

CHAPTER 8130
DEPARTMENT OF REVENUE
SALES AND USE TAXES

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8130.0200 SALE BY TRANSFER OF TITLE.

[For text of subpart 1, see M R]

Subp. 2 [Repealed, 18 SR 1891]

[For text of subps 3 and 4, see M R]

Subp 5. **Transfer of title of special tooling.** When a manufacturer acquires special tooling, as defined in Minnesota Statutes, section 297A 01, subdivision 17, which is not exempt under Minnesota Statutes, section 297A 25, subdivisions 1 and 9, the manufacturer may or may not acquire the special tooling for sale to the customer. If the special tooling is sold to the manufacturer's customer, by billing the customer for the special tooling or giving the customer the right to take possession of it, the sale is subject to the sales tax whether or not the customer is outside Minnesota, because the first beneficial use of it was made in Minnesota. If the manufacturer does not acquire the special tooling for sale to a customer, the manufacturer's purchase is subject to the sales tax.

In the case of either prime or subcontracts with the United States government, a Minnesota manufacturer is deemed the consumer of special tooling in the absence of an explicit agreement with the United States government as to title passage prior to use by the Minnesota manufacturer. If it is claimed by the manufacturer at the time of purchase that title passes immediately on purchase or manufacture of the tooling, mold, or die, the Minnesota manufacturer must provide, to the Department of Revenue on audit, one of the following as evidence:

[For text of item A, see M R]

B if the contract is classified, a signed statement from the contracting officer or the Department of Defense auditor that the contract in question includes provisions for immediate title transfer,

C if the Minnesota manufacturer holds a subcontract with a prime contractor which provides for immediate title transfer to the prime contractor but not simultaneously from the prime contractor to the United States government, the transfer of title to the prime contractor is the taxable event.

[For text of subp 6, see M R]

Statutory Authority: *MS s 270 06*

History: *18 SR 1891*

8130.0700 PRODUCING, FABRICATING, PRINTING, OR PROCESSING OF PROPERTY FURNISHED BY CONSUMER.

Subpart 1 **General.** A sales tax is assessed on the retail sale of tangible personal property. See Minnesota Statutes, section 297A 01, subdivision 3, paragraph (a).

In addition, a sales tax is assessed on the production, fabrication, or processing of tangible personal property for retail consumers who furnish directly or indirectly the materials used in the production, fabrication, or processing. See Minnesota Statutes, section 297A 01, subdivision 3, paragraph (b).

Producing, fabricating, and processing include any operation which results in the creation or production of tangible personal property, or which is a step in a process or in a series of operations resulting in the creation or production of tangible personal property, except sales for resale.

Subp 2 **Repairs.** Application of labor to tangible personal property so that such property may continue to be used in the same form and for the purpose for which acquired repre-

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sents repairs and does not constitute producing, fabricating, or processing of property. Where the expenditure is made for the purpose of modifying, altering, or assembling it in some other manner, the application of labor thereto represents a sale under the provisions of Minnesota Statutes, section 297A.01, subdivision 3, paragraph (b).

Subp 3 Tax applications.

A. Example 1. A customer enters into an agreement with an upholsterer whereby the latter will remove old fabric from the customer's living room sofa and replace it with fabric chosen by the customer. The cost agreed upon is \$300. Service charges are \$150, with the remaining \$150 representing the cost of the materials. As the reupholstering repair permits the customer to continue to use the sofa for the purpose for which it was acquired, only the \$150 for material represents a sale, provided the charges for materials are billed separately, and that such charges represent a reasonable sales price for such material were it purchased without the service charge for reupholstering. If the customer had furnished the material, no sale would have resulted.

B. Example 2. A customer furnishes material which is thereafter produced into a slipcover for sofa. The charge for producing the slipcover is a sale in accordance with Minnesota Statutes, section 297A.01, subdivision 3, paragraph (b), since it results in the modification of tangible personal property. If the customer had purchased material from the upholsterer, the entire cost to the customer would be a sale.

