

A bill for an act

relating to sales and use tax; excluding installation charges from the sales tax;
amending Minnesota Statutes 2006, section 297A.61, subdivisions 3, 7.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 297A.61, subdivision 3, is amended to
read:

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

(b) Sale and purchase include:

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

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

(c) Sale and purchase include the production, fabrication, printing, or processing of
tangible personal property for a consideration for consumers who furnish either directly or
indirectly the materials used in the production, fabrication, printing, or processing.

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

(1) prepared food sold by the retailer;

(2) soft drinks;

(3) candy;

(4) dietary supplements; and

H.F. No. 1229, as introduced - 85th Legislative Session (2007-2008)

2.1 (5) all food sold through vending machines.

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

2.4 (f) A sale and a purchase includes the transfer for a consideration of prewritten
2.5 computer software whether delivered electronically, by load and leave, or otherwise.

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

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

2.11 (2) lodging and related services by a hotel, rooming house, resort, campground,
2.12 motel, or trailer camp and the granting of any similar license to use real property in a
2.13 specific facility, other than the renting or leasing of it for a continuous period of 30 days
2.14 or more under an enforceable written agreement that may not be terminated without
2.15 prior notice;

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

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

2.19 (i) the club, association, or other organization makes available for the use of its
2.20 members sports and athletic facilities, without regard to whether a separate charge is
2.21 assessed for use of the facilities; and

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

2.24 Granting of membership means both onetime initiation fees and periodic membership
2.25 dues. Sports and athletic facilities include golf courses; tennis, racquetball, handball, and
2.26 squash courts; basketball and volleyball facilities; running tracks; exercise equipment;
2.27 swimming pools; and other similar athletic or sports facilities;

2.28 (5) delivery of aggregate materials and concrete block by a third party if the delivery
2.29 would be subject to the sales tax if provided by the seller of the aggregate material or
2.30 concrete block; and

2.31 (6) services as provided in this clause:

2.32 (i) laundry and dry cleaning services including cleaning, pressing, repairing, altering,
2.33 and storing clothes, linen services and supply, cleaning and blocking hats, and carpet,
2.34 drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not
2.35 include services provided by coin operated facilities operated by the customer;

H.F. No. 1229, as introduced - 85th Legislative Session (2007-2008)

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

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

(v) pet grooming services;

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor plant care; tree, bush, shrub, and stump removal, 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.

In applying the provisions of this chapter, the terms "tangible personal property" and "retail sale" include taxable services listed in 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).

(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

H.F. No. 1229, as introduced - 85th Legislative Session (2007-2008)

instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political subdivisions.

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

~~(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 65B.29, subdivision 1, clause (1).

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2007.

Sec. 2. Minnesota Statutes 2006, section 297A.61, subdivision 7, is amended to read:

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; and

~~(5) installation charges; and~~

~~(6)~~ the value of exempt property given to the purchaser when taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

(b) Sales price does not include:

(1) discounts, including cash, terms, or coupons, that are not reimbursed by a third party and that are allowed by the seller and taken by a purchaser on a sale;

H.F. No. 1229, as introduced - 85th Legislative Session (2007-2008)

5.1 (2) interest, financing, and carrying charges from credit extended on the sale of
5.2 personal property or services, if the amount is separately stated on the invoice, bill of sale,
5.3 or similar document given to the purchaser; ~~and~~

5.4 (3) any taxes legally imposed directly on the consumer that are separately stated on
5.5 the invoice, bill of sale, or similar document given to the purchaser; and

5.6 (4) installation charges.

5.7 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
5.8 June 30, 2007.