

297A.71 CONSTRUCTION EXEMPTIONS.

Subdivision 1. **Scope.** The gross receipts from the sale of, and storage, distribution, use, or consumption of the tangible personal property contained in this section are specifically exempted from the taxes imposed by this chapter. Building materials, equipment, and supplies and other items exempt under this section are exempt regardless of whether purchased by the owner or a contractor, subcontractor, or builder.

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 [Repealed, 1Sp2001 c 5 art 12 s 95]

Subd. 3. **Correctional facilities.** Building materials and supplies for constructing or improving an adult or juvenile correctional facility by a county, home rule charter city, or statutory city are exempt if the project is mandated by state or federal law, rule, or regulation. 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.

Subd. 4. **Lake Superior Center.** Building materials and supplies for construction of the Lake Superior Center are exempt.

Subd. 5. **Science Museum.** Building materials and supplies for construction of the Science Museum of Minnesota are exempt.

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.

Subd. 7. **Alfalfa processing facility.** Building materials and supplies for constructing a facility that either develops market-value agricultural products made from alfalfa leaf material, or produces biomass energy fuel or electricity from alfalfa stems in accordance with the biomass mandate imposed under section 216B.2424 are exempt if the total capital investment made in the value-added agricultural products and biomass electric generation facilities is at least \$50,000,000.

Subd. 8. **Wood waste cogeneration facility.** Building materials and supplies for constructing, equipping, or modifying a district heating and cooling system cogeneration facility are exempt if the facility:

- (1) utilizes wood waste as a primary fuel source; and
- (2) satisfies the requirements of the biomass mandate in section 216B.2424, subdivision 5.

Subd. 9. **Direct satellite broadcasting facility.** Building materials and supplies for constructing a new facility in Minnesota for providing Federal Communications Commission licensed direct satellite broadcasting services using direct broadcast satellites operating in the 12-GHz. band or fixed satellite regional or national program services, as defined in section 272.02, subdivision 16, are exempt if construction of the facility was commenced after June 30, 1993. All machinery, equipment, tools, accessories, appliances, contrivances, furniture, fixtures, and all technical equipment or tangible personal property of any other nature or description necessary to the construction and equipping of that facility in order to provide those services are also exempt.

Subd. 10. **Aircraft heavy maintenance facility.** Materials, equipment, and supplies used or consumed in constructing a heavy maintenance facility for aircraft that is to be owned by the state of Minnesota or one of its political subdivisions and leased by an airline company is exempt. Except for equipment owned or leased by a contractor, all machinery, equipment, and tools necessary to the construction and equipping of that facility in order to provide those services are also exempt.

Subd. 11. **Building materials; disabled veterans.** Building materials to be used in the construction or remodeling of a residence are exempt when the construction or remodeling is financed in whole or in part by the United States in accordance with United States Code, title 38, sections 2101 to 2105. 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.

Subd. 12. **Chair lifts, ramps, elevators.** Elevators and building materials used to install or construct chair lifts, ramps, and elevators are exempt, if they are authorized by a physician and installed in or attached to the owner's homestead. 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.

Subd. 13. **Agriculture processing facility materials.** Building materials and supplies for constructing an agriculture processing facility as defined in section 469.1811 in which the total capital investment in the processing facility is expected to exceed \$100,000,000 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 provided in section 297A.75.

Subd. 14. **Mineral production facilities.** Building materials, equipment, and supplies used for the construction of the following mineral production facilities are exempt.

The mineral production facilities that qualify for this exemption are:

- (1) a value added iron products plant, which may be either a new plant or a facility incorporated into an existing plant that produces iron upgraded to a minimum of 75 percent iron content or any iron alloy with a total minimum metallic content of 90 percent;
- (2) a facility used for the manufacture of fluxed taconite pellets as defined in section 298.24;

(3) a new capital project that has a total cost of over \$40,000,000 that is directly related to production, cost, or quality at an existing taconite facility that does not qualify under clause (1) or (2); and

(4) a new mine or minerals processing plant for any mineral subject to the net proceeds tax imposed under section 298.015.

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.

