

8130.3500 MOTOR CARRIERS IN INTERSTATE COMMERCE.

Subpart 1. **Direct payment and notice.** Under Minnesota Statutes, section 297A.90, persons described in subpart 2 engaged in interstate for-hire transportation of property or passengers by motor vehicle may elect to pay sales and use taxes directly to the commissioner of revenue on mobile transportation equipment and parts and accessories attached or to be attached to the equipment. Electing carriers shall give notice of the election to the commissioner of revenue and shall pay taxes due in accordance with this part. The notice must be in the form of a letter setting forth the electing carrier's name, address, sales and use tax account number, and accompanied by the carrier's certificate or permit issued by, or registration with, the United States Department of Transportation, the transportation regulation board, or other evidence such as the file number issued by the Minnesota Department of Transportation to verify that it is a carrier engaged in transporting tangible personal property or passengers in interstate commerce.

Subp. 2. **Persons included.** Persons referred to in subpart 1 include:

A. persons possessing a certificate or permit or having completed a registration process that authorizes for-hire transportation of property or passengers from the United States Department of Transportation, the transportation regulation board, or the Minnesota Department of Transportation;

B. persons transporting commodities defined as exempt in for-hire transportation in interstate commerce;

C. persons who, pursuant to contracts with persons described in items A or B, transport tangible personal property or passengers in interstate commerce; and

D. persons who in the course of their business are transporting solely their own goods in interstate commerce.

Subp. 3. **Motor carrier direct pay authorization.** A motor carrier direct pay authorization issued to qualified electing carriers by the commissioner of revenue is effective as of the date shown on the authorization.

Subp. 4. **Governing provisions.** Carriers that elect to pay the tax under the provisions of Minnesota Statutes, section 297A.90, are governed by the following:

A. The carrier must hold or must have applied for a Minnesota sales and use tax permit. Application for such a permit must be made at the same time as the carrier's notice of election if none has previously been applied for.

B. Sales and use taxes due on the purchases and leases of tangible personal property other than mobile transportation equipment and parts and accessories attached or to be attached shall be paid directly to retailers authorized to collect the Minnesota tax at

the same time and in the same manner as though no election had been made. Such property may not be purchased or leased exempt under a motor carrier direct pay authorization.

C. Mobile transportation equipment intended for use both within and without Minnesota and parts and accessories attached or to be attached may be purchased or leased tax free by presenting a copy of motor carrier direct pay authorization to the seller.

(1) Mobile transportation equipment includes trucks, tractors, and trailers used in interstate transportation.

(2) Parts and accessories attached or to be attached thereto includes refrigeration equipment, tires, batteries, repair parts, and any other property which is attached or affixed to such mobile transportation equipment.

(3) Not included in mobile transportation equipment and parts and accessories attached or to be attached thereto are equipment such as flashlights, flares, grease, oil, antifreeze, additives, containers used for packing and transporting customers' goods, dollies, pallets, hand trucks, forklift trucks, snowplows, local pickup and delivery vehicles, other warehouse and plant equipment, office supplies and equipment, etc.

D. Use taxes due in respect of mobile transportation equipment and parts and accessories attached or to be attached thereto shall be paid directly to the commissioner of revenue by way of a return filed on or before the 20th day of the month following the purchase or rental of such property. The return must show the sum of:

(1) the sales price of items purchased or leased other than mobile transportation equipment and parts and accessories attached or to be attached, which are subject to the use tax and upon which no sales or use tax has previously been paid; and

(2) an amount determined by multiplying the total cost of mobile transportation equipment and parts and accessories attached or to be attached purchased or leased during the month by a fraction, the numerator of which is the Minnesota mileage as reported in the current pro rata application provided for in Minnesota Statutes, section 168.187, and the denominator of which is the total mileage reported on the current pro rata registration application.

For purposes of the computation in subitem (2), the total cost of mobile transportation equipment and parts and accessories attached or to be attached shall include the sales price of all such property purchased and the total payments for lease or rental (not including interchange between carriers) of such property for use in interstate commerce within or without Minnesota, irrespective of whether such property was physically present in Minnesota. For a new carrier without a prior year's mileage, an estimated ratio may be used subject to approval by the commissioner.

E. If sales or use tax has been paid to another state on an item which is includable in the Minnesota return, a credit is allowable for such tax (limited to the Minnesota sales

and use tax rate) in the same ratio as the cost of the item is included in the Minnesota tax base.

F. Withdrawal of an election to come under the provisions of Minnesota Statutes, section 297A.90, becomes effective only upon notice of such intent to the commissioner of revenue. If such election is withdrawn, subsequent reelection is effective only upon approval of the commissioner of revenue.

G. If an interstate motor carrier does not elect to pay Minnesota sales and use tax under the provisions of Minnesota Statutes, section 297A.90, then mobile transportation equipment subject to the sales tax on motor vehicles under Minnesota Statutes, chapter 297B, is not subject to the Minnesota sales and use tax under Minnesota Statutes, chapter 297A, and a sales tax on motor vehicles, equal to the sales and use tax rate, is collected at the time such equipment is registered in Minnesota. On purchases of parts, accessories, equipment, and supplies not exempt, the carrier shall pay the sales and use tax directly to registered retailers. If the retailer is not registered, the carrier shall pay the use tax directly to the commissioner of revenue.

Statutory Authority: *MS s 14.388; 270C.06; 297A.29*

History: *L 1995 c 233 art 4 s 4; L 1995 c 248 art 4 s 4; L 2005 c 151 art 1 s 114; 31 SR 449*

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