facility. Materials and supplies used or consumed in, and fixtures, furnishings, and equipment incorporated into, the construction, improvement, or expansion of the Yellow Medicine county law enforcement and family service center are exempt. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner prescribed for refunds in section 297A.75.

Subd. 27. Construction materials and equipment; waste tires cogeneration electric generating facility. Materials and supplies used or consumed in, and equipment incorporated into, the construction, improvement, or expansion of a facility using waste tires to generate electricity are exempt if:

- (1) the facility utilizes waste tires as a primary fuel in generating electricity;
- (2) the facility is a cogeneration facility; and
- (3) the installed capacity of the facility is 1 to 25 megawatts.

History: *1Sp2001 c 5 art 12 s 65-70*

NOTE: Subdivision 15 is repealed by Laws 2001, First Special Session chapter 5, article 12, section 95, effective for sales and purchases made after June 30, 2002.

NOTE: Subdivision 21 (formerly 297A.25, subdivision 82) is effective for purchases made before July 1, 2003. Laws 1999, chapter 243, article 4, section 19, as amended by Laws 2001, First Special Session chapter 5, article 12, section 88.

NOTE: Subdivision 24, as added by Laws 2001, First Special Session chapter 5, article 12, section 66, is effective for sales and purchases made after June 30, 2001, and before July 1, 2004. Laws 2001, First Special Session chapter 5, article 12, section 66, the effective date.

NOTE: Subdivision 25, as added by Laws 2001, First Special Session chapter 5, article 12, section 67, is effective for purchases and sales made after June 30, 2001, and before January 1, 2003. Laws 2001, First Special Session chapter 5, article 12, section 67, the effective date.

NOTE: Subdivision 26, as added by Laws 2001, First Special Session chapter 5, article 12, section 68, is effective for sales and purchases made after June 30, 2000, and before January 1, 2003. Laws 2001, First Special Session chapter 5, article 12, section 68, the effective date.

NOTE: Subdivision 27, as added by Laws 2001, First Special Session chapter 5, article 12, section 69, is effective for purchases and sales made on or after June 1, 2001, and before January 1, 2004. Laws 2001, First Special Session chapter 5, article 12, section 69, the effective date.

297A.72 EXEMPTION CERTIFICATES.

Subdivision 1. Duty of retailer. A fully completed exemption certificate conclusively relieves the retailer from collecting and remitting the tax if taken from the purchaser at the time of sale.

[For text of subd 2, see M.S.2000]

History: *1Sp2001 c 5 art 12 s 71*

297A.75 REFUND; APPROPRIATION.

Subdivision 1. Tax collected. The tax on the gross receipts from the sale of the following exempt items must be imposed and collected as if the sale were taxable and the rate under section 297A.62, subdivision 1, applied. The exempt items include:

- (1) capital equipment exempt under section 297A.68, subdivision 5;
- (2) building materials for an agricultural processing facility exempt under section 297A.71, subdivision 13;
- (3) building materials for mineral production facilities exempt under section 297A.71, subdivision 14;
- (4) building materials for correctional facilities under section 297A.71, subdivision 3;
- (5) building materials used in a residence for disabled veterans exempt under section 297A.71, subdivision 11;

(6) chair lifts, ramps, elevators, and associated building materials exempt under section 297A.71, subdivision 12;

(7) building materials for the Long Lake Conservation Center exempt under section 297A.71, subdivision 17; and

(8) materials, supplies, fixtures, furnishings, and equipment for a county law enforcement and family service center under section 297A.71, subdivision 26.

Subd. 2. Refund; eligible persons. Upon application on forms prescribed by the commissioner, a refund equal to the tax paid on the gross receipts of the exempt items must be paid to the applicant. Only the following persons may apply for the refund:

(1) for subdivision 1, clauses (1) to (3), the applicant must be the purchaser;

(2) for subdivision 1, clauses (4), (7), and (8), the applicant must be the governmental subdivision;

(3) for subdivision 1, clause (5), the applicant must be the recipient of the benefits provided in United States Code, title 38, chapter 21; and

(4) for subdivision 1, clause (6), the applicant must be the owner of the homestead property.

