

## CHAPTER 297A

## GENERAL SALES TAX AND DISTRIBUTION

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**297A.01 DEFINITIONS.**

*[For text of subs 1 and 2, see M.S.1990]*

Subd. 3. A "sale" and a "purchase" includes, but is not limited to, each of the following transactions:

(a) Any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter;

(b) The production, fabrication, printing, or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing;

(c) The furnishing, preparing, or serving for a consideration of food, meals, or drinks. "Sale" does not include:

(1) meals or drinks served to patients, inmates, or persons residing at hospitals, sanitariums, nursing homes, senior citizens homes, and correctional, detention, and detoxification facilities;

(2) meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies, or churches or pursuant to any program funded in whole or part through 42 USCA sections 3001 through 3045, wherever delivered, prepared or served; or

(3) meals and lunches served at public and private schools, universities, or colleges. Notwithstanding section 297A.25, subdivision 2, taxable food or meals include, but are not limited to, the following:

(i) heated food or drinks;

(ii) sandwiches prepared by the retailer;

(iii) single sales of prepackaged ice cream or ice milk novelties prepared by the retailer;

(iv) hand-prepared or dispensed ice cream or ice milk products including cones, sundaes, and snow cones;

(v) soft drinks and other beverages prepared or served by the retailer;

(vi) gum;

(vii) ice;

(viii) all food sold in vending machines;

(ix) party trays prepared by the retailers; and

(x) all meals and single servings of packaged snack food, single cans or bottles of pop, sold in restaurants and bars;

(d) The granting of the privilege of admission to places of amusement, recreational areas, or athletic events, except a world championship football game sponsored by the national football league, and the privilege of having access to and the use of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, health clubs, and spas or athletic facilities;

(e) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;

(f) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service, intrastate toll service, and interstate toll service, if that service originates from and is charged to a telephone located in this state. Telephone service includes paging services and private communication service, as defined in United States Code, title 26, section 4252(d), except for private communication service purchased by an agent acting on behalf of the state lottery. The furnishing for a consideration of access to telephone services by a hotel to its guests is a sale under this clause. Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale. The sale of natural gas to be used as a fuel in vehicles propelled by natural gas shall not be considered a sale for the purposes of this section;

(g) The furnishing for a consideration of cable television services, including charges for basic monthly service, charges for monthly premium service, and charges for any other similar television services;

(h) Notwithstanding subdivision 4, and section 297A.25, subdivision 9, the sales of horses including claiming sales and fees paid for breeding a stallion to a mare. This clause applies to sales and fees with respect to a horse to be used for racing whose birth has been recorded by the Jockey Club or the United States Trotting Association or the American Quarter Horse Association;

(i) The furnishing for a consideration of parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(j) The furnishing for a consideration of services listed in this paragraph:

(i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin-operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

(iv) services provided by detective agencies, security services, burglar, fire alarm, and armored car services not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1;

(v) pet grooming services;

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; arborist services; tree, bush, and shrub pruning, bracing, spraying, and surgery; and tree trimming for public utility lines. Services performed under a construction contract for the installation of shrubbery, plants, sod, trees, bushes, and similar items are not taxable;

(vii) solid waste collection and disposal services as described in section 297A.45;

(viii) massages, except when provided by a licensed health care facility or professional or upon written referral from a licensed health care facility or professional for treatment of illness, injury, or disease; and

(ix) the furnishing for consideration of lodging, board and care services for animals in kennels and other similar arrangements, but excluding veterinary and horse boarding services.

