CHAPTER 297A

GENERAL SALES AND USE TAXES

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297A.431 MS 1988 [Repealed, 1990 c 480 art 10 s 12]

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297A.54 MS 1969 [Repealed, Ex1971 c 31 art 31 s 1]

297A.55 MS 1969 [Repealed, Ex1971 c 31 art 31 s 1]

297A.56 MS 1969 [Repealed, Ex1971 c 31 art 31 s 1]

297A.57 MS 1969 [Repealed, Ex1971 c 31 art 31 s 1]

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297A.60 MS 1969 [Repealed, Ex1971 c 31 art 31 s 1]

297A.601 MS 2006 [Renumbered 15.001]

DEFINITIONS

297A.61 DEFINITIONS.

Subdivision 1. **Applicability.** The following words, terms, and phrases when used in this chapter have the meanings given them in this section, unless the context clearly indicates a different meaning.

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. In applying the provisions of this chapter, the terms "tangible personal property" and "retail sale" include the taxable services listed in paragraph (g), clause (6), items (i) to (vi) and (viii), and the provision of these 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 the preceding sentence, "affiliated group of corporations" means those entities that would be classified as members of an affiliated group as defined under United States Code, title 26, section 1504, disregarding the exclusions in section 1504(b).

(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) dietary supplements.

(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 prewritten computer software whether delivered electronically, by load and leave, or otherwise.

(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, health clubs, and spas or athletic facilities;

(2) lodging and related services by a hotel, rooming house, resort, campground, motel, or trailer camp, including furnishing the guest of the facility with access to telecommunication services, and the granting of any similar license to use real property in a specific facility, other than the renting or leasing of it for a continuous period of 30 days or more under an enforceable written agreement that may not be terminated without prior notice and including accommodations intermediary services provided in connection with other services provided under this clause;

(3) nonresidential 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 onetime 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;

(5) delivery of aggregate materials by a third party, excluding delivery of aggregate material used in road construction; and delivery of concrete block by a third party if the delivery would be subject to the sales tax if provided by the seller of the concrete block. For purposes of this clause, "road construction" means construction of:

(i) public roads;

(ii) cartways; and

(iii) private roads in townships located outside of the seven-county metropolitan area up to the point of the emergency response location sign; and

(6) 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 services and pest control 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 or any organization at the direction of a county 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, except when performed as part of a land clearing contract as defined in section 297A.68, subdivision 40; 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.

(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, ancillary services associated with telecommunication services, and pay television services. Telecommunication services include, but are not limited to, the following services, as defined in section 297A.669: air-to-ground radiotelephone service, mobile telecommunication service, postpaid calling service, prepaid calling service, prepaid wireless calling service, and private communication services. The services in this paragraph are taxed to the extent allowed under federal law.

(j) A sale and a purchase includes the furnishing for a consideration of installation if the installation charges would be subject to the sales tax if the installation were provided by the seller of the item being installed.

(k) A sale and a purchase includes the rental of a vehicle by a motor vehicle dealer to a customer when (1) the vehicle is rented by the customer for a consideration, or (2) the motor vehicle dealer is reimbursed pursuant to a service contract as defined in section 59B.02, subdivision 11.

(l) A sale and a purchase includes furnishing for a consideration of specified digital products or other digital products or granting the right for a consideration to use specified digital products or other digital products on a temporary or permanent basis and regardless of whether the purchaser is required to make continued payments for such right. Wherever the term "tangible personal property" is used in this chapter, other than in subdivisions 10 and 38, the provisions also apply to specified digital products, or other digital products, unless specifically provided otherwise or the context indicates otherwise.

(m) The sale of the privilege of admission under section 297A.61, subdivision 3, paragraph (g), clause (1), to a place of amusement, recreational area, or athletic event includes all charges included in the privilege of admission's sales price, without deduction for amenities that may be provided, unless the amenities are

separately stated and the purchaser of the privilege of admission is entitled to add or decline the amenities, and the amenities are not otherwise taxable.

(n) A sale and purchase includes the transfer for consideration of a taxable cannabis product as defined in section 295.81, subdivision 1, paragraph (r).

Subd. 4. **Retail sale.** (a) A "retail sale" means:

(1) any sale, lease, or rental of tangible personal property for any purpose, other than resale, sublease, or subrent of items by the purchaser in the normal course of business as defined in subdivision 21; and

(2) any sale of a service enumerated in subdivision 3, for any purpose other than resale by the purchaser in the normal course of business as defined in subdivision 21.

(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 (1) when an obligation to make a lease payment becomes due under the terms of the agreement or the trade practices of the lessor or (2) in the case of a lease of a motor vehicle, as defined in section 297B.01, subdivision 11, but excluding vehicles with a manufacturer's gross vehicle weight rating greater than 10,000 pounds and rentals of vehicles for not more than 28 days, at the time the lease is executed.

(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.

(m) A sale of a bundled transaction in which one or more of the products included in the bundle is a taxable product is a retail sale, except that if one of the products is a telecommunication service, ancillary service, Internet access, audio or video programming service, a suite license exempt under section 297A.67, subdivision 35, or a right to purchase season tickets to collegiate events exempt under section 297A.67, subdivision 38, and the seller has maintained books and records identifying through reasonable and verifiable standards the portions of the price that are attributable to the distinct and separately identifiable products, then the products are not considered part of a bundled transaction. For purposes of this paragraph:

(1) the books and records maintained by the seller must be maintained in the regular course of business, and do not include books and records created and maintained by the seller primarily for tax purposes;

(2) books and records maintained in the regular course of business include, but are not limited to, financial statements, general ledgers, invoicing and billing systems and reports, and reports for regulatory tariffs and other regulatory matters; and

(3) books and records are maintained primarily for tax purposes when the books and records identify taxable and nontaxable portions of the price, but the seller maintains other books and records that identify different prices attributable to the distinct products included in the same bundled transaction.

(n) A sale of motor vehicle repair paint and materials by a motor vehicle repair or body shop business is a retail sale and the sales tax is imposed on the gross receipts from the retail sale of the paint and materials. The motor vehicle repair or body shop that purchases motor vehicle repair paint and motor vehicle repair materials for resale must either:

(1) separately state each item of paint and each item of materials, and the sales price of each, on the invoice to the purchaser; or

(2) in order to calculate the sales price of the paint and materials, use a method which estimates the amount and monetary value of the paint and materials used in the repair of the motor vehicle by multiplying the number of labor hours by a rate of consideration for the paint and materials used in the repair of the motor vehicle following industry standard practices that fairly calculate the gross receipts from the retail sale of the motor vehicle repair paint and motor vehicle repair materials. An industry standard practice fairly calculates the gross receipts if the sales price of the paint and materials used or consumed in the repair of a motor vehicle equals or exceeds the purchase price paid by the motor vehicle repair or body shop business. Under this clause, the invoice must either separately state the "paint and materials" as a single taxable item, or separately state "paint" as a taxable item and "materials" as a taxable item. This clause does not apply to wholesale transactions at an auto auction facility.

(o) A sale of specified digital products or other digital products to an end user with or without rights of permanent use and regardless of whether rights of use are conditioned upon payment by the purchaser is a retail sale. When a digital code has been purchased that relates to specified digital products or other digital products, the subsequent receipt of or access to the related specified digital products or other digital products is not a retail sale.

(p) A payment made to a cooperative electric association or public utility as a contribution in aid of construction is a contract for improvement to real property and is not a retail sale.

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, personal 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, except the percentage of the delivery charge allocated to delivery of tax exempt property, when the delivery charge is allocated by using either (i) a percentage based on the total sales price of the taxable property compared to the total sales price of all property in the shipment, or (ii) a percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment; and

(5) installation charges.

(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.

(c) Sales price includes consideration received by the seller from third parties if:

(1) the seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(2) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(3) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(4) one of the following criteria is met:

(i) the purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount when the coupon, certificate, or documentation is authorized, distributed, or granted

by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(ii) the purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any customer does not constitute membership in such a group; or

(iii) the price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

Subd. 8. **Gross receipts.** "Gross receipts" means the total amount received, in money or by barter or exchange, for all sales at retail as measured by the sales price.

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 personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes, but is not limited to, electricity, water, gas, steam, and prewritten computer software.

(b) Tangible personal property does not include:

(1) property which is subject to an ad valorem property tax;

(2) property described in section 272.02, subdivision 9, clauses (a) to (d);

(3) property described in section 272.03, subdivision 2, clauses (3) and (5); and

(4) specified digital products, or other digital products, transferred electronically.

Subd. 11. **Commissioner.** "Commissioner" means the commissioner of revenue of the state of Minnesota.

Subd. 12. **Farm machinery.** (a) "Farm machinery" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in agricultural production of tangible personal property intended to be sold ultimately at retail including, but not limited to:

(1) machinery for the preparation, seeding, or cultivation of soil for growing agricultural crops;

(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; and

(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.

(b) Farm machinery does not include:

(1) repair or replacement parts;

(2) tools, shop equipment, grain bins, fencing material, communication equipment, and other farm supplies;

(3) motor vehicles taxed under chapter 297B;

(4) snowmobiles or snow blowers;

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

(6) machinery, equipment, implements, accessories, and contrivances used directly in the production of horses not raised for slaughter, fur-bearing animals, or research animals.

Subd. 13. **Aquaculture production equipment.** (a) "Aquaculture production equipment" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in aquaculture production.

(b) Aquaculture production equipment includes augers and blowers, automatic feed systems, manual feeding equipment, shockers, gill nets, trap nets, seines, box traps, round nets and traps, net pens, dip nets, net washers, floating net supports, floating access walkways, net supports and walkways, growing tanks, holding tanks, troughs, raceways, transport tanks, egg taking equipment, egg hatcheries, egg incubators, egg baskets and troughs, egg graders, egg counting equipment, fish counting equipment, fish graders, fish pumps and loaders, fish elevators, air blowers, air compressors, oxygen generators, oxygen regulators, diffusers and injectors, air supply equipment, oxygenation columns, water coolers and heaters, heat exchangers, water filter systems, water purification systems, waste collection equipment, feed mills, portable scales, feed grinders, feed mixers, feed carts and trucks, power feed wagons, fertilizer spreaders, fertilizer tanks, forage collection equipment, land levelers, loaders, post hole diggers, disc, harrow, plow, and water diversion devices.

(c) Aquaculture production equipment does not include repair or replacement parts for aquaculture production equipment.

Subd. 14. MS 2002 [Repealed, 2003 c 127 art 1 s 34]

Subd. 14a. **Lease or rental.** (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(b) Lease or rental does not include:

(1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(2) a transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of $100 or one percent of the total required payments; or

(3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subdivision, an operator must do more than maintain, inspect, or set up the tangible personal property.

(c) Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in United States Code, title 26, section 7701(h)(l).

(d) This definition must be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, chapter 336, or other provisions of federal, state, or local law.

Subd. 15. MS 2002 [Repealed, 2003 c 127 art 1 s 34]

Subd. 16. MS 2000 [Repealed, 1Sp2001 c 5 art 12 s 95]

Subd. 16a. **Computer.** "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

Subd. 16b. **Electronic.** "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

Subd. 16c. **Computer software.** "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

Subd. 17. **Prewritten computer software.** "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions of the programs does not cause the combination to be other than "prewritten computer software." "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person is deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion of it that is modified or enhanced to any degree, if the modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software"; provided, however, that if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, the modification or enhancement does not constitute "prewritten computer software."

Subd. 17a. **Delivered electronically.** "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

Subd. 17b. **Load and leave.** "Load and leave" means delivered to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

Subd. 18. **Person with a disability.** "Person with a disability" means an individual who has a permanent and total disability as defined in section 273.13, subdivision 22.

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

Subd. 20. MS 2006 [Repealed, 2008 c 154 art 12 s 41]

Subd. 21. **Normal course of business.** "Normal course of business" means activities that demonstrate a commercial continuity or consistency of making sales or performing services for the purposes of attaining profit or producing income. Factors that indicate that a person is acting in the normal course of business include:

(1) systematic solicitation of sales through advertising media;

(2) entering into contracts to perform services or provide tangible personal property;

(3) maintaining a place of business; or

(4) use of exemption certificates to purchase items exempt from the sales tax.

Subd. 22. **Internal Revenue Code.** Unless specifically provided otherwise, "Internal Revenue Code" means the Internal Revenue Code as defined in section 289A.02, subdivision 7.

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 electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

(b) Telecommunications services include transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing, without regard to whether the service is referred to as Voice over Internet Protocol services or is classified by the Federal Communications Commission as enhanced or value added.

(c) Telecommunications services do not include:

(1) data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser when the purchaser's primary purpose for the underlying transaction is the processed data or information;

(2) installation or maintenance of wiring or equipment on a customer's premises;

(3) tangible personal property;

(4) advertising, including, but not limited to, directory advertising;

(5) billing and collection services provided to third parties;

(6) Internet access service;

(7) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services includes, but is not limited to, cable service as defined in United States Code, title 47, section 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in Code of Federal Regulations, title 47, section 20.3;

(8) ancillary services; or

(9) digital products delivered electronically, including, but not limited to, software, music, video, reading materials, or ring tones.

Subd. 25. **Pay television service.** "Pay 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 direct to home satellite services by which programming is transmitted or broadcast by microwave or other equipment directly to

the subscriber's premises, or any similar or comparable method of service. The term includes all programming services, including subscriptions, digital video recorders, pay-per-view, and music services.

Subd. 26. **Private communication service.** "Private communication service" means a telecommunication service that entitles the customer to exclusive or priority use of a communication channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of the channel or channels.

Subd. 27. MS 2012 [Repealed, 2013 c 143 art 8 s 53]

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, the District of Columbia, and any territory of the United States, including American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

Subd. 30. **Delivery charges.** "Delivery charges" means charges by the seller of personal property or services 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 food that meets either of the following conditions:

(1) the food is sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws; or

(2) the food is sold in a heated state or heated by the seller or two or more food ingredients are mixed or combined by the seller for sale as a single item, except for:

(i) bakery items, including, but not limited to, bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas;

(ii) ready-to-eat meat and seafood in an unheated state sold by weight;

(iii) eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in chapter 3, part 401.11 of its food code so as to prevent food borne illnesses; or

(iv) food that is only 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. **Taxable food sold through vending machines.** "Taxable food sold through vending machines" means taxable food under section 297A.61, subdivision 3, paragraph (d), dispensed from a machine or other device that accepts payment including honor payments.

Subd. 35. **Direct mail.** "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items is not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

Subd. 36. **Agricultural production.** "Agricultural production" includes, but is not limited to, horticulture, silviculture, floriculture, maple syrup harvesting, and the raising of pets, livestock as defined in section 17A.03, subdivision 5, poultry, dairy and poultry products, bees and apiary products, the raising and harvesting of agricultural crops, sod, fur-bearing animals, research animals, and horses.

Subd. 37. **Logging equipment.** (a) "Logging equipment" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in the commercial cutting or removal or both of timber or other solid wood forest products intended to be sold ultimately at retail, including, but not limited to:

(1) machinery used for bucking, bunching, debarking, delimbing, felling, forwarding, loading, piling, skidding, topping, and yarding operations performed on timber; and

(2) chain saws.

(b) Logging equipment does not include:

(1) repair or replacement parts;

(2) tools, shop equipment, communication equipment, and other logging supplies;

(3) motor vehicles taxed under chapter 297B;

(4) snowmobiles, snow blowers, or recreational all-terrain vehicles; or

(5) machinery, equipment, implements, accessories, and contrivances used in the creation of other commercial wood products for sale to others, including, but not limited to, milling, planing, carving, wood chipping, or paper manufacturing.

Subd. 38. **Bundled transaction.** (a) "Bundled transaction" means the retail sale of two or more products when the products are otherwise distinct and identifiable, and the products are sold for one nonitemized price. As used in this subdivision, "product" includes tangible personal property, services, intangibles, and digital goods, including specified digital products or other digital products, but does not include real property or services to real property. A bundled transaction does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

(b) For purposes of this subdivision, "distinct and identifiable" products does not include:

(1) packaging and other materials, such as containers, boxes, sacks, bags, and bottles, wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale. Examples of packaging that are incidental or immaterial include grocery sacks, shoe boxes, dry cleaning garment bags, and express delivery envelopes and boxes;

(2) a promotional product provided free of charge with the required purchase of another product. A promotional product is provided free of charge if the sales price of another product, which is required to be

purchased in order to receive the promotional product, does not vary depending on the inclusion of the promotional product; and

(3) items included in the definition of sales price.

(c) For purposes of this subdivision, the term "one nonitemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form including but not limited to an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

(d) A transaction that otherwise meets the definition of a bundled transaction is not a bundled transaction if it is:

(1) the retail sale of tangible personal property and a service and the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;

(2) the retail sale of services if one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service;

(3) a transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis; or

(4) the retail sale of exempt tangible personal property and taxable tangible personal property if:

(i) the transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices, or medical supplies; and

(ii) the seller's purchase price or sales price of the taxable tangible personal property is 50 percent or less of the total purchase price or sales price of the bundled tangible personal property. Sellers must not use a combination of the purchase price and sales price of the tangible personal property when making the 50 percent determination for a transaction.

(e) For purposes of this subdivision, "purchase price" means the measure subject to use tax on purchases made by the seller, and "de minimis" means that the seller's purchase price or sales price of the taxable products is ten percent or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers must not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis.

Subd. 39. **Ancillary services.** "Ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, conference bridging service, detailed telecommunications billing, directory assistance, vertical service, and voice mail services.

Subd. 40. **Conference bridging service.** "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

Subd. 41. **Detailed telecommunications billing service.** "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

Subd. 42. **Directory assistance.** "Directory assistance" means an ancillary service of providing telephone number information or address information, or both.

Subd. 43. **Vertical service.** "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services and which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

Subd. 44. **Voice mail service.** "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

Subd. 45. **Ring tone.** "Ring tone" means a digitized sound file that is downloaded onto a device and that may be used to alert the customer with respect to a communication. A ring tone does not include ring back tones or other digital audio files that are not stored on the purchaser's communication device.

Subd. 46. **Fur clothing.** "Fur clothing" means human wearing apparel that is required by the Federal Fur Products Labeling Act, United States Code, title 15, section 69, to be labeled as a fur product, and the value of the fur components in the product is more than three times the value of the next most valuable tangible component. For purposes of this subdivision, "fur" means any animal skin or part of an animal skin with hair, fleece, or fur fibers attached to it, either in its raw or processed state, but does not include animal skins that have been converted into leather or suede, or from which the hair, fleece, or fur fiber has been completely removed in processing the skins.

Subd. 47. **Accommodations intermediary.** "Accommodations intermediary" means any person or entity, other than an accommodations provider, that facilitates the sale of lodging as defined in subdivision 3, paragraph (g), clause (2), and that charges a room charge to a customer. The term "facilitates the sale" includes brokering, coordinating, or in any way arranging for the purchase of or the right to use accommodations by a customer.

Subd. 48. **Accommodations provider.** "Accommodations provider" means any person or entity that furnishes lodging as defined in subdivision 3, paragraph (g), clause (2), to the general public for compensation. The term "furnishes" includes the sale of use or possession, or the sale of the right to use or possess.

Subd. 49. **Motor vehicle repair paint and motor vehicle repair materials.** "Motor vehicle repair paint" means a substance composed of solid matter suspended in a liquid medium and applied as a protective or decorative coating to the surface of a motor vehicle in order to restore the motor vehicle to its original condition, and includes primer, body paint, clear coat, and paint thinner used to paint motor vehicles, as defined in section 297B.01.

"Motor vehicle repair materials" means items, other than motor vehicle repair paint or motor vehicle parts, that become a part of a repaired motor vehicle or are consumed in repairing the motor vehicle at retail, and include abrasives, battery water, body filler or putty, bolts and nuts, brake fluid, buffing pads, chamois, cleaning compounds, degreasing compounds, glaze, grease, grinding discs, hydraulic jack oil, lubricants, masking tape, oxygen and acetylene, polishes, rags, razor blades, sandpaper, sanding discs, scuff pads, sealer, solder, solvents, striping tape, tack cloth, thinner, waxes, and welding rods. Motor vehicle repair materials do not include items that are not used directly on the motor vehicle, such as floor dry that is used to clean

the shop, or cleaning compounds and rags that are used to clean tools, equipment, or the shop and are not used to clean the motor vehicle.

Subd. 50. **Digital audio works.** "Digital audio works" means works that result from a fixation of a series of musical, spoken, or other sounds, that are transferred electronically. Digital audio works includes such items as the following which may either be prerecorded or live: songs, music, readings of books or other written materials, speeches, ring tones, or other sound recordings. Digital audio works does not include audio greeting cards sent by electronic mail. Unless the context provides otherwise, in this chapter digital audio works includes the digital code, or a subscription to or access to a digital code, for receiving, accessing, or otherwise obtaining digital audio works.

Subd. 51. **Digital audiovisual works.** "Digital audiovisual works" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any, that are transferred electronically. Digital audiovisual works includes such items as motion pictures, movies, musical videos, news and entertainment, and live events. Digital audiovisual works does not include video greeting cards sent by electronic mail. Unless the context provides otherwise, in this chapter digital audiovisual works includes the digital code, or a subscription to or access to a digital code, for receiving, accessing, or otherwise obtaining digital audiovisual works.

Subd. 52. **Digital books.** "Digital books" means any literary works, other than digital audiovisual works or digital audio works, expressed in words, numbers, or other verbal or numerical symbols or indicia so long as the product is generally recognized in the ordinary and usual sense as a "book." It includes works of fiction and nonfiction and short stories. It does not include periodicals, magazines, newspapers, or other news or information products, chat rooms, or weblogs. Unless the context provides otherwise, in this chapter digital books includes the digital code, or a subscription to or access to a digital code, for receiving, accessing, or otherwise obtaining digital books.

Subd. 53. **Digital code.** "Digital code" means a code which provides a purchaser with a right to obtain one or more specified digital products or other digital products. A digital code may be transferred electronically, such as through electronic mail, or it may be transferred on a tangible medium, such as on a plastic card, a piece of paper or invoice, or imprinted on another product. A digital code is not a code that represents a stored monetary value that is deducted from a total as it is used by the purchaser, and it is not a code that represents a redeemable card, gift card, or gift certificate that entitles the holder to select a digital product of an indicated cash value. The end user of a digital code is any purchaser except one who receives the contractual right to redistribute a digital product which is the subject of the transaction.

Subd. 54. **Other digital products.** "Other digital products" means the following items when transferred electronically:

(1) greeting cards; and

(2) online video or electronic games.

Subd. 55. **Specified digital products.** "Specified digital products" means digital audio works, digital audiovisual works, and digital books that are transferred electronically to a customer.

Subd. 56. **Transferred electronically.** "Transferred electronically" means obtained by the purchaser by means other than tangible storage media. For purposes of this subdivision, it is not necessary that a copy of the product be physically transferred to the purchaser. A product will be considered to have been transferred electronically to a purchaser if the purchaser has access to the product.

Subd. 57. MS 2013 Supp [Repealed, 2014 c 150 art 2 s 5]

Subd. 58. **Real property.** (a) "Real property" includes:

(1) the land itself;

(2) buildings and structures constructed or erected on the land and intended to be permanent; and

(3) improvements and fixtures if incorporated into and intended to be of a permanent benefit to a building or structure given its present use, and that cannot be removed without causing substantial damage to the building or structure.

(b) Real property does not include tools, implements, machinery, and equipment attached or installed into real property for use in the business or production activity conducted thereon, that qualify for exemption under section 297A.68, regardless of size, weight, or method of incorporation into the real property.

(c) If the exclusion provided in paragraph (b) does not apply, then the definition in paragraph (a) must be used to determine whether tools, implements, machinery, or equipment are real property.

History: *2000 c 418 art 1 s 4,44 subd 3; 2000 c 490 art 8 s 5; 1Sp2001 c 5 art 12 s 5,7-30; 2002 c 377 art 3 s 3,4; art 9 s 11; 1Sp2002 c 3 s 1; 2003 c 127 art 1 s 8-16; art 6 s 4-7; 2005 c 56 s 1; 2005 c 151 art 7 s 6,7; 1Sp2005 c 3 art 5 s 3,4,34; 2006 c 259 art 6 s 1-7; 2008 c 154 art 12 s 5-18; 2008 c 366 art 11 s 19; art 13 s 3; 2010 c 382 s 61; 2011 c 112 art 8 s 1; 1Sp2011 c 7 art 3 s 1-3; 2013 c 143 art 8 s 2-16; 2014 c 150 art 2 s 1; 2014 c 308 art 9 s 71; 1Sp2017 c 1 art 3 s 5-8; 1Sp2019 c 6 art 24 s 19; 2023 c 63 art 2 s 11; 2023 c 64 art 5 s 2; art 19 s 4*

TAXES; RATES

297A.62 SALES TAX IMPOSED; RATES.

Subdivision 1. **Generally.** Except as otherwise provided in subdivision 3 or in this chapter, a sales tax of 6.5 percent is imposed on the gross receipts from retail sales as defined in section 297A.61, subdivision 4, made in this state or to a destination in this state by a person who is required to have or voluntarily obtains a permit under section 297A.83, subdivision 1.

