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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2265

03/08/2017 Authored by McDonald, Gruenhagen and Davids
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; sales and use; exempting certain 501(c)(3) and 501(c)(4)
1.3 organizations from sales and use tax on purchases and fund-raising; amending
1.4 Minnesota Statutes 2016, section 297A.70, subdivisions 4, 14.

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

1.6 Section 1. Minnesota Statutes 2016, section 297A.70, subdivision 4, is amended to read:

1.7 Subd. 4. Sales to nonprofit groups. (a) All sales, except those listed in paragraph (b),
1.8 to the following "nonprofit organizations" are exempt:

1.9 (1) a corporation, society, association, foundation, or institution organized and operated
1.10 exclusively for charitable, religious, or educational purposes if as a nonprofit 501(c)(3) or
1.11 a nonprofit 501(c)(4) organization, provided that:

1.12 (i) the item purchased is used in the performance of charitable, religious, civic,
1.13 governmental, or educational functions; and

1.14 (ii) no part of the net earnings of which inures to the benefit of a private individual; and

1.15 (2) any senior citizen group or association of groups that:

1.16 (i) in general limits membership to persons who are either age 55 or older, or physically
1.17 disabled;

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

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

2.1 For purposes of this subdivision, charitable purpose includes the maintenance of a cemetery
2.2 owned by a religious organization.

2.3 (b) This exemption does not apply to the following sales:

2.4 (1) building, construction, or reconstruction materials purchased by a contractor or a
2.5 subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed
2.6 maximum price covering both labor and materials for use in the construction, alteration, or
2.7 repair of a building or facility;

2.8 (2) construction materials purchased by tax-exempt entities or their contractors to be
2.9 used in constructing buildings or facilities that will not be used principally by the tax-exempt
2.10 entities;

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

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

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

2.19 (1) a truck, as defined in section 168.002, a bus, as defined in section 168.002, or a
2.20 passenger automobile, as defined in section 168.002, if the automobile is designed and used
2.21 for carrying more than nine persons including the driver; and

2.22 (2) intended to be used primarily to transport tangible personal property or individuals,
2.23 other than employees, to whom the organization provides service in performing its charitable,
2.24 religious, civic, governmental, or educational purpose.

2.25 (d) A limited liability company also qualifies for exemption under this subdivision if
2.26 (1) it consists of a sole member that would qualify for the exemption, and (2) the items
2.27 purchased qualify for the exemption.

2.28 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
2.29 30, 2017.

3.1 Sec. 2. Minnesota Statutes 2016, section 297A.70, subdivision 14, is amended to read:

3.2 Subd. 14. **Fund-raising events sponsored by nonprofit groups.** (a) Sales of tangible
3.3 personal property or services at, and admission charges for fund-raising events sponsored
3.4 by, a nonprofit organization are exempt if:

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

3.7 (2) the entire proceeds, less the necessary expenses for the event, will be used solely
3.8 and exclusively for charitable, religious, civic, governmental, or educational purposes and
3.9 no revenues from the events are used for lobbying or other political activities. Exempt sales
3.10 include the sale of prepared food, candy, and soft drinks at the fund-raising event.

3.11 (b) This exemption is limited in the following manner:

3.12 (1) it does not apply to admission charges for events involving bingo or other gambling
3.13 activities or to charges for use of amusement devices involving bingo or other gambling
3.14 activities;

3.15 (2) all gross receipts are taxable if the profits are not used solely and exclusively for
3.16 charitable, religious, civic, governmental, or educational purposes;

3.17 (3) it does not apply unless the organization keeps a separate accounting record, including
3.18 receipts and disbursements from each fund-raising event that documents all deductions from
3.19 gross receipts with receipts and other records;

3.20 (4) it does not apply to any sale made by or in the name of a nonprofit corporation as
3.21 the active or passive agent of a person that is not a nonprofit corporation;

3.22 (5) all gross receipts are taxable if fund-raising events exceed 24 days per year; and

3.23 ~~(6) it does not apply to fund-raising events conducted on premises leased for more than~~
3.24 ~~five days but less than 30 days; and~~

3.25 ~~(7)~~ (6) it does not apply if the risk of the event is not borne by the nonprofit organization
3.26 and the benefit to the nonprofit organization is less than the total amount of the state and
3.27 local tax revenues forgone by this exemption.

3.28 (c) For purposes of this subdivision, a "nonprofit organization" means any unit of
3.29 government, corporation, society, association, foundation, or institution ~~organized~~ that is a
3.30 nonprofit 501(c)(3) organization or nonprofit 501(c)(4) organization and is operated for
3.31 charitable, religious, educational, civic, governmental, fraternal, and senior citizens' or

4.1 veterans' purposes, no part of the net earnings of which inures to the benefit of a private
4.2 individual.

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

4.13 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
4.14 30, 2017.