

A bill for an act
relating to sales and use tax; modifying the exemption for capital equipment;
amending Minnesota Statutes 2006, sections 297A.68, subdivision 5; 297A.75,
subdivisions 2, 3.

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

Section 1. Minnesota Statutes 2006, section 297A.68, subdivision 5, is amended to
read:

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

"Capital equipment" means machinery and equipment purchased or leased, and used
in this state ~~by the purchaser or lessee~~ primarily for manufacturing, fabricating, mining,
or refining tangible personal property to be sold ultimately at retail if the machinery and
equipment are essential to the integrated production process of manufacturing, fabricating,
mining, or refining. Capital equipment also includes machinery and equipment
used 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;

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(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.

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(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 35, and does not apply to wire, cable, fiber, poles, or conduit for telecommunications services.

EFFECTIVE DATE. This section is effective (1) for sales and purchases made after the date of final enactment, and (2) for any sales and purchases for which the claimant has applied for a refund, and the commissioner has not paid, by March 1, 2007.

Sec. 2. Minnesota Statutes 2006, section 297A.75, subdivision 2, is amended to read:

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, clause (1), the applicant must be the user of the capital equipment;

(2) for subdivision 1, clauses ~~(1)~~ to (2) and (3), the applicant must be the purchaser;

~~(2)~~ (3) for subdivision 1, clauses (4), (7), and (8), the applicant must be the governmental subdivision;

~~(3)~~ (4) for subdivision 1, clause (5), the applicant must be the recipient of the benefits provided in United States Code, title 38, chapter 21;

~~(4)~~ (5) for subdivision 1, clause (6), the applicant must be the owner of the homestead property;

~~(5)~~ (6) for subdivision 1, clause (9), the owner of the qualified low-income housing project;

~~(6)~~ (7) for subdivision 1, clause (10), the applicant must be a municipal electric utility or a joint venture of municipal electric utilities; and

~~(7)~~ (8) for subdivision 1, clauses (11) and (12), the owner of the qualifying business.

EFFECTIVE DATE. This section is effective for sales and purchases made after the date of final enactment.

Sec. 3. Minnesota Statutes 2006, section 297A.75, subdivision 3, is amended to read:

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,

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5.1 subcontractor, or builder, under subdivision 1, clause (1), (4), (5), (6), (7), (8), (9), (10),
5.2 (11), or (12), the contractor, subcontractor, or builder must furnish to the refund applicant
5.3 a statement including the cost of the exempt items and the taxes paid on the items unless
5.4 otherwise specifically provided by this subdivision. The provisions of sections 289A.40
5.5 and 289A.50 apply to refunds under this section.

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

5.8 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
5.9 the date of final enactment.