

**297A.67 GENERAL EXEMPTIONS.**

Subdivision 1. **Scope.** The gross receipts from the sale and purchase of, and storage, distribution, use, or consumption of the items contained in this section are specifically exempted from the taxes imposed by this chapter.

Subd. 2. **Food and food ingredients.** Except as otherwise provided in this subdivision, 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 exempt under this subdivision do not include candy, soft drinks, food sold through vending machines, dietary supplements, and prepared foods. Food and food ingredients do not include alcoholic beverages 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.

Subd. 3. **Food stamps.** Tangible personal property purchased with food stamps, coupons, or vouchers issued by the federal government under the Food Stamp Program is exempt. This exemption also applies to food purchased under the Special Supplemental Food Program for Women, Infants, and Children. The exemption provided by this subdivision is effective and applies only to the extent required by federal law.

Subd. 4. **Exempt meals at residential facilities.** Prepared food, candy, and soft drinks served to patients, inmates, or persons residing at hospitals, sanitariums, nursing homes, senior citizen homes, and correctional, detention, and detoxification facilities are exempt. Food sold through vending machines is not exempt.

Subd. 5. **Exempt meals at schools.** Prepared food, candy, and soft drinks served at public and private elementary, middle, or secondary schools as defined in section 120A.05 are exempt. Prepared food, candy, and soft drinks served to students at a college, university, or private career school under a board contract are exempt. Food sold through vending machines is not exempt.

Subd. 6. **Other exempt meals.** (a) Prepared food, candy, and soft drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to disabled persons and their spouses by governmental agencies, nonprofit organizations, or churches, or pursuant to any program funded in whole or in part through United States Code, title 42, sections 3001 through 3045, wherever delivered, prepared, or served, are exempt. Food sold through vending machines is not exempt.

(b) Prepared food, candy, and soft drinks purchased for and served exclusively to children who are less than 14 years of age or disabled children who are less than 16 years of age and who are attending a child care or early childhood education program, are exempt if they are:

(1) purchased by a nonprofit child care facility that is exempt under section 297A.70, subdivision 4, and that primarily serves families with income of 250 percent or less of federal poverty guidelines; and

(2) prepared at the site of the child care facility.

Subd. 7. **Drugs; medical devices.** (a) Sales of the following drugs and medical devices for human use are exempt:

(1) drugs, including over-the-counter drugs;

(2) single-use finger-pricking devices for the extraction of blood and other single-use devices and single-use diagnostic agents used in diagnosing, monitoring, or treating diabetes;

(3) insulin and medical oxygen for human use, regardless of whether prescribed or sold over the counter;

- (4) prosthetic devices;
  - (5) durable medical equipment for home use only;
  - (6) mobility enhancing equipment;
  - (7) prescription corrective eyeglasses; and
  - (8) kidney dialysis equipment, including repair and replacement parts.
- (b) For purposes of this subdivision:

(1) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages that is:

- (i) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;
- (ii) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or
- (iii) intended to affect the structure or any function of the body.

(2) "Durable medical equipment" means equipment, including repair and replacement parts, but not including mobility enhancing equipment, that:

- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury; and
- (iv) is not worn in or on the body.

For purposes of this clause, "repair and replacement parts" includes all components or attachments used in conjunction with the durable medical equipment, but does not include repair and replacement parts which are for single patient use only.

(3) "Mobility enhancing equipment" means equipment, including repair and replacement parts, but not including durable medical equipment, that:

- (i) is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle;
- (ii) is not generally used by persons with normal mobility; and
- (iii) does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

(4) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by Code of Federal Regulations, title 21, section 201.66. The label must include a "drug facts" panel or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation. Over-the-counter drugs do not include grooming and hygiene products, regardless of whether they otherwise meet the definition. "Grooming and hygiene products" are soaps, cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and sunscreens.

(5) "Prescribed" and "prescription" means a direction in the form of an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed health care professional.

(6) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts, worn on or in the body to:

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct physical deformity or malfunction; or
- (iii) support a weak or deformed portion of the body.

Prosthetic device does not include corrective eyeglasses.

(7) "Kidney dialysis equipment" means equipment that:

- (i) is used to remove waste products that build up in the blood when the kidneys are not able to do so on their own; and
- (ii) can withstand repeated use, including multiple use by a single patient, notwithstanding the provisions of clause (2).

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; ear 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 "fur clothing" as defined in section 297A.61, subdivision 46.

For purposes of this subdivision, "clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing. Clothing accessories and equipment 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; gloves, including, but not limited to, 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; ear 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.

Subd. 9. **Baby products.** Breast pumps, baby bottles and nipples, pacifiers, teething rings, and infant syringes are exempt.