Subd. 3. Application. (a) The application must include sufficient information to permit the commissioner to verify the tax paid. If the tax was paid by a contractor, subcontractor, or builder, under subdivision 1, clause (4), (5), (6), (7), or (8), the contractor, subcontractor, or builder must furnish to the refund applicant a statement including the cost of the exempt items and the taxes paid on the items unless otherwise specifically provided by this subdivision. The provisions of sections 289A.40 and 289A.50 apply to refunds under this section.

(b) An applicant may not file more than two applications per calendar year for refunds for taxes paid on capital equipment exempt under section 297A.68, subdivision 5.

Subd. 4. Interest. Interest must be paid on the refund at the rate in section 270.76 from the date the refund claim is filed for taxes paid under subdivision 1, clauses (1) to (3), and (5), and from 60 days after the date the refund claim is filed with the commissioner for claims filed under subdivision 1, clauses (4), (6), (7), and (8).

Subd. 5. Appropriation. The amount required to make the refunds is annually appropriated to the commissioner.

History: *1Sp2001 c 5 art 12 s 72*

297A.77 COLLECTION OF SALES AND USE TAXES.

Subdivision 1. Collection of tax at time of sale. The tax must be stated and charged separately from the sales price insofar as practicable and must be collected by the seller from the purchaser.

[For text of subs 2 to 4, see M.S.2000]

History: *1Sp2001 c 5 art 12 s 73*

297A.80 TAXES IN OTHER STATES; OFFSET AGAINST USE TAX.

If an article of tangible personal property or an item listed in section 297A.63 has already been taxed by another state and any subdivision thereof for its sale, storage, use, or other consumption in an amount less than the tax imposed by this chapter, then as to the person who paid the tax in the other state or any subdivision thereof, section 297A.63 applies only at a rate measured by the difference between the rate imposed under section 297A.62 and the rate by which the previous tax was computed. If the tax imposed in the other state or any subdivision thereof is equal to or greater than the tax imposed in this state, then no tax is due from that person under section 297A.63. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against any use tax due a subdivision.

History: *1Sp2001 c 5 art 12 s 74*

297A.82. AIRCRAFT; FLIGHT EQUIPMENT; PAYMENT OF TAXES; EXEMPTIONS.

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

Subd. 3. **Payment of tax.** If an aircraft is purchased from a person who is not the holder of a valid sales and use tax permit under this chapter, the purchaser shall pay the tax prior to registering or licensing the aircraft in this state.

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

Subd. 7. **Agreement with commissioner of transportation.** Notwithstanding subdivisions 1 to 4, the commissioner may enter into an agreement with the commissioner of transportation whereby, upon approval of both commissioners, the commissioner of transportation will collect the sales tax on aircraft from persons required to register or license aircraft in this state. For purposes of collecting the tax, the commissioner of transportation shall act as 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: 1Sp2001 c 5 art 7 s 53,54

297A.86. REVOCATION OF PERMITS.

Subdivision 1. **Notice of revocation; hearings.** (a) If: (1) a person fails to comply with this chapter or the sales and use tax provisions of chapter 289A or the rules related to sales tax, or (2) any retailer purchases for resale from an unlicensed seller more than 20,000 cigarettes or \$500 or more worth of tobacco products, without reasonable cause, the commissioner may give the person 30 days' notice in writing, specifying the violations, and stating that based on the violations the commissioner intends to revoke the person's permit. The notice must also advise the person of the right to contest the revocation under this subdivision. It must also explain the general procedures for a contested case hearing under chapter 14. The notice may be served personally or by mail in the manner prescribed for service of an order of assessment.

(b) If the person does not request a hearing within 30 days after the date of the notice of intent, the commissioner may serve a notice of revocation of permit upon the person, and the permit is revoked. If a hearing is timely requested, and held, the permit is revoked after the commissioner serves an order of revocation of permit under section 14.62, subdivision 1.