The services listed in this paragraph are taxable under section 297A.02 if the service is performed wholly within Minnesota or if the service is performed partly within and partly without Minnesota and the greater proportion of the service is performed in Minnesota, based on the cost of performance. In applying the provisions of this chapter, the terms "tangible personal property" and "sales at retail" include taxable services and the provision of taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable under this paragraph. Services performed by a partnership or association for another partnership or association are not taxable under this paragraph if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of this section, "affiliated group of corporations" includes those entities that would be classified as a member of an affiliated group under United States Code, title 26, section 1504, and who are eligible to file a consolidated tax return for federal income tax purposes;

(k) A "sale" and a "purchase" includes the transfer of computer software, meaning information and directions that dictate the function performed by data processing equipment. A "sale" and a "purchase" does not include the design, development, writing, translation, fabrication, lease, or transfer for a consideration of title or possession of a custom computer program; and

(l) The granting of membership in a club, association, or other organization if:

(1) the club, association, or other organization makes available for the use of its members sports and athletic facilities (without regard to whether a separate charge is assessed for use of the facilities); and

(2) use of the sports and athletic facilities is not made available to the general public on the same basis as it is made available to members.

Granting of membership includes both one-time initiation fees and periodic membership dues. Sports and athletic facilities include golf courses, tennis, racquetball, handball and squash courts, basketball and volleyball facilities, running tracks, exercise equipment, swimming pools, and other similar athletic or sports facilities. The provisions of this paragraph do not apply to camps or other recreation facilities owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, for educational and social activities for young people primarily age 18 and under.

Subd. 4. A "retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business. Property utilized by the owner only by leasing such property to others or by holding it in an effort to so lease it, and which is put to no use by the owner other than resale after such lease or effort to lease, shall be considered property purchased for resale. Master computer software programs that are purchased and used to make copies for sale or lease are considered property purchased for resale. Sales of building materials, supplies and equipment to owners, contractors, subcontractors or builders for the erection of buildings or the alteration, repair or improvement of real property are "retail sales" or "sales at retail" in whatever quantity sold and whether or not for purpose of resale in the form of real property or otherwise. A sale of carpeting, linoleum, or other similar floor covering which includes installation of the carpeting, linoleum, or other similar floor covering is a contract for the improvement of real property. A sale of shrubbery, plants, sod, trees, and similar items that includes installation of the shrubbery, plants, sod, trees, and similar items is a contract for the improvement of real property. Aircraft and parts for the repair thereof purchased by a nonprofit, incorporated flying club or association utilized solely by the corporation by leasing such aircraft to shareholders of the corporation shall be considered property purchased for resale. The leasing of the aircraft to the shareholders by the flying club or association shall be considered a sale.

Leasing of aircraft utilized by a lessee for the purpose of leasing to others, whether or not the lessee also utilizes the aircraft for flight instruction where no separate charge is made for aircraft rental or for charter service, shall be considered a purchase for resale; provided, however, that a proportionate share of the lease payment reflecting use for flight instruction or charter service is subject to tax pursuant to section 297A.14.

*[For text of subs 5 to 7, see M.S.1990]*

Subd. 8. "Sales price" means the total consideration valued in money, for a retail sale whether paid in money or otherwise, excluding therefrom any amount allowed as credit for tangible personal property taken in trade for resale, without deduction for the cost of the property sold, cost of materials used, labor or service cost, interest, or discount allowed after the sale is consummated, the cost of transportation incurred prior to the time of sale, any amount for which credit is given to the purchaser by the seller, or any other expense whatsoever. A deduction may be made for charges of up to 15 percent in lieu of tips, if the consideration for such charges is separately stated. No deduction shall be allowed for charges for services that are part of a sale. A deduction may also be made for interest, financing, or carrying charges, charges for labor or services used in installing or applying the property sold or transportation charges if the transportation occurs after the retail sale of the property only if the consideration for such charges is separately stated. There shall not be included in "sales price" cash discounts allowed and taken on sales or the amount refunded either in cash or in credit for property returned by purchasers.

