

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 307

(SENATE AUTHORS: INGEBRIGTSEN)

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02/06/2013	165	Introduction and first reading Referred to Taxes
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1.1 A bill for an act
 1.2 relating to sales and use tax; changing thresholds for filing requirements;
 1.3 providing a vendor allowance; requiring revenue to develop an address-based
 1.4 sales tax calculator; amending Minnesota Statutes 2012, sections 289A.18,
 1.5 subdivision 4; 289A.20, subdivision 4; 297A.77, subdivision 3; 297A.99,
 1.6 subdivision 11; proposing coding for new law in Minnesota Statutes, chapter
 1.7 297A.

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

1.9 Section 1. Minnesota Statutes 2012, section 289A.18, subdivision 4, is amended to read:

1.10 Subd. 4. **Sales and use tax returns.** (a) Sales and use tax returns must be filed on or
 1.11 before the 20th day of the month following the close of the preceding reporting period,
 1.12 except that annual use tax returns provided for under section 289A.11, subdivision 1, must
 1.13 be filed by April 15 following the close of the calendar year, in the case of individuals.
 1.14 Annual use tax returns of businesses, including sole proprietorships, and annual sales tax
 1.15 returns must be filed by February 5 following the close of the calendar year.

1.16 (b) Returns for the June reporting period filed by retailers required to remit their
 1.17 June liability under section 289A.20, subdivision 4, paragraph (b), are due on or before
 1.18 August 20.

1.19 (c) If a retailer has an average sales and use tax liability, including local sales and
 1.20 use taxes administered by the commissioner, equal to or less than ~~\$500~~ \$1,000 per month
 1.21 in any quarter of a calendar year, and has substantially complied with the tax laws during
 1.22 the preceding four calendar quarters, the retailer may request authorization to file and
 1.23 pay the taxes quarterly in subsequent calendar quarters. The authorization remains in
 1.24 effect during the period in which the retailer's average quarterly returns for the preceding

2.1 four quarters reflect sales and use tax liabilities of less than ~~\$1,500~~ \$3,000 and there is
2.2 continued compliance with state tax laws.

2.3 (d) If a retailer has an average sales and use tax liability, including local sales and
2.4 use taxes administered by the commissioner, equal to or less than \$100 per month during a
2.5 calendar year, and has substantially complied with the tax laws during that period, the
2.6 retailer may request authorization to file and pay the taxes annually in subsequent years.
2.7 The authorization remains in effect during the period in which the retailer's annual returns
2.8 reflect sales and use tax liabilities of less than \$1,200 and there is continued compliance
2.9 with state tax laws.

2.10 (e) The commissioner may also grant quarterly or annual filing and payment
2.11 authorizations to retailers if the commissioner concludes that the retailers' future tax
2.12 liabilities will be less than the monthly totals identified in paragraphs (c) and (d). An
2.13 authorization granted under this paragraph is subject to the same conditions as an
2.14 authorization granted under paragraphs (c) and (d).

2.15 (f) A taxpayer who is a materials supplier may report gross receipts either on:

2.16 (1) the cash basis as the consideration is received; or

2.17 (2) the accrual basis as sales are made.

2.18 As used in this paragraph, "materials supplier" means a person who provides materials
2.19 for the improvement of real property; who is primarily engaged in the sale of lumber and
2.20 building materials-related products to owners, contractors, subcontractors, repairers,
2.21 or consumers; who is authorized to file a mechanics lien upon real property and
2.22 improvements under chapter 514; and who files with the commissioner an election to file
2.23 sales and use tax returns on the basis of this paragraph.

2.24 (g) Notwithstanding paragraphs (a) to (f), a seller that is not a Model 1, 2, or 3
2.25 seller, as those terms are used in the Streamlined Sales and Use Tax Agreement, that does
2.26 not have a legal requirement to register in Minnesota, and that is registered under the
2.27 agreement, must file a return by February 5 following the close of the calendar year in
2.28 which the seller initially registers, and must file subsequent returns on February 5 on an
2.29 annual basis in succeeding years. Additionally, a return must be submitted on or before
2.30 the 20th day of the month following any month by which sellers have accumulated state
2.31 and local tax funds for the state in the amount of \$1,000 or more.

2.32 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
2.33 June 30, 2013.