Subd. 1a. **Constitutionally required sales tax increase.** Except as otherwise provided in subdivision 3 or in this chapter, an additional sales tax of 0.375 percent, as required under the Minnesota Constitution, article XI, section 15, is imposed on the gross receipts from retail sales as defined in section 297A.61, subdivision 4, made in this state or to a destination in this state by a person who is required to have or voluntarily obtains a permit under section 297A.83, subdivision 1. This additional tax expires July 1, 2034.

Subd. 2. MS 2004 [Repealed, 1Sp2001 c 5 art 12 s 95; 2002 c 377 art 3 s 24; 1Sp2003 c 21 art 8 s 15; 1Sp2005 c 3 art 5 s 33]

Subd. 3. **Manufactured housing and park trailers; modular housing.** (a) For retail sales of manufactured homes as defined in section 327.31, subdivision 6, for residential uses, the sales tax under subdivisions 1 and 1a is imposed on 65 percent of the dealer's cost of the manufactured home. For retail sales of new or used park trailers, as defined in section 168.002, subdivision 23, the sales tax under subdivisions 1 and 1a is imposed on 65 percent of the sales price of the park trailer.

(b) For retail sales of a modular home as defined in section 297A.668, subdivision 8, paragraph (b), for residential uses, the sales tax under subdivisions 1 and 1a is imposed on 65 percent of the modular home manufacturer's sales price of the modular home.

Subd. 4. **Combined rates.** In this chapter, wherever there is a reference to the rate under subdivision 1, or to a combined rate under subdivisions 1 and 1a, the rate to be applied is the combined rate under subdivisions 1 and 1a until the additional tax imposed by subdivision 1a expires. This subdivision does not apply to section 297A.65.

Subd. 5. **Transitional period for services.** When there is a change in the rate of tax imposed by this section, the following transitional period shall apply to the retail sale of services covering a billing period starting before and ending after the statutory effective date of the rate change:

(1) for a rate increase, the new rate shall apply to the first billing period starting on or after the effective date; and

(2) for a rate decrease, the new rate shall apply to bills rendered on or after the effective date.

History: *2000 c 418 art 1 s 5; 2007 c 13 art 3 s 18; 2009 c 88 art 4 s 4; 2010 c 389 art 4 s 2; 2011 c 112 art 4 s 2; 2016 c 189 art 14 s 2*

297A.63 USE TAXES IMPOSED; RATES.

Subdivision 1. **Use of tangible personal property or taxable services.** (a) For the privilege of using, storing, distributing, or consuming in Minnesota tangible personal property or taxable services purchased for use, storage, distribution, or consumption in this state, a use tax is imposed on a person in Minnesota. The tax is imposed on the purchase price of retail sales of the tangible personal property or taxable services at the rate of tax imposed under section 297A.62. A person that purchases property from a Minnesota retailer and returns the tangible personal property to a point within Minnesota, except in the course of interstate commerce, after it was delivered outside of Minnesota, is subject to the use tax.

(b) No tax is imposed under paragraph (a) if the tax imposed by section 297A.62 was paid on the sales price of the tangible personal property or taxable services.

(c) No tax is imposed under paragraph (a) if the purchase meets the requirements for exemption under section 297A.67, subdivision 21.

(d) When a transaction otherwise meets the definition of a bundled transaction, but is not a bundled transaction under section 297A.61, subdivision 38, paragraph (d), and the seller's purchase price of the taxable product or taxable tangible personal property is equal to or greater than $100, then use tax is imposed on the purchase price of the taxable product or taxable personal property. For purposes of this paragraph, "purchase price" means the measure subject to use tax on purchases made by the seller.

Subd. 2. **Use of tangible personal property made from materials.** (a) A use tax is imposed on a person who manufactures, fabricates, or assembles tangible personal property from materials, either within or outside this state and who uses, stores, distributes, or consumes the tangible personal property in Minnesota. The tax is imposed on the purchase price of retail sales of the materials contained in the tangible personal property at the rate of tax imposed under section 297A.62.

(b) No tax is imposed under paragraph (a) if the tax imposed by section 297A.62 was paid on the sales price of materials contained in the tangible personal property.

Subd. 3. **Transitional period for services.** When there is a change in the rate of tax imposed by this section, the following transitional period shall apply to the taxable services purchased for use, storage, distribution, or consumption in this state when the service purchased covers a billing period starting before and ending after the statutory effective date of the rate change:

(1) for a rate increase, the new rate shall apply to the first billing period starting on or after the effective date; and

(2) for a rate decrease, the new rate shall apply to bills rendered on or after the effective date.

History: *2000 c 418 art 1 s 6; 2006 c 259 art 6 s 8; 2008 c 154 art 12 s 19; 2011 c 112 art 4 s 3*

297A.64 RENTAL MOTOR VEHICLE TAX IMPOSED; RATE.

Subdivision 1. **Tax imposed.** (a) A tax is imposed on the lease or rental in this state for not more than 28 days of a passenger automobile as defined in section 168.002, subdivision 24, a van as defined in section 168.002, subdivision 40, or a pickup truck as defined in section 168.002, subdivision 26. The rate of tax is 9.2 percent of the sales price. The tax applies whether or not the vehicle is licensed in the state.

(b) The provisions of paragraph (a) do not apply to the vehicles of a nonprofit corporation or similar entity consisting of individual or group members who pay the organization for the use of a motor vehicle if the organization:

(1) owns, leases, or operates a fleet of vehicles of the type subject to the tax under this subdivision that are available to its members for use, priced on the basis of intervals of one hour or less;

(2) parks its vehicles in the public right-of-way or at unstaffed, self-service locations that are accessible at any time of the day; and

(3) maintains its vehicles, insures its vehicles on behalf of its members, and purchases fuel for its fleet.

Subd. 2. **Fee imposed.** (a) A fee equal to five percent of the sales price is imposed on leases or rentals of vehicles subject to the tax under subdivision 1. The lessor on the invoice to the customer may designate the fee as "a fee imposed by the State of Minnesota for the registration of rental cars."

(b) The provisions of this subdivision do not apply to the vehicles of a nonprofit corporation or similar entity, consisting of individual or group members who pay the organization for the use of a motor vehicle, if the organization:

(1) owns or leases a fleet of vehicles of the type subject to the tax under subdivision 1 that are available to its members for use, priced on the basis of intervals of one hour or less;

(2) parks its vehicles in the public right-of-way or at unstaffed, self-service locations that are accessible at any time of the day; and

(3) maintains its vehicles, insures its vehicles on behalf of its members, and purchases fuel for its fleet.

Subd. 3. **Administration.** The retailer shall report and pay the tax imposed in subdivision 1 to the commissioner of revenue with the taxes imposed in this chapter. The tax imposed in subdivision 1 and the fee imposed in subdivision 2 are subject to the same interest, penalty, and other provisions provided for sales and use taxes under this chapter and chapter 289A. The audit, assessment, appeal, collection, enforcement, and administrative provisions of this chapter and chapters 270C and 289A, that apply to sales and use taxes, apply to the tax and fee.

Subd. 4. **Exemptions.** (a) The tax and the fee imposed by this section do not apply to a lease or rental of (1) a vehicle to be used by the lessee to provide a licensed taxi service; (2) a hearse or limousine used in connection with a burial or funeral service; or (3) a van designed or adapted primarily for transporting

property rather than passengers. The tax and the fee imposed under this section do not apply when the lease or rental of a vehicle is exempt from the tax imposed under section 297A.62, subdivision 1.

(b) The lessor may elect not to charge the fee imposed in subdivision 2 if in the previous calendar year the lessor had no more than 20 vehicles available for lease that would have been subject to tax under this section, or no more than $50,000 in gross receipts that would have been subject to tax under this section.

Subd. 5. **Payment of excess fees.** On the first sales tax return due following the end of a calendar year during which a lessor has imposed a fee under subdivision 2, the lessor shall report to the commissioner of revenue, in the form required by the commissioner, the amount of the fee collected during the previous year and the amount of motor vehicle registration taxes paid during the previous year by the lessor under chapter 168 on vehicles subject to the fee under this section. If the amount of the fees collected exceeds the amount of motor vehicle registration taxes paid, the lessor shall remit the excess to the commissioner of revenue at the time the report is submitted.

History: *2000 c 418 art 1 s 7; 1Sp2001 c 5 art 12 s 31,32,95; 2002 c 377 art 3 s 24; 1Sp2003 c 21 art 8 s 15; 2005 c 151 art 2 s 13; art 7 s 8; 1Sp2005 c 3 art 5 s 33; 2006 c 212 art 1 s 26 subd 5; 2008 c 152 art 3 s 7; 2009 c 88 art 4 s 5; 2013 c 143 art 8 s 17; 2023 c 68 art 3 s 24,25*

297A.65 LOTTERY TICKETS; IN LIEU TAX.

Sales of State Lottery tickets are exempt from the tax imposed under section 297A.62. The State Lottery must on or before the 20th day of each month transmit to the commissioner of revenue an amount equal to the gross receipts from the sale of lottery tickets for the previous month multiplied by the tax rate under section 297A.62, subdivision 1. The resulting payment is in lieu of the sales tax that otherwise would be imposed by this chapter. The commissioner shall deposit the money transmitted as provided by section 297A.94 and the money must be treated as other proceeds of the sales tax. For purposes of this section, "gross receipts" means the proceeds of the sale of tickets before deduction of a commission or other compensation paid to the vendor or retailer for selling tickets.

History: *2000 c 418 art 1 s 8*

REQUIREMENT TO COLLECT AND REMIT

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

Subdivision 1. **Definitions.** (a) To the extent allowed by the United States Constitution and the laws of the United States, the terms "retailer maintaining a place of business in this state," and "marketplace provider maintaining a place of business in this state," or similar terms mean a retailer or marketplace provider:

(1) having or maintaining within this state, directly or by a subsidiary or an affiliate, an office, place of distribution, sales, storage, or sample room or place, warehouse, or other place of business, including the employment of a resident of this state who works from a home office in this state; or

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

(b) To the extent allowed by the United States Constitution and the laws of the United States, the terms "retailer not maintaining a place of business in this state," and "marketplace provider not maintaining a place of business in this state," or similar terms mean a retailer or marketplace provider making or facilitating retail sales from outside this state to a destination within this state and not maintaining a place of business in this state as provided in paragraph (a) that 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) 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 that 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 that is not by its contents geographically targeted to Minnesota but 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 telephone, computer database, cable, optic, microwave, or any other communication system, including but not limited to a website accessible from within Minnesota.

The location of independent vendors that provide products or services to a retailer or marketplace provider in connection with a retailer or marketplace provider's 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 or marketplace provider is required to collect tax. Paragraph (b) must be construed without regard to the state from which distribution of the materials originated or in which they were prepared.

(c) "Regular or systematic soliciting of sales from potential customers in this state" means the retailer not maintaining a place of business in this state or marketplace provider not maintaining a place of business in this state is engaged in any of the solicitations listed in paragraph (b), and:

(1) makes or facilitates 200 or more retail sales from outside this state to destinations in this state during the prior 12-month period; or

(2) makes or facilitates retail sales totaling more than $100,000 from outside this state to destinations in this state during the prior 12-month period.

(d) "Marketplace provider" means any person who facilitates a retail sale by a retailer by:

(1) listing or advertising for sale by the retailer in any forum, tangible personal property, services, or digital goods that are subject to tax under this chapter; and

(2) either directly or indirectly through agreements or arrangements with third parties collecting payment from the customer and transmitting that payment to the retailer regardless of whether the marketplace provider receives compensation or other consideration in exchange for its services.

(e) "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.

[See Note.]

Subd. 2. **Collection and remittance requirements for retailers and marketplace providers.** (a) Except as provided in paragraph (d), a retailer maintaining a place of business in this state and a retailer not maintaining a place of business in this state who makes retail sales in Minnesota or to a destination in Minnesota shall collect sales and use taxes and remit them to the commissioner under section 297A.77 for all retail sales other than those facilitated by a marketplace provider maintaining a place of business in this state or a marketplace provider not maintaining a place of business in this state that is required to collect and remit sales and use taxes under paragraph (b).

(b) Except as provided in paragraph (d), a marketplace provider maintaining a place of business in this state and a marketplace provider not maintaining a place of business in this state who facilitates retail sales in Minnesota or to a destination in Minnesota shall collect sales and use taxes and remit them to the commissioner under section 297A.77 unless:

(1) the retailer provides a copy of the retailer's registration to collect sales and use taxes in this state to the marketplace provider; and

(2) the marketplace provider and retailer agree that the retailer will collect and remit the sales and use taxes on marketplace sales facilitated by the marketplace provider.

(c) Nothing in paragraph (b) shall be construed to interfere with the ability of a marketplace provider and a retailer to enter into an agreement regarding fulfillment of the requirements of this chapter.

(d) A retailer not maintaining a place of business in this state and a marketplace provider not maintaining a place of business in this state shall:

(1) begin collecting and remitting sales and use taxes to the commissioner on the first day of a calendar month occurring no later than 60 days after the retailer or marketplace provider engages in regular or systematic soliciting of sales from potential customers in this state; and

(2) continue to collect and remit sales and use taxes to the commissioner until at least the last day of the 12th calendar month following the calendar month in which the retailer or marketplace provider began collecting and remitting sales and use taxes under clause (1).

(e) A retailer not maintaining a place of business in this state and a marketplace provider not maintaining a place of business in this state may cease collecting and remitting sales and use taxes to the commissioner after the period in paragraph (d), clause (2), if the retailer or marketplace provider no longer engages in regular or systematic soliciting of sales from potential customers in this state.

(f) A retailer or marketplace provider may cease collecting and remitting sales and use taxes under paragraph (e) only after notifying the commissioner that the retailer or marketplace provider is no longer engaged in the regular or systematic soliciting of sales from potential customers in this state. The commissioner

shall prescribe the content, format, and manner of the notification pursuant to section 270C.30. If a retailer or marketplace provider subsequently engages in regular or systematic soliciting of sales from potential customers in this state, the retailer shall again comply with the requirements of paragraph (d).

[See Note.]

Subd. 3. **Marketplace provider liability.** (a) A marketplace provider is deemed the retailer or seller for all retail sales it facilitates, and is subject to audit on the retail sales it facilitates if it is required to collect sales and use taxes and remit them to the commissioner under subdivision 2, paragraphs (b) and (c).

(b) A marketplace provider is not liable for failing to file, collect, and remit sales and use taxes to the commissioner if the marketplace provider demonstrates that the error was due to incorrect or insufficient information given to the marketplace provider by the retailer. This paragraph does not apply if the marketplace provider and the marketplace retailer are related as defined in subdivision 4, paragraph (b).

Subd. 4. **Affiliated entities.** (a) An entity is an "affiliate" of the retailer for purposes of subdivision 1, paragraph (a), if the entity:

(1) uses its facilities or employees in this state to advertise, promote, or facilitate the establishment or maintenance of a market for sales of items by the retailer to purchasers in this state or for the provision of services to the retailer's purchasers in this state, such as accepting returns of purchases for the retailer, providing assistance in resolving customer complaints of the retailer, or providing other services;

(2) has the same or a similar business name to the retailer and sells, from a location or locations in this state, tangible personal property, digital goods, or services, taxable under this chapter, that are similar to that sold by the retailer;

(3) maintains an office, distribution facility, salesroom, warehouse, storage place, or other similar place of business in this state to facilitate the delivery of tangible personal property, digital goods, or services sold by the retailer to its customers in this state;

(4) maintains a place of business in this state and uses trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the retailer, and that use is done with the express or implied consent of the holder of the marks or names;

(5) delivers, installs, or assembles tangible personal property in this state, or performs maintenance or repair services on tangible personal property in this state, for tangible personal property sold by the retailer;

(6) facilitates the delivery of tangible personal property to customers of the retailer by allowing the customers to pick up tangible personal property sold by the retailer at a place of business the entity maintains in this state; or

(7) shares management, business systems, business practices, or employees with the retailer, or engages in intercompany transactions with the retailer related to the activities that establish or maintain the market in this state of the retailer.

(b) Two entities are related parties under this section if one of the entities meets at least one of the following tests with respect to the other entity:

(1) one or both entities is a corporation, and one entity and any party related to that entity in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code owns directly, indirectly, beneficially, or constructively at least 50 percent of the value of the corporation's outstanding stock;

(2) one or both entities is a partnership, estate, or trust and any partner or beneficiary, and the partnership, estate, or trust and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50 percent of the profits, capital, stock, or value of the other entity or both entities;

(3) an individual stockholder and the members of the stockholder's family (as defined in section 318 of the Internal Revenue Code) owns directly, indirectly, beneficially, or constructively, in the aggregate, at least 50 percent of the value of both entities' outstanding stock;

(4) the entities are related within the meaning of subsections (b) and (c) of section 267 or 707(b)(1) of the Internal Revenue Code; or

(5) the entities have one or more ownership relationships and the relationships were designed with a principal purpose of avoiding the application of this section.

(c) An entity is an affiliate under the provisions of this subdivision if the requirements of paragraphs (a) and (b) are met during any part of the 12-month period ending on the first day of the month before the month in which the sale was made.

[See Note.]

Subd. 4a. **Solicitor.** (a) "Solicitor," for purposes of subdivision 1, paragraph (a), means a person, whether an independent contractor or other representative, who directly or indirectly solicits business for the retailer.

(b) A retailer is presumed to have a solicitor in this state if it enters into an agreement with a resident under which the resident, for a commission or other substantially similar consideration, directly or indirectly refers potential customers, whether by a link on an Internet website, or otherwise, to the seller. This paragraph only applies if the total gross receipts are at least $10,000 in the 12-month period ending on the last day of the most recent calendar quarter before the calendar quarter in which the sale is made. For purposes of this paragraph, gross receipts means receipts from sales to customers located in the state who were referred to the retailer by all residents with this type of agreement with the retailer.

(c) The presumption under paragraph (b) may be rebutted by proof that the resident with whom the seller has an agreement did not engage in any solicitation in the state on behalf of the retailer that would satisfy the nexus requirement of the United States Constitution during the 12-month period in question. Nothing in this section shall be construed to narrow the scope of the terms affiliate, agent, salesperson, canvasser, or other representative for purposes of subdivision 1, paragraph (a).

(d) For purposes of this subdivision, "resident" includes an individual who is a resident of this state, as defined in section 290.01, or a business that owns tangible personal property located in this state or has one or more employees providing services for the business in this state.

(e) This subdivision does not apply to chapter 290 and does not expand or contract the jurisdiction to tax a trade or business under chapter 290.

Subd. 4b. MS 2018 [Repealed, 1Sp2019 c 6 art 3 s 19]

Subd. 5. **Withdrawal from streamlined sales and use tax agreement.** If the state has withdrawn its membership or been expelled from the streamlined sales and use tax agreement, it shall not use a seller's registration with the central registration system and the collection of sales and use taxes in the state as a factor in determining whether the seller has nexus with that state for any tax at any time.

Subd. 6. **Lodging services.** An accommodations intermediary shall collect sales tax and remit it to the commissioner under section 297A.77 for services provided in connection with or for lodging located in this state.

History: *2000 c 418 art 1 s 9; 1Sp2001 c 5 art 12 s 33,34; 2002 c 377 art 3 s 5,6; 2003 c 127 art 1 s 17; 1Sp2011 c 7 art 3 s 4; 2013 c 143 art 8 s 18,19; 2014 c 275 art 1 s 96,97; 1Sp2017 c 1 art 3 s 9-12; 1Sp2019 c 6 art 3 s 4-6; 1Sp2021 c 14 art 14 s 3*

NOTE: If any provision of subdivisions 1, 2, and 4, as amended by Laws 2017, First Special Session chapter 1, article 3, sections 9 to 11, and subdivision 4b, as added by Laws 2017, First Special Session chapter 1, article 3, section 12, or the application thereof is held invalid, such invalidity shall not affect the provisions or applications of the subdivisions that can be given effect without the invalid provisions or applications. Laws 2017, First Special Session chapter 1, article 3, section 43.

297A.665 PRESUMPTION OF TAX; BURDEN OF PROOF.

(a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax, until the contrary is established, it is presumed that:

(1) all gross receipts are subject to the tax; and

(2) all retail sales for delivery in Minnesota are for storage, use, or other consumption in Minnesota.

(b) The burden of proving that a sale is not a taxable retail sale is on the seller. However, a seller is relieved of liability if:

(1) the seller obtains a fully completed exemption certificate or all the relevant information required by section 297A.72, subdivision 2, at the time of the sale or within 90 days after the date of the sale;

(2) if the seller has not obtained a fully completed exemption certificate or all the relevant information required by section 297A.72, subdivision 2, within the time provided in clause (1), within 120 days after a request for substantiation by the commissioner, the seller either:

(i) obtains from the purchaser a fully completed exemption certificate or all the relevant information required by section 297A.72, subdivision 2, taken in good faith which means that the exemption certificate claims an exemption that (A) was statutorily available on the date of the transaction, (B) could be applicable to the item for which the exemption is claimed, and (C) is reasonable for the purchaser's type of business; or

(ii) proves by other means that the transaction was not subject to tax; or

(3) in the case of drop shipment sales, a seller engaged in drop shipping may claim a resale exemption based on an exemption certificate provided by its customer or reseller, or any other acceptable information available to the seller engaged in drop shipping evidencing qualification for a resale exemption, regardless of whether the customer or reseller is registered to collect and remit sales and use tax in the state.

(c) Notwithstanding paragraph (b), relief from liability does not apply to a seller who:

(1) fraudulently fails to collect the tax; or

(2) solicits purchasers to participate in the unlawful claim of an exemption.

(d) Notwithstanding paragraph (b), relief from liability does not apply to a seller who has obtained information under paragraph (b), clause (2), if through the audit process the commissioner finds the following:

(1) that at the time the information was provided the seller had knowledge or had reason to know that the information relating to the exemption was materially false; or

(2) that the seller knowingly participated in activity intended to purposefully evade the sales tax due on the transaction.

(e) A certified service provider, as defined in section 297A.995, subdivision 2, is relieved of liability under this section to the extent a seller who is its client is relieved of liability.

(f) A purchaser of tangible personal property or any items listed in section 297A.63 that are shipped or brought to Minnesota by the purchaser has the burden of proving that the property was not purchased from a retailer for storage, use, or consumption in Minnesota.

(g) If a seller claims that certain sales are exempt and does not provide the certificate, information, or proof required by paragraph (b), clause (2), within 120 days after the date of the commissioner's request for substantiation, then the exemptions claimed by the seller that required substantiation are disallowed.

History: *2000 c 418 art 1 s 10; 2003 c 127 art 6 s 8; 2008 c 154 art 12 s 20; 2008 c 366 art 13 s 4; 2010 c 389 art 4 s 3; 2013 c 143 art 8 s 20; art 16 s 3*

297A.666 MS 2012 [Repealed, 2014 c 308 art 9 s 94]

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

Subdivision 1. **Applicability.** The provisions of this section 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. 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.

Subd. 2. **Sourcing rules.** (a) The retail sale, excluding lease or rental, of a product shall be sourced as required in paragraphs (b) through (f).

(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 or the computer software delivered electronically was first available for transmission by the seller, or from which the service

was provided. For purposes of this paragraph, the seller must disregard any location that merely provided the digital transfer of the product sold.

(g) For purposes of this subdivision, the terms "receive" and "receipt" mean taking possession of tangible personal property, making first use of services, or taking possession or making first use of digital goods or the computer software delivered electronically, whichever occurs first. The terms receive and receipt do not include possession by a carrier for hire on behalf of the purchaser.

Subd. 3. **Lease or rental of tangible personal property.** The lease or rental of tangible personal property, other than property identified in subdivision 4 or 5, shall be sourced as required in paragraphs (a) to (c).

(a) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subdivision 2. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location must be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location must not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subdivision 2.

(c) This subdivision does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

Subd. 4. **Lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment.** The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subdivision 5, shall be sourced as required in paragraphs (a) to (c).

(a) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location must be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location must not be altered by intermittent use at different locations.

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subdivision 2.

(c) This subdivision does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

Subd. 5. **Transportation equipment.** (a) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subdivision 2, notwithstanding the exclusion of lease or rental in subdivision 2.

(b) "Transportation equipment" means any of the following:

(1) locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

(2) trucks and truck-tractors with a gross vehicle weight rating (GVWR) of 10,001 pounds or greater, trailers, semitrailers, or passenger buses that are:

(i) registered through the international registration plan; and

(ii) operated under authority of a carrier authorized and certified by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(3) aircraft that are operated by air carriers authorized and certificated by the United States Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate commerce; or

(4) containers designed for use on and component parts attached or secured on the transportation equipment described in clauses (1) through (3).