Subd. 15. [Repealed, 1Sp2001 c 5 art 12 s 95]

Subd. 16. [Repealed, 1Sp2001 c 5 art 12 s 9; 2002 c 377 art 3 s 24]

Subd. 17. **Environmental learning center.** Construction materials and supplies are exempt if they are used or consumed in constructing or improving the Long Lake Conservation Center pursuant to the funding provided under Laws 1994, chapter 643, section 23, subdivision 28, as amended by Laws 1995, First Special Session chapter 2, article 1, section 48; Laws 1996, chapter 463, section 7, subdivision 26; and Laws 1997, chapter 246, section 24. The tax must be calculated and paid as if the rate in section 297A.62, subdivision 1, was in effect and a refund applied for in the manner prescribed in section 297A.75.

Subd. 18. **Soybean oilseed processing and refining facility.** Construction materials and supplies are exempt if:

(1) the materials and supplies are used or consumed in constructing a facility for soybean oilseed processing and refining;

(2) the total capital investment made in the facility is at least \$60,000,000; and

(3) the facility is constructed by a Minnesota-based cooperative organized under chapter 308A.

Subd. 19. MS 2006 [Expired]

Subd. 20. **Construction materials and supplies; beef processing facility.** Materials and supplies used or consumed in, and equipment incorporated into, the expansion, remodeling, or improvement of a facility used for cattle slaughtering are exempt if:

(1) the cost of the project is expected to exceed \$15,000,000;

(2) the expansion, remodeling, or improvement of the facility will be used to fabricate beef;

(3) the number of jobs at the facility is expected to increase by at least 150 when the project is completed; and

(4) the project is expected to be completed by December 31, 2001.

Subd. 21. MS 2004 [Expired]

Subd. 22. **Materials used to make residential property disabled accessible.** Building materials and equipment sold to, or stored, used, or consumed by, a nonprofit organization are exempt if:

(1) the materials and equipment are used or incorporated into modifying an existing residential structure to make it disabled accessible; and

(2) the materials and equipment used in the modification would qualify for an exemption under either subdivision 11 or 12 if made by the current owner of the residence.

For purposes of this subdivision, "nonprofit organization" means any nonprofit corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, educational, or civic purposes; or a veterans' group exempt from federal taxation under section 501(c), clause (19), of the Internal Revenue Code.

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 or managing general partner is an authority under clause (1) or an entity under clause (2), (4), or (5);

(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;

(5) a limited liability company if it consists of a sole member that is an entity under clause (4); or

(6) an owner entity, as defined in Code of Federal Regulations, title 24, part 941.604, for a qualified low-income housing project described in paragraph (b), clause (5).

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 273.128;

(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;

(4) a project that will be operated in compliance with Internal Revenue Service revenue procedure 96-32; or

(5) a housing or mixed use project in which all or a portion of the residential units are subject to the requirements of section 5 of the United States Housing Act of 1937.

(c) For a project, a portion of which is not used for low-income housing units, the amount of purchases that are exempt under this subdivision must be determined by multiplying the total purchases, as specified in paragraph (a), by the ratio of:

(1) the total gross square footage of units subject to the income limits under section 273.128, the financing for the project, the federal low-income housing tax credit, revenue procedure 96-32, or section 5 of the United States Housing Act of 1937, as applicable to the project; and

(2) the total gross square footage of all units in the project.

(d) 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.

Subd. 24. [Expired]

Subd. 25. MS 2006 [Expired]

Subd. 26. [Expired]

Subd. 27. [Expired]

Subd. 28. [Expired]

Subd. 29. [Expired]

Subd. 30. MS 2006 [Expired]

Subd. 31. [Repealed, 2006 c 257 s 23]

Subd. 32. **Walker Art Center.** Materials, equipment, and supplies used or consumed in construction of the Walker Art Center are exempt if more than \$70,000,000 is raised from private sources to pay for a portion of the costs of the project.

Subd. 33. MS 2008 [Expired, 2005 1Sp2003 art 5 s 14; 2006 c 259 art 3 s 5]

Subd. 34. **Waste recovery facility.** Materials and supplies used or consumed in, and equipment incorporated into, the construction, improvement, or expansion of a waste-to-energy resource recovery facility are exempt if the facility uses biomass or mixed municipal solid waste as a primary fuel to generate steam or electricity.