*[For text of subs 9 to 18, see M.S.1990]*

Subd. 19. **Aquaculture production equipment.** "Aquaculture production equipment" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in aquaculture production. Aquaculture production equipment includes: augers and blowers, automatic feed systems, manual feeding equipment, shockers, gill nets, trap nets, seines, box traps, round nets and traps, net pens, dip nets, net washers, floating net supports, floating access walkways, net supports and walkways, growing tanks, holding tanks, troughs, raceways, transport tanks, egg taking equipment, egg hatcheries, egg incubators, egg baskets and troughs, egg graders, egg counting equipment, fish counting equipment, fish graders, fish pumps and loaders, fish elevators, air blowers, air compressors, oxygen generators, oxygen regulators, diffusers and injectors, air supply equipment, oxygenation columns, water coolers and heaters, heat exchangers, water filter systems, water purification systems, waste collection equipment, feed mills, portable scales, feed grinders, feed mixers, feed carts and trucks, power feed wagons, fertilizer spreaders, fertilizer tanks, forage collection equipment, land levelers, loaders, post hole diggers, disc, harrow, plow, and water diversion devices. Repair or replacement parts for aquaculture production equipment shall not be included in the definition of aquaculture production equipment.

**History:** 1991 c 291 art 8 s 7-10; 1991 c 309 s 14

## 297A.02 IMPOSITION OF TAX.

*[For text of subd 1, see M.S.1990]*

Subd. 2. **Machinery and equipment.** Notwithstanding the provisions of subdivision 1, the rate of the excise tax imposed upon sales of special tooling is four percent and upon sales of farm machinery and aquaculture production equipment is two percent.

*[For text of subs 3 and 4, see M.S.1990]*

**History:** 1991 c 291 art 8 s 11; 1991 c 309 s 15

## 297A.021 LOCAL OPTION SALES TAX.

Subdivision 1. **Authorization.** (a) Notwithstanding section 477A.016, a local sales and use tax may be imposed at a rate of 0.5 percent on all sales at retail in the county.

(b) The rate imposed under paragraph (a) applies to the purchase or acquisition of motor vehicles and is included in the rate imposed by section 297B.02.

**Subd. 2. Imposition.** (a) A county board may impose the tax by adopting the authorizing resolution by July 1 and notifying the commissioner in writing no later than July 15. The tax applies to sales made after the next January 1.

(b) The action of the county board to impose the tax or the failure of the county board to impose the tax may be reversed by action of cities and towns in the county. The governing bodies of cities and the boards of supervisors of towns containing a majority of the county's population may reverse the imposition or failure to impose the tax by adopting resolutions imposing or reversing the imposition of the tax by August 1. Copies of the resolutions must be filed with the county auditor by August 1 and the county auditor shall promptly notify the commissioner of the action.

**Subd. 3. Rescission.** (a) A tax imposed under subdivision 2 continues in effect until rescinded. The county board may, by resolution, rescind the tax. The governing bodies of the cities and the boards of supervisors of towns containing a majority of the county's population may, by resolution, reverse the county board's rescission action or may act to rescind the tax if the county board does not do so. Copies of the city and town board resolutions must be filed with the county auditor.

(b) Effective in 1993, the county shall hold an election to rescind the local option sales tax, if a rescission petition is filed with the county. A rescission petition must be signed by ten percent of the voters, determined on the basis of the last general election, in each city and each town in the county. The commissioner of revenue shall prepare the form of the question to be presented at the election. If a majority of the voters voting on the question approve, the tax is rescinded.

(c) The county auditor must promptly notify the commissioner of a rescission of the tax. If the tax is rescinded, the tax remains in effect through the next June 30 after the first August 1 after the notice of the rescission is provided to the commissioner.

**Subd. 4. Publication in State Register.** The commissioner of revenue shall publish in the State Register by November 1 of each year a list of the counties imposing the local option sales tax under this section.

**Subd. 5. Administration and collection.** The taxes imposed under this section shall be collected and administered by the commissioner in the manner provided by this chapter and chapters 289A and 297B.