Subd. 6. MS 2006 [Repealed, 2008 c 154 art 12 s 41]

Subd. 6a. **Multiple points of use.** (a) Notwithstanding the provisions of subdivisions 2 and 3, a business purchaser that has not received authorization to pay the tax directly to the commissioner may use an exemption certificate indicating multiple points of use if:

(1) the purchaser knows at the time of its purchase of a digital good, computer software delivered electronically, or a service that the good or service will be concurrently available for use in more than one taxing jurisdiction; and

(2) the purchaser delivers to the seller the exemption certificate indicating multiple points of use at the time of purchase.

(b) Upon receipt of the fully completed exemption certificate indicating multiple points of use, 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. The provisions of section 297A.665 apply to this paragraph.

(c) The purchaser delivering the exemption certificate indicating multiple points of use 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 purchaser shall provide the exemption certificate indicating multiple points of use to the seller at the time of purchase.

(e) A purchaser that has received authorization to pay the tax directly to the commissioner is not required to deliver to the seller an exemption certificate indicating multiple points of use. A purchaser that has received authorization to pay the tax directly to the commissioner shall follow the provisions of paragraph (c) in apportioning the tax due on a digital good, computer software delivered electronically, or a service that will be concurrently available for use in more than one taxing jurisdiction.

Subd. 7. **Advertising and promotional direct mail.** (a) Notwithstanding other subdivisions of this section, the provisions in paragraphs (b) to (e) apply to the sale of advertising and promotional direct mail. "Advertising and promotional direct mail" means printed material that is direct mail as defined in section 297A.61, subdivision 35, the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a person, business, organization, or product. "Product" includes tangible personal property, a digital product transferred electronically, or a service.

(b) A purchaser of advertising and promotional direct mail may provide the seller with one of the following:

(1) a fully completed exemption certificate as described in section 297A.72 indicating that the purchaser is authorized to pay any sales or use tax due on purchases made by the purchaser directly to the commissioner under section 297A.89;

(2) a fully completed exemption certificate claiming an exemption for direct mail; or

(3) information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.

(c) In the absence of bad faith, if the purchaser provides one of the exemption certificates indicated in paragraph (b), clauses (1) and (2), the seller is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit the tax on any transaction involving advertising and promotional direct mail to which the certificate applies. The purchaser shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients of the mail, and shall report and pay any applicable tax due.

(d) If the purchaser provides the seller information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients, the seller shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered and shall collect and remit the applicable tax. In the absence of bad faith, the seller is relieved of any further obligation to collect any additional tax on the sale of advertising and promotional direct mail where the seller has sourced the sale according to the delivery information provided by the purchaser.

(e) If the purchaser does not provide the seller with any of the items listed in paragraph (b), the sale shall be sourced under subdivision 2, paragraph (f). Nothing in this paragraph limits a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

(f) This subdivision does not apply to printed materials that result from developing billing information or providing any data processing service that is more than incidental to producing the printed materials, regardless of whether advertising and promotional direct mail is included in the same mailing.

(g) If a transaction is a bundled transaction that includes advertising and promotional direct mail, this subdivision applies only if the primary purpose of the transaction is the sale of products or services that meet the definition of advertising and promotional direct mail.

Subd. 7a. **Other direct mail.** (a) Notwithstanding other subdivisions of this section, the provisions in paragraphs (b) and (c) apply to the sale of other direct mail. "Other direct mail" means printed material that is direct mail as defined in section 297A.61, subdivision 35, but is not advertising and promotional direct mail as described in subdivision 7, regardless of whether advertising and promotional direct mail is included in the same mailing. Other direct mail includes, but is not limited to:

(1) direct mail pertaining to a transaction between the purchaser and addressee, where the mail contains personal information specific to the addressee including, but not limited to, invoices, bills, statements of account, and payroll advices;

(2) any legally required mailings including, but not limited to, privacy notices, tax reports, and stockholder reports; and

(3) other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents including, but not limited to, newsletters and informational pieces.

Other direct mail does not include printed materials that result from developing billing information or providing any data processing service that is more than incidental to producing the other direct mail.

(b) A purchaser of other direct mail may provide the seller with either a fully completed exemption certificate as described in section 297A.72 indicating that the purchaser is authorized to pay any sales or use tax due on purchases made by the purchaser directly to the commissioner under section 297A.89, or a fully completed exemption certificate claiming an exemption for direct mail. If the purchaser provides one of the exemption certificates listed, then the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit the tax on any transaction involving other direct mail to which the certificate applies. The purchaser shall source the sale to the jurisdictions to which the other direct mail is to be delivered to the recipients of the mail, and shall report and pay any applicable tax due.

(c) If the purchaser does not provide the seller with a fully completed exemption certificate claiming either exemption listed in paragraph (b), the sale shall be sourced according to subdivision 2, paragraph (d).

Subd. 8. **Manufactured and modular housing.** (a) Notwithstanding other subdivisions of this section, a sale of a manufactured or modular home shall be sourced to the site where the housing is first set up or installed.

(b) For purposes of this section, "manufactured home" has the meaning given in section 327.31, subdivision 6. For purposes of this section, "modular home" means a building or structural unit that has been substantially manufactured or constructed, in whole or in part, at an off-site location, with the final assembly occurring on site alone or with other units and attached to a permanent foundation site and occupied as a single-family dwelling. Modular home construction must comply with applicable standards adopted in Minnesota Rules authorized under chapter 16B. A modular home does not include a structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974 or a manufactured home.

Subd. 9. **Florist sales.** (a) Notwithstanding other subdivisions of this section, the retail sale of "florist sales" is sourced as follows:

(1) When a Minnesota retailer takes a florist sales order directly from a customer, whether or not the customer is physically present in Minnesota when placing the order, and delivers the items to the customer or a third person, either within this state or outside this state, and regardless of the delivery method, the florist sale is sourced according to subdivision 2.

(2) When one retailer transmits a florist sales order to another retailer of florist sales through a floral network service or floral delivery association, whether by telephone, telegraph, Internet, or other means of communication, the florist sale is sourced to the location of the retailer which originally takes the order from the customer and accepts payment.

(b) For purposes of this subdivision, florist sales means sales at retail of flowers, wreaths, floral bouquets, potted plants, hospital baskets, funeral designs, seeds, nursery seedling stock, trees, shrubs, plants, sod, soil, bulbs, sand, rock, and all other floral or nursery products.

History: *1Sp2001 c 5 art 12 s 35; 2002 c 379 art 1 s 68; 2003 c 127 art 1 s 19; 2004 c 228 art 1 s 49; 2005 c 151 art 7 s 9,10; 2006 c 259 art 6 s 9; 2008 c 154 art 5 s 1; 2011 c 112 art 4 s 4,5; 1Sp2011 c 7 art 3 s 5; 2012 c 187 art 1 s 48; 2013 c 143 art 8 s 21*

297A.669 TELECOMMUNICATION AND RELATED SERVICES SOURCING.

Subdivision 1. **Call-by-call basis sourcing.** Except for the defined telecommunication services in subdivision 3, the sale of telecommunication service sold on a call-by-call basis shall be sourced to (1) each level of taxing jurisdiction where the call originates and terminates in that jurisdiction; or (2) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

Subd. 2. **Other than call-by-call basis sourcing.** Except for the defined telecommunication services in subdivision 3, a sale of telecommunications services sold on a basis other than a call-by-call basis is sourced to the customer's place of primary use.

Subd. 3. **Defined telecommunications services sourcing.** The sale of the following telecommunication services shall be sourced to each level of taxing jurisdiction in paragraphs (a) to (d).

(a) A sale of mobile telecommunications services, other than air-to-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act.

(b) A sale of postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either:

(1) the seller's telecommunications system; or

(2) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(c) A sale of prepaid calling service or prepaid wireless calling service is sourced in accordance with section 297A.668, subdivision 2. However, in the case of a sale of a prepaid wireless calling service, the rule provided in section 297A.668, subdivision 2, paragraph (f), shall include as an option the location associated with the mobile telephone number.

(d) A sale of a private communication service is sourced as follows:

(1) service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which the customer channel termination point is located;

(2) service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located;

(3) service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced 50 percent in each level of jurisdiction in which the customer channel termination points are located; and

(4) service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

Subd. 4. **Air-to-ground radiotelephone service.** "Air-to-ground radiotelephone service," for purposes of this section, means a radio service, as that term is defined in Code of Federal Regulations, title 47, section 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

Subd. 5. **Call-by-call basis.** "Call-by-call basis," for purposes of this section, means any method of charging for telecommunications services where the price is measured by individual calls.

Subd. 6. **Communications channel.** "Communications channel," for purposes of this section, means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

Subd. 7. **Customer.** "Customer," for purposes of this section, means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunication service, but this sentence applies only for the purpose of sourcing sales of telecommunications services under this section. Customer does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

Subd. 8. **Customer channel termination point.** "Customer channel termination point," for purposes of this section, means the location where the customer either inputs or receives the communications.

Subd. 9. **End user.** "End user," for purposes of this section, means the person who utilizes the telecommunication service. In the case of an entity, end user means the individual who utilizes the service on behalf of the entity.

Subd. 10. **Home service provider.** "Home service provider," for purposes of this section, means the same as that term is defined in Section 124(5) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).

Subd. 11. **Mobile telecommunications service.** "Mobile telecommunications service," for purposes of this section, means the same as that term is defined in Section 124(7) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).

Subd. 12. **Place of primary use.** "Place of primary use," for purposes of this section, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, place of primary use must be within the licensed service area of the home service provider.

Subd. 13. **Postpaid calling service.** "Postpaid calling service," for purposes of this section, means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. A postpaid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunication service.

Subd. 14. **Prepaid calling service.** "Prepaid calling service," for purposes of this section, means a telecommunications service that:

(1) provides the right to access exclusively telecommunications services;

(2) must be paid for in advance;

(3) enables the origination of calls using an access number or authorization code, whether manually or electronically dialed; and

(4) is sold in predetermined units or dollars of which the number declines with use in a known amount.

Subd. 14a. **Prepaid wireless calling service.** "Prepaid wireless calling service," for purposes of this section, means a telecommunications service that:

(1) provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services;

(2) must be paid for in advance; and

(3) is sold in predetermined units or dollars of which the number declines with use in a known amount.

Subd. 15. **Private communication services.** "Private communication services," for purposes of this section, means the same as that term is defined in section 297A.61, subdivision 26.

Subd. 16. **Service address.** "Service address," for purposes of this section, means:

(1) the location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(2) if the location in clause (1) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller; or

(3) if the location in clauses (1) and (2) is not known, the service address means the location of the customer's place of primary use.

Subd. 17. **Ancillary service.** The sale of an ancillary service is sourced to the customer's place of primary use.

History: *2003 c 127 art 1 s 20; 2004 c 228 art 1 s 50; 2006 c 259 art 6 s 10; 2008 c 154 art 12 s 21-25*

EXEMPTIONS

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, dietary supplements, and prepared foods. Food and food ingredients do not include alcoholic beverages, tobacco, taxable cannabis products, medical cannabis flower, and medical cannabinoid products. 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, "taxable cannabis product" has the meaning given in section 295.81, subdivision 1, paragraph (r), "medical cannabis flower" has the meaning given in section 342.01, subdivision 54, and "medical cannabinoid product" has the meaning given in section 342.01, subdivision 52. 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. **SNAP.** Tangible personal property purchased with Supplemental Nutrition Assistance Program (SNAP) benefits, coupons, or vouchers issued by the federal government under the SNAP 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. Taxable 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. Taxable 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 persons with a disability 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. Taxable 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 children with a disability 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) Items purchased in transactions covered by:

(1) Medicare as defined under title XVIII of the Social Security Act, United States Code, title 42, section 1395, et seq.; or

(2) Medicaid as defined under title XIX of the Social Security Act, United States Code, title 42, section 1396, et seq.

(c) 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, taxable cannabis products as defined under section 295.81, subdivision 1, paragraph (r), 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, including single-patient use items, 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, including 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).

(8) A transaction is covered by Medicare or Medicaid if any portion of the cost of the item purchased in the transaction is paid for or reimbursed by the federal government or the state of Minnesota pursuant to the Medicare or Medicaid program, by a private insurance company administering the Medicare or Medicaid program on behalf of the federal government or the state of Minnesota, or by a managed care organization

for the benefit of a patient enrolled in a prepaid program that furnishes medical services in lieu of conventional Medicare or Medicaid coverage pursuant to agreement with the federal government or the state of Minnesota.

Subd. 7a. **Accessories and supplies.** Accessories and supplies required for the effective use of durable medical equipment for home use only or purchased in a transaction covered by Medicare or Medicaid, that are not already exempt under subdivision 7, are exempt. Accessories and supplies for the effective use of a prosthetic device, that are not already exempt under subdivision 7, are exempt. For purposes of this subdivision "durable medical equipment," "prosthetic device," "Medicare," and "Medicaid" have the definitions given in subdivision 7.

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;

(8) protective equipment; and

(9) 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; veterans with a disability.** 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 accessible to a person with a disability.** Parts, accessories, and labor charges that are used solely to modify a motor vehicle to make it accessible to persons with a disability are exempt.

Subd. 13. **Textbooks.** Textbooks, including digital books, 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 136A.822.

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, digital audio works, digital audiovisual works, 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. MS 2006 [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. MS 2008 [Repealed, 2009 c 88 art 8 s 5]

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.

Subd. 33. **Presentations accessed as digital audio and audiovisual works.** The charge for a live or prerecorded presentation, such as a lecture, seminar, workshop, or course, where participants access the presentation as a digital audio work or digital audiovisual work, and are connected to the presentation via the Internet, telecommunications equipment, or other device that transfers the presentation electronically, is exempt if:

(1) participants and the presenter, during the time that participants access the presentation, are able to give, receive, and discuss the presentation with each other, although the amount of interaction and when in the presentation the interaction occurs may be limited by the presenter; and

(2) for those presentations where participants are given the option to attend the same presentation in person:

(i) any limitations on the amount of interaction and when it occurs during the presentation are the same for those participants accessing the presentation electronically as those attending in person; and

(ii) the admission to the in-person presentation is not subject to tax under this chapter.

Subd. 34. **Precious metal bullion.** (a) Precious metal bullion is exempt. For purposes of this subdivision, "precious metal bullion" means bars or rounds that consist of 99.9 percent or more by weight of either gold, silver, platinum, or palladium and are marked with weight, purity, and content.

(b) The exemption under this subdivision does not apply to sales and purchases of jewelry, works of art, or scrap metal.

(c) The intent of this subdivision is to eliminate the difference in tax treatment between the sale of precious metal bullion and the sale of stock, bullion ETFs, bonds, and other investment instruments.

Subd. 35. **Suite licenses.** The sale of the privilege of admission under section 297A.61, subdivision 3, paragraph (g), clause (1), to a place of amusement or athletic event does not include consideration paid for a license to use a private suite, private skybox, or private box seat, and the sale of the license is exempt provided that: (1) the lessee may use the private suite, private skybox, or private box seat by mutual arrangement with the lessor on days when there is no amusement or athletic event; and (2) the sales price

for the privilege of admission is equal to or greater than the highest priced general admission ticket for the closest seat not in the private suite, private skybox, or private box seat.

Subd. 36. **Stadium builder's licenses.** The sale of the privilege of admission under section 297A.61, subdivision 3, paragraph (g), clause (1), does not include consideration paid for a stadium builder's license authorized under section 473J.15, subdivision 14, and the sale of the license is exempt.

Subd. 37. **Certain herbicides.** (a) Purchases of herbicides authorized for use pursuant to an invasive aquatic plant management permit as defined under section 103G.615 are exempt if purchased by:

(1) a lakeshore property owner;

(2) an association of lakeshore property owners organized under chapter 317A; or

(3) a contractor hired by a lakeshore owner or association to provide invasive aquatic plant management under the permit.

(b) For purposes of this subdivision, "herbicides" means a substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant that are:

(1) labeled for use in water;

(2) registered for use in this state by the Department of Agriculture under section 18B.26; and

(3) listed as one of the herbicides proposed for use on the invasive aquatic plant management permit.

Subd. 38. **Season ticket purchasing rights to collegiate events.** The sale of a right to purchase the privilege of admission to a college or university athletic event in a preferred viewing location for a season of a particular athletic event is exempt provided that:

(1) the consideration paid for the right to purchase is used entirely to support student scholarships, wellness, and academic costs; and

(2) the admission price is equal to or greater than the highest priced general admission ticket for the closest seat not in the preferred viewing location.

Subd. 39. **Reservation sales of taxable cannabis products.** The sale of a taxable cannabis product, as defined in section 295.81, subdivision 1, paragraph (r), that is made on Tribally regulated land as defined in section 3.9228, subdivision 1, by a cannabis business licensed by a Minnesota Tribal government, as defined in section 3.9228, subdivision 1, paragraph (f), is exempt.

Subd. 40. **Firearm storage units.** (a) Secure firearm storage units are exempt. For the purposes of this subdivision:

(1) "secure firearm storage unit" means a container that is fully enclosed and locked by a padlock, keylock, combination lock, or similar locking device, and is either specifically designed for the safe storage of firearms or sold for that purpose by a federally licensed firearms dealer; and

(2) "firearm" has the meaning provided in section 97A.015, subdivision 19.

(b) The seller of a secure firearm storage unit must neither collect, nor transmit to any private or public entity, any personal data of or information about a purchaser resulting from a sale eligible for the exemption under this subdivision.

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; 2013 c 143 art 8 s 22-24; 2014 c 308 art 3 s 6,7; 2015 c 69 art 2 s 46; 1Sp2017 c 1 art 3 s 13-19; 1Sp2019 c 6 art 3 s 7; c 9 art 1 s 42; art 24 s 20,21; 1Sp2021 c 14 art 4 s 4; 2023 c 63 art 2 s 12-14; 2023 c 64 art 5 s 3-5; 2024 c 121 art 2 s 35*

297A.68 BUSINESS EXEMPTIONS.

Subdivision 1. **Scope.** The gross receipts from the sale 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. **Materials consumed in industrial production.** (a) Materials stored, used, or consumed in industrial production of tangible 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 metal-casting: 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, the production of road

building materials, and the research, development, design, or production of computer software. Industrial production does not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process.

(d) Industrial production does not include:

(1) the furnishing of services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii); or

(2) the transportation, transmission, or distribution of petroleum, liquefied gas, natural gas, water, or steam, in, by, or through pipes, lines, tanks, mains, or other means of transporting those products. For purposes of this paragraph, "transportation, transmission, or distribution" does not include blending of petroleum or biodiesel fuel as defined in section 239.77.

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 (6), 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.

Subd. 3a. **Coin-operated entertainment and amusement devices.** Coin-operated entertainment and amusement devices including, but not limited to, fortune-telling machines, cranes, foosball and pool tables, video and pinball games, batting cages, rides, photo or video booths, and jukeboxes are exempt when purchased by retailers selling admission to places of amusement and making available amusement devices as provided in section 297A.61, subdivision 3, paragraph (g), clause (1). Coin-operated entertainment and amusement devices do not include vending machines, lottery devices, or gaming devices as described in chapters 297E and 349.

Subd. 4. **Taconite, other ores, metals, or minerals; production materials.** Mill liners, grinding rods, and grinding balls that are substantially consumed in the production of taconite or other ores, metals, or minerals are exempt when sold to or stored, used, or consumed by persons taxed under the in-lieu or gross proceeds provisions of chapter 298.

Subd. 5. **Capital equipment.** (a) Capital equipment is exempt.

"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 primarily 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;

(8) ready-mixed concrete equipment in which the ready-mixed concrete is mixed as part of the delivery process regardless if mounted on a chassis, repair parts for ready-mixed concrete trucks, and leases of ready-mixed concrete trucks; and

(9) machinery or equipment used for research, development, design, or production of computer software.

(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;

(7) machinery and equipment used by restaurants in the furnishing, preparing, or serving of prepared foods as defined in section 297A.61, subdivision 31;

(8) machinery and equipment used to furnish the services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii);

(9) machinery or equipment used in the transportation, transmission, or distribution of petroleum, liquefied gas, natural gas, water, or steam, in, by, or through pipes, lines, tanks, mains, or other means of transporting those products. This clause does not apply to machinery or equipment used to blend petroleum or biodiesel fuel as defined in section 239.77; or

(10) 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) "Integrated production process" means a process or series of operations through which tangible personal property is manufactured, fabricated, mined, or refined. For purposes of this clause, (i) manufacturing begins with the removal of raw materials from inventory and ends when the last process prior to loading for shipment has been completed; (ii) fabricating begins with the removal from storage or inventory of the property to be assembled, processed, altered, or modified and ends with the creation or production of the new or changed product; (iii) mining begins with the removal of overburden from the site of the ores, minerals, stone, peat deposit, or surface materials and ends when the last process before stockpiling is completed; and (iv) refining begins with the removal from inventory or storage of a natural resource and ends with the conversion of the item to its completed form.

(4) "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.

(5) "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).

(6) "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.

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

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

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

(10) "Refining" means the process of converting a natural resource to an intermediate or finished product, including the treatment of water to be sold at retail.

(11) This subdivision does not apply to telecommunications equipment as provided in subdivision 35a, and does not apply to wire, cable, or poles for telecommunications services.

Subd. 6. **Special tooling.** Special tooling is exempt. "Special tooling" means tools, dies, jigs, patterns, gauges, and other special tools that have value and use only for the buyer and for the use for which they are made. An item has value and use only to the buyer if the item is not standard enough to be stocked or ordered from a catalog or other sales literature, but must be produced in accordance with special requirements peculiar to the buyer and not common to someone else whose conditions for possible use of the material are reasonably similar to the buyer's.

Subd. 7. **Air cooling equipment.** Equipment used for air cooling is exempt, if the equipment is purchased for conversion or replacement of an existing groundwater-based once-through cooling system as required under section 103G.271, subdivision 5.

Subd. 8. **Pollution control equipment; steel reprocessing.** Pollution control equipment purchased by a steel reprocessing firm is exempt if the equipment is necessary to meet state or federal emission standards. For purposes of this subdivision:

(1) "pollution control equipment" means equipment used for the purpose of eliminating, preventing, or reducing air, land, or water pollution during or as a result of the manufacturing process; and

(2) "steel reprocessing firm" means a firm whose primary business is the recovery of steel from automobiles, appliances, and other steel products and the rerefining of this recovered metal into new steel products.

Subd. 9. **Super Bowl admissions and related events.** The granting of the privilege of admission to a world championship football game sponsored by the National Football League and to related events sponsored by the National Football League is exempt.

Subd. 9a. **Championship golf tournaments admission and related events.** (a) The granting of the privilege of admission to a world championship golf tournament sponsored by the Professional Golfers' Association of America and to related events sponsored by the Professional Golfers' Association of America is exempt.

(b) This subdivision expires July 1, 2030.

Subd. 10. **Publications; publication materials.** Tangible personal property that is used or consumed in producing any publication regularly issued at average intervals not exceeding three months is exempt, and any such publication is exempt. "Publication" includes, but is not limited to, a qualified newspaper as defined by section 331A.02, together with any supplements or enclosures. "Publication" does not include magazines and periodicals sold over the counter. Tangible personal property that is used or consumed in producing a publication does not include machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture, and fixtures used in the publication, or fuel, electricity, gas, or steam used for space heating or lighting.

Advertising contained in a publication is a nontaxable service and is exempt. Persons who publish or sell newspapers are engaging in a nontaxable service with respect to gross receipts realized from such news-gathering or news-publishing activities, including the sale of advertising.

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 and other shipping materials including, but not

limited to, boxes, labels, containers, and banding, 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 purposes of this subdivision, materials that have a primary purpose other than advertising, such as fulfilling a legal obligation or furnishing nonadvertising information, are not materials designed to advertise and promote the sale of merchandise or services even if they do include advertising content.

Subd. 12. **Wind energy conversion systems.** Wind energy conversion systems, as defined in section 216C.06, subdivision 19, that are used as an electric power source are exempt, and the materials used to manufacture, install, construct, repair, or replace them are exempt.

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.

Subd. 15. MS 2004 [Repealed, 2006 c 259 art 6 s 32]

Subd. 16. **Packing materials.** Packing materials used to pack and ship household goods and that are provided to and remain with the customer of a for-hire carrier are exempt if the ultimate destination of the goods is outside Minnesota and if the packing materials are not later returned to a point within Minnesota, except in the course of interstate commerce. This exemption does not apply to tools, equipment, pads, or accessories owned or leased by the for-hire carrier.

Subd. 17. **Ships used in interstate commerce; other vessels.** Repair, replacement, and rebuilding parts and materials, and lubricants, for the following are exempt:

(1) ships or vessels used or to be used principally in interstate or foreign commerce; and

(2) vessels with a gross registered tonnage of at least 3,000 tons.