2.34 Sec. 2. Minnesota Statutes 2012, section 289A.20, subdivision 4, is amended to read:

3.1 Subd. 4. **Sales and use tax.** (a) The taxes imposed by chapter 297A are due and
3.2 payable to the commissioner monthly on or before the 20th day of the month following
3.3 the month in which the taxable event occurred, or following another reporting period
3.4 as the commissioner prescribes or as allowed under section 289A.18, subdivision 4,
3.5 paragraph (f) or (g), except that:

3.6 (1) use taxes due on an annual use tax return as provided under section 289A.11,
3.7 subdivision 1, are payable by April 15 following the close of the calendar year; and

3.8 (2) except as provided in paragraph (f), for a vendor having a liability of \$120,000
3.9 or more during a fiscal year ending June 30, 2009, and fiscal years thereafter, the taxes
3.10 imposed by chapter 297A, except as provided in paragraph (b), are due and payable to the
3.11 commissioner monthly in the following manner:

3.12 (i) On or before the 14th day of the month following the month in which the taxable
3.13 event occurred, the vendor must remit to the commissioner 90 percent of the estimated net
3.14 liability for the month in which the taxable event occurred.

3.15 (ii) On or before the 20th day of the month in which the taxable event occurs, the
3.16 vendor must remit to the commissioner a prepayment for the month in which the taxable
3.17 event occurs equal to 67 percent of the net liability for the previous month.

3.18 (iii) On or before the 20th day of the month following the month in which the
3.19 taxable event occurred, the vendor must pay any additional ~~amount of tax~~ net liability not
3.20 previously remitted under either item (i) or (ii) or, if the payment made under item (i) or
3.21 (ii) was greater than the vendor's net liability for the month in which the taxable event
3.22 occurred, the vendor may take a credit against the next month's net liability in a manner
3.23 prescribed by the commissioner.

3.24 (iv) Once the vendor first pays under either item (i) or (ii), the vendor is required to
3.25 continue to make payments in the same manner, as long as the vendor continues having a
3.26 liability of \$120,000 or more during the most recent fiscal year ending June 30.

3.27 (v) Notwithstanding items (i), (ii), and (iv), if a vendor fails to make the required
3.28 payment in the first month that the vendor is required to make a payment under either item
3.29 (i) or (ii), then the vendor is deemed to have elected to pay under item (ii) and must make
3.30 subsequent monthly payments in the manner provided in item (ii).

3.31 (vi) For vendors making an accelerated payment under item (ii), for the first month
3.32 that the vendor is required to make the accelerated payment, on the 20th of that month, the
3.33 vendor will pay 100 percent of the net liability for the previous month and a prepayment
3.34 for the first month equal to 67 percent of the liability for the previous month.

4.1 (b) Notwithstanding paragraph (a), a vendor having a liability of \$120,000 or more
4.2 during a fiscal year ending June 30 must remit the June net liability for the next year
4.3 in the following manner:

4.4 (1) Two business days before June 30 of the year, the vendor must remit 90 percent
4.5 of the estimated June net liability to the commissioner.

4.6 (2) On or before August 20 of the year, the vendor must pay any additional amount
4.7 of tax not remitted in June.

4.8 (c) A vendor having a liability of:

4.9 (1) \$10,000 or more, but less than \$120,000 during a fiscal year ending June 30,
4.10 2009, and fiscal years thereafter, must remit by electronic means all net liabilities on
4.11 returns due for periods beginning in the subsequent calendar year on or before the 20th
4.12 day of the month following the month in which the taxable event occurred, or on or before
4.13 the 20th day of the month following the month in which the sale is reported under section
4.14 289A.18, subdivision 4; or

4.15 (2) \$120,000 or more, during a fiscal year ending June 30, 2009, and fiscal years
4.16 thereafter, must remit by electronic means all net liabilities in the manner provided in
4.17 paragraph (a), clause (2), on returns due for periods beginning in the subsequent calendar
4.18 year, except for 90 percent of the estimated June liability, which is due two business days
4.19 before June 30. The remaining amount of the June liability is due on August 20.

4.20 (d) Notwithstanding paragraph (b) or (c), a person prohibited by the person's
4.21 religious beliefs from paying electronically shall be allowed to remit the payment by mail.
4.22 The filer must notify the commissioner of revenue of the intent to pay by mail before
4.23 doing so on a form prescribed by the commissioner. No extra fee may be charged to a
4.24 person making payment by mail under this paragraph. The payment must be postmarked
4.25 at least two business days before the due date for making the payment in order to be
4.26 considered paid on a timely basis.

4.27 (e) Whenever the liability is \$120,000 or more separately for: (1) the tax imposed
4.28 under chapter 297A; (2) a fee that is to be reported on the same return as and paid with the
4.29 chapter 297A taxes; or (3) any other tax that is to be reported on the same return as and
4.30 paid with the chapter 297A taxes, then the payment of all the liabilities on the return must
4.31 be accelerated as provided in this subdivision.

4.32 (f) At the start of the first calendar quarter at least 90 days after the cash flow account
4.33 established in section 16A.152, subdivision 1, and the budget reserve account established in
4.34 section 16A.152, subdivision 1a, reach the amounts listed in section 16A.152, subdivision
4.35 2, paragraph (a), the remittance of the accelerated payments required under paragraph (a),
4.36 clause (2), must be suspended. The commissioner of management and budget shall notify

5.1 the commissioner of revenue when the accounts have reached the required amounts.
5.2 Beginning with the suspension of paragraph (a), clause (2), for a vendor with a liability of
5.3 \$120,000 or more during a fiscal year ending June 30, 2009, and fiscal years thereafter, the
5.4 taxes imposed by chapter 297A are due and payable to the commissioner on the 20th day
5.5 of the month following the month in which the taxable event occurred. Payments of tax
5.6 liabilities for taxable events occurring in June under paragraph (b) are not changed.

5.7 (g) For purposes of this subdivision, "net liability" means the liability minus the
5.8 amount of vendor allowance authorized under section 297A.816.

5.9 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
5.10 June 30, 2013.

5.11 Sec. 3. Minnesota Statutes 2012, section 297A.77, subdivision 3, is amended to read:

5.12 Subd. 3. **Tax must be remitted.** The tax collected by a retailer under this section,
5.13 except for the amount allowed to be retained by the seller under section 297A.816, must
5.14 be remitted to the commissioner as provided in chapter 289A and this chapter.

5.15 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
5.16 June 30, 2013.

5.17 Sec. 4. **[297A.816] VENDOR ALLOWANCE.**

5.18 Subdivision 1. **Eligibility.** A retailer or seller may retain a portion of sales
5.19 tax collected as a vendor allowance in compensation for the costs of collecting and
5.20 administering the tax under this chapter. This section only applies if the tax minus the
5.21 vendor allowance is both reported and remitted to the commissioner in a timely fashion
5.22 as required under chapter 289A.

5.23 Subd. 2. **Tax not eligible for allowance.** Use taxes paid by the seller on the seller's
5.24 own purchases are not included in calculating the vendor allowance under this section.
5.25 All other sales and use taxes collected by a seller are eligible for the vendor allowance
5.26 under this section.

5.27 Subd. 3. **Calculation of allowance; minimum and maximum amounts.** The
5.28 amount of the vendor allowance is equal to 3.0 percent of the eligible taxes collected in
5.29 the reporting period, as defined under section 289A.18, subdivision 4, up to a maximum of
5.30 \$90 per reporting period. The vendor allowance per reporting period may not be less than
5.31 the lesser of \$10 or the amount of eligible taxes collected during the reporting period.

5.32 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
5.33 June 30, 2013.

6.1 Sec. 5. Minnesota Statutes 2012, section 297A.99, subdivision 11, is amended to read:

6.2 Subd. 11. **Revenues; cost of collection.** The commissioner shall remit the proceeds
6.3 of the tax, less refunds and a proportionate share of the cost of collection, at least quarterly,
6.4 to the political subdivision. The commissioner shall deduct from the proceeds remitted an
6.5 amount that equals

6.6 (1) the direct and indirect costs of the department to administer, audit, and collect the
6.7 political subdivision's tax, plus

6.8 (2) the political subdivision's proportionate share of the indirect cost of administering
6.9 all taxes under this section, plus

6.10 (3) the cost of constructing and maintaining a ~~zip code or geo-code database~~
6.11 necessary for local sales tax collections under a free, electronically accessible address and
6.12 five-digit zip code lookup table for local sales tax collection for the state that meets the
6.13 requirements of the Streamlined Sales and Use Tax Agreement in section 297A.995. The
6.14 lookup table must be accessible to sellers by January 1, 2015, and the commissioner may
6.15 contract with an outside vendor to provide the required lookup table provided that a link to
6.16 the site is prominently displayed on the Department of Revenue's Web site.

6.17 The initial cost of constructing a database under clause (3) shall be distributed
6.18 among the cities with a local sales tax based on each city's population. The commissioner
6.19 shall develop a method for distributing the cost of maintaining the database among the
6.20 cities with a local sales tax based on the number of boundary changes for each city.

6.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.