C. Example 3. Custom sawing of logs by a saw mill where logs are furnished by the customer constitutes a sale.

D. Example 4. Developing prints of home movies or stills for customers who furnish the exposed film constitutes a sale.

E. Example 5. Printing on paper stock furnished by customers constitutes a sale.

F. Example 6. Reproducing copies of typewritten or printed matter on a stock furnished by customers constitutes a sale.

G. Example 7. Recapping of a tire carcass supplied by the customer is a repair. If the materials and labor are separately stated, only the material portion is taxable. If no separation is shown on the invoice, the entire amount is taxable. These rules apply even though the new cap is of a different tread design, i.e., a snow tread cap applied over a summer tread, or vice versa. If a carcass is traded in for a recapped tire, the entire charge, less allowance for the trade-in is taxable. (See part 8130.1500.)

H. Example 8. Cutting and mulling charges by a lumberyard or woodworking shop, and pipe cutting or threading charges by a hardware store or plumbing shop are taxable whether the materials are supplied by the buyer or the seller.

I. Example 9. Engraving of an item furnished by the customer is considered a service not subject to tax. This service engraving is to be differentiated from product engraving which is taxable. Product engraving is billed along with or included in the sales price by the seller at the time the item is sold.

J. Example 10. The entire amount charged for the initial electroplating, heat treating, or painting of tangible personal property furnished by the customer is taxable as fabrication labor.

K. Example 11. Collating and assembling done by stapling or using a similar process affixing items together is taxable. The punching, assembly, stamping, burning, electroplating, etc. of goods supplied by a customer is taxable.

L. Example 12. A locksmith changes a combination on a safe or changes the tumblers in a lock so that a different key must be used. The transaction is considered to be a non-taxable service and the locksmith is required to pay the sales or use tax on purchases of the parts and materials used to perform such service. However, retail sales of keys and parts which are billed separately are taxable.

M. Example 13. Additional types of fabrication charges which are taxable regardless of whether the customer or fabricator furnishes the materials include charges for the following:

- (1) assembling kits to produce a completed article;
- (2) bending glass tubing into neon signs;

- (3) bookbinding,
- (4) conversion of a vehicle into a stretch limousine,
- (5) drilling holes in bowling balls,
- (6) engraving when it is charged with or included in the sales price by the retailer,
- (7) firing of ceramics or china,
- (8) making of a fur coat from pelts, or gloves or a jacket from a hide,
- (9) making curtains, drapes, pillows, slipcovers, or other household furnishings,
- (10) laminating identification cards,
- (11) lumber cut to specifications and producing cabinets, counter tops, or other items from materials for customers,
- (12) matting and framing of art work,
- (13) printing and imprinting, including lithography, silk screen printing, multilithing, mimeographing, photostating, and similar processes,
- (14) photography, the taking of pictures and developing of films which result in sale of photographs or movies,
- (15) production of a sound recording or a motion picture,
- (16) rebuilt auto parts by a manufacturer of a previously manufactured article such as radiators, generators, carburetors, fuel pumps, transmissions, engine blocks, or similar parts,
- (17) steel fabrication, which may involve cutting the steel to length and size, bending and drilling holes in the steel to the specifications of a particular construction job when the end result of the fabrication is a modification of a previously manufactured article, and
- (18) taxidermy, the charges for stuffing and mounting.

Subp 4. **Custom made goods.** The total proceeds of sale of custom made products are taxable, without deduction for labor costs, provided that the manufactured item remains personal property after installation. Labor charges to install manufactured items which become part of real property are not taxable.

Statutory Authority: *MS s 270 06*

History: *18 SR 2483*

8130.2000 [Repealed, 17 SR 2369]

8130.5550 SPECIAL TOOLING.

Subpart 1 **General information.** Special tooling is taxed at a separate rate under Minnesota Statutes, section 297A 02, subdivision 2. "Special tooling" is defined by Minnesota Statutes, section 297A 01, subdivision 17, as tools, dies, jigs, patterns, gauges, and other special tools. Special tooling is tooling that is made to specific requirements to produce a part or a series of related parts, which are known at the time the special tooling is manufactured for a single customer. The special tooling itself must be unique. Regardless of whether tooling is fabricated for the purchaser or purchased for resale, if the tooling is available from a catalog, other sales literature, or over-the-counter, the tooling is standard and not special tooling.