Subd. 18. MS 2004 [Repealed, 2006 c 259 art 6 s 32]

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);

(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);

(7) products purchased by providers of transportation to recipients of medical assistance home and community-based services waivers enrolled in day programs, including adult day care, family adult day care, day treatment and habilitation, prevocational services, and structured day services;

(8) products used in a motor vehicle used exclusively as a mobile medical unit for the provision of medical or dental services by a federally qualified health center, as defined under title 19 of the federal Social Security Act, as amended by section 4161 of the Omnibus Budget Reconciliation Act of 1990; or

(9) special fuel used for one of the following purposes:

(i) to power a refrigeration unit mounted on a licensed motor vehicle, provided that the unit has an engine separate from the one used to propel the vehicle and the fuel is used exclusively for the unit;

(ii) to power an unlicensed motor vehicle that is used solely or primarily to move semitrailers within a cargo yard, warehouse facility, or intermodal facility; or

(iii) to operate a power take-off unit or auxiliary engine in or on a licensed motor vehicle, whether or not the unit or engine is fueled from the same or a different fuel tank as that from which the motor vehicle is fueled.

Subd. 20. **Natural gas in vehicles.** Natural gas to be used as a fuel in vehicles propelled by natural gas is exempt.

Subd. 21. MS 2000 [Repealed, 1Sp2001 c 5 art 12 s 95]

Subd. 22. **Copies of court reporter documents.** Transcripts or copies of transcripts of verbatim testimony are exempt if produced and sold by court reporters or other transcribers of legal proceedings to individuals or entities that are parties to or representatives of parties to the proceeding to which the transcript relates.

Subd. 23. **Automatic fire-safety sprinkler systems.** Automatic fire-safety sprinkler systems described in section 273.11, subdivision 6a, are exempt.

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, as amended through December 16, 2016;

(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 between a sole member of a disregarded limited liability company and the disregarded limited liability company;

(4) the sale is a sale of farm machinery;

(5) the sale is a farm auction sale;

(6) the sale is a sale of substantially all of the assets of a trade or business; or

(7) 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) "Disregarded limited liability company" means a limited liability company that is disregarded as an entity separate from its owner under the Internal Revenue Code.

(2) 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.

(3) "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).

(4) 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).

Subd. 26. MS 2000 [Repealed, 2002 c 377 art 3 s 26]

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

Subd. 28. **Medical supplies.** Medical supplies purchased by a licensed health care facility or licensed health care professional to provide medical treatment to residents or patients are exempt. The exemption does not apply to durable medical equipment or components of durable medical equipment, laboratory supplies, radiological supplies, and other items used in providing medical services. For purposes of this subdivision, "medical supplies" means adhesive and nonadhesive bandages, gauze pads and strips, cotton applicators, antiseptics, eye solution, and other similar supplies used directly on the resident or patient in providing medical services.

Subd. 29. **Prizes.** Tangible personal property that will be given as prizes to players in games of skill or chance is exempt if the games are conducted at events such as community festivals, fairs, and carnivals and if the events last less than six days. This exemption does not apply to property awarded as prizes in connection with lawful gambling as defined in section 349.12 or the State Lottery.

Subd. 30. **Television commercials.** Tangible personal property primarily used or consumed in the preproduction, production, or postproduction of a television commercial is exempt. Any such commercial, regardless of the medium in which it is transferred, is exempt. "Preproduction" and "production" include, but are not limited to, all activities related to the preparation for shooting and the shooting of television commercials, including film processing. Equipment rented for the preproduction and production activities is exempt. "Postproduction" includes, but is not limited to, all activities related to the finishing and duplication of television commercials. This exemption does not apply to tangible personal property used primarily in administration, general management, or marketing. Machinery and equipment purchased for use in producing such commercials and fuel, electricity, gas, or steam used for space heating or lighting are not exempt under this subdivision.

Subd. 31. **Waste management containers and compactors.** Compactors and waste collection containers are exempt if they are purchased by a waste management service provider and are used in providing waste management services as defined in section 297H.01, subdivision 12. A waste management service provider that does not remit tax on customer charges or lease or rental payments for compactors and waste collection containers under chapter 297H is ineligible for this exemption.

Subd. 32. **Events located outside Minnesota.** Tickets or admissions to places of amusement located outside Minnesota or to athletic events to be held outside Minnesota are exempt.

Subd. 33. **Patent, trademark, and copyright drawings and documents.** A drawing, diagram, or similar or related document or a copy of such a document is exempt if the document:

(1) is produced and sold by a patent drafter; and

(2) is for use in:

(i) a patent, trademark, or copyright application to be filed with government agencies;

(ii) an application to the federal Food and Drug Administration for approval of a medical device; or

(iii) a judicial or quasi-judicial proceeding, including mediation and arbitration, relating to the validity of or legal rights under a patent, trademark, or copyright.

For purposes of this subdivision, a "patent drafter" is a person who prepares illustrative documents required in the preparation of intellectual property applications.

Subd. 34. **Machinery and equipment for ski areas.** Tangible personal property used or consumed primarily and directly for tramways at ski areas or in snowmaking and snow-grooming operations at ski

hills, ski slopes, or ski trails, including machinery, equipment, fuel, electricity, and water additives used in the production and maintenance of machine-made snow, is exempt.

Subd. 35. MS 2012 [Repealed, 2013 c 143 art 8 s 53]

Subd. 35a. **Telecommunications or pay television services machinery and equipment.** (a) Telecommunications or pay television services machinery and equipment purchased or leased for use directly by a telecommunications or pay television services provider primarily in the provision of telecommunications or pay television 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 or pay television 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 or pay television 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 or pay television services, such as radio transmitters and receivers, satellite equipment, microwave equipment, fiber, conduit, and other transporting media, but not wire, cable, or poles;

(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 or pay television equipment; and software necessary to the operation of the telecommunications or pay television 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.

Subd. 36. **Delivery or distribution charges; direct mail.** Charges for the delivery or distribution of direct mail are exempt if the charges are separately stated on an invoice or similar billing document given to the purchaser.

Subd. 37. MS 2024 [Repealed, 2026 c 128 art 11 s 18]

Subd. 38. MS 2012 [Repealed, 2014 c 308 art 9 s 94]

Subd. 39. **Preexisting bids or contracts.** (a) The sale of tangible personal property or services is exempt from tax or a tax rate increase for a period of six months from the effective date of the law change that results in the imposition of the tax or the tax rate increase under this chapter if:

(1) the act imposing the tax or increasing the tax rate does not have transitional effective date language for existing construction contracts and construction bids; and

(2) the requirements of paragraph (b) are met.

(b) A sale is tax exempt under paragraph (a) if it meets the requirements of either clause (1) or (2):

(1) For a construction contract:

(i) the goods or services sold must be used for the performance of a bona fide written lump sum or fixed price construction contract;

(ii) the contract must be entered into before the date the goods or services become subject to the sales tax or the tax rate was increased;

(iii) the contract must not provide for allocation of future taxes; and

(iv) for each qualifying contract the contractor must keep documentation of the contract on which an exemption is to be claimed.

(2) For a construction bid:

(i) the goods or services sold must be used pursuant to an obligation of a bid or bids;

(ii) the bid or bids must be submitted and accepted before the date the goods or services became subject to the sales tax or the tax rate was increased;

(iii) the bid or bids must not be able to be withdrawn, modified, or changed without forfeiting a bond; and

(iv) for each qualifying bid, the contractor must keep documentation of the bid on which an exemption is to be claimed.

Subd. 40. **Land clearing.** Tree, bush, shrub, and stump removal are exempt when sold to contractors or subcontractors as part of a land clearing contract. For purposes of this subdivision, "land clearing contract" means a contract for the removal of trees, bushes, and shrubs, including the removal of roots and stumps, to develop a site. This exemption does not apply to land clearing of a portion of a site to allow for remodeling, improvement, or expansion of an existing structure.

Subd. 41. MS 2010 [Repealed, 2012 c 294 art 2 s 43]

Subd. 42. **Data centers.** (a) Purchases of enterprise information technology equipment and computer software for use in a qualified data center, a qualified refurbished data center, or a qualified large-scale data center are exempt, except that computer software maintenance agreements are exempt for purchases made after June 30, 2013. The tax on purchases exempt under this paragraph must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded after June 30, 2013, in the manner provided in section 297A.75. This exemption includes enterprise information technology equipment and computer software purchased to replace or upgrade enterprise information technology equipment and computer software in a qualified data center, a qualified refurbished data center, or a qualified large-scale data center.

(b) For purposes of this subdivision, "qualified data center" means a facility in Minnesota:

(1) that is comprised of one or more buildings that consist in the aggregate of at least 25,000 square feet, and that are located on a single parcel or on contiguous parcels, where the total cost of construction or refurbishment, investment in enterprise information technology equipment, and computer software is at least $30,000,000 within a 48-month period. The 48-month period begins no sooner than July 1, 2012, except that costs for computer software maintenance agreements purchased before July 1, 2013, are not included in determining if the $30,000,000 threshold has been met;

(2) that is constructed or substantially refurbished after June 30, 2012, where "substantially refurbished" means that at least 25,000 square feet have been rebuilt or modified, including:

(i) installation of enterprise information technology equipment; environmental control, computer software, and energy efficiency improvements; and

(ii) building improvements; and

(3) that is used to house enterprise information technology equipment, where the facility has the following characteristics:

(i) uninterruptible power supplies, generator backup power, or both;

(ii) sophisticated fire suppression and prevention systems; and

(iii) enhanced security. A facility will be considered to have enhanced security if it has restricted access to the facility to selected personnel; permanent security guards; video camera surveillance; an electronic system requiring pass codes, keycards, or biometric scans, such as hand scans and retinal or fingerprint recognition; or similar security features.

In determining whether the facility has the required square footage, the square footage of the following spaces shall be included if the spaces support the operation of enterprise information technology equipment: office space, meeting space, and mechanical and other support facilities. For purposes of this subdivision, "computer software" includes, but is not limited to, software utilized or loaded at a qualified data center, qualified refurbished data center, or qualified large-scale data center, including maintenance, licensing, and software customization.

(c) For purposes of this subdivision, a "qualified refurbished data center" means an existing facility that qualifies as a data center under paragraph (b), clauses (2) and (3), but that is comprised of one or more buildings that consist in the aggregate of at least 25,000 square feet, and that are located on a single parcel or contiguous parcels, where the total cost of construction or refurbishment, investment in enterprise information technology equipment, and computer software is at least $50,000,000 within a 24-month period.

(d) For purposes of this subdivision, "enterprise information technology equipment" means computers and equipment supporting computing, networking, or data storage, including servers and routers. It includes, but is not limited to: cooling systems, cooling towers, and other temperature control infrastructure; power infrastructure for transformation, distribution, or management of electricity used for the maintenance and operation of a qualified data center or qualified refurbished data center, including but not limited to exterior dedicated business-owned substations, backup power generation systems, battery systems, and related infrastructure; and racking systems, cabling, and trays, which are necessary for the maintenance and operation of the qualified data center, qualified refurbished data center, or qualified large-scale data center.

(e) For purposes of this subdivision, "qualified large-scale data center" means a facility in Minnesota:

(1) that is comprised of one or more buildings connected to each other by fiber and associated equipment that consist in the aggregate of at least 25,000 square feet, and that are located in one physical location or multiple locations; and

(2) for which the total cost of construction or refurbishment, investment in enterprise information technology equipment, and computer software is at least $250,000,000 collectively by the facility and its tenants within a 60-month period beginning after June 30, 2025.

(f) A qualified data center, qualified large-scale data center, or qualified refurbished data center may claim the exemptions in this subdivision for purchases made within 35 years of the date of its first purchase qualifying for the exemption under paragraph (a).

(g) The exemption in this subdivision is allowed for qualified data centers, qualified large-scale data centers, and qualified refurbished data centers that were certified under paragraph (h) before July 1, 2042.

(h) The commissioner of employment and economic development must certify to the commissioner of revenue, in a format approved by the commissioner of revenue, when a qualified data center has met the requirements under paragraph (b), a qualified refurbished data center has met the requirements under paragraph (c), or a qualified large-scale data center has met the requirements under paragraph (e). The certification must provide the following information regarding each qualified data center or qualified refurbished data center:

(1) the total square footage amount;

(2) the total amount of construction or refurbishment costs and the total amount of qualifying investments in enterprise information technology equipment and computer software;

(3) the beginning and ending of the applicable period under paragraph (b), (c), or (e) in which the qualifying expenditures and purchases under clause (2) were made, but in no case shall the period begin before July 1, 2012; and

(4) the date upon which the qualified data center first met the requirements under paragraph (b), a qualified refurbished data center first met the requirements under paragraph (c), or a qualified large-scale data center first met the requirements under paragraph (e).

(i) Any refund for sales tax paid on qualifying purchases under this subdivision must not be issued unless the commissioner of revenue has received the certification required under paragraph (h) issued by the commissioner of employment and economic development.

(j) The commissioner of employment and economic development must annually notify the commissioner of revenue of the qualified data centers that are projected to meet the requirements under paragraph (b), the qualified refurbished data centers that are projected to meet the requirements under paragraph (c), and the qualified large-scale data centers that are projected to meet the requirements under paragraph (e), in each of the next four years. The notification must provide the information required under paragraph (h), clauses (1) to (4), for each qualified data center, qualified refurbished data center, or qualified large-scale data center.

(k) Laborers and mechanics performing work to construct or refurbish qualified large-scale data centers must be paid the prevailing wage rate for the work as defined in section 177.42, subdivision 6. Work performed to construct or refurbish qualified large-scale data centers is subject to the requirements and enforcement provisions of sections 177.27, 177.30, 177.32, and 177.41 to 177.45. For purposes of this paragraph, "refurbish" does not include maintenance or equipment refreshment or replacement. The commissioner of employment and economic development must not certify a qualified large-scale data center under paragraph (h) unless the entity seeking an exemption certifies to the commissioner of employment and economic development that it has complied with this paragraph for all covered work after June 30, 2025.

(l) Within three years after being placed in service, a qualified large-scale data center must certify to the commissioner of commerce that the facility has attained certification under one or more of the following sustainable design or green building standards:

(1) BREEAM for new construction or BREEAM in-use;

(2) Energy Star;

(3) Envision;

(4) ISO 50001-energy management;

(5) LEED for building design and construction or LEED for operations and maintenance;

(6) green globes for new construction or green globes for existing buildings;

(7) UL 3223; or

(8) other reasonable standards approved by the commissioner of employment and economic development.

(m) Notwithstanding section 289A.38, subdivision 1, the amount of the exemption allowed to a qualified large-scale data center must be repaid to the commissioner of revenue if the commissioner of commerce determines that a qualified large-scale data center has not met the requirements under paragraph (l). Nothing in this paragraph prohibits the commissioner of revenue from making an assessment of tax, interest, or penalties if the commissioner of revenue determines that sales to and purchases made by a qualified large-scale data center do not qualify for the exemption under this subdivision.

Subd. 43. **Resold admission tickets.** (a) When a ticket reseller who purchased a ticket from a seller who is in the business of selling tickets resells the ticket, the ticket reseller must charge tax on the total amount for which the ticket is resold and the following rules apply:

(1) if the ticket reseller did not use a fully completed exemption certificate to claim the exemption from tax for resale, but instead paid tax on the original purchase, then the ticket reseller may do one of the following:

(i) seek a refund of that tax under section 289A.50; or

(ii) pass through to the purchaser the amount of the tax the ticket reseller paid on the original purchase, by giving the purchaser credit for the Minnesota state and local tax paid by the ticket reseller on the ticket reseller's original purchase of the ticket. Credit for the tax cannot exceed either the sales tax paid on the original price of the ticket or the sales tax charged by the ticket reseller to the final purchaser;

(2) if the ticket reseller did not pay tax on the original purchase, tax is due on the full amount of the ticket when resold, without a credit given to the final purchaser; and

(3) the ticket reseller must retain records documenting the price and tax paid by the ticket reseller when purchasing the ticket and the price and tax collected when the ticket reseller resells the ticket.

(b) When a ticket reseller who purchased a ticket from a seller who is not in the business of selling tickets resells the ticket, the ticket reseller must charge tax on the total amount for which the ticket is resold and the following rules apply:

(1) the ticket reseller may credit its purchaser an amount equal to the tax the ticket reseller would have paid its seller, had the seller been registered to collect tax on its sale of the ticket to the ticket reseller. Credit for the tax cannot exceed either the sales tax paid on the original price of the ticket or the sales tax charged by the ticket reseller to the final purchaser. It is presumed that the original purchase price of the ticket is the face amount of the ticket;

(2) if no tax was paid on the original purchase, tax is due on the full amount of the ticket when resold, without a credit given to the ticket reseller's purchaser; and

(3) the ticket reseller must retain records documenting the price and tax paid by the ticket reseller when purchasing the ticket and the price and tax collected when the ticket reseller resells the ticket.

(c) For purposes of this subdivision, "ticket reseller" means a person who:

(1) purchases admission tickets to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind;

(2) resells admission tickets to events under clause (1); and

(3) is registered to collect tax under this chapter.

Subd. 44. **Greater Minnesota business expansions.** (a) Purchases and use of tangible personal property or taxable services by a qualified business are exempt if:

(1) the commissioner of employment and economic development certifies to the commissioner of revenue, in a format approved by the commissioner of revenue, that the qualified business meets the requirements under section 116J.8738;

(2) the business subsidy agreement provides that the exemption under this subdivision applies;

(3) the property or services are primarily used or consumed at the facility in greater Minnesota identified in the business subsidy agreement; and

(4) the purchase was made and delivery received during the duration of the business subsidy agreement.

(b) Purchase and use of construction materials and supplies used or consumed in, and equipment incorporated into, the construction of improvements to real property in greater Minnesota are exempt if the improvements after completion of construction are to be used in the conduct of the trade or business of the qualified business, and the commissioner of employment and economic development certifies to the commissioner of revenue, in a format approved by the commissioner of revenue, that the qualified business meets the requirements under section 116J.8738. This exemption applies regardless of whether the purchases are made by the business or a contractor.

(c) The exemptions under this subdivision apply to a local sales and use tax.

(d) The tax on purchases imposed under this subdivision must be imposed and collected as if the rate under section 297A.62 applied, and then refunded in the manner provided in section 297A.75. The total amount refunded for a facility over the certification period is limited to the amount listed in the business subsidy agreement. No more than $7,000,000 may be refunded in a fiscal year for all purchases under this subdivision. Refunds must be allocated on a first-come, first-served basis. If more than $7,000,000 of eligible claims are made in a fiscal year, claims by qualified businesses carry over to the next fiscal year, and the commissioner of revenue must first allocate refunds to qualified businesses eligible for a refund in the preceding fiscal year. Any portion of the balance of funds allocated for refunds under this paragraph does not cancel and shall be carried forward to and available for refunds in subsequent fiscal years. Notwithstanding section 297A.75, subdivision 4, for an eligible refund claim that carries over to a subsequent fiscal year, the interest on the amount carried over must be paid on the refund no sooner than from 90 days after July 1 of the fiscal year in which funds are available for the eligible claim.

Subd. 45. **Jukebox music.** The purchase of music, either as a digital audio work or in tangible form such as a record or compact disc, by operators that provide the service of making available jukeboxes as amusement devices, as provided in section 297A.61, subdivision 3, paragraph (g), clause (1), is exempt if the music is used exclusively for the jukebox.

Subd. 46. **Amenities included with the privilege of admission.** (a) The sale of amenities, including but not limited to food and beverages, parking services, and promotional items, that are included in the sales price of the privilege of admission to athletic events and places of amusement under section 297A.61,

subdivision 3, paragraph (m), are exempt when sold by a seller of the privilege of admission that is a professional sports team competing in Major League Baseball, Major League Soccer, the National Basketball Association, the Women's National Basketball Association, the National Football League, or the National Hockey League.

(b) Under this subdivision, the exempt portion of the sale of the privilege of admission is equal to the purchase price of the amenity if sales or use tax was paid on the amenity when purchased by the seller.

(c) The seller must retain records documenting the price and tax paid by the seller when purchasing the amenities and the price and tax collected when the seller sells the privilege of admission.

(d) This subdivision expires July 1, 2030.

History: *2000 c 418 art 1 s 12,44 subd 3; 2000 c 490 art 8 s 8,14,15; 1Sp2001 c 5 art 12 s 6,45-54,93; 2002 c 377 art 3 s 11; art 9 s 12; 2003 c 127 art 1 s 23-25; art 6 s 10,11; 1Sp2003 c 21 art 1 s 13; art 2 s 8; 2005 c 151 art 7 s 14-17; 1Sp2005 c 3 art 5 s 8-11; art 7 s 8,9; art 10 s 12; 2006 c 259 art 6 s 16,17; art 13 s 6; 2008 c 154 art 12 s 29-31; 2010 c 389 art 4 s 4; 1Sp2011 c 7 art 3 s 6-8; 2012 c 287 art 3 s 50; 2013 c 143 art 8 s 25-28; 2014 c 150 art 2 s 2-4; 2014 c 308 art 3 s 8-10; 2015 c 21 art 1 s 64; 1Sp2017 c 1 art 3 s 20-24; 2019 c 50 art 1 s 97; 1Sp2019 c 6 art 1 s 67; art 14 s 1-3; 2023 c 64 art 5 s 6,7; art 6 s 3; 1Sp2025 c 12 s 17; 1Sp2025 c 13 art 3 s 4; 2026 c 128 art 3 s 1*

297A.69 AGRICULTURAL EXEMPTIONS.

Subdivision 1. **Scope.** The gross receipts from the sale 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. **Materials consumed in agricultural production.** 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, including electricity, gas, or steam used for space heating, cooling, or lighting of facilities housing agricultural animals;

(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.

Subd. 3. **Repair and replacement parts.** Repair and replacement parts, except tires, used for maintenance or repair of farm machinery, logging equipment, and aquaculture production equipment are exempt, if the part replaces a machinery part assigned a specific or generic part number by the manufacturer of the machinery.

Subd. 4. **Machinery, equipment, and fencing.** The following machinery, equipment, and fencing is exempt:

(1) farm machinery;

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

(3) fencing used for the containment of farmed Cervidae, as defined in section 35.153, subdivision 3;

(4) primary and backup generator units used to generate electricity for the purpose of operating farm machinery, aquacultural production equipment, or logging equipment, or providing light or space heating necessary for the production of livestock, dairy animals, dairy products, or poultry and poultry products; and

(5) aquaculture production equipment.

Subd. 5. MS 2004 [Repealed, 2003 c 127 art 1 s 34]

Subd. 6. **Horses; related materials.** (a) Horses, including racehorses, are exempt.

(b) Materials, including feed and bedding, used or consumed in the breeding, raising, owning, boarding, and keeping of horses are exempt. Machinery, equipment, implements, tools, appliances, furniture, and fixtures used in the breeding, raising, owning, boarding, and keeping of horses are not included within this exemption.

Subd. 7. **Feed for poultry raised for human consumption.** Poultry feed is exempt if the poultry is raised for human consumption.

History: *2000 c 418 art 1 s 13,44 subd 3; 2000 c 490 art 8 s 4,16; 1Sp2001 c 5 art 12 s 55; 2003 c 127 art 6 s 12-14; 2006 c 212 art 1 s 22; 2008 c 154 art 12 s 32*

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 or units of local government 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, local governments, 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) other states or political subdivisions of other states, if the sale would be exempt from taxation if it occurred in that state; and

(5) 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 11, except for leases entered into by the United States or its agencies or instrumentalities;

(4) lodging as defined under section 297A.61, subdivision 3, paragraph (g), clause (2), prepared food, candy, soft drinks, alcoholic beverages as defined in section 297A.67, subdivision 2, and taxable cannabis products as defined under section 295.81, subdivision 1, paragraph (r), except for lodging, prepared food, candy, soft drinks, alcoholic beverages, and taxable cannabis products purchased directly by the United States or its agencies or instrumentalities; or

(5) goods or services purchased by a local government as inputs to a liquor store, taxable cannabis product retailer as defined under section 295.81, subdivision 1, paragraph (p), gas or electric utility, solid waste hauling service, solid waste recycling service, landfill, golf course, marina, campground, cafe, or laundromat.

(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.

(d) For purposes of the exemption granted under this subdivision, "local governments" has the following meaning:

(1) for the period prior to January 1, 2017, local governments means statutory or home rule charter cities, counties, and townships; and

(2) beginning January 1, 2017, local governments means statutory or home rule charter cities, counties, and townships; special districts as defined under section 6.465; any instrumentality of a statutory or home

rule charter city, county, or township as defined in section 471.59; and any joint powers board or organization created under 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 individuals or persons with a disability;

(4) telephone services to the Department of Information Technology Services that are used to provide telecommunications services through the MNIT services 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;

(9) the removal of trees, bushes, or shrubs for the construction and maintenance of roads, trails, or firebreaks when purchased by an agency of the state or a political subdivision of the state;

(10) purchases by the Metropolitan Council or the Department of Transportation of vehicles and repair parts to equip operations provided for in section 174.90, including, but not limited to, the Northstar Corridor Rail project; and

(11) purchases of water used directly in providing public safety services by 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.

(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.

(c) For purchases of items listed in paragraph (a), clause (10), 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. **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;

(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 persons with a physical disability;

(ii) is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, not including housing, no part of the net earnings of which inures to the benefit of any private shareholders; and

(iii) is an exempt organization under section 501(c) of the Internal Revenue Code; and

(3) an organization that qualifies for an exemption for memberships under subdivision 12 if the item is purchased and used in the performance of the organization's mission.