Subd. 10. **Caskets; vaults.** Caskets and burial vaults for human burial are exempt.

Subd. 11. **Automobiles; disabled veterans.** Automobiles or other conveyances are exempt if the purchaser is assisted by a grant from the United States in accordance with United States Code, title 38, section 3902.

Subd. 12. **Parts and accessories used to make a motor vehicle disabled accessible.** Parts, accessories, and labor charges that are used solely to modify a motor vehicle to make it disabled accessible are exempt.

Subd. 13. **Textbooks.** Textbooks that are prescribed for use in conjunction with a course of study in a school, college, university, and private career school to students who are regularly enrolled at such institutions are exempt. For purposes of this subdivision (1) a "school" is as defined in section 120A.22, subdivision 4; and (2) "private career school" means a school licensed under section 141.25.

Subd. 13a. **Instructional materials.** Instructional materials, other than textbooks, that are prescribed for use in conjunction with a course of study in a postsecondary school, college, university, or private career school to students who are regularly enrolled at such institutions are exempt. For purposes of this subdivision, "instructional materials" means materials required to be used directly in the completion of the course of study, including, but not limited to, interactive CDs, tapes, and computer software.

Instructional materials do not include general reference works or other items incidental to the instructional process such as pens, pencils, paper, folders, or computers. For purposes of this subdivision, "school" and "private career school" have the meanings given in subdivision 13.

Subd. 14. **Computers prescribed for use by school.** Computers and related computer software sold by a school, college, university, or private career school to students who are enrolled at the institutions are exempt if:

(1) the use of the computer, or of a substantially similar model of computer, and the related computer software is prescribed by the institution in conjunction with a course of study; and

(2) each student of the institution, or of a unit of the institution in which the student is enrolled, is required by the institution to have such a computer and related software as a condition of enrollment.

For the purposes of this subdivision, "school" and "private career school" have the meanings given in subdivision 13.

Subd. 15. **Residential heating fuels.** Residential heating fuels are exempt as follows:

(1) all fuel oil, coal, wood, steam, hot water, propane gas, and L.P. gas sold to residential customers for residential use;

(2) for the billing months of November, December, January, February, March, and April, natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat; and

(3) for the billing months of November, December, January, February, March, and April, electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat.

Subd. 16. **Residential water services.** Water services for residential use are exempt regardless of how the services are billed.

Subd. 17. **Feminine hygiene products.** Sanitary napkins, tampons, or similar items used for feminine hygiene are exempt.

Subd. 18. **Used motor oils.** Used motor oils are exempt.

Subd. 19. **Cross-country ski passes.** Cross-country ski passes issued under sections 85.40 to 85.43 are exempt.

Subd. 20. **Manufactured homes.** Manufactured homes, as defined in section 327.31, subdivision 6, to be used by the purchaser for residential purposes are exempt, unless the sale is the first retail sale of the manufactured home in this state.

Subd. 21. **De minimis exemption.** A purchase subject to use tax under section 297A.63 is exempt if (1) the purchase is made by an individual for personal use, and (2) the total purchases that are subject to the use tax do not exceed \$770 in the calendar year. For purposes of this subdivision, "personal use" includes purchases for gifts. If an individual makes purchases subject to use tax of more than \$770 in the calendar year, the individual must pay the use tax on the entire amount. This exemption does not apply to purchases made from retailers who are required or registered to collect taxes under this chapter.

Subd. 22. [Repealed, 2008 c 154 art 12 s 41]

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 (6), 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, as defined in subdivision 8, 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 and vehicles equipped and specifically intended for emergency response.

Subd. 29. **Solar energy products.** A solar energy system, as defined in section 216C.06, subdivision 17, is exempt.

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

Subd. 31. **Service loaner vehicle covered by warranty.** The loan of a vehicle by a motor vehicle dealer to a customer as a replacement for a vehicle being serviced or repaired is exempt if the vehicle is loaned pursuant to a warranty included in the original purchase price of the vehicle being serviced or repaired.

Subd. 32. **Cigarettes.** Cigarettes upon which a tax has been imposed under section 297F.25 are exempt.

**History:** 2000 c 418 art 1 s 11,44 subd 3; 2000 c 490 art 8 s 13; 1Sp2001 c 5 art 7 s 51; art 12 s 36-44,93; 2002 c 377 art 3 s 7-10; 2002 c 400 s 8; 2003 c 127 art 1 s 21,22; art 6 s 9; 2005 c 56 s 1; 2005 c 151 art 7 s 11-13; 1Sp2005 c 3 art 5 s 5-7; 2006 c 259 art 6 s 11-15; 2008 c 154 art 12 s 26-28; 2008 c 366 art 7 s 1; art 13 s 5