Because special tooling does not need to produce a direct effect upon the product, nor does it need to have an ordinary useful life of less than 12 months, special tooling is usually different from accessory tools as defined in part 8130 5500, subpart 9, (separate detachable units). Certain special tooling may also be exempt from tax as separate detachable units or as accessory tools because the definitions are not exclusive. See subpart 3, item B.

Subp. 2 **Component parts.** Materials from which special tooling or component parts are produced by a seller of special tooling need not themselves be unique and useable only by the seller who produces special tooling. For example, metal used to produce special tooling need not be unique metal, only the special tooling produced from the metal needs to be unique. However, special tooling or components of special tooling must be unique, having value and use only for the buyer of special tooling.

Special tooling comprised of components qualifies for the separate rate to the extent of the purchase price of the unique components. Unique components are those components which are manufactured for the special tooling and are not standard or reusable. Components of special tooling which can be reused, either in special tooling or general applications, do not qualify for the separate rate.

Subp 3 Nonqualifying items.

A. Machine tools and machinery are usually frames and motors which, through tools and special tooling, perform an action on materials to produce a product. They are commonly purchased in a standard configuration and can be used to produce parts for more than one customer. Attachments to machine tools and machinery that are used with the machine tool or machinery generally are not produced in accordance with special requirements of the purchaser of special tooling and do not qualify for the special tooling tax rate. They are not special tooling. Machine tools and machinery and their accessories can be used by any person other than the purchaser who wants to perform a function similar to the purchaser's. This quality excludes them from the definition of special tooling. Examples of machine tools and machinery include:

- (1) lathes,
- (2) mills,
- (3) machining centers,
- (4) grinders,
- (5) presses,
- (6) shears,
- (7) breaks,
- (8) die and mold machines, and
- (9) screw machines.

B. Accessory tools, as included within the definition of separate detachable units, are typically standard items which are loaded into a machine tool or hand-held machine and which produce a direct effect on the product. The definitional conditions required of exempt accessory tools in part 8130.5500 are that they are separate detachable units, they are used in producing a direct effect upon the product, and they have an ordinary life of less than 12 months. These conditions are not the same as those for special tooling. Generally, accessory tools can be purchased from a catalog or over-the-counter without any special fabrication. Further, usually any person requiring the action of an accessory tool on a product can use the accessory tool, so it is not limited in use or value only to the buyer. For example, anyone who needs thread cut can use a tap, so it has general value and is not special tooling.

Although an accessory tool usually does not qualify as special tooling, the statutory definitions do not preclude tangible personal property from qualifying as both an accessory tool and special tooling. If, for example, a cutting tool is made for a special purpose which is unique to a single customer, it qualifies both as an accessory tool and special tooling. Examples of tools that are usually accessory tools are:

- (1) drill bits,
- (2) cutting tools,
- (3) grinding wheels,
- (4) abrasive and polishing belts,
- (5) taps,
- (6) reamers, and
- (7) saw blades.

Statutory Authority: *MS s 270.06*

History: *18 SR 1891*

8130.6000 AIRFLIGHT EQUIPMENT.

Subpart 1 General rule. The sales and use tax does not apply to sales of airflight equipment to, and the storage, use, or other consumption of such property by airline companies which are subject to tax under Minnesota Statutes, sections 270.071 to 270.079 (hereinafter

airflight property tax) The definitions of airflight equipment contained in Minnesota Statutes, sections 270 071, and 297A 25, subdivision 14, are similar but are not coincident This part identifies the airflight equipment that is exempted from tax imposed by Minnesota Statutes, section 297A 02

Subp 2 **Definitions.** The definitions in this subpart apply to this part

A "Aircraft" means a contrivance used or designed for the navigation of or flight in the air