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;

(3) lodging as defined under section 297A.61, subdivision 3, paragraph (g), clause (2), prepared food, candy, soft drinks, taxable cannabis products as defined under section 295.81, subdivision 1, paragraph (r), and alcoholic beverages as defined in section 297A.67, subdivision 2, except wine purchased by an established religious organization for sacramental purposes or as allowed under subdivision 9a; and

(4) leasing of a motor vehicle as defined in section 297B.01, subdivision 11, except as provided in paragraph (c).

(c) This exemption applies to the leasing of a motor vehicle as defined in section 297B.01, subdivision 11, only if the vehicle is:

(1) a truck, as defined in section 168.002, a bus, as defined in section 168.002, or a passenger automobile, as defined in section 168.002, 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.

Subd. 5. **Veterans groups.** Sales to an organization of military service veterans or an auxiliary unit of an organization of military service veterans are exempt if:

(1) the organization or auxiliary unit is organized within the state of Minnesota and is exempt from federal taxation under section 501(c), clause (19), of the Internal Revenue Code; and

(2) the tangible personal property or services are for charitable, civic, educational, or nonprofit uses and not for social, recreational, pleasure, or profit uses.

Subd. 6. **Ambulances.** The lease of a motor vehicle by an ambulance service licensed under section 144E.10 that is equipped and specifically intended for emergency response or for providing ambulance services is exempt.

Subd. 7. **Hospitals, outpatient surgical centers, critical access dental providers, and blood centers.** (a) Sales, except for those listed in paragraph (f), 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 (f), 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) Sales, except for those listed in paragraph (f), to a critical access dental provider are exempt, if the items purchased are used in providing critical access dental care services. For the purposes of this subdivision, "critical access dental provider" means a dentist or dental clinic that qualifies under section 256B.76, subdivision 4, paragraph (b), and, in the previous calendar year, had no more than 15 percent of its patients covered by private dental insurance.

(d) Sales, except for those listed in paragraph (f), to a blood center are exempt, if the items purchased are used in providing blood collection and distribution services. Notwithstanding paragraph (f), leases by a blood center of a truck, as defined in section 168.002; a bus, as defined in section 168.002; or a passenger automobile, as defined in section 168.002, if the truck, bus, or automobile is used for carrying out the purposes of the blood center, including the collection of blood from donors, setting up of blood drives, and delivering blood to hospitals are exempt. For purposes of this subdivision, "blood center" means an entity organized and operated for charitable purposes under section 501(c)(3) of the Internal Revenue Code that is:

(1) registered as a blood establishment pursuant to Code of Federal Regulations, title 21, part 607;

(2) a human cells, tissues, and cellular and tissue-based products establishment under Code of Federal Regulations, title 21, part 1271, subpart B; or

(3) a clinical lab that performs infectious disease testing, blood typing, and other laboratory testing services in connection with blood processing for transfusion into humans under Code of Federal Regulations, title 42, part 493.

(e) The exemption provided under paragraph (d) expires January 1, 2028.

(f) 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, outpatient surgical center, critical access dental provider, or blood center, even though the clinic, office, or facility may be owned and operated by a hospital, outpatient surgical center, critical access dental provider, or blood center;

(2) sales under section 297A.61, subdivision 3, paragraph (g), clause (2), and prepared food, candy, and soft drinks;

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

(5) the leasing of a motor vehicle as defined in section 297B.01, subdivision 11.

(g) 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.

(h) An entity that contains both a hospital and a nonprofit unit may claim this exemption on purchases made for both the hospital and nonprofit unit provided that:

(1) the nonprofit unit would have qualified for exemption under subdivision 4; and

(2) the items purchased would have qualified 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 403.21 to 403.40, are exempt. For purposes of this subdivision, backbone system is defined in section 403.21, subdivision 9. This subdivision is effective for purchases, sales, storage, use, or consumption for use in the first and second phases of the system, as defined in section 403.21, subdivisions 3, 10, and 11, that portion of the third phase of the system that is located in the southeast district of the State Patrol and the counties of Benton, Sherburne, Stearns, and Wright, and that portion of the system that is located in Itasca County.

Subd. 9. **Sacramental wine.** Wine for sacramental purposes in religious ceremonies, as described in section 340A.316, is exempt if the wine is purchased from a nonprofit religious organization meeting the requirements of subdivision 4 or from a person authorized to import sacramental wine without a license as provided in section 340A.316.

Subd. 9a. **Established religious orders.** (a) Sales of lodging, prepared food, candy, soft drinks, and alcoholic beverages at noncatered events between an established religious order and an affiliated institution of higher education are exempt.

(b) For purposes of this subdivision, "established religious order" means an organization directly or indirectly under the control or supervision of a church or convention or association of churches, where members of the organization:

(1) normally live together as part of a community;

(2) make long-term commitments to live under a strict set of moral and spiritual rules; and

(3) work or engage full time in a combination of prayer, religious study, church reform or renewal, or other religious, educational, or charitable goals of the organization.

(c) For purposes of this subdivision, an institution of higher education is "affiliated" with an established religious order if members of the religious order are represented on the governing board of the institution of higher education and the two organizations share campus space and common facilities.

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 whose primary mission is to 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:

(1) an organization described in section 501(c)(3) of the Internal Revenue Code in which voluntary contributions make up at least five 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;

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

(3) the University of Minnesota, a state college and university, or a private nonprofit college or university provided that the event is held at a facility owned by the educational institution holding the event.

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.

(c) Tickets or admissions to a performance or event on the premises of a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code are exempt if:

(1) the nonprofit organization was established to preserve Minnesota's rural agricultural heritage and focuses on educating the public about rural history and how farms in Minnesota helped to provide food for the nation and the world;

(2) the premises of the nonprofit organization is at least 115 acres;

(3) the performance or event is sponsored and conducted exclusively by volunteers, employees of the nonprofit organization, or members of the board of directors of the nonprofit organization; and

(4) the performance or event is consistent with the nonprofit organization's purposes under section 501(c)(3) of the Internal Revenue Code.

Subd. 11. **School tickets or admissions.** Tickets or admissions to regular season school games, events, and activities are exempt. For purposes of this subdivision, "school" has the meaning given it in section 120A.22, subdivision 4.

Subd. 11a. **Minnesota State High School League tickets and admissions.** Tickets and admissions to games, events, and activities sponsored by the Minnesota State High School League under chapter 128C are exempt.

[See Note.]

Subd. 12. **YMCA, YWCA, JCC, and similar memberships.** (a) The sale of memberships, meaning both onetime initiation fees and periodic membership dues, to an association incorporated under section 315.44 or an organization defined under section 315.51, or a nonprofit organization offering similar services are exempt. However, all separate charges made for the privilege of having access to and the use of the association's sports and athletic facilities are taxable.

(b) For purposes of this subdivision, a "nonprofit organization offering similar services" means an exempt organization under section 501(c)(3) of the Internal Revenue Code whose mission is to support youth and families through a variety of activities, including membership allowing access to athletic facilities, and who provides free or reduced-price memberships to seniors or low-income persons or families.

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 a nonprofit 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 candy 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 to the first $20,000 of the gross annual receipts of the organization from fundraising;

(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; and

(3) 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 recorded in the same manner as other revenues or

expenditures of the school district under section 123B.49, subdivision 4, unless the following conditions are both met:

(i) the sales are made for fundraising purposes of a club, association, or other organization of elementary or secondary school students organized for the purpose of carrying on sports activities, educational activities, or other extracurricular activities; and

(ii) the school district reserves revenue raised for extracurricular activities, as provided in section 123B.49, subdivision 4, paragraph (e), and spends the revenue raised by a particular extracurricular activity only for that extracurricular activity.

(c) Sales of tangible personal property and services are exempt if the entire proceeds, less the necessary expenses for obtaining the property or services, will be contributed to a registered combined charitable organization described in section 43A.50, 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 $20,000 limit.

Subd. 14. **Fundraising events sponsored by nonprofit groups.** (a) Sales of tangible personal property or services at, and admission charges for fundraising events sponsored by, a nonprofit organization are exempt if:

(1) all gross receipts are recorded as such, in accordance with generally accepted accounting practices, on the books of the nonprofit organization; and

(2) 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 prepared food, candy, and soft 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;

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

(7) it does not apply if the risk of the event is not borne by the nonprofit organization and the benefit to the nonprofit organization is less than the total amount of the state and local tax revenues forgone by this exemption.

(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.

(d) For purposes of this subdivision, "fundraising events" means activities of limited duration, not regularly carried out in the normal course of business, that attract patrons for community, social, and entertainment purposes, such as auctions, bake sales, ice cream socials, block parties, carnivals, competitions, concerts, concession stands, craft sales, bazaars, dinners, dances, door-to-door sales of merchandise, fairs, fashion shows, festivals, galas, special event workshops, sporting activities such as marathons and tournaments, and similar events. Fundraising events do not include the operation of a regular place of business in which services are provided or sales are made during regular hours such as bookstores, thrift stores, gift shops, restaurants, ongoing Internet sales, regularly scheduled classes, or other activities carried out in the normal course of business.

Subd. 15. **Statewide amateur athletic games.** Notwithstanding section 297A.61, subdivision 3, or any other provision of this chapter, the gross receipts from the following sales made to or by a nonprofit corporation designated by the Minnesota Amateur Sports Commission to conduct a series of statewide amateur athletic games and related events, workshops, and clinics are exempt:

(1) sales of tangible personal property to or the storage, use, or other consumption of tangible personal property by the nonprofit corporation; and

(2) sales of tangible personal property, admission charges, and sales of prepared food, candy, and soft drinks by the nonprofit corporation at fundraising events, athletic events, or athletic facilities.

Subd. 16. **Camp fees.** Fees to camps or other recreation facilities are exempt for:

(1) services primarily for children, adults accompanying children, or persons with a disability; or

(2) educational or religious activities;

if the camp or facilities are owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code.

Subd. 17. **Private communication service for State Lottery.** Private communication service, as defined in section 297A.61, subdivision 26, is exempt if the service is purchased by an agent acting on behalf of the State Lottery.

Subd. 18. **Nursing homes and boarding care homes.** (a) All sales, except those listed in paragraph (b), to a nursing home licensed under section 144A.02 or a boarding care home certified as a nursing facility under title 19 of the Social Security Act are exempt if the facility:

(1) is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code; and

(2) is certified to participate in the medical assistance program under title 19 of the Social Security Act, or certifies to the commissioner that it does not discharge residents due to the inability to pay.

(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;

(3) lodging as defined under section 297A.61, subdivision 3, paragraph (g), clause (2), prepared food, candy, soft drinks, and alcoholic beverages as defined in section 297A.67, subdivision 2, and taxable cannabis products as defined under section 295.81, subdivision 1, paragraph (r); and

(4) leasing of a motor vehicle as defined in section 297B.01, subdivision 11, except as provided in paragraph (c).

(c) This exemption applies to the leasing of a motor vehicle as defined in section 297B.01, subdivision 11, only if the vehicle is:

(1) a truck, as defined in section 168.002; a bus, as defined in section 168.002; or a passenger automobile, as defined in section 168.002, 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 residents of the nursing home or boarding care home.

Subd. 19. **Nonprofit snowmobile clubs; machinery and equipment.** Sales of tangible personal property to a nonprofit snowmobile club that is used primarily and directly for the grooming of state or grant-in-aid snowmobile trails are exempt. The exemption applies to grooming machines, attachments, other associated accessories, and repair parts. A nonprofit snowmobile club is eligible for the exemption under this subdivision if it received, in the current year or in the previous three-year period, a state grant-in-aid maintenance and grooming grant administered by the Department of Natural Resources by applying for the grant with a local unit of government sponsor.

Subd. 20. **Ice arenas and rinks.** Sales to organizations that exist primarily for the purpose of owning or operating ice arenas or rinks that are (1) part of either the Duluth Heritage Sports Center or the David M. Thaler Sports Center; and (2) are used for youth and high school programs, are exempt if the organization is a private, nonprofit corporation exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code.

Subd. 21. **County agricultural society sales at county fairs.** (a) The following sales by a county agricultural society are exempt:

(1) admissions to and parking at the county fairgrounds;

(2) admissions to separately ticketed events run by the county agricultural society; and

(3) concessions and other sales made by employees or volunteers of the county agricultural society on the county fairgrounds.

(b) The exemption under paragraph (a) does not apply to sales for events held at a time other than at the time of the regularly scheduled county fair, or events not held on the county fairgrounds.

History: *2000 c 418 art 1 s 14,44 subd 3; 2000 c 490 art 8 s 9-11; 1Sp2001 c 5 art 7 s 52; art 12 s 56-64; 1Sp2001 c 8 art 2 s 63; 1Sp2001 c 13 s 16; 2002 c 377 art 3 s 12; art 10 s 24; 2003 c 2 art 1 s 35; 1Sp2003 c 1 art 2 s 135; 1Sp2003 c 21 art 8 s 5-8; 1Sp2005 c 3 art 5 s 12,13; 2006 c 257 s 2; 2006 c 259 art 6 s 18-24; 2007 c 13 art 1 s 13; 2008 c 154 art 12 s 33,34; 2008 c 277 art 1 s 64; 2008 c 366 art 7 s 2,3; 2009 c 88 art 8 s 1,2; 2010 c 389 art 4 s 5; 1Sp2011 c 7 art 3 s 9-12,17; 2012 c 187 art 1 s 49; 2013 c 134 s 30; 2013 c 142 art 3 s 36; 2013 c 143 art 8 s 29-36; 2014 c 308 art 3 s 11-14; art 9 s 72; 1Sp2015 c 3 art 6 s 7; 2016 c 158 art 1 s 162; 1Sp2017 c 1 art 3 s 25-29; 1Sp2019 c 6 art 3 s 8-10; art 24 s 22-24; 2021 c 31 art 2 s 16; 1Sp2021 c 14 art 4 s 5; 2023 c 25 s 161; 2023 c 63 art 2 s 15-17; 2023 c 64 art 5 s 8,9; 2024 c 121 art 2 s 36*

NOTE: Subdivision 11a, as added by Laws 2017, First Special Session chapter 1, article 3, section 26, is effective for sales and purchases made after June 30, 2017, and before July 1, 2027. Laws 2017, First Special Session chapter 1, article 3, section 26, the effective date.

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. MS 2000 [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. MS 2012 [Repealed, 2014 c 308 art 9 s 94]

Subd. 5. MS 2012 [Repealed, 2014 c 308 art 9 s 94]

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. MS 2012 [Repealed, 2014 c 308 art 9 s 94]

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. MS 2012 [Repealed, 2014 c 308 art 9 s 94]

Subd. 10. MS 2012 [Repealed, 2014 c 308 art 9 s 94]

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 gross 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. MS 2002 [Repealed, 1Sp2001 c 5 art 12 s 95]

Subd. 16. MS 2000 [Repealed, 1Sp2001 c 5 art 12 s 9; 2002 c 377 art 3 s 24]

Subd. 17. MS 2012 [Repealed, 2014 c 308 art 9 s 94]

Subd. 18. MS 2012 [Repealed, 2014 c 308 art 9 s 94]

Subd. 19. MS 2006 [Expired]

Subd. 20. MS 2012 [Repealed, 2014 c 308 art 9 s 94]

Subd. 21. MS 2004 [Expired]

Subd. 22. **Materials used to make residential property accessible to persons with a disability.** 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 accessible to persons with a disability; 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. MS 2004 [Repealed, 2006 c 257 s 23]

Subd. 32. MS 2012 [Repealed, 2014 c 308 art 9 s 94]

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. MS 2012 [Expired]

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. MS 2012 [Repealed, 2014 c 308 art 9 s 94]

Subd. 42. MS 2015 Supp [Repealed, 2016 c 158 art 1 s 215]

Subd. 43. MS 2020 [Expired, 2012 c 299 art 1 s 6]

Subd. 44. **Building materials, capital projects.** (a) Materials and supplies used or consumed in and equipment incorporated into the construction or improvement of a capital project funded partially or wholly under section 297A.9905 are exempt, provided that the project has a total construction cost of at least $40,000,000 within a 24-month period.

(b) Materials and supplies used or consumed in and equipment incorporated into the construction, remodeling, expansion, or improvement of an ice arena or other buildings or facilities owned and operated by the city of Plymouth are exempt. For purposes of this paragraph, "facilities" include municipal streets and facilities associated with streets including but not limited to lighting, curbs and gutters, and sidewalks. The total amount of refund on all building materials, supplies, and equipment that the city may apply for under this paragraph is $2,500,000.

(c) The tax on purchases exempt under paragraph (a) and paragraph (b) 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. 45. MS 2022 [Repealed, 2024 c 85 s 115]

Subd. 46. MS 2015 Supp [Repealed, 2016 c 158 art 1 s 215]

Subd. 47. MS 2015 Supp [Repealed, 2016 c 158 art 1 s 215]

Subd. 48. **Construction materials, public infrastructure related to the destination medical center.** Materials and supplies used in, and equipment incorporated into, the construction and improvement

of publicly owned buildings and infrastructure included in the development plan adopted under section 469.43, and financed with public funds, are exempt.

[See Note.]

Subd. 49. MS 2020 [Repealed, 2022 c 55 art 1 s 187]

Subd. 50. **Properties destroyed by fire.** (a) Building materials and supplies used in, and equipment incorporated into, the construction or replacement of real property that is located in Melrose affected by the fire on September 8, 2016, are exempt.

(b) For sales and purchases made for the periods of (1) after September 30, 2016, and before July 1, 2017, and (2) after December 31, 2018, and before July 1, 2019, 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.

[See Note.]

Subd. 51. **Properties destroyed by fire.** (a) Building materials and supplies used or consumed in, and equipment incorporated into, the construction or replacement of real property affected by, and capital equipment to replace equipment destroyed in, the fire on March 11, 2018, in the city of Mazeppa 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. For purposes of this subdivision, "capital equipment" includes durable equipment used in a restaurant for food storage, preparation, and serving.

(b) The exemption under this subdivision applies to sales and purchases made after March 11, 2018, and before January 1, 2025. Notwithstanding section 289A.40, a claim for refund may be filed until June 1, 2028.

Subd. 52. **Construction; certain local government facilities.** (a) Materials and supplies used in and equipment incorporated into the construction, reconstruction, upgrade, expansion, or remodeling of the following local government owned facilities are exempt:

(1) a new fire station, which includes firefighting, emergency management, public safety training, and other public safety facilities in the city of Monticello if materials, supplies, and equipment are purchased after January 31, 2019, and before January 1, 2022;

(2) a new fire station, which includes firefighting and public safety training facilities and public safety facilities, in the city of Inver Grove Heights if materials, supplies, and equipment are purchased after June 30, 2018, and before January 1, 2021;

(3) a fire station and police station, including access roads, lighting, sidewalks, and utility components, on or adjacent to the property on which the fire station or police station are located that are necessary for safe access to and use of those buildings, in the city of Minnetonka if materials, supplies, and equipment are purchased after May 23, 2019, and before January 1, 2022;

(4) the school building in Independent School District No. 414, Minneota, if materials, supplies, and equipment are purchased after January 1, 2018, and before January 1, 2021;

(5) a fire station in the city of Mendota Heights, if materials, supplies, and equipment are purchased after December 31, 2018, and before January 1, 2021; and

(6) a Dakota County law enforcement collaboration center, also known as the Safety and Mental Health Alternative Response Training (SMART) Center, if materials, supplies, and equipment are purchased after June 30, 2019, and before July 1, 2021.

(b) 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.

(c) The total refund for the project listed in paragraph (a), clause (3), must not exceed $850,000.

Subd. 53. **Public safety facilities.** (a) Materials and supplies used or consumed in and equipment incorporated into the construction, remodeling, expansion, or improvement of a fire station or police station, including related facilities, owned and operated by a local government, as defined in section 297A.70, subdivision 2, paragraph (d), are exempt.

(b) For purposes of this subdivision, "related facilities" includes access roads, lighting, sidewalks, and utility components on or adjacent to the property on which the fire station or police station is located that are necessary for safe access to and use of those buildings.

(c) 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. 54. **Sustainable aviation fuel facilities.** (a) Materials and supplies used or consumed in and equipment incorporated into the construction, reconstruction, or improvement of a facility located in Minnesota that produces or blends sustainable aviation fuel, as defined in section 41A.30, subdivision 1, if materials, supplies, and equipment are purchased after June 30, 2027, and before July 1, 2034, are exempt.

(b) The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner as provided for projects under section 297A.75, subdivision 1.

(c) For a project, a portion of which is not used to produce or blend sustainable aviation fuel, 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 capacity to generate sustainable aviation fuel either through production or blending; and

(2) the capacity to generate all fuels.

(d) This subdivision expires July 1, 2034. The expiration does not affect refunds due for sales and purchases made prior to July 1, 2034.

[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; 2012 c 299 art 1 s 6; art 5 s 2; 2013 c 143 art 8 s 37-39; art 10 s 2; 1Sp2017 c 1 art 3 s 30-32; 2018 c 182 art 1 s 84; 1Sp2019 c 6 art 3 s 11-13; art 14 s 4; art 24 s 25; 1Sp2021 c 14 art 4 s 6,7,11; 2023 c 25 s 162; 2023 c 64 art 5 s 10; 2023 c 68 art 3 s 26; 2024 c 85 s 93,94; 1Sp2025 c 13 art 10 s 1*

NOTE: Subdivision 48, as added by Laws 2013, chapter 143, article 10, section 2, is effective for sales and purchases made after June 30, 2015, and before July 1, 2049. Laws 2013, chapter 143, article 10, section 2, the effective date.

NOTE: Subdivision 50, paragraph (a), as added by Laws 2017, First Special Session chapter 1, article 3, section 32, is effective retroactively for sales and purchases made after September 30, 2016, and before July 1, 2023. Laws 2017, First Special Session chapter 1, article 3, section 32, the effective date, as amended by Laws 2019, First Special Session chapter 6, article 3, section 18, and Laws 2021, First Special Session chapter 14, article 4, section 11.

NOTE: Subdivision 54, as added by Laws 2023, chapter 68, article 3, section 26, is effective for sales and purchases made after June 30, 2027, and before July 1, 2034. Laws 2023, chapter 68, article 3, section 26, the effective date.

EXEMPTION CERTIFICATES

297A.72 EXEMPTION CERTIFICATES.

Subdivision 1. MS 2002 [Repealed, 2003 c 127 art 6 s 18]

Subd. 2. **Content and form of exemption certificate.** An exemption certificate must be substantially in the form prescribed by the commissioner. To be fully completed, the exemption certificate must:

(1) either be signed by the purchaser if it is a paper form, or meet the requirements of section 270C.304 if in electronic form;

(2) bear the name and address of the purchaser;

(3) indicate the identification number issued to the purchaser as follows:

(i) the purchaser's Minnesota tax identification number;

(ii) if the purchaser does not have a Minnesota tax identification number, then the purchaser's state tax identification number that is issued by a state other than Minnesota, and the name of that state;

(iii) if the purchaser does not have an identification number described in either item (i) or (ii), then the purchaser's federal Employer Identification Number; or

(iv) if the purchaser does not have an identification number described in item (i), (ii), or (iii), then either the number of the purchaser's state-issued driver's license, if valid in the state of issue, or if the purchaser does not have a driver's license, a valid state-issued identification number, and the name of the state of issue;

(4) indicate the purchaser's type of business, using a business-type coding system prescribed by the commissioner; and

(5) indicate the reason for the exemption, using an exemption reason coding system prescribed by the commissioner.

Subd. 3. **Purchaser requirement.** A blanket exemption certificate is an exemption certificate used for continuing future purchases. A purchaser using a blanket exemption certificate must update it as needed to accurately reflect the information that is required under subdivision 2.

History: *2000 c 418 art 1 s 16; 1Sp2001 c 5 art 12 s 71; 2005 c 151 art 2 s 17; 2006 c 259 art 6 s 25; 2008 c 154 art 12 s 35*

297A.73 IMPROPER USE OF ITEM OBTAINED WITH EXEMPTION CERTIFICATE.

If a purchaser who gives an exemption certificate makes any use of the item that is not for a purpose exempted under this chapter, that use is considered a retail sale by the purchaser and the sales price to the purchaser is considered the gross receipts. If the sole use is rental while holding for sale, the purchaser shall include in the purchaser's gross receipts the amount of the rental charged. Upon subsequent sale of the item, the seller shall include the entire amount of gross receipts received from the sale without deduction of amounts previously received as rentals.

History: *2000 c 418 art 1 s 17*

297A.74 COMMINGLING EXEMPTION CERTIFICATE ITEMS.

If a purchaser gives an exemption certificate for the purchase of fungible items and later commingles the items with similar fungible items not purchased exempt, sales from the commingled items are considered sales of items purchased exempt until a quantity has been sold that equals the quantity purchased exempt.