**Subd. 6. Definitions.** (a) "City" includes both home rule charter and statutory cities.

(b) "Population" means population as defined in section 477A.011.

**History:** 1991 c 291 art 2 s 6

### 297A.135 RENTAL MOTOR VEHICLE TAX.

**Subdivision 1. Tax imposed.** A tax of \$7.50 is imposed on the lease or rental in this state on a daily or weekly basis of a passenger automobile as defined in section 168.011, subdivision 7, a van as defined in section 168.011, subdivision 28, or a pickup truck as defined in section 168.011, subdivision 29. The tax does not apply to the lease or rental of a hearse or limousine used in connection with a burial or funeral service. The tax does not apply if the term of the lease or rental is longer than 28 days. It applies whether or not the vehicle is licensed in the state.

**Subd. 2. Sales and use tax.** The tax imposed in subdivision 1 is not included in the sales price for purposes of determining the sales and use tax imposed in this chapter or any sales and use tax imposed on the transaction under a special law.

**Subd. 3. Administration.** The tax imposed in subdivision 1 must be reported and paid to the commissioner of revenue with the taxes imposed in this chapter. It is subject to the same interest, penalty, and other provisions provided for sales and use taxes under chapter 289A and this chapter. The commissioner has the same powers to assess and collect the tax that are given the commissioner in chapters 270 and 289A and this chapter to assess and collect sales and use tax.

**History:** 1991 c 291 art 8 s 12

**297A.14 USE TAX.**

*[For text of subds 1 and 2, see M.S.1990]*

Subd. 3. **County use tax.** For each county in which a sales tax is imposed under section 297A.021, a use tax is imposed. This tax applies in the same manner and to the same items as the tax under subdivision 1, except that the county is substituted for the state of Minnesota and section 297A.021 is substituted for section 297A.02.

**History:** 1991 c 291 art 2 s 7

**297A.21 REGISTRATION TO COLLECT USE TAX.**

Subdivision 1. **Retailer maintaining place of business in Minnesota.** "Retailer maintaining a place of business in this state", or any like term, shall mean any retailer having or maintaining within this state, directly or by a subsidiary, an office, place of distribution, sales or sample room or place, warehouse, or other place of business, or having any representative, agent, salesperson, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary, for any purpose, including the repairing, selling, delivering, installing, or soliciting of orders for the retailer's goods or services, or the leasing of tangible personal property located in this state, whether the place of business or agent, representative, salesperson, canvasser, or solicitor is located in the state permanently or temporarily, or whether or not the retailer or subsidiary is authorized to do business within this state.

*[For text of subds 2 and 3, see M.S.1990]*

Subd. 4. **Required registration by out-of-state retailer not maintaining place of business in Minnesota.** (a) A retailer making retail sales from outside this state to a destination within this state and not maintaining a place of business in this state shall file an application for a permit pursuant to section 297A.04 and shall collect and remit the use tax as provided in section 297A.16 if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state by:

(1) the distribution, by mail or otherwise, without regard to the state from which such distribution originated or in which the materials were prepared, of catalogs, periodicals, advertising flyers, or other written solicitations of business to customers in this state;

(2) display of advertisements on billboards or other outdoor advertising in this state;

(3) advertisements in newspapers published in this state;

(4) advertisements in trade journals or other periodicals the circulation of which is primarily within this state;

(5) advertisements in a Minnesota edition of a national or regional publication or a limited regional edition in which this state is included of a broader regional or national publication which are not placed in other geographically defined editions of the same issue of the same publication;

(6) advertisements in regional or national publications in an edition which is not by its contents geographically targeted to Minnesota but which is sold over the counter in Minnesota or by subscription to Minnesota residents;

(7) advertisements broadcast on a radio or television station located in Minnesota;

or

(8) any other solicitation by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

(b) The location within or without this state of vendors independent of the retailer which provide products or services to the retailer in connection with its solicitation of customers within this state, including such products and services as creation of copy, printing, distribution, and recording, is not to be taken into account in the determination of whether the retailer is required to collect use tax. Paragraph (a) shall be con-

strued without regard to the state from which distribution of the materials originated or in which they were prepared.