B "Airflight equipment" means airplanes, aircraft communications and navigational equipment, flight crew equipment, flight simulators, hydraulics equipment, and all parts that are affixed thereto and become component parts thereof including hydraulic fluid, parts necessary for the repair and maintenance of the listed equipment, and any other property subject to assessment under Minnesota airflight property tax Airflight equipment does not include lubricants, repair equipment and tools, ramp equipment, or other equipment such as broilers, dishes, food boxes, thermos jugs, blankets, and other equipment not subject to assessment under Minnesota airflight property tax

C "Airline company" means a person who undertakes, directly or indirectly, to

(1) engage in the business of transportation by aircraft of persons or property for hire in interstate, intrastate, or international transportation on regularly scheduled flights or on intermittent or irregularly timed flights,

(2) engage in the business of intermittent or irregularly timed flights, flights arranged at the convenience of an airline and a person contracting for transportation, or charter flights making three or more flights into or out of Minnesota in a year, or

(3) hold out to the public that it will undertake to transport property or persons as an air carrier, and enter into contracts wherein it binds itself to so transport property or persons

Airline company does not include casual transportation for hire by aircraft commonly owned and used for private airflight purposes if the person furnishing the transportation does not hold itself out to be engaged regularly in air transportation for hire

D "Indirectly" means to hold out to the public that a person will undertake to transport persons or property by air and enter into contracts with shippers wherein the person binds itself to discharge such undertakings with regard to particular shipments Indirect air carriers include travel agents, tour operators, and social clubs which sell tours or air transportation, air freight forwarders and others who were subject to rate regulation, or others who operate very much like an air carrier

Subp. 3. **Exemptions.** An airline company is exempt from sales and use tax when it purchases airflight equipment if it is subject to Minnesota airflight property tax on those purchases The purchase of flight simulators is specifically exempted in Minnesota Statutes, section 297A 25, subdivision 14 If an airline company is exempt from airflight property tax, its purchases of airflight property are subject to sales and use tax imposed by Minnesota Statutes, chapter 297A

Statutory Authority: *MS s 270 06*

History: *18 SR 2044*

8130.9500 AIRCRAFT REGISTRATION.

Subpart 1 **In general.** Minnesota Statutes, section 297A 255, requires persons who wish to license or register an aircraft in Minnesota to furnish proof to the Minnesota Department of Transportation, Office of Aeronautics, that the Minnesota sales or use tax has been paid, or that the purchase or acquisition of the aircraft was not subject to the Minnesota sales or use tax The seller of the aircraft may furnish proof that the Minnesota sales or use tax has been paid as the agent of the purchaser of the aircraft This law imposes a use tax on an occasional or isolated sale of an aircraft or an interest in an aircraft by persons not in the business of selling aircraft

The necessary forms (form UT-1 and form ST-24) for reporting and paying the use tax or for claiming exemption are available upon request from the Minnesota Department of Revenue or the Minnesota Department of Transportation, Office of Aeronautics

This statute does not affect the exemption provided by Minnesota Statutes, section 297A 25, subdivision 14, for purchases of airflight equipment by airline companies taxed under Minnesota Statutes, sections 270 071 to 270 079

When the sales tax has not been paid to the dealer as set forth in subpart 2, item A, the Department of Revenue will forward a completed certificate of tax payment or exemption, form ST-24, to the Department of Transportation, Office of Aeronautics

Subp 1a **Commercial use, defined.** "Commercial use" means any operation of an aircraft for consideration or hire, any services performed incidental to the operation of any aircraft for which a fee is charged or consideration received, the servicing, maintaining, and repairing of aircraft, or the charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, aerial photography and surveys, air shows or expositions, and the operation of aircraft for fishing Commercial use is any use by a dealer other than the sale or lease of an aircraft or personal use of an aircraft.