Subd. 2. **New permits after revocation.** (a) The commissioner shall not issue a new permit after revocation or reinstate a revoked permit unless the taxpayer applies for a permit and provides reasonable evidence of intention to comply with the sales and use tax laws and rules. The commissioner may require the applicant to provide security, in addition to that authorized by section 297A.92, in an amount reasonably necessary to ensure compliance with the sales and use tax laws and rules. If the commissioner issues or reinstates a permit not in conformance with the requirements of this subdivision or applicable rules, the commissioner may cancel the permit upon notice to the permit holder. The notice must be served by first class and certified mail at the permit holder's last known address. The cancellation shall be effective immediately, subject to the right of the permit holder to show that the permit was issued in conformance with the requirements of this subdivision and applicable rules. Upon such showing, the permit must be reissued.

(b) If a taxpayer has had a permit or permits revoked three times in a five-year period, the commissioner shall not issue a new permit or reinstate the revoked permit until 24 months have elapsed after revocation and the taxpayer has satisfied the conditions for reinstatement of a revoked permit or issuance of a new permit imposed by this section and rules adopted under this section.

(c) For purposes of this subdivision, "taxpayer" means:

(1) an individual, if a revoked permit was issued to or in the name of an individual, or a corporation or partnership, if a revoked permit was issued to or in the name of a corporation or partnership; and

(2) an officer of a corporation, a member of a partnership, or an individual who is liable for delinquent sales taxes, either for the entity for which the new or reinstated permit is at issue, or for another entity for which a permit was previously revoked, or personally as a permit holder.

History: *1Sp2001 c 5 art 7 s 50; art 12 s 75*

297A.89 DIRECT PAYMENT BY PURCHASERS PERMITTED.

Subdivision 1. **Commissioner may permit.** The commissioner may permit purchasers to pay taxes imposed by this chapter directly to the commissioner. Any taxes paid by purchasers under this section are considered use taxes.

[For text of subd 2, see M.S.2000]

History: *1Sp2001 c 5 art 12 s 76*

297A.90 INTERSTATE MOTOR CARRIERS AS RETAILERS.

Subdivision 1. **Registration; records.** (a) A person who is engaged in interstate for-hire transportation of tangible personal property or passengers by motor vehicle may, under rules prescribed by the commissioner, register as a retailer and pay the taxes imposed by this chapter in accordance with this section. Any taxes paid under this section are use taxes.

(b) As used in this section, "person" means:

(1) one who possesses a certificate or permit or has completed a registration process that authorizes for-hire transportation of property or passengers from the United States Department of Transportation or the department of transportation;

(2) one who transports commodities defined as "exempt" in for-hire transportation in interstate commerce; or

(3) one who transports tangible personal property in interstate commerce, pursuant to contracts with persons described in clause (1) or (2).

Persons qualifying under clause (2) or (3) must maintain on a current basis the same type of mileage records that are required by persons specified in clause (1) by the United States Department of Transportation.

(c) Persons who in the course of their business are transporting solely their own goods in interstate commerce may also register as retailers under rules prescribed by the commissioner and pay the taxes imposed by this chapter in accordance with this section.

[For text of subds 2 to 4, see M.S.2000]

History: *2001 c 213 s 30; 1Sp2001 c 5 art 12 s 77*

297A.91 SEIZURE; COURT REVIEW.

Subdivision 1. **Seizure of property used in illegal transport.** (a) If the retailer does not have a sales or use tax permit and has been engaging in transporting personal property into the state without payment of the tax, the commissioner of revenue or the commissioner's agents may seize in the name of the state any truck, automobile, or means of transportation not owned or operated by a for-hire carrier, used in the illegal importation and transportation of any tangible personal property by a retailer or the retailer's agent or employee. The commissioner may demand the forfeiture and sale of the truck, automobile, or other means of transportation together with the property being transported illegally, unless the owner establishes to the satisfaction of the commissioner or the court that the owner had no notice or knowledge or reason to believe that the vehicle was used or intended to be used in any such violation.

(b) Within ten days after the seizure, the person making the seizure shall serve by certified mail an inventory of the vehicle and property seized on the person from whom the seizure was made, if known, and on any person known or believed to have any right, title, interest, or lien on the vehicle or property, at the last known address. The

person making the seizure shall also file a copy of the inventory with the commissioner. The notice must include an explanation of the right to demand a judicial forfeiture determination.

Subd. 2. **Court review of forfeiture.** (a) Within 60 days after the date of service of the inventory, which is the date of mailing, the person from whom the vehicle and property were seized or any person claiming an interest in the vehicle or property may file a demand for a judicial determination of the question of whether the vehicle or property was lawfully subject to seizure and forfeiture.

(b) The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service or a copy of the complaint on the commissioner of revenue, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property or vehicle is \$7,500 or less, the claimant may file an action in conciliation court for its recovery. If the value of the seized property or vehicle is less than \$500, the claimant does not have to pay the conciliation court filing fee.

(c) The complaint must be captioned in the name of the claimant as plaintiff and the seized property or vehicle as defendant, and must state with specificity the grounds on which the claimant alleges the property or vehicle was improperly seized and the plaintiff's interest in the property or vehicle seized. No responsive pleading is required of the commissioner, and no court fees may be charged for the commissioner's appearance in the matter. The proceedings are governed by the Rules of Civil Procedure. Notwithstanding any law to the contrary, an action for the return of property or a vehicle seized under this subdivision may not be maintained by or on behalf of any person who has been served with an inventory unless the person has complied with this subdivision. The court shall hear the action without a jury and shall determine the issues of fact and law involved. If a judgment of forfeiture is entered and is not stayed pending an appeal, the commissioner may have the forfeited vehicle and property sold at public auction as provided by law.

Subd. 3. **Treatment of seized property.** If no demand for judicial determination is made, the vehicle and property seized are considered forfeited to the state by operation of law and may be disposed of by the commissioner as if there were a judgment of forfeiture. The forfeiture and sale of the automobile, truck, or other means of transportation, and of the property being transported illegally in it, are a penalty for the violation of this chapter. After deducting the expense of keeping the vehicle and property, the fee for seizure, and the costs of the sale, the commissioner shall pay liens from the funds collected. The commissioner shall pay all liens, according to their priority, that are established as being bona fide and as existing without the lienor having any notice or knowledge that the vehicle or property was being used or was intended to be used for or in connection with any such violation. The commissioner shall pay the balance of the proceeds into the state treasury to be credited to the general fund. The state is not liable for any liens in excess of the proceeds from the sale after allowable deductions. A sale under this section frees the vehicle and property sold from all liens.

History: 1Sp2001 c 5 art 12 s 78; art 18 s 3

297A.92 SECURITY.

[For text of subd 1, see M.S.2000]

Subd. 2. **Auctions of security.** The commissioner may sell property deposited as security at public auction if necessary to recover the amount required to be collected, including any interest and penalties. Notice of the sale must be served upon the person who deposited the security. It must be served personally, or by mail as prescribed for an order of assessment under section 289A.37, subdivision 5. After a sale any surplus above the amount due not required as security under this section must be returned to the person who deposited the security.

[For text of subd 3, see M.S.2000]

History: 1Sp2001 c 5 art 12 s 79

297A.94 DEPOSIT OF REVENUES.

(a) Except as provided in this section, the commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed by this chapter in the state treasury and credit them to the general fund.

(b) The commissioner shall deposit taxes in the Minnesota agricultural and economic account in the special revenue fund if:

(1) the taxes are derived from sales and use of property and services purchased for the construction and operation of an agricultural resource project; and

(2) the purchase was made on or after the date on which a conditional commitment was made for a loan guaranty for the project under section 41A.04, subdivision 3.