(c) A retailer not maintaining a place of business in this state shall be presumed, subject to rebuttal, to be engaged in regular solicitation within this state if it engages in any of the activities in paragraph (a) and (1) makes 100 or more retail sales from outside this state to destinations within this state during a period of 12 consecutive months, or (2) makes ten or more retail sales totaling more than \$100,000 from outside this state to destinations within this state during a period of 12 consecutive months.

(d) A retailer not maintaining a place of business in this state shall not be required to collect use tax imposed by any local governmental unit or subdivision of this state and this section does not subject such a retailer to any regulation of any local unit of government or subdivision of this state.

*[For text of subds 5 and 6, see M.S.1990]*

**History:** 1991 c 291 art 8 s 13,14

### 297A.211 COMMON CARRIERS AS RETAILERS.

*[For text of subd 1, see M.S.1990]*

Subd. 2. (a) Such persons, when properly registered as retailers, may make purchases in this state, or import property into this state, without payment of the sales or use taxes imposed by this chapter at the time of purchase or importation, provided that such purchases or importations come within the provisions of this section and are made in strict compliance with the rules of the commissioner.

(b) Any person described in subdivision 1 may elect to pay directly to the commissioner any sales or use tax that may be due under this chapter for the acquisition of mobile transportation equipment and parts and accessories attached or to be attached to such equipment registered under section 168.187.

(c) The total cost of such equipment and parts and accessories attached or to be attached to such equipment shall be multiplied by a fraction, the numerator of which is the Minnesota mileage as reported on the current pro rata application provided for in section 168.187 and the denominator is the total mileage reported on the current pro rata registration application. The amount so determined shall be multiplied by the tax rate to disclose the tax due.

In computing the tax under this section "sales price" does not include the amount of any tax, except any manufacturer's or importer's excise tax, imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer.

(d) Each such retailer shall make a return and remit to the commissioner the tax due for the preceding calendar month in accordance with the provisions of sections 289A.11 and 289A.20, subdivision 4.

Subd. 3. A person who pays the tax to the seller under section 297A.03 or pays the tax to the motor vehicle registrar as required by section 297B.02 and who meets the requirements of this section at the time of the sale, except that the person has not registered as a retailer under this section at the time of the sale, may register as a retailer, make a return, and file for a refund of the difference between the tax calculated under section 297A.02, 297A.021, 297A.14, or 297B.02 and the tax calculated under subdivision 2.

*[For text of subd 4, see M.S.1990]*

**History:** 1991 c 291 art 2 s 8; art 8 s 15

### 297A.24 TAXES IN OTHER STATES OR OTHER COUNTIES.

Subdivision 1. **State tax.** If any article of tangible personal property or any item enumerated in section 297A.14 has already been subjected to a tax by any other state

in respect of its sale, storage, use or other consumption in an amount less than the tax imposed by sections 297A.01 to 297A.44, then as to the person who paid the tax in such other state, the provisions of section 297A.14 shall apply only at a rate measured by the difference between the sum of the rates imposed under sections 297A.02 and 297A.021 and the rate by which the previous tax was computed. If such tax imposed in such other state was equal to or greater than the tax imposed in this state, then no tax shall be due from such person under section 297A.14.

Subd. 2. **County tax.** If an item was subject to tax in one county under section 297A.021 or 297A.14, subdivision 3, and is used, stored, or consumed in another county imposing the tax under section 297A.021, no tax shall apply under section 297A.14, subdivision 3.

**History:** 1991 c 291 art 2 s 9

### 297A.25 EXEMPTIONS.

Subdivision 1. **Scope.** The items contained in this section are specifically exempted from the taxes imposed by sections 297A.01 to 297A.44.