Subp 2 **Registration of aircraft by purchasers.** When the sales tax is paid or not paid

A Minnesota sales tax paid to dealer When a purchaser pays the Minnesota sales tax for the purchase of an aircraft or an interest in an aircraft to a Minnesota aircraft dealer who holds a Minnesota sales and use tax permit, the dealer shall furnish the purchaser with a statement showing that the sales tax has been paid The aircraft dealer must report and pay the sales tax to the Minnesota Department of Revenue If a dealer licensed by the Office of Aeronautics states to the Office of Aeronautics that sales tax was collected, it is not necessary for the purchaser of the aircraft to obtain a certificate of tax payment or exemption, form ST-24, from the Minnesota Department of Revenue The purchaser or the purchaser's agent, for example the licensed dealer, should present the statement, which the purchaser or purchaser's agent received from the aircraft dealer, directly to the Department of Transportation, Office of Aeronautics, in order to license or register the aircraft

B No Minnesota sales tax paid to seller When the purchaser does not pay a Minnesota sales tax to the seller on the purchase of an aircraft or an interest in an aircraft, the purchaser must obtain a certificate of tax payment or exemption, form ST-24, from the Minnesota Department of Revenue If a use tax is due, the purchaser must complete a consumer's use tax return, form UT-1, and file it along with the purchaser's tax payment when applying for the certificate form ST-24 If the purchaser claims exemption from the tax, the purchaser must furnish proof showing that the purchaser is entitled to the exemption when applying for the certificate Illustrative exemptions include purchases by organizations that are organized and operated exclusively for charitable, religious, or educational purposes, purchases of aircraft outside Minnesota by a nonresident and later brought into Minnesota for use, and aircraft purchased for resale or lease

Subp 3 **Registration of aircraft by dealers who are licensed in accordance with Minnesota Statutes, section 360.63.** When a licensed dealer purchases an aircraft for resale, no certificate of tax payment or exemption is required When a licensed dealer puts an aircraft to commercial use, the dealer is required to pay a use tax on the dealer's purchase price of the aircraft unless the dealer makes application to the commissioner of revenue for an aircraft commercial use permit, on form ST-22, and pays a \$20 fee (see Minnesota Statutes, section 360 654). By obtaining an aircraft commercial use permit from the commissioner, a licensed dealer may purchase an aircraft for resale and put it to commercial use for up to one year without paying a sales or use tax on the dealer's purchase. While the aircraft commercial use permit is in effect, use tax is imposed on the fair market value of the commercial use When the dealer sells the aircraft, the dealer is required to collect a sales tax If the dealer keeps the aircraft for more than one year after purchase or makes personal use of the aircraft, a use tax is also due on the purchase price If the sole use by the dealer of the aircraft that is exempt from use tax is leasing the aircraft while holding it for sale, sales tax is due on the taxable rent and lease payments

Subp 4 **Registration by dealers who are not licensed in accordance with Minnesota Statutes, section 360.63.** A dealer who is not licensed in accordance with Minnesota Statutes, section 360 63, is required to file form ST-24, which indicates the aircraft was purchased for resale or lease by the holder of a Minnesota sales and use tax permit The dealer is further required to provide evidence that the dealer conducts business regularly selling or

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leasing aircraft. However, if the dealer purchases an aircraft or puts the aircraft to personal or commercial use, the dealer is required to file form ST-24 and form UT-1 and to pay the use tax on the purchase price.

Subp 5. Registration of aircraft by lessor or lessee. When a lessor registers an aircraft in the lessor's name, the lessor must furnish his or her sales and use tax account number when applying for the certificate of tax payment or exemption, form ST-24, and claim exemption for resale. Leases are defined as resales. The lessor must collect and remit sales tax on lease payments the lessor receives. The lessor must report all lease payments received as gross sales and collect and remit tax on all sales, net of exempt sales. An example of an exempt sale is the lease of an aircraft to a fixed base operator who rents the aircraft to others at retail.

When a lessee registers an aircraft in the lessee's name, and the lessor does not hold a Minnesota sales and use tax permit, the lessor is required to obtain a permit. If the lessee is leasing the same aircraft to others, the lessee must also obtain a permit, file returns, and pay the sales and use tax in the same manner as all other Minnesota permit holders.

Subp 6 [Repealed, 18 SR 1891]

Statutory Authority: *MS s 270 06*

History: *18 SR 1891*

8130.9996 [Repealed, 18 SR 1891]