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 account must 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) The commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed on sales and purchases included in section 297A.61, subdivision 3, paragraph (g), clauses (1) and (4), in the state treasury, and credit them 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 clause (1) have been met, the balance to the general fund.

(d) The commissioner shall deposit the revenues, including interest and penalties, collected under section 297A.64, subdivision 5, in the state treasury and credit them to the general fund. By July 15 of each year the commissioner shall transfer to the highway user tax distribution fund an amount equal to the excess fees collected under section 297A.64, subdivision 5, for the previous calendar year.

(e) For fiscal year 2001, 97 percent; for fiscal years 2002 and 2003, 87 percent; and for fiscal year 2004 and thereafter, 88.5 percent of the revenues, including interest and penalties, transmitted to the commissioner under section 297A.65, must be deposited by the commissioner in the state treasury as follows:

(1) 50 percent of the receipts must be deposited in the heritage enhancement account in the game and fish fund, and may be spent only on activities that improve, enhance, or protect fish and wildlife resources, including conservation, restoration, and enhancement of land, water, and other natural resources of the state;

(2) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only for state parks and trails;

(3) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only on metropolitan park and trail grants;

(4) three percent of the receipts must be deposited in the natural resources fund, and may be spent only on local trail grants; and

(5) two percent of the receipts must be deposited in the natural resources fund, and may be spent only for the Minnesota zoological garden, the Como park zoo and conservatory, and the Duluth zoo.

(f) The revenue dedicated under paragraph (e) may not be used as a substitute for traditional sources of funding for the purposes specified, but the dedicated revenue shall supplement traditional sources of funding for those purposes. Land acquired with money deposited in the game and fish fund under paragraph (e) must be open to public hunting and fishing during the open season, except that in aquatic management

areas or on lands where angling easements have been acquired, fishing may be prohibited during certain times of the year and hunting may be prohibited. At least 87 percent of the money deposited in the game and fish fund for improvement, enhancement, or protection of fish and wildlife resources under paragraph (e) must be allocated for field operations.

History: 2001 c 185 s 33; 1Sp2001 c 2 s 146; 1Sp2001 c 5 art 12 s 80

297A.99 LOCAL SALES TAXES.

[For text of subds 1 to 6, see M.S.2000]

Subd. 7. **Exemptions.** (a) All goods or services that are otherwise exempt from taxation under this chapter are exempt from a political subdivision's tax.

(b) The gross receipts from the sale of tangible personal property that meets the requirement of section 297A.68, subdivision 15, are exempt, except the qualification test applies based on the boundaries of the political subdivision instead of the state of Minnesota.

(c) All mobile transportation equipment, and parts and accessories attached to or to be attached to the equipment are exempt, if purchased by a holder of a motor carrier direct pay permit under section 297A.90.

[For text of subd 8, see M.S.2000]

Subd. 9. **Enforcement; collection; and administration.** (a) The commissioner of revenue shall collect the taxes subject to this section. The commissioner may collect the tax with the state sales and use tax. All taxes under this section are subject to the same penalties, interest, and enforcement provisions as apply to the state sales and use tax.

(b) A request for a refund of state sales tax paid in excess of the amount of tax legally due includes a request for a refund of the political subdivision taxes paid on the goods or services. The commissioner shall refund to the taxpayer the full amount of the political subdivision taxes paid on exempt sales or use.

[For text of subd 10, see M.S.2000]

Subd. 11. **Revenues; cost of collection.** The commissioner shall remit the proceeds of the tax, less refunds and a proportionate share of the cost of collection, at least quarterly, to the political subdivision. The commissioner shall deduct from the proceeds remitted an amount that equals

(1) the direct and indirect costs of the department to administer, audit, and collect the political subdivision's tax, plus

(2) the political subdivision's proportionate share of the indirect cost of administering all taxes under this section, plus

(3) the cost of constructing and maintaining a zip code or geo-code database necessary for local sales tax collections under the Streamlined Sales and Use Tax Agreement in section 297A.995.