Subd. 35. **Municipal utilities.** Materials and supplies used or consumed in, and equipment incorporated into, the construction, improvement, or expansion of electric generation and related facilities used pursuant to a joint power purchase agreement to meet the biomass energy mandate in section 216B.2424 are exempt if the owner or owners of the facilities are a municipal electric utility or utilities or a joint venture of municipal electric utilities. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded under section 297A.75.

Subd. 36. MS 2006 [Expired]

Subd. 37. MS 2008 [Expired, 2006 c 247 s 12]

Subd. 38. **Building materials; exemption.** Materials and supplies used or consumed in, and equipment incorporated into, the construction or improvement of the ballpark and public infrastructure constructed pursuant to sections 473.75 to 473.763 are exempt. This subdivision

expires one year after the date that the first major league baseball game is played in the ballpark for materials, supplies, and equipment used in the ballpark, and five years after the issuance of the first bonds under section 473.757 for materials, supplies, and equipment used in the public infrastructure.

Subd. 39. MS 2008 [Expired, 2006 c 259 art 3 s 2; 2010 c 389 art 4 s 7]

Subd. 40. **Construction materials; Central Corridor light rail transit.** Materials and supplies used or consumed in, and equipment incorporated into, the construction or improvement of the Central Corridor light rail transit line and associated facilities including, but not limited to, stations, park-and-ride facilities, and maintenance facilities, 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 provided in section 297A.75. Refunds must not be applied for or issued until after July 1, 2009.

Subd. 41. **Construction materials; meat processing facility.** Materials and supplies used or consumed in, and equipment incorporated into, the construction or improvement of a meat processing facility are exempt. This facility must be constructed to replace a meat processing facility destroyed in a fire in April 2009, that employed more than 200 employees at the time of the destruction. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded after June 30, 2011, in the manner provided in section 297A.75.

Subd. 42. **Aerospace defense manufacturing facility.** (a) Materials and supplies used or consumed in, capital equipment incorporated into, and privately owned infrastructure in support of the construction, improvement, or expansion of an aerospace defense manufacturing facility are exempt if:

(1) the facility is used for the manufacturing of aerospace or defense-related sensors and the production of micro-electro-mechanical systems; and

(2) the total capital investment made at the facility is at least \$59,000,000.

(b) The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and refunded in the manner provided in section 297A.75, only after the following criteria have been met:

(1) a refund may not be issued until the owner of the aerospace defense manufacturing facility has received certification from the Department of Employment and Economic Development that the aerospace defense manufacturing facility employs no less than 1,653 full-time equivalent workers within the state, and has made a total capital investment of at least \$59,000,000;

(2) for each year that the owner of the aerospace defense manufacturing facility receives certification from the Department of Employment and Economic Development that no less than 1,653 full-time equivalent worker residents are employed workers within the state, the refund may be issued to the owner of the aerospace defense manufacturing facility at a rate of 25 percent of the total allowable refund payable to date, provided that the Department of Employment and Economic Development continues to certify that no less than 1,653 full-time equivalent workers are employed workers within the state, the commissioner of revenue may make annual payments of the remaining refund until all of the refund has been paid; and

(3) to receive the refund, the owner of the aerospace defense manufacturing facility must initially apply to the Department of Employment and Economic Development for certification

no later than one year from the final completion date of construction of the expansion of the aerospace defense manufacturing facility.

[See Note.]

History: 2000 c 418 art 1 s 15,44 subd 3; 2000 c 490 art 8 s 12; 1Sp2001 c 5 art 12 s 65-70; 2002 c 377 art 3 s 13-16; 2002 c 397 s 2; 1Sp2003 c 21 art 8 s 9,16; 2005 c 56 s 1; 2005 c 151 art 7 s 18; 1Sp2005 c 3 art 5 s 14-17,32; 2006 c 247 s 12; 2006 c 257 s 3; 2006 c 259 art 3 s 2,5; 2007 c 138 s 12; 2008 c 366 art 7 s 4,5; 2009 c 88 art 4 s 6; 2010 c 389 art 4 s 6-8; 2011 c 112 art 8 s 2

NOTE: Subdivision 42, as added by Laws 2010, chapter 389, article 4, section 8, is effective for sales and purchases made after July 1, 2010, and before December 31, 2015. Laws 2010, chapter 389, article 4, section 8, the effective date.