*[For text of subs 2 to 7, see M.S.1990]*

Subd. 8. **Clothing.** The gross receipts from the sale of clothing and wearing apparel are exempt, except the following:

(1) all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semiprecious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with precious metals or imitations thereof; watches; clocks; cases and movements for watches and clocks; gold, gold-plated, silver, or sterling flatware or hollowware and silver-plated hollowware; opera glasses; lorgnettes; marine glasses; field glasses and binoculars;

(2) articles made of fur on the hide or pelt, and articles of which such fur is the component material or chief value, but only if such value is more than three times the value of the next most valuable component material;

(3) perfume, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aromatic cachous and toilet powders. The tax imposed by this chapter shall not apply to lotion, oil, powder, or other articles intended to be used or applied only in the case of babies;

(4) trunks, valises, traveling bags, suitcases, satchels, overnight bags, hat boxes for use by travelers, beach bags, bathing suit bags, brief cases made of leather or imitation leather, salespeople's sample and display cases, purses, handbags, pocketbooks, wallets, billfolds, card, pass, and key cases and toilet cases.

Subd. 9. **Materials consumed in production.** The gross receipts from the sale of and the storage, use, or consumption of all materials, including chemicals, fuels, petroleum products, lubricants, packaging materials, including returnable containers used in packaging food and beverage products, feeds, seeds, fertilizers, electricity, gas and steam, used or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail, whether or not the item so used becomes an ingredient or constituent part of the property produced are exempt. Seeds, trees, fertilizers, and herbicides purchased for use by farmers in the Conservation Reserve Program under United States Code, title 16, section 590h, the Integrated Farm Management Program under section 1627 of Public Law Number 101-624, the Wheat and Feed Grain Programs under sections 301 to 305 and 401 to 405 of Public Law Number 101-624, and the conservation reserve program under sections 103F.505 to 103F.531, are included in this exemption. Chemicals used for cleaning food processing machinery and equipment are included in this exemption. Such production shall include, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products whether vegetable or animal, commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering,



generating electricity and the production of road building materials. Such production shall not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures, used in such production and fuel, electricity, gas or steam used for space heating or lighting, are not included within this exemption; however, accessory tools, equipment and other short lived items, which are separate detachable units used in producing a direct effect upon the product, where such items have an ordinary useful life of less than 12 months, are included within the exemption provided herein. Electricity used to make snow for outdoor use for ski hills, ski slopes, or ski trails is included in this exemption.

**Subd. 10. Publications; publication materials.** The gross receipts from the sale of and storage, use or other consumption in Minnesota of tangible personal property which is used or consumed in producing any publication regularly issued at average intervals not exceeding three months, and any such publication are exempt. For purposes of this subdivision, "publication" as used herein shall include, without limiting the foregoing, a qualified newspaper as defined by section 331A.02, and any supplements or enclosures with or part of said newspaper; and the gross receipts of any advertising contained therein or therewith shall be exempt. For this purpose, advertising in any such publication shall be deemed to be a service and not tangible personal property, and persons or their agents who publish or sell such newspapers shall be deemed to be engaging in a service with respect to gross receipts realized from such newsgathering or publishing activities by them, including the sale of advertising. The term "publication" shall not include magazines and periodicals sold over the counter. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures used in such publication and fuel, electricity, gas or steam used for space heating or lighting, are not exempt.

*[For text of subd 11, see M.S.1990]*

**Subd. 12. Occasional sales.** (a) The gross receipts from the isolated or occasional sale of tangible personal property in Minnesota not made in the normal course of business of selling that kind of property, and the storage, use, or consumption of property acquired as a result of such a sale are exempt.

(b) This exemption does not apply to sales of tangible personal property primarily used in a trade or business unless (1) the sale occurs in a transaction subject to or described in section 118, 331, 332, 336, 337, 338, 351, 355, 368, 721, 731, 1031, or 1033 of the Internal Revenue Code of 1986, as amended through December 31, 1990, or (2) the sale is between members of an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986, as amended through December 31, 1990.