The initial cost of constructing a database under clause (3) shall be distributed among the cities with a local sales tax based on each city's population. The commissioner shall develop a method for distributing the cost of maintaining the database among the cities with a local sales tax based on the number of boundary changes for each city.

[For text of subds 12 and 13, see M.S.2000]

History: 1Sp2001 c 5 art 12 s 81-83

NOTE: The amendment to subdivision 9 by Laws 2001, First Special Session chapter 5, article 12, section 82, is effective January 1, 2003. Laws 2001, First Special Session chapter 5, article 12, section 82, the effective date.

297A.995 UNIFORM SALES AND USE TAX ADMINISTRATION ACT.

Subdivision 1. **Title.** This section may be cited as the Uniform Sales and Use Tax Administration Act.

Subd. 2. **Definitions.** As used in this section:

(a) "Agreement" means the Streamlined Sales and Use Tax Agreement.

(b) "Certified automated system" means software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(c) "Certified service provider" means an agent certified jointly by the states that are signatories to the agreement to perform all of the seller's sales tax functions.

Subd. 3. **Legislative finding.** The legislature finds that this state should enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

Subd. 4. **Authority to enter agreement.** The commissioner of revenue is authorized and directed to enter into the agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the agreement, the commissioner is authorized to act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

The commissioner is further authorized to take other actions reasonably required to implement the provisions set forth in this article. Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

The commissioner or the commissioner's designee is authorized to represent this state before the other states that are signatories to the agreement.

Subd. 5. **Relationship to state law.** No provision of the agreement authorized by this bill in whole or part invalidates or amends any provision of the law of this state. Adoption of the agreement by this state does not amend or modify any law of this state. Implementation of any condition of the agreement in this state, whether adopted before, at, or after membership of this state in the agreement, must be by the action of this state.

Subd. 6. **Agreement requirements.** The commissioner of revenue shall not enter into the agreement unless the agreement requires each state to abide by the following requirements:

(a) **Uniform state rate.** The agreement must set restrictions to achieve more uniform state rates through the following:

(1) limiting the number of state rates;

(2) eliminating maximums on the amount of state tax that is due on a transaction;

and

(3) eliminating thresholds on the application of state tax.

(b) **Uniform standards.** The agreement must establish uniform standards for the following:

(1) the sourcing of transactions to taxing jurisdictions;

(2) the administration of exempt sales;

(3) the allowances a seller can take for bad debts; and

(4) sales and use tax returns and remittances.

(c) **Uniform definitions.** The agreement must require states to develop and adopt uniform definitions of sales and use tax terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.

(d) **Central registration.** The agreement must provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

(e) **No nexus attribution.** The agreement must provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax.

(f) **Local sales and use taxes.** The agreement must provide for reduction of the burdens of complying with local sales and use taxes through the following:

(1) restricting and eliminating variances between the state and local tax bases;

(2) requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(3) restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(4) providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(g) **Monetary allowances.** The agreement must outline any monetary allowances that are to be provided by the states to sellers or certified service providers.

(h) **State compliance.** The agreement must require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member.

(i) **Consumer privacy.** The agreement must require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(j) **Advisory councils.** The agreement must provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the agreement.

Subd. 7. Cooperating sovereigns. The agreement authorized by this bill is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

Subd. 8. Limited binding and beneficial effect. (a) The agreement authorized by this bill binds and inures only to the benefit of this state and the other member states. No person, other than a member state, is an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of this state and the other member states and not by the terms of the agreement.

(b) Consistent with paragraph (a), no person shall have any cause of action or defense under the agreement or by virtue of this state's approval of the agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state, on the ground that the action or inaction is inconsistent with the agreement.

(c) No law of this state, or its application, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.

Subd. 9. Seller and third-party liability. (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section.

A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material

misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(b) A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

(c) A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

History: *1Sp2001 c 5 art. 12 s 84*