History: *2000 c 418 art 1 s 18*

EXEMPTION REFUNDS

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) building materials for an agricultural processing facility exempt under section 297A.71, subdivision 13;

(2) building materials for mineral production facilities exempt under section 297A.71, subdivision 14;

(3) building materials for correctional facilities under section 297A.71, subdivision 3;

(4) building materials used in a residence for veterans with a disability exempt under section 297A.71, subdivision 11;

(5) elevators and building materials exempt under section 297A.71, subdivision 12;

(6) materials and supplies for qualified low-income housing under section 297A.71, subdivision 23;

(7) materials, supplies, and equipment for municipal electric utility facilities under section 297A.71, subdivision 35;

(8) commuter rail vehicle and repair parts under section 297A.70, subdivision 3, paragraph (a), clause (10);

(9) materials, supplies, and equipment for construction or improvement of projects and facilities under section 297A.71, subdivision 40;

(10) enterprise information technology equipment and computer software for use in a qualified data center, qualified large-scale data center, or qualified refurbished data center exempt under section 297A.68, subdivision 42;

(11) materials, supplies, and equipment for qualifying capital projects under section 297A.71, subdivision 44, paragraphs (a) and (b);

(12) items purchased for use in providing critical access dental services exempt under section 297A.70, subdivision 7, paragraph (c);

(13) items and services purchased under a business subsidy agreement for use or consumption primarily in greater Minnesota exempt under section 297A.68, subdivision 44;

(14) building materials, equipment, and supplies for constructing or replacing real property exempt under section 297A.71, subdivisions 50, paragraph (b), and 51;

(15) building materials, equipment, and supplies for qualifying capital projects under section 297A.71, subdivision 52;

(16) building materials, equipment, and supplies for constructing, remodeling, expanding, or improving a fire station, police station, or related facilities exempt under section 297A.71, subdivision 53; and

(17) building materials, equipment, and supplies for constructing, remodeling, or improving a sustainable aviation fuel facility exempt under section 297A.71, subdivision 54.

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), (2), and (12), the applicant must be the purchaser;

(2) for subdivision 1, clause (3), the applicant must be the governmental subdivision;

(3) for subdivision 1, clause (4), the applicant must be the recipient of the benefits provided in United States Code, title 38, chapter 21;

(4) for subdivision 1, clause (5), the applicant must be the owner of the homestead property;

(5) for subdivision 1, clause (6), the owner of the qualified low-income housing project;

(6) for subdivision 1, clause (7), the applicant must be a municipal electric utility or a joint venture of municipal electric utilities;

(7) for subdivision 1, clauses (10) and (13), the owner of the qualifying business;

(8) for subdivision 1, clauses (8), (9), (11), (15), and (16), the applicant must be the governmental entity that owns or contracts for the project or facility;

(9) for subdivision 1, clause (14), the applicant must be the owner or developer of the building or project; and

(10) for subdivision 1, clause (17), the applicant must be the owner or developer of the sustainable aviation fuel facility.

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, clauses (3) to (11) or (13) to (17), 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 270C.405 from 90 days after the refund claim is filed with the commissioner for taxes paid under subdivision 1.

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

History: *2000 c 418 art 1 s 19,44 subd 3; 2000 c 490 art 8 s 6; 1Sp2001 c 5 art 12 s 72; 2002 c 377 art 3 s 17; 2003 c 127 art 1 s 26; 2005 c 151 art 2 s 17; art 7 s 19; 1Sp2005 c 3 art 5 s 18-20; 2006 c 259 art 6 s 26-28; 2008 c 366 art 7 s 6; 2009 c 88 art 4 s 7,8; 2010 c 389 art 4 s 9-11; 1Sp2011 c 7 art 3 s 13-15; 2012 c 187 art 1 s 50; 2012 c 294 art 2 s 18; 2012 c 299 art 5 s 3-5; 2013 c 143 art 8 s 40-42; 2014 c 308 art 9 s 73-75; 1Sp2017 c 1 art 3 s 33-36; 1Sp2019 c 6 art 3 s 14,15; art 24 s 26; 2020 c 83 art 1 s 74; 1Sp2021 c 14 art 4 s 8-10; 2022 c 55 art 1 s 141; 2024 c 85 s 95-97; 2025 c 20 s 233; 1Sp2025 c 12 s 18; 1Sp2025 c 13 art 10 s 2-4; 2026 c 128 art 11 s 12-14*

COMPUTATION AND COLLECTION OF SALES AND USE TAXES

297A.76 COMPUTATION OF SALES AND USE TAXES.

Subdivision 1. **Rounding up or down.** In computing the sales or use tax to be collected or remitted as the result of a transaction, amounts of tax less than one-half of one cent must be disregarded and amounts of tax of one-half cent or more must be considered an additional cent.

Subd. 2. **Uniform tax collection methods; rules.** Agreements between competitive retailers or the adoption of appropriate rules or regulations by organizations or associations of retailers to provide uniform methods for adding the sales tax or its average equivalent, which do not involve otherwise unlawful price fixing agreements, are expressly authorized and are not in violation of any Minnesota laws prohibiting such agreements. The commissioner may prescribe rules for such agreements.

History: *2000 c 418 art 1 s 20*

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.

Subd. 2. **Receipt.** For use tax, the retailer shall give the purchaser a tax receipt. The receipt must indicate the tax in the form of a notation on the sales slip or receipt for the sales price or in another form as prescribed by the commissioner.

Subd. 3. **Tax must be remitted.** The tax collected by a retailer under this section must be remitted to the commissioner as provided in chapter 289A and this chapter.

Subd. 4. **Status of sales and use taxes as debt.** Sales and use taxes that are required to be collected by a retailer are debts from the purchaser to the retailer recoverable at law in the same manner as other debts.

Subd. 5. **Records must be kept.** Every person liable for any tax imposed by this chapter, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules, as the commissioner may from time to time prescribe.

History: *2000 c 418 art 1 s 21; 1Sp2001 c 5 art 12 s 73; 1Sp2019 c 6 art 14 s 5*

297A.78 LIABILITY FOR USE TAX; RECEIPT AS EVIDENCE.

Liability for the payment of the use tax is not extinguished until the tax has been paid to Minnesota. However, a receipt from a retailer given to the purchaser under section 297A.77, subdivision 2, relieves the purchaser of further liability for the tax to which the receipt refers, unless the purchaser knows or has reason to know that the retailer did not have a permit to collect the tax.

History: *2000 c 418 art 1 s 22*

297A.79 REPORTING OF GROSS RECEIPTS.

At the option of the taxpayer, gross receipts from sales may be reported on the cash basis as the consideration is received or on the accrual basis as sales are made.

History: *2000 c 418 art 1 s 23*

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: *2000 c 418 art 1 s 24; 1Sp2001 c 5 art 12 s 74*

297A.81 UNCOLLECTIBLE DEBTS; OFFSET AGAINST OTHER TAXES.

Subdivision 1. **General.** The taxpayer may offset against the taxes payable for any reporting period the amount of taxes imposed by this chapter previously paid as a result of any transaction the consideration for which became a debt owed to the taxpayer that became uncollectible during the reporting period, but only in proportion to the portion of the debt that became uncollectible. Section 289A.40, subdivision 2, applies to an offset under this section.

Subd. 2. **Manner of allowing deduction for uncollectible debt.** (a) Uncollectible debt is allowed as a deduction in the manner provided in this subdivision.

(b) If the uncollectible debt arose with respect to a sale required to be included in gross receipts, subject to a tax imposed under chapter 297A, the entire amount of the debt remaining uncollected is allowed as a deduction.

(c) If the uncollectible debt arose with respect to a sale partly subject to the tax imposed under chapter 297A and partly exempt, the amount of the uncollectible debt allowed as a deduction is the amount derived by multiplying the uncollectible debt by the percentage that the taxable sale bears to the total sales.

(d) If the uncollectible debt arose with respect to two or more sales made at successive intervals, payments made before the date the debt became uncollectible must be applied first to the earliest sale upon which there is an unpaid balance, and to following sales in successive order.

(e) If the books and records of the taxpayer claiming the bad debt allowance support an allocation of the bad debts among the member states of the streamlined sales and use tax agreement, such an allocation shall be allowed.

Subd. 3. **Certified service provider.** A certified service provider, as defined in section 297A.995, subdivision 2, on behalf of a taxpayer who is its client, may offset against taxes as provided by this section.

History: *2000 c 418 art 1 s 25; 2003 c 127 art 1 s 27*

297A.815 MOTOR VEHICLE LEASES.

Subdivision 1. **Motor vehicle lease price; payment.** (a) In the case of a lease of a motor vehicle as provided in section 297A.61, subdivision 4, paragraph (k), clause (2), the tax is imposed on the total amount to be paid by the lessee under the lease agreement. The lessor shall collect the tax in full at the time the lease is executed or, if the tax is included in the lease and the lease is assigned, the tax is due from the original lessor at the time the lease is assigned. The total amount to be paid by the lessee under the lease agreement equals the agreed-upon value of the vehicle less manufacturer's rebates, the stated residual value of the leased vehicle, and the total value allowed for a vehicle owned by the lessee taken in trade by the lessor, plus the price of any taxable goods and services included in the lease and the rent charge as provided by Code of Federal Regulations, title 12, section 213.4, excluding any rent charge related to the capitalization of the tax.

(b) If the total amount paid by the lessee for use of the leased vehicle includes amounts that are not calculated at the time the lease is executed, the tax is imposed and must be collected by the lessor at the time the amounts are paid by the lessee. In the case of a lease which by its terms may be renewed, the sales tax is due and payable on the total amount to be paid during the initial term of the lease, and then for each subsequent renewal period on the total amount to be paid during the renewal period.

(c) If a lease is canceled or rescinded on or before 90 days of its execution or if a vehicle is returned to the manufacturer under section 325F.665, the lessor may file a claim for a refund of the total tax paid minus the amount of tax due for the period the vehicle is used by the lessee.

(d) If a lessee's obligation to make payments on a lease is canceled more than 90 days after its execution, a credit is allowed against sales tax or motor vehicles sales tax due on a subsequent lease or purchase of a motor vehicle if that lease or purchase is consummated within 30 days of the date the prior lease was canceled. The amount of the credit is equal to (1) the sales tax paid at the inception of the lease, multiplied by (2) the ratio of the number of full months remaining in the lease at the time of termination compared to the term of the lease used in calculating sales tax paid at the inception of the lease. The credit or any part of it cannot be assigned or transferred to another person.

Subd. 2. **Lease originating in another state.** When the lease of a motor vehicle as defined in section 297A.61, subdivision 4, paragraph (k), clause (2), originates in another state, the sales tax under subdivision 1 shall be calculated by the lessor on the total amount that is due under the lease agreement after the vehicle is required to be registered in Minnesota. If the total amount to be paid by the lessee under the lease agreement

has already been subjected to tax by another state, a credit for taxes paid in the other state is allowed as provided in section 297A.80.

Subd. 3. **Motor vehicle lease sales tax revenue.** (a) On or before June 30 of each fiscal year, the commissioner of revenue must estimate the revenues, including interest and penalties and minus refunds, collected under this section for the current fiscal year.

(b) By July 15 of the subsequent fiscal year, the commissioner of management and budget must transfer the revenues estimated under paragraph (a) from the general fund as follows:

(1) 38 percent to the county state-aid highway fund;

(2) 38 percent to the greater Minnesota transit account;

(3) 13 percent to the local bridge program account in the special revenue fund, which is hereby created; and

(4) 11 percent to the highway user tax distribution fund.

(c) Notwithstanding any other law to the contrary, the commissioner of transportation must allocate the funds transferred under paragraph (b), clause (1), to the counties in the metropolitan area, as defined in section 473.121, subdivision 4, excluding the counties of Hennepin and Ramsey, so that each county receives the percentage that its population, as defined in section 477A.011, subdivision 3, estimated or established by July 15 of the year prior to the current calendar year, bears to the total population of the counties receiving funds under this paragraph.

(d) Money in the local bridge program account under paragraph (b), clause (3), is appropriated to the commissioner of transportation for the local bridge program under section 174.50, subdivisions 6 to 7.

(e) The revenues under this subdivision do not include the revenues, including interest and penalties and minus refunds, generated by the sales tax imposed under section 297A.62, subdivision 1a, which must be deposited as provided under the Minnesota Constitution, article XI, section 15.

History: *1Sp2005 c 3 art 5 s 21; 2006 c 259 art 6 s 29; 2008 c 152 art 3 s 8; 2009 c 101 art 2 s 109; 2010 c 216 s 16; 2013 c 117 art 3 s 24; 2014 c 312 art 11 s 29; 1Sp2017 c 3 art 3 s 109; 2024 c 127 art 3 s 92*

297A.8155 LIQUOR REPORTING REQUIREMENTS; PENALTY.

A person who sells liquor, as defined in section 295.75, subdivision 1, in Minnesota to a retailer that sells liquor, shall file with the commissioner an annual informational report, in the form and manner prescribed by the commissioner, indicating the name, address, and Minnesota business identification number of each retailer, and the total dollar amount of liquor sold to each retailer in the previous calendar year. The report must be filed on or before March 31 following the close of the calendar year. A person failing to file this report is subject to the penalty imposed under section 289A.60.

History: *2008 c 154 art 12 s 36*

AIRCRAFT AND FLIGHT EQUIPMENT

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

Subdivision 1. **Requirements for registration.** An aircraft must not be registered or licensed in this state unless the applicant presents proof that the sales or use tax imposed by this chapter has been paid or that the transaction is exempt from the sales and use tax. The exemption for an occasional sale under section 297A.67, subdivision 23, or 297A.68, subdivision 25, does not apply to the sale or purchase of an aircraft.

Subd. 2. **Payment of tax to dealer.** If an aircraft is purchased from a dealer holding a valid sales and use tax permit under this chapter, the applicant shall present proof that the tax has been paid to the dealer.

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.

Subd. 4. **Exemptions.** (a) The following transactions are exempt from the tax imposed in this chapter to the extent provided.

(b) The purchase or use of aircraft previously registered in Minnesota by a corporation or partnership is exempt if the transfer constitutes a transfer within the meaning of section 351 or 721 of the Internal Revenue Code.

(c) The sale to or purchase, storage, use, or consumption by a licensed aircraft dealer of an aircraft for which a commercial use permit has been issued pursuant to section 360.654 is exempt, if the aircraft is resold while the permit is in effect.

(d) Air flight equipment when sold to, or purchased, stored, used, or consumed by airline companies, as defined in section 270.071, subdivision 4, is exempt. For purposes of this subdivision, "air flight equipment" includes airplanes and parts necessary for the repair and maintenance of such air flight equipment, and flight simulators, but does not include aircraft with a maximum takeoff weight of less than 30,000 pounds.

(e) Sales of, and the storage, distribution, use, or consumption of aircraft, as defined in section 360.511 and approved by the Federal Aviation Administration, and which the seller delivers to a purchaser outside Minnesota or which, without intermediate use, is shipped or transported outside Minnesota by the purchaser are exempt, but only if the purchaser is not a resident of Minnesota and provided that the aircraft is not thereafter returned to a point within Minnesota, except in the course of interstate commerce or isolated and occasional use, and will be registered in another state or country upon its removal from Minnesota. This exemption applies even if the purchaser takes possession of the aircraft in Minnesota and uses the aircraft in the state exclusively for training purposes for a period not to exceed ten days prior to removing the aircraft from this state.

(f) The sale or purchase of the following items that relate to aircraft operated under Federal Aviation Regulations, Parts 91 and 135, and associated installation charges: equipment and parts necessary for repair and maintenance of aircraft; and equipment and parts to upgrade and improve aircraft.

Subd. 4a. **Deposit in state airports fund.** Tax revenue, including interest and penalties, collected from the sale or purchase of an aircraft taxable under this chapter must be deposited in the state airports fund established in section 360.017. For purposes of this subdivision, "revenue" does not include the revenue, including interest and penalties, generated by the sales tax imposed under section 297A.62, subdivision 1a, which must be deposited as provided under article XI, section 15, of the Minnesota Constitution.

Subd. 5. **Exempt purchase certificate.** If the purchase of an aircraft is exempt under this chapter, the commissioner shall issue a certificate that no sales or use tax is due and owing in respect to the transaction.

Subd. 6. **Sales and leases; tax treatment.** (a) A sale of aircraft and parts for the repair of aircraft purchased by a nonprofit, incorporated flying club or association utilized solely by the corporation by leasing the aircraft to shareholders of the corporation is exempt as property purchased for resale. The leasing of the aircraft to the shareholders by the flying club or association is taxable as a retail sale.

(b) A lease of aircraft utilized by a lessee for leasing to others, whether or not the lessee also utilizes the aircraft for charter service or for flight instruction if no separate charge is made for aircraft rental, is exempt as a purchase for resale. However, a proportionate share of the lease payment reflecting use for flight instruction or charter service is taxable under section 297A.63.

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: *2000 c 418 art 1 s 26,44 subd 3; 2000 c 490 art 8 s 7; 1Sp2001 c 5 art 7 s 53,54; 2013 c 143 art 5 s 4,5; 1Sp2017 c 1 art 14 s 9,10*

SNOWMOBILES, ALL-TERRAIN VEHICLES, AND WATERCRAFT

297A.825 SNOWMOBILES; ALL-TERRAIN VEHICLES; WATERCRAFT; PAYMENT OF TAXES; REFUNDS.

Subdivision 1. **Agreement with commissioners of natural resources and public safety; collection and refunds.** The commissioner may enter into an agreement with the commissioner of natural resources, in consultation with the commissioner of public safety, that provides that:

(1) the commissioner of natural resources and authorized deputy registrars of motor vehicles must collect use tax on snowmobiles, all-terrain vehicles, and watercraft from persons applying for initial registration or license of the item unless the applicant provides a receipt, invoice, or other document to prove that:

(i) sales tax was paid on the purchase;

(ii) the purchase was exempt under this chapter;

(iii) use tax was paid to the commissioner in a form prescribed by the commissioner; or

(iv) the item was purchased from a retailer that is maintaining a place of business in this state as defined in section 297A.66, subdivision 1, and is a dealer as defined in section 84.81, subdivision 10; 84.92, subdivision 3; or 86B.005, subdivision 4; and

(2) the commissioner of natural resources and authorized deputy registrars of motor vehicles are authorized to issue refunds of use tax paid to them in error, meaning that either the sales or use tax had already been paid or that the purchase was exempt from tax under this chapter.

Subd. 2. **Agents.** For the purposes of collecting or refunding the tax under this section, the commissioner of natural resources and authorized deputy registrars of motor vehicles are the agents of the commissioner

and are subject to, and must strictly comply with, all rules consistent with this chapter prescribed by the commissioner.

History: *1Sp2017 c 1 art 21 s 7*

PERMITS

297A.83 APPLICATION FOR PERMIT.

Subdivision 1. **Persons applying.** (a) A retailer required to collect and remit sales taxes under section 297A.66 shall file with the commissioner an application for a permit.

(b) A retailer making retail sales from outside this state to a destination within this state who is not required to obtain a permit under paragraph (a) may nevertheless voluntarily file an application for a permit.

(c) The commissioner may require any person or class of persons obligated to file a use tax return under section 289A.11, subdivision 3, to file an application for a permit.

Subd. 2. **Application requirements.** The application must be made on a form prescribed by the commissioner and indicate the name under which the applicant intends to transact business, the location of the applicant's place or places of business, and other information the commissioner may require. The application must be filed by the owner, if a natural person; by a member or partner, if the owner is an association or partnership; or by a person authorized to file the application, if the owner is a corporation.

Subd. 3. **Commissioner's discretion.** (a) The commissioner may decline to issue a permit to a retailer not maintaining a place of business in this state, or may cancel a permit previously issued to the retailer, if the commissioner believes that the tax can be collected more effectively from the persons using the property in this state. A refusal to issue or cancellation of a permit on such grounds does not affect the retailer's right to make retail sales from outside this state to destinations within this state.

(b) If the commissioner considers it necessary for the efficient administration of the tax to regard a salesperson, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer, or other person under whom that person operates or from whom the person obtains the tangible personal property sold, whether making sales personally or in behalf of that dealer, distributor, supervisor, employer, or other person, the commissioner may regard the salesperson, representative, trucker, peddler, or canvasser as such agent, and may regard the dealer, distributor, supervisor, employer, or other person as a retailer for the purposes of collecting the tax.

History: *2000 c 418 art 1 s 27*

297A.84 PERMITS ISSUED AND NOT ISSUED; CANCELLATION.

Subdivision 1. **Definitions.** (a) The following definitions apply for the purposes of this section.

(b) "Applicant" means an individual, corporation, or partnership. Applicant also includes any officer of a corporation or member of a partnership.

(c) "Delinquent sales tax" means tax not paid by the date the tax was due and payable under section 289A.20, subdivision 4, or an assessment not paid if the applicant has been issued an order assessing sales and use tax under section 270C.33, subdivision 4.

Subd. 2. **Permits issued.** Except as provided in subdivision 3, the commissioner must issue a permit to each applicant who has complied with section 297A.83, and with section 297A.92 if security is required. A

person is considered to have a permit if the person has a Minnesota tax identification number issued by the commissioner that is currently active for taxes imposed by this chapter. A permit is valid until canceled or revoked. It is not assignable and is valid only for the person in whose name it is granted and for the transaction of business at the places designated on the permit.

Subd. 3. **Permits not issued.** (a) Except as provided in paragraph (b), the commissioner must not issue a permit to an applicant if the applicant is liable for delinquent sales tax.

(b) The commissioner must issue a permit to an applicant if an appeal period of an order assessing sales tax under section 270C.33, subdivision 5, has not ended. The commissioner may cancel a permit issued under this paragraph in the manner provided in subdivision 4 if the applicant owes delinquent sales tax after the appeal period has ended.

Subd. 4. **Nonconforming permits; cancellation; reissue.** (a) If the commissioner issues a permit that does not conform with the requirements of this section 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 is effective immediately.

(b) If a permit holder shows that a canceled permit was issued in conformance with the requirements of this section and applicable rules, the commissioner must reissue the permit.

History: *2000 c 418 art 1 s 28; 2016 c 158 art 1 s 214; 1Sp2019 c 6 art 23 s 2*

297A.85 CANCELLATION OF PERMITS.

The commissioner may cancel a permit if one of the following conditions occurs:

(1) the permit holder has not filed a sales or use tax return for at least one year;

(2) the permit holder has not reported any sales or use tax liability on the permit holder's returns for at least two years;

(3) the permit holder requests cancellation of the permit;

(4) the permit is subject to cancellation under section 270C.722, subdivision 2, paragraph (a);

(5) the permit is subject to cancellation under section 297A.84; or

(6) the permit holder is a taxable cannabis product retailer as defined in section 295.81, subdivision 1, paragraph (s), other than a lower-potency hemp edible retailer as licensed under section 342.43, subdivision 1, and its license to sell a taxable cannabis product as defined in section 295.81, subdivision 1, paragraph (r), has been revoked by the Office of Cannabis Management.

History: *2000 c 418 art 1 s 29; 2003 c 127 art 8 s 12; 2005 c 151 art 2 s 17; 1Sp2019 c 6 art 23 s 3; 2023 c 63 art 2 s 18*

297A.86 MS 2004 [Repealed, 2005 c 151 art 1 s 117]

297A.87 FLEA MARKETS, SHOWS, AND OTHER SELLING EVENTS.

Subdivision 1. **Events affected.** (a) This section applies to a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event.

(b) To be subject to this section, the operator of an event described in paragraph (a) must rent or lease space on the sale premises to the seller, charge the seller a registration or participation fee, or receive a percentage of sales or other consideration from a seller as a condition to participation by a seller in the event.

Subd. 2. **Seller's permit or alternate statement.** (a) The operator of an event under subdivision 1 shall obtain one of the following from a person who wishes to do business as a seller at the event:

(1) evidence that the person holds a valid seller's permit under section 297A.84;

(2) a written statement that the person is not offering for sale any item that is taxable under this chapter; or

(3) a written statement that this is the only selling event that the person will be participating in for that calendar year, that the person will be participating for three or fewer days, and that the person will make less than $500 in total sales in the calendar year. The written statement shall include the person's name, address, and telephone number.

(b) The operator shall require the evidence or statement as a prerequisite to participating in the event as a seller.

Subd. 3. **Occasional sale provisions applicable under limited circumstances.** The isolated and occasional sale provision under section 297A.67, subdivision 23, applies, provided that the seller only participates for three or fewer days in one event per calendar year, makes $500 or less in sales in the calendar year, and provides the written statement required in subdivision 2, paragraph (a), clause (3). The isolated and occasional sales provision under section 297A.68, subdivision 25, does not apply to a seller at an event under this section.

History: *2000 c 418 art 1 s 31; 2005 c 151 art 7 s 20,21*

DIRECT PAY

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.

Subd. 2. **Retailer does not collect.** The retailer shall not collect the tax from a purchaser who furnishes to the retailer a fully completed exemption certificate as described in section 297A.72, indicating that the purchaser is authorized to pay any sales or use tax due on purchases made by the purchaser directly to the commissioner under subdivision 1.

History: *2000 c 418 art 1 s 32; 1Sp2001 c 5 art 12 s 76; 2011 c 112 art 8 s 3*

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.

Subd. 2. **Payment of tax.** (a) Persons who are registered as retailers may make purchases in this state or import property into this state without payment of the sales or use taxes imposed by this chapter at the time of purchase or importation, if the purchases or importations come within the provisions of this section and are made in strict compliance with the rules of the commissioner.

(b) A person described in subdivision 1 may elect to pay directly to the commissioner any sales or use tax that may be due under this chapter for the acquisition of mobile transportation equipment and parts and accessories attached or to be attached to such equipment registered under section 168.187.

(c) The total cost of such equipment and parts and accessories attached or to be attached to such equipment must be multiplied by a fraction. The numerator of the fraction is the Minnesota mileage as reported on the current pro rata application provided for in section 168.187 and the denominator of the fraction is the total mileage reported on the current pro rata registration application. The amount so determined must be multiplied by the tax rate to obtain the tax due.

In computing the tax under this section "sales price" does not include the amount of any taxes imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(d) A retailer covered by this section shall make a return and remit to the commissioner the tax due for the preceding calendar month in accordance with sections 289A.11 and 289A.20, subdivision 4.

Subd. 3. **Registration subsequent to payment of tax.** A person who has paid the tax under this chapter or chapter 297B and who meets the requirements of this section at the time of the sale, but was not registered under this section at the time of the sale, may register as a retailer, make a return, and file for a refund of the difference between the tax calculated under this chapter or chapter 297B and the tax calculated under subdivision 2.

Subd. 4. **Agreement with commissioner of public safety.** Notwithstanding subdivisions 1 to 3, the commissioner may enter into an agreement with the commissioner of public safety whereby, upon approval of both commissioners, the commissioner of public safety shall collect the sales tax on motor vehicles from persons defined in subdivision 1. For the purpose of collecting the tax, the commissioner of public safety

shall act as the agent of the commissioner of revenue and shall be subject to all rules consistent with this chapter that may be prescribed by the commissioner.

History: *2000 c 418 art 1 s 33; 2001 c 213 s 30; 1Sp2001 c 5 art 12 s 77; 2008 c 154 art 12 s 37*

ENFORCEMENT

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 $15,000 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: *2000 c 418 art 1 s 34; 1Sp2001 c 5 art 12 s 78; art 18 s 3; 2012 c 283 s 3; 2018 c 182 art 1 s 85*

297A.92 SECURITY.

Subdivision 1. **Amount of security.** To ensure compliance with the taxes imposed by this chapter, the commissioner may require a retailer subject to this chapter to deposit security with the commissioner. The security must be in the form and amount the commissioner requires, but not more than twice the retailer's estimated average liability for the period for which the returns are required to be filed, or $10,000, whichever is less. The amount of security may be increased or decreased by the commissioner, subject to the limitations in this section.

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 270C.33, subdivision 8. 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.

Subd. 3. **Bond.** In lieu of security, the commissioner may require a retailer to file a bond. The bond must be issued by a surety company authorized to transact business in this state and approved by the commissioner of commerce as to solvency and responsibility.

History: *2000 c 418 art 1 s 35; 1Sp2001 c 5 art 12 s 79; 2005 c 151 art 2 s 17*

297A.93 MS 2004 [Repealed, 2005 c 151 art 1 s 117]

DEPOSIT OF REVENUES

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 management and budget 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) Beginning with sales taxes remitted after July 1, 2017, the commissioner shall deposit in the state treasury the revenues collected under section 297A.64, subdivision 1, including interest and penalties and minus refunds, and credit them to the highway user tax distribution fund.

(e) 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.

(f) Beginning with sales taxes remitted after July 1, 2017, in conjunction with the deposit of revenues under paragraph (d), the commissioner shall deposit into the state treasury and credit to the highway user tax distribution fund an amount equal to the estimated revenues derived from the tax rate imposed under section 297A.62, subdivision 1, on the lease or rental for not more than 28 days of rental motor vehicles subject to section 297A.64. The commissioner shall estimate the amount of sales tax revenue deposited under this paragraph based on the amount of revenue deposited under paragraph (d).

(g) Each month the commissioner must deposit an amount equal to the estimated revenues derived from the taxes imposed under section 297A.62, subdivision 1, on the sale and purchase of motor vehicle repair and replacement parts in the state treasury and credit:

(1) a percentage to the highway user tax distribution fund as follows:

(i) 43.5 percent in each of fiscal years 2024 and 2025;

(ii) 43 percent in fiscal year 2026;

(iii) 41 percent in fiscal year 2027;

(iv) 36 percent in fiscal year 2028;

(v) 30 percent in fiscal year 2029;

(vi) 36 percent in each of fiscal years 2030 to 2034;

(vii) 38.5 percent in fiscal year 2035;

(viii) 41 percent in fiscal year 2036; and

(ix) 43.5 percent in fiscal year 2037 and thereafter;

(2) a percentage to the transportation advancement account under section 174.49 as follows:

(i) 3.5 percent in fiscal year 2024;

(ii) 4.5 percent in fiscal year 2025;

(iii) 5.5 percent in fiscal year 2026;

(iv) 7.5 percent in fiscal year 2027;

(v) 14.5 percent in fiscal year 2028;

(vi) 21.5 percent in fiscal year 2029;

(vii) 28.5 percent in fiscal year 2030;

(viii) 36.5 percent in fiscal year 2031;

(ix) 44.5 percent in fiscal year 2032; and

(x) 56.5 percent in fiscal year 2033 and thereafter; and

(3) the remainder in each fiscal year to the general fund.

After each February forecast, and prior to the following April 15, the commissioner shall estimate the monthly deposit amount for use in the following fiscal year based on the estimate of average revenue derived from the taxes imposed under section 297A.62, subdivision 1, on the sale and purchase of motor vehicle repair and replacement parts from the department's three most recent consumption tax models. If, after the commissioner estimates the monthly deposit amounts and prior to July 1, the rate of tax imposed under section 297A.62, subdivision 1, or the percentages specified under this paragraph are impacted by a law change, then the commissioner must update the estimated deposit amount by July 15. For purposes of this paragraph, "motor vehicle" has the meaning given in section 297B.01, subdivision 11, and "motor vehicle repair and replacement parts" includes (i) all parts, tires, accessories, and equipment incorporated into or affixed to the motor vehicle as part of the motor vehicle maintenance and repair, and (ii) paint, oil, and other fluids that remain on or in the motor vehicle as part of the motor vehicle maintenance or repair. For purposes of this paragraph, "tire" means any tire of the type used on highway vehicles, if wholly or partially made of rubber and if marked according to federal regulations for highway use.

(h) 81.56 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) 47.5 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;

(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; and

(6) 2.5 percent of the receipts must be deposited in the pollinator account established in section 103B.101, subdivision 19.

(i) 1.5 percent of the revenues, including interest and penalties, transmitted to the commissioner under section 297A.65 must be deposited in a regional parks and trails account in the natural resources fund and may only be spent for parks and trails of regional significance outside of the seven-county metropolitan area under section 85.535, based on recommendations from the Greater Minnesota Regional Parks and Trails Commission under section 85.536.

(j) 1.5 percent of the revenues, including interest and penalties, transmitted to the commissioner under section 297A.65 must be deposited in an outdoor recreational opportunities for underserved communities account in the natural resources fund and may only be spent on projects and activities that connect diverse and underserved Minnesotans through expanding cultural environmental experiences, exploration of their environment, and outdoor recreational activities.

(k) The revenue dedicated under paragraph (h) 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 (h) 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 (h) must be allocated for field operations.

(l) The commissioner must deposit the revenues, including interest and penalties minus any refunds, derived from the sale of items regulated under section 624.20, subdivision 1, that may be sold to persons 18 years old or older and that are not prohibited from use by the general public under section 624.21, in the state treasury and credit:

(1) 25 percent to the volunteer fire assistance grant account established under section 88.068;

(2) 25 percent to the fire safety account established under section 297I.06, subdivision 3; and

(3) the remainder to the general fund.

For purposes of this paragraph, the percentage of total sales and use tax revenue derived from the sale of items regulated under section 624.20, subdivision 1, that are allowed to be sold to persons 18 years old or older and are not prohibited from use by the general public under section 624.21, is a set percentage of the total sales and use tax revenues collected in the state, with the percentage determined under Laws 2017, First Special Session chapter 1, article 3, section 39.

(m) The revenues deposited under paragraphs (a) to (l) do not include the revenues, including interest and penalties, generated by the sales tax imposed under section 297A.62, subdivision 1a, which must be deposited as provided under the Minnesota Constitution, article XI, section 15.

History: *2000 c 418 art 1 s 37; 2000 c 488 art 3 s 29; 2001 c 185 s 33; 1Sp2001 c 2 s 146; 1Sp2001 c 5 art 12 s 80; 2002 c 353 s 2; 2003 c 128 art 1 s 154; 2009 c 88 art 4 s 9; 2009 c 101 art 2 s 109; 2014 c 308 art 9 s 76; 1Sp2017 c 1 art 3 s 37; 1Sp2017 c 3 art 3 s 110; 2022 c 55 art 1 s 142; 2023 c 60 art 4 s 96; 2023 c 68 art 3 s 27; 2024 c 116 art 4 s 6; 1Sp2025 c 8 art 2 s 79; 1Sp2025 c 13 art 10 s 5; 2026 c 128 art 11 s 15*

LOCAL SALES AND USE TAXES

297A.95 COORDINATION OF STATE AND LOCAL SALES TAX RATES.

In preparing and distributing a sales tax schedule for use within a local jurisdiction with a separate general sales tax, the state Department of Revenue shall coordinate the state and local sales tax so that a sale of $1 reflects a tax equal to the combination of the state and local sales tax rates. The combined sales tax on other sales amounts must also reflect the coordinated rather than the separate effects of the state and local sales taxes. The schedule must be coordinated as long as the local sales tax is in effect. If the sales tax percentage is changed for either of the taxes, the schedule must be adjusted to reflect the change.

History: *2000 c 418 art 1 s 38*

297A.96 LOCAL ADMISSIONS AND AMUSEMENT TAXES; EXEMPTION FOR NONPROFIT ORGANIZATIONS.

Amounts charged for admission to an event described in section 297A.70, subdivision 10, paragraph (a), are not subject to a tax imposed by a local unit of government or imposed on sales taking place in a single named local unit of government on sales of admissions or amusements, under a law other than a general sales tax law.

History: *2000 c 418 art 1 s 39; 2002 c 377 art 3 s 18*

297A.97 MS 2002 [Repealed, 2003 c 127 art 6 s 18]

297A.98 LOCAL GOVERNMENTS EXEMPT FROM LOCAL SALES TAXES.

Notwithstanding any other law, ordinance, or charter provision, a political subdivision of the state is not required to pay any general sales tax imposed by a political subdivision of the state.

History: *2000 c 418 art 1 s 41*

297A.99 LOCAL SALES TAXES.

Subdivision 1. **Authorization; scope.** (a) A political subdivision of this state may impose a general sales tax (1) under section 297A.9915, (2) under section 297A.992, (3) under section 297A.9925, (4) under section 297A.993, (5) if permitted by special law, or (6) if the political subdivision enacted and imposed the tax before January 1, 1982, and its predecessor provision.

(b) This section governs the imposition of a general sales tax by the political subdivision. The provisions of this section preempt the provisions of any special law:

(1) enacted before June 2, 1997, or

(2) enacted on or after June 2, 1997, that does not explicitly exempt the special law provision from this section's rules by reference.

(c) This section does not apply to or preempt a sales tax on motor vehicles. Beginning July 1, 2019, no political subdivision may impose a special excise tax on motor vehicles unless it is imposed under section 297A.993.

(d) A political subdivision may not advertise or expend funds for the promotion of a referendum to support imposing a local sales tax and may only spend funds related to imposing a local sales tax to:

(1) conduct the referendum;

(2) disseminate information included in the resolution adopted under subdivision 2, but only if the disseminated information includes a list of specific projects and the cost of each individual project;

(3) provide notice of, and conduct public forums at which proponents and opponents on the merits of the referendum are given equal time to express their opinions on the merits of the referendum;

(4) provide facts and data on the impact of the proposed local sales tax on consumer purchases; and

(5) provide facts and data related to the individual programs and projects to be funded with the local sales tax.

Subd. 1a. **Requirements.** Local sales taxes are to be used instead of traditional local revenues only for construction and rehabilitation of capital projects when a clear regional benefit beyond the taxing jurisdiction can be demonstrated. Use of local sales tax revenues for local projects decreases the benefits to taxpayers of the deductibility of local property taxes and the state assistance provided through the property tax refund system and increases the fiscal inequities between similar communities.

Subd. 2. **Local resolution before application for authority.** (a) Before the governing body of a political subdivision requests legislative approval to impose a local sales tax authorized by a special law, it shall adopt a resolution indicating its approval of the tax. The resolution must include the following information:

(1) the proposed tax rate;

(2) a detailed description of no more than five capital projects that will be funded with revenue from the tax;

(3) documentation of the regional significance of each project, including the share of the economic benefit to or use of each project by persons residing, or businesses located, outside of the jurisdiction;

(4) the amount of local sales tax revenue that would be used for each project and the estimated time needed to raise that amount of revenue; and

(5) the total revenue that will be raised for all projects before the tax expires, and the estimated length of time that the tax will be in effect if all proposed projects are funded.

(b) The jurisdiction seeking authority to impose a local sales tax by special law must submit the resolution in paragraph (a) along with underlying documentation indicating how the benefits under paragraph (a), clause (3), were determined, to the chairs and ranking minority members of the legislative committees with jurisdiction over taxes no later than January 31 of the year in which the jurisdiction is seeking a special law authorizing the tax.

(c) The special legislation granting local sales tax authority is not required to allow funding for all projects listed in the resolution with the revenue from the local sales tax, but must not include any projects not contained in the resolution.

(d) For purposes of this section, a "capital project" or "project" means:

(1) a single building or structure including associated infrastructure needed to safely access or use the building or structure;

(2) improvements within a single park or named recreation area; or

(3) a contiguous trail.

Subd. 3. **Legislative authority required before voter approval; requirements for adoption, use, termination.** (a) A political subdivision must receive legislative authority to impose a local sales tax before submitting the tax for approval by voters of the political subdivision. Imposition of a local sales tax is subject to approval by voters of the political subdivision at a general election. The election must be conducted at a general election within the two-year period after the governing body of the political subdivision has received authority to impose the tax. If the authorizing legislation allows the tax to be imposed for more than one project, there must be a separate question approving the use of the tax revenue for each project. Notwithstanding the authorizing legislation, a project that is not approved by the voters may not be funded with the local sales tax revenue and the termination date of the tax set in the authorizing legislation must be reduced proportionately based on the share of that project's cost to the total costs of all projects included in the authorizing legislation.

(b) The proceeds of the tax must be dedicated exclusively to payment of the construction and rehabilitation costs and associated bonding costs related to the specific capital improvement projects that were approved by the voters under paragraph (a).

(c) The tax must terminate after the revenues raised are sufficient to fund the projects approved by the voters under paragraph (a).

(d) After a sales tax imposed by a political subdivision has expired or been terminated, the political subdivision is prohibited from imposing a local sales tax for a period of one year.

(e) Notwithstanding paragraph (a), if a political subdivision received voter approval to seek authority for a local sales tax at the November 6, 2018, general election and is granted authority to impose a local sales tax before January 1, 2021, the tax may be imposed without an additional referendum provided that it meets the requirements of subdivision 2 and the list of specific projects contained in the resolution does not conflict with the projects listed in the approving referendum.

(f) If a tax is terminated because sufficient revenues have been raised, any amount of tax collected under subdivision 9, after sufficient revenues have been raised and before the quarterly termination required under subdivision 12, paragraph (a), that is greater than the average quarterly revenues collected over the immediately preceding 12 calendar months must be retained by the commissioner for deposit in the general fund.

Subd. 3a. MS 2024 [Expired, 2023 c 64 art 10 s 1]

Subd. 4. **Tax base.** (a) The tax applies to sales taxable under this chapter that occur within the political subdivision.

(b) Taxable goods or services are subject to a political subdivision's sales tax, if they are sourced to the political subdivision pursuant to section 297A.668.

Subd. 5. **Tax rate.** (a) The tax rate is as specified in the special law authorization and as imposed by the political subdivision.

(b) The full political subdivision rate applies to any sales that are taxed at a state rate, and the political subdivision must not have more than one local sales tax rate or more than one local use tax rate. This paragraph does not apply to sales or use taxes imposed on electricity, piped natural or artificial gas, or other heating fuels delivered by the seller, or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

Subd. 6. **Use tax.** A compensating use tax applies, at the same rate as the sales tax, on the use, storage, distribution, or consumption of tangible personal property or taxable services.

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) 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.

Subd. 8. **Credit for other local taxes.** If a person paid sales or use tax to another political subdivision of this state on an item subject to tax under this section, a credit applies against the tax imposed under this section. The credit equals the tax the person paid to the other political subdivision for the item.

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.

(c) A political subdivision shall incur a legal debt to the state for refunds of local sales taxes made by the commissioner after a tax has terminated when the amount of the refunds exceeds the amount of local sales taxes collected for but not remitted to the political subdivision. The commissioner of revenue shall bill the political subdivision for this difference. The commissioner shall deposit the money in the state treasury and credit it to the general fund.

Subd. 10. **Use of zip code in determining location of sale.** (a) The lowest combined tax rate imposed in the zip code area applies if the area includes more than one tax rate in any level of taxing jurisdictions.

(b) If a nine-digit zip code designation is not available for a street address or if a seller is unable to determine the nine-digit zip code designation of a purchaser after exercising due diligence to determine the designation, the seller may apply the rate for the five-digit zip code area.

(c) For the purposes of this subdivision, there is a rebuttable presumption that a seller has exercised due diligence for a sale that requires a full street address to be completed if the seller has attempted to determine the nine-digit zip code designation by utilizing (1) the look-up application from the United States Postal Service; (2) software certified by the Coding Accuracy Support System; or (3) other software approved by the governing board that makes this designation from the street address and the five-digit zip code of the

purchaser. For a sale that does not require a full street address to be completed, a seller has not exercised due diligence unless the seller has obtained or requested from the purchaser (1) the complete street address, including the five-digit zip code; or (2) the nine-digit zip code. A seller that has not exercised due diligence is not relieved from any additional liability that may be due as a result of incorrect sourcing.

(d) Notwithstanding subdivision 13, this subdivision applies to all local sales taxes without regard to the date of authorization. This subdivision does not apply when the purchased product is received by the purchaser at the business location of the seller.

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.

Subd. 12. **Effective dates; notification.** (a) A political subdivision may impose a tax under this section starting only on the first day of a calendar quarter. A political subdivision may repeal a tax under this section stopping only on the last day of a calendar quarter.

(b) The political subdivision shall notify the commissioner of revenue at least 90 days before imposing, changing the rate of, or repealing a tax under this section.

(c) The political subdivision shall change the rate of tax imposed under this section starting only on the first day of a calendar quarter, and only after the commissioner has notified sellers at least 60 days prior to the change.

(d) The political subdivision shall apply the rate change for sales tax imposed under this section to purchases from printed catalogs, wherein the purchaser computed the tax based upon local tax rates published in the catalog, starting only on the first day of a calendar quarter, and only after the commissioner has notified sellers at least 120 days prior to the change.

(e) The political subdivision shall apply local jurisdiction boundary changes to taxes imposed under this section starting only on the first day of a calendar quarter, and only after the commissioner has notified sellers at least 60 days prior to the change.

Subd. 12a. **Notification of use tax.** Any political subdivision imposing a local sales and use tax, which maintains an official website, must display on its main home page a link to a notice that residents and businesses in the political subdivision may owe a local use tax on purchases of goods and services made outside of the political subdivision limits. The notice must provide information, including a link to any relevant Department of Revenue website, on how the taxpayer may get information and forms necessary

for calculating and paying the tax. If the political subdivision provides and bills for sewer, water, garbage collection, or other public utility services, the billing statement must also include at least once per year a notice that residents and businesses may owe a local use tax on purchases made outside of the political subdivision limits and provide information on how the taxpayer may get information and forms necessary for calculating and paying the tax.

Subd. 13. **Application.** This section applies to all local sales taxes that were authorized before, on, or after June 2, 1997.

History: *2000 c 418 art 1 s 42; 1Sp2001 c 5 art 12 s 81-83; 2003 c 127 art 1 s 28-30; 2005 c 151 art 7 s 22; 1Sp2005 c 3 art 5 s 22,23; 2006 c 259 art 6 s 30; 2008 c 152 art 4 s 1; 2008 c 366 art 7 s 7; 1Sp2011 c 7 art 4 s 1,2; 2013 c 143 art 8 s 43; 1Sp2019 c 6 art 6 s 1-4; 1Sp2021 c 14 art 8 s 1; 2023 c 37 art 5 s 1; 2023 c 64 art 10 s 1; 2023 c 68 art 3 s 28; 1Sp2025 c 13 art 10 s 6*

297A.9905 USE OF LOCAL TAX REVENUES BY CITIES OF THE FIRST CLASS.

(a) Notwithstanding section 297A.99, or other general or special law or charter provision, if the revenues from any local tax imposed on retail sales under special law by a city of the first class exceeds the amount needed to fund the uses authorized in the special law, the city may expend the excess revenue from the tax to fund other capital projects of regional significance.

(b) For purposes of this section:

(1) "city of the first class" has the meaning given in section 410.01; and

(2) "capital project of regional significance" means construction, expansion, or renovation of a sports facility or convention or civic center that meets the requirements of section 297A.71, subdivision 44, paragraph (a).

History: *2012 c 299 art 5 s 6; 1Sp2017 c 1 art 3 s 38*

297A.991 REPORTING OF SALES TAX ON MINNESOTA GOVERNMENTS.

Subdivision 1. **Commissioner of revenue to report.** For each fiscal year, the commissioner shall estimate the amount of revenues derived from imposing the tax under this chapter and chapter 297B on state agencies and political subdivisions. The commissioner shall report this amount to the commissioner of management and budget before the time for filing reports for the fiscal year with the United States Department of Commerce.

Subd. 2. **Commissioner of management and budget to report.** In reporting the sales tax and sales tax on motor vehicles collections to the United States Department of Commerce, the commissioner of management and budget shall exclude the estimated amount from the sales and motor vehicle collections. Sales tax and sales tax on motor vehicles revenues received from political subdivisions must be reported as intergovernmental grants or similar intergovernmental revenue. The amount of the sales tax and sales tax on motor vehicles paid by state agencies must be reported as reduced state expenditures.

History: *2000 c 418 art 1 s 43; 2009 c 101 art 2 s 109*

297A.9915 REGIONAL TRANSPORTATION SALES AND USE TAX.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Metropolitan area" and "metropolitan counties" means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

(c) "Metropolitan Council" or "council" means the Metropolitan Council established by section 473.123.

(d) "Regional transportation sales tax" means the regional transportation sales and use tax imposed under this section.

Subd. 2. **Sales tax imposition; rate.** Notwithstanding section 473.123, subdivision 1, the Metropolitan Council must impose a regional transportation sales and use tax at a rate of three-quarters of one percent on retail sales and uses taxable under this chapter made in the metropolitan area or to a destination in the metropolitan area.

Subd. 3. **Administration; collection; enforcement.** Except as otherwise provided in this section, the provisions of section 297A.99, subdivisions 4, and 6 to 12a, govern the administration, collection, and enforcement of the regional transportation sales tax.

Subd. 4. **Distribution.** (a) Proceeds of the regional transportation sales tax must be allocated as follows:

(1) 83 percent to the Metropolitan Council for the purposes specified under section 473.4465, subdivisions 2 and 3, subject to section 473.39, subdivision 3a; and

(2) 17 percent to metropolitan counties for the purposes specified under section 473.4465, subdivision 4.

(b) Funds under paragraph (a), clause (2), are appropriated to the commissioner of transportation for distribution to metropolitan counties as provided under section 174.49, subdivision 5.

Subd. 5. **Revenue bonds.** (a) In addition to other authority granted in this section, and notwithstanding section 473.39, subdivision 7, or any other law to the contrary, the council may, by resolution, authorize the sale and issuance of revenue bonds, notes, or obligations to provide funds to (1) implement the council's transit capital improvement program, and (2) refund bonds issued under this subdivision.

(b) The bonds are payable from and secured by a pledge of all or part of the revenue received under subdivision 4, paragraph (a), clause (1), and associated investment earnings on debt proceeds. The council may, by resolution, authorize the issuance of the bonds as general obligations of the council. The bonds must be sold, issued, and secured in the manner provided in chapter 475, and the council has the same powers and duties as a municipality and its governing body in issuing bonds under chapter 475, except that no election is required and the net debt limitations in chapter 475 do not apply to such bonds. The proceeds of the bonds may also be used to fund necessary reserves and to pay credit enhancement fees, issuance costs, and other financing costs during the life of the debt.

(c) The bonds may be secured by a bond resolution, or a trust indenture entered into by the council with a corporate trustee within or outside the state, which must define the revenues and bond proceeds pledged for the payment and security of the bonds. The pledge must be a valid charge on the revenues received under section 297A.99, subdivision 11. Neither the state, nor any municipality or political subdivision except the council, nor any member or officer or employee of the council, is liable on the obligations. No mortgage or security interest in any tangible real or personal property is granted to the bondholders or the trustee, but they have a valid security interest in the revenues and bond proceeds received by the council and pledged

to the payment of the bonds. In the bond resolution or trust indenture, the council may make such covenants as it determines to be reasonable for the protection of the bondholders.

History: *2023 c 68 art 3 s 29; 1Sp2025 c 8 art 2 s 80,81; 2026 c 88 art 1 s 176*

297A.992 METROPOLITAN TRANSPORTATION AREA SALES TAX.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(1) "metropolitan transportation area" means the counties participating in the joint powers agreement under subdivision 3;

(2) "eligible county" means the county of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington;

(3) "committee" means the Grant Evaluation and Ranking System (GEARS) Committee;

(4) "minimum guarantee county" means any metropolitan county or eligible county that is participating in the joint powers agreement under subdivision 3, whose proportion of the annual sales tax revenue under this section collected within that county is less than or equal to three percent; and

(5) "population" means the population, as defined in section 477A.011, subdivision 3, estimated or established by July 15 of the year prior to the calendar year in which the representatives will serve on the Grant Evaluation and Ranking System Committee established under subdivision 5.

Subd. 2. **Authorization; rates.** (a) Notwithstanding section 297A.99, subdivisions 1, 2, and 3, or 477A.016, or any other law, the board of a county participating in a joint powers agreement as specified in this section shall impose by resolution (1) a transportation sales and use tax at a rate of one-quarter of one percent on retail sales and uses taxable under this chapter, and (2) an excise tax of $20 per motor vehicle, as defined in section 297B.01, subdivision 11, purchased or acquired from any person engaged in the business of selling motor vehicles at retail, occurring within the jurisdiction of the taxing authority. The taxes authorized are to fund transportation improvements as specified in this section, including debt service on obligations issued to finance such improvements pursuant to subdivision 7.

(b) The tax imposed under this section is not included in determining if the total tax on lodging in the city of Minneapolis exceeds the maximum allowed tax under Laws 1986, chapter 396, section 5, as amended by Laws 2001, First Special Session chapter 5, article 12, section 87, or in determining a tax that may be imposed under any other limitations.

Subd. 3. **Joint powers agreement.** Before imposing the taxes authorized in subdivision 2, an eligible county must declare by resolution of its county board to be part of the metropolitan transportation area and must enter into a joint powers agreement. The joint powers agreement:

(1) must form a joint powers board, as specified in subdivision 4;

(2) must provide a process that allows any eligible county, by resolution of its county board, to join the joint powers board and impose the taxes authorized in subdivision 2;

(3) may provide for withdrawal of a participating county before final termination of the agreement; and

(4) may provide for a weighted voting system for joint powers board decisions.

Subd. 4. **Joint powers board.** (a) The joint powers board must consist of one or more commissioners of each county that is in the metropolitan transportation area, appointed by its county board, and the chair of the Metropolitan Council, who must have voting rights, subject to subdivision 3, clause (4). The joint powers board has the powers and duties provided in this section and section 471.59.

(b) The joint powers board may utilize no more than three-fourths of one percent of the proceeds of the taxes imposed under this section for ordinary administrative expenses incurred in carrying out the provisions of this section. Any additional administrative expenses must be paid by the participating counties.

(c) The joint powers board may establish a technical advisory group that is separate from the GEARS Committee. The group must consist of representatives of cities, counties, or public agencies, including the Metropolitan Council. The technical advisory group must be used solely for technical consultation purposes.

Subd. 5. **Grant application and awards; Grant Evaluation and Ranking System (GEARS) Committee.** (a) The joint powers board shall establish a grant application process and identify the amount of available funding for grant awards. Grant applications must be submitted in a form prescribed by the joint powers board. An applicant must provide, in addition to all other information required by the joint powers board, the estimated cost of the project, the amount of the grant sought, possible sources of funding in addition to the grant sought, and identification of any federal funds that will be utilized if the grant is awarded. A grant application seeking transit capital funding must identify the source of money necessary to operate the transit improvement.

(b) The joint powers board shall establish a timeline and procedures for the award of grants, and may award grants only to the state and political subdivisions. The board shall define objective criteria for the award of grants, which must include, but not be limited to, consistency with the most recent version of the transportation policy plan adopted by the Metropolitan Council under section 473.146. The joint powers board shall maximize the availability and use of federal funds in projects funded under this section.

(c) The joint powers board shall establish a GEARS Committee, which must consist of:

(1) one county commissioner from each county that is in the metropolitan transportation area, appointed by its county board;

(2) one elected city representative from each county that is in the metropolitan transportation area;

(3) one additional elected city representative from each county for every additional 400,000 in population, or fraction of 400,000, in the county that is above 400,000 in population; and

(4) the chair of the Metropolitan Council Transportation Committee.

(d) Each city representative must be elected at a meeting of cities in the metropolitan transportation area, which must be convened for that purpose by the Association of Metropolitan Municipalities.

(e) The committee shall evaluate grant applications following objective criteria established by the joint powers board, and must provide to the joint powers board a selection list of transportation projects that includes a priority ranking.

(f) A grant award for a transit project located within the metropolitan area, as defined in section 473.121, subdivision 2, may be funded only after the Metropolitan Council reviews the project for consistency with the transit portion of the Metropolitan Council policy plan and one of the following occurs:

(1) the Metropolitan Council finds the project to be consistent;

(2) the Metropolitan Council initially finds the project to be inconsistent, but after a good faith effort to resolve the inconsistency through negotiations with the joint powers board, agrees that the grant award may be funded; or

(3) the Metropolitan Council finds the project to be inconsistent, and submits the consistency issue for final determination to a panel, which determines the project to be consistent. The panel is composed of a member appointed by the chair of the Metropolitan Council, a member appointed by the joint powers board, and a member agreed upon by both the chair and the joint powers board.

(g) Grants must be funded by the proceeds of the taxes imposed under this section, bonds, notes, or other obligations issued by the joint powers board under subdivision 7.

(h) Notwithstanding the provisions of this section except subdivision 6a, of the revenue collected under this section, the joint powers board shall allocate to the Metropolitan Council, in fiscal years 2012 and 2013, an amount not less than 75 percent of the net cost of operations for those transitways that were receiving metropolitan sales tax funds through an operating grant agreement on June 30, 2011.

(i) The Metropolitan Council shall expend any funds allocated under paragraph (h) for the operations of the specified transitways solely within those counties that are in the metropolitan transportation area.

(j) Nothing in paragraph (h) or (i) prevents grant awards to the Metropolitan Council for capital and operating assistance for transitways and park-and-ride facilities.

Subd. 6. **Allocation of grant awards.** (a) The board must allocate grant awards only for the following transit purposes:

(i) capital improvements to transitways, including, but not limited to, commuter rail rolling stock, light rail vehicles, and transitway buses;

(ii) capital costs for park-and-ride facilities, as defined in section 174.256, subdivision 2;

(iii) feasibility studies, planning, alternatives analyses, environmental studies, engineering, property acquisition for transitway purposes, and construction of transitways; and

(iv) operating assistance for transitways.

(b) The joint powers board must annually award grants to each minimum guarantee county in an amount no less than the amount of sales tax revenue collected within that county.

(c) No more than 1.25 percent of the total awards may be annually allocated for planning, studies, design, construction, maintenance, and operation of pedestrian programs and bicycle programs and pathways.

Subd. 6a. **Priority of fund uses.** The joint powers board shall allocate all revenues from the taxes imposed under this section in conformance with the following priority order:

(1) payment of debt service necessary for the fiscal year on bonds or other obligations issued prior to January 1, 2011, under subdivision 7; and

(2) as otherwise authorized under this section.

Subd. 7. **Bonds.** (a) The joint powers board or any county, acting under a joint powers agreement as specified in this section, may, by resolution, authorize, issue, and sell its bonds, notes, or other obligations for the purpose of funding grants under subdivision 6. The joint powers board or county may also, by resolution, issue bonds to refund the bonds issued pursuant to this subdivision.

(b) The bonds of the joint powers board must be limited obligations, payable solely from or secured by taxes levied under this section.

(c) The bonds of any county may be limited obligations, payable solely from or secured by taxes levied under this section. A county may also pledge its full faith, credit, and taxing power as additional security for the bonds.

(d) Bonds may be issued in one or more series and sold without an election. The bonds shall be secured, bear the interest rate or rates or a variable rate, have the rank or priority, be executed in the manner, be payable in the manner, mature, and be subject to the defaults, redemptions, repurchases, tender options, or other terms, and shall be sold in such manner as the joint powers board, the regional railroad authority, or the county may determine.

(e) The joint powers board or any regional railroad authority or any county may enter into and perform all contracts deemed necessary or desirable by it to issue and secure the bonds, including an indenture of trust with a trustee within or without the state.

(f) Except as otherwise provided in this subdivision, the bonds must be issued and sold in the manner provided under chapter 475.

(g) The joint powers board or any regional railroad authority wholly within the metropolitan transportation area also may authorize, issue, and sell its bonds, notes, or other obligations for the purposes, and in accordance with the procedures, set forth in section 398A.07 to fund grants as provided in subdivision 6. The bonds of any regional railroad authority may be limited obligations, payable solely from or secured by taxes levied under this section. A regional railroad authority may also pledge its taxing powers as additional security for the bonds.

Subd. 8. **Allocation of revenues.** After the deductions allowed in section 297A.99, subdivision 11, the commissioner of revenue shall remit the proceeds of the taxes imposed under this section on a monthly basis, as directed by the joint powers board under this section.

Subd. 9. **Administration, collection, enforcement.** Except as otherwise provided in this section, the provisions of section 297A.99, subdivisions 4 and 6 to 12a, govern the administration, collection, and enforcement of the tax authorized under this section.

Subd. 10. **Termination of taxes.** (a) The taxes imposed under section 297A.99, subdivision 1, by a county that withdraws from the joint powers agreement pursuant to subdivision 3, clause (3), shall terminate when the county has satisfied its portion, as defined in the joint powers agreement, of all outstanding bonds or obligations entered into while the county was a member of the agreement.

(b) If the joint powers agreement under subdivision 3 is terminated, the taxes imposed under section 297A.99, subdivision 1, at the time of the agreement termination will terminate when all outstanding bonds or obligations are satisfied. The auditors of the counties in which the taxes are imposed shall see to the administration of this paragraph.

Subd. 10a. **Termination of taxes; use of remaining funds.** If the joint powers agreement under subdivision 3 is terminated, funds received by a county in association with the termination may be used for any of the purposes specified in section 297A.993, subdivision 2.

Subd. 11. **Report.** The joint powers board shall report annually by February 1 to the house of representatives and senate committees having jurisdiction over transportation policy and finance concerning the revenues received and grants awarded.

Subd. 12. **Grant awards to Metropolitan Council.** Any grant award under this section made to the Metropolitan Council must supplement, and must not supplant, operating and capital assistance provided by the state.

History: *2008 c 152 art 4 s 2; 2009 c 88 art 8 s 3; 1Sp2011 c 3 art 2 s 1,2; 1Sp2017 c 3 art 3 s 111*

297A.9925 METROPOLITAN REGION SALES AND USE TAX.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Metropolitan Council" or "council" means the Metropolitan Council established by section 473.123.

(c) "Metropolitan county" has the meaning given in section 473.121, subdivision 4.

(d) "Metropolitan sales tax" means the metropolitan region sales and use tax imposed under this section.

Subd. 2. **Sales tax imposition; rate.** Notwithstanding section 473.123, subdivision 1, the Metropolitan Council must impose a metropolitan region sales and use tax at a rate of 0.25 percent on retail sales made in the metropolitan counties or to a destination in the metropolitan counties.

Subd. 3. **Administration; collection; enforcement.** Except as otherwise provided in this section, the provisions of section 297A.99, subdivisions 4, and 6 to 12a, govern the administration, collection, and enforcement of the metropolitan sales tax.

Subd. 4. **Distribution.** Notwithstanding section 297A.94, proceeds of the metropolitan sales tax are distributed:

(1) 25 percent to the state rent assistance account under section 462A.2095;

(2) 25 percent to the metropolitan city aid account in the housing assistance fund under section 477A.37; and

(3) 50 percent to the metropolitan county aid account in the housing assistance fund under section 477A.37.

History: *2023 c 37 art 5 s 2*

297A.993 COUNTY TRANSPORTATION SALES AND USE TAX.

Subdivision 1. **Authorization; rates.** Notwithstanding section 297A.99, subdivisions 1, 2, 3, 5, and 13, or 477A.016, or any other law, the board of a county, or more than one county acting under a joint powers agreement, may by resolution of the county board, or each of the county boards, following a public hearing impose (1) a transportation sales tax at a rate of up to one-half of one percent on retail sales and uses taxable under this chapter, and (2) an excise tax of $20 per motor vehicle, as defined in section 297B.01, subdivision 11, purchased or acquired from any person engaged in the business of selling motor vehicles at retail, occurring within the jurisdiction of the taxing authority.

Subd. 2. **Allocation; termination.** The proceeds of the taxes must be dedicated exclusively to: (1) payment of the capital cost of a specific transportation project or improvement; (2) payment of the costs, which may include both capital and operating costs, of a specific transit project or improvement; (3) payment of the capital costs of a safe routes to school program under section 174.40; (4) payment of transit operating costs; or (5) payment of the capital cost of constructing buildings and other facilities for maintaining transportation or transit projects or improvements. The transportation or transit project or improvement must

be designated by the board of the county, or more than one county acting under a joint powers agreement. Except for taxes for operating costs of a transit project or improvement, or for transit operations, the taxes must terminate when revenues raised are sufficient to finance the project. Nothing in this subdivision prohibits the exclusive dedication of the proceeds of the taxes to payments for more than one project or improvement. After a public hearing a county may, by resolution, dedicate the proceeds of the tax for a new enumerated project.

Subd. 2a. **Uses reporting.** A metropolitan county, as defined in section 473.121, subdivision 4, that imposes the taxes under this section must annually submit financial information to the commissioner of transportation as provided under section 174.065 in the manner and by the dates prescribed by the commissioner.

Subd. 3. **Administration, collection, enforcement.** The administration, collection, and enforcement provisions in section 297A.99, subdivisions 4 and 6 to 12, apply to all taxes imposed under this section.

Subd. 4. **Bonds.** (a) A county may, by resolution, authorize, issue, and sell its bonds, notes, or other obligations for the purposes specified in subdivision 2. The county may also, by resolution, issue bonds to refund the bonds issued pursuant to this subdivision.

(b) The bonds may be limited obligations, payable solely from or secured by taxes levied under this section, and the county may also pledge its full faith, credit, and taxing power as additional security for the bonds. A regional railroad authority within the county may also pledge its taxing powers as additional security for the bonds.

(c) A county may issue and sell bonds in one or more series and without an election. The county may determine how the bonds shall be secured; how the bonds will bear interest, and the rate or rates, or variable rate; the rank or priority; how the bonds will be executed and be payable, and how they will mature; and how the bonds will be subject to any defaults, redemptions, repurchases, tender options, or other terms. The county may also determine how the bonds shall be sold.

(d) The county may enter into and perform all contracts deemed necessary or desirable by it to issue and secure the bonds, including an indenture of trust with a trustee located within or outside of the state.

(e) Before issuing bonds qualifying under this section, the county must publish a notice of its intention to issue the bonds and the date and time of a hearing to obtain public comment on the matter. The notice must be published in the official newspaper of the county or in a newspaper of general circulation in the county. The notice must be published at least ten, but not more than 28, days before the date of the hearing.

(f) Any project financed with bonds issued under this section must be included in a capital improvement plan as defined in section 373.40, subdivision 3. For purposes of this paragraph, "project" means any project described in subdivision 2, notwithstanding section 373.40, subdivision 1, paragraph (b).

(g) Except as otherwise provided in this subdivision, the bonds must be issued and sold in the manner provided under chapter 475.

History: *2008 c 152 art 4 s 3; 2009 c 88 art 8 s 4; 2013 c 117 art 3 s 25,26; 1Sp2019 c 6 art 8 s 4-6; 1Sp2021 c 14 art 10 s 1; 2023 c 68 art 4 s 79; 2024 c 127 art 3 s 93; 1Sp2025 c 8 art 2 s 82; 2026 c 128 art 7 s 1*

297A.994 CITY OF MINNEAPOLIS SALES TAX; ALLOCATION OF REVENUES.

Subdivision 1. **Scope.** Notwithstanding the provisions of section 297A.99, subdivision 11, the provisions of this section govern the remittance of the proceeds of taxes imposed by the city of Minneapolis under the special law.

Subd. 2. **Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "City" means the city of Minneapolis.

(c) "Special law" means Laws 1986, chapter 396, sections 4 and 5, as amended.

(d) "Tax" means the sales taxes imposed by the city under the special law.

(e) The terms defined under section 473J.03 apply for purposes of this section.

Subd. 3. **General allocation of revenues.** The commissioner shall remit the revenues from the taxes, less the deductions listed in this subdivision, to the city at least quarterly. The commissioner shall make the following deductions in the order listed before distribution to the city:

(1) refunds of any of these taxes due to taxpayers, if any;

(2) the direct and indirect costs of the department to administer, audit, and collect the tax, according to the applicable law and agreements between the commissioner and the city. For revenues from the general local sales and use tax, the commissioner must deduct a proportionate share of costs described in section 297A.99, subdivision 11; and

(3) notwithstanding the provisions of any agreement between the commissioner and the city providing for collection and remittance of these taxes, the commissioner must deposit to the general fund the amounts specified in subdivision 4.

Subd. 4. **General fund allocations.** (a) The commissioner must retain and deposit to the general fund the following amounts, as required by subdivision 3, clause (3):

(1) for state bond debt service support beginning in calendar year 2021, and for each calendar year thereafter through calendar year 2046, periodic amounts so that not later than December 31, 2046, an aggregate amount equal to a present value of $150,000,000 has been deposited in the general fund. To determine aggregate present value, the commissioner must consult with the commissioner of management and budget regarding the present value dates, discount rate or rates, and schedules of annual amounts. The present value date or dates must be based on the date or dates bonds are sold under Minnesota Statutes 2022, section 16A.965, or the date or dates other state funds, if any, are deposited into the construction fund. The discount rate or rates must be based on the true interest cost of the bonds issued under Minnesota Statutes 2022, section 16A.965, or an equivalent 30-year bond index, as determined by the commissioner of management and budget. The schedule of annual amounts must be certified to the commissioner by the commissioner of management and budget and the finance officer of the city;

(2) for the capital improvement reserve appropriation to the Minnesota Sports Facilities Authority beginning in calendar year 2021, and for each calendar year thereafter through calendar year 2046, an aggregate annual amount equal to the amount paid by the state for this purpose in that calendar year under section 473J.13, subdivision 4;

(3) for the operating expense appropriation to the Minnesota Sports Facilities Authority beginning in calendar year 2021, and for each calendar year thereafter through calendar year 2046, an aggregate annual

amount equal to the amount paid by the state for this purpose in that calendar year under section 473J.13, subdivision 2;

(4) to capture increases in taxes imposed under the special law, for the benefit of the Minnesota Sports Facilities Authority, beginning in calendar year 2013 and for each calendar year thereafter through 2046, there shall be deposited to the general fund in proportionate periodic payments in the following year, an amount equal to the lesser of:

(i)(A) 50 percent of the difference, if any, by which the amount of the net annual taxes for the previous year exceeds the sum of the net actual taxes in calendar year 2011 plus $1,000,000, inflated at two percent per year since 2011, minus

(B) 25 percent of the difference, if any, by which the amount of the net annual taxes for the preceding year exceeds the sum of the net actual taxes in calendar year 2011 plus $3,000,000, inflated at two percent per year since 2011; or

(ii) the amount of the net annual taxes for the preceding year multiplied by three percent; and

(5) if the bonds under section 16A.965 are defeased, redeemed, or paid in full, the commissioner of management and budget and finance officer of the city must agree to a revised schedule of annual amounts under clause (1). The revised schedule of annual amounts must factor in a discount rate equal to zero percent and otherwise consistent with the methodology previously agreed upon by the parties.

(b) The Minnesota Sports Facility Authority must use the amounts available from the deposits under paragraph (a), clause (4), for capital repairs, replacements, and improvements for the stadium and stadium infrastructure.

History: *2012 c 299 art 3 s 1; 2023 c 64 art 13 s 2*

INTERSTATE TAX ADMINISTRATION AGREEMENTS

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 under the Agreement to perform the seller's sales and use tax functions as outlined in the contract between the Streamlined Sales Tax Governing Board and the certified service providers, except that sellers retain the obligation to remit tax on their own purchases.

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 of revenue is further directed to negotiate the agreement with the express intention of ensuring uniform sales and use taxation as applied to like-kind transactions.

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 following officials are authorized to represent this state before the other states that are signatories to the agreement:

(1) the commissioner or the commissioner's designee;

(2) the chair of the house of representatives committee with jurisdiction over taxes or the house chair's designee; and

(3) the chair of the senate committee with jurisdiction over taxes or the senate chair's designee.

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.

Subd. 10. **Relief from certain liability.** (a) Notwithstanding subdivision 9, sellers and certified service providers are relieved from liability to the state for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider (1) relying on erroneous data provided by the commissioner in the database files on tax rates, boundaries, or taxing jurisdiction assignments, or (2) relying on erroneous data provided by the state in its taxability matrix concerning the taxability of products and services.

(b) Notwithstanding subdivision 9, sellers and certified service providers are relieved from liability to the state for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on the certification by the commissioner as to the accuracy of a certified automated system as to the taxability of product categories. The relief from liability provided by this paragraph does not apply when the sellers or certified service providers have incorrectly classified an item or transaction into a product category, unless the item or transaction within a product category was approved by the commissioner or approved jointly by the states that are signatories to the agreement. The sellers and certified service providers must revise a classification within ten days after receipt of notice from the commissioner that an item or transaction within a product category is incorrectly classified as to its taxability, or they are not relieved from liability for the incorrect classification following the notification.

(c) Notwithstanding subdivision 9, if there are not at least 30 days between the enactment of a new tax rate and the effective date of the new rate, sellers and certified service providers shall be relieved from liability for failing to collect tax at the new rate during the first 30 days of the rate change, beginning on the day after the date of enactment of the rate change, provided the seller or certified service provider continued to impose and collect the tax at the immediately preceding tax rate during this period. Relief from liability provided by this paragraph shall not apply if the failure to collect at the newly effective rate extends beyond

30 days after the enactment of the new rate. The relief provided by this paragraph shall not apply if the commissioner determines that the seller or certified service provider fraudulently failed to collect at the new rate or that the seller or certified service provider solicited purchasers based on the immediately preceding tax rate.

(d) Certified service providers are relieved from liability to the state when a seller fails to remit all or a portion of the seller's taxes prior to the due date of the remittance if the certified service provider has provided notification as outlined in the contract between the Streamlined Sales Tax Governing Board and the certified service provider.

Subd. 11. **Purchaser relief from certain liability.** (a) Notwithstanding other provisions in the law, a purchaser is relieved from liability resulting from having paid the incorrect amount of sales or use tax if a purchaser, whether or not the commissioner gave the purchaser direct pay authorization, or a purchaser's seller or certified service provider relied on erroneous data provided by this state in the database files on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability matrix. After providing an address-based database for assigning taxing jurisdictions and their associated rates, no relief for errors resulting from the purchaser's reliance on a database using zip codes is allowed.

(b) With respect to reliance on the taxability matrix provided by this state in paragraph (a), relief is limited to erroneous classifications in the taxability matrix for items included within the classifications as "taxable," "exempt," "included in sales price," "excluded from sales price," "included in the definition," and "excluded from the definition."

(c) Notwithstanding other provisions in the law, if there are not at least 30 days between the enactment of a new tax rate and the effective date of the new rate, a purchaser shall be relieved from liability resulting from failing to pay the tax at the new rate during the first 30 days of the rate change, beginning on the day after the date of enactment of the rate change, whether or not the purchaser has been given direct pay authorization by the commissioner. Relief from liability provided by this paragraph shall not apply if the failure to pay at the newly effective rate extends beyond 30 days after the enactment of the new rate, and shall not apply to a purchaser that did not continue to pay the tax at the immediately preceding tax rate during the 30-day period. The relief provided by this paragraph shall not apply if the commissioner determines that the purchaser fraudulently failed to pay at the new rate.

Subd. 12. **Database files.** For purposes of this section, "database files on tax rates, boundaries, and taxing jurisdiction assignments" and the "taxability matrix" means those databases and the taxability matrix required under the agreement.

History: *1Sp2001 c 5 art 12 s 84; 2002 c 377 art 3 s 19; 2003 c 127 art 1 s 31; 2008 c 366 art 13 s 6-8; 2010 c 389 art 4 s 12,13; 1Sp2025 c 13 art 10 s 7,8*