*[For text of subs 14 to 45, see M.S.1990]*

**Subd. 46. Sacramental wine.** The gross receipts from the sale of wine for sacramental purposes in religious ceremonies, as described in section 340A.316, if the wine is purchased from a nonprofit religious organization meeting the requirements of subdivision 16 or from the holder of a sacramental wine license as provided in section 340A.316 are exempt.

**History:** 1991 c 199 art 1 s 64; 1991 c 291 art 8 s 16-20

## **297A.255 AIRCRAFT; PAYMENT OF TAXES PRIOR TO REGISTRATION AND LICENSING.**

*[For text of subs 1 to 4, see M.S.1990]*

**Subd. 5.** There is specifically exempted from the provisions of this chapter the purchase or use of aircraft previously registered in the state of Minnesota by a corporation or partnership when the transfer constitutes a transfer within the meaning of section 351 or 721 of the Internal Revenue Code of 1986, as amended through December 31, 1989.

**History:** 1991 c 291 art 8 s 21

**297A.257** [Repealed, 1991 c 291 art 8 s 30]

**297A.2571 AIRCRAFT FACILITY MATERIALS; EXEMPTIONS.**

Materials, equipment, and supplies used or consumed in constructing, or incorporated into the construction of, a heavy maintenance facility for aircraft that is to be owned by the state of Minnesota or one of its political subdivisions and leased by an airline company, or an aircraft engine repair facility described in section 116R.02, subdivision 6, are exempt from the taxes imposed under this chapter and from any sales and use tax imposed by a local unit of government, notwithstanding any ordinance or city charter provision. Except for equipment owned or leased by a contractor, all machinery, equipment, and tools necessary to the construction and equipping of that facility in order to provide those services is also exempt.

**History:** 1991 c 350 art 1 s 19

**297A.259 LOTTERY TICKETS; IN LIEU TAX.**

Sales of state lottery tickets are exempt from the tax imposed under section 297A.02. The state lottery division in the department of gaming must on or before the 20th day of each month transmit to the commissioner of revenue an amount equal to the gross receipts from the sale of lottery tickets for the previous month multiplied by the combined tax rate under sections 297A.02, subdivision 1, and 297A.021, subdivision 1. The resulting payment is in lieu of the sales tax that otherwise would be imposed by this chapter. The commissioner shall deposit the money transmitted as provided by section 297A.44 and the money must be treated as other proceeds of the sales tax. Gross receipts for purposes of this section mean the proceeds of the sale of tickets before deduction of a commission or other compensation paid to the vendor or retailer for selling tickets.

**History:** 1991 c 291 art 2 s 10

**297A.39 PENALTY.**

Subd. 9. [Repealed, 1991 c 291 art 16 s 12]

**297A.44 DEPOSIT OF REVENUES; COSTS OF ADMINISTRATION; APPROPRIATION.**

Subdivision 1. (a) Except as provided in paragraphs (b), (c), and (d), and subdivision 4, all revenues, including interest and penalties, derived from the excise and use taxes imposed by sections 297A.01 to 297A.44 shall be deposited by the commissioner in the state treasury and credited to the general fund.

(b) All excise and use taxes derived from sales and use of property and services purchased for the construction and operation of an agricultural resource project, from and after the date on which a conditional commitment for a loan guaranty for the project is made pursuant to section 41A.04, subdivision 3, shall be deposited in the Minnesota agricultural and economic account in the special revenue fund. The commissioner of finance shall certify to the commissioner the date on which the project received the conditional commitment. The amount deposited in the loan guaranty account shall be reduced by any refunds and by the costs incurred by the department of revenue to administer and enforce the assessment and collection of the taxes.

(c) All revenues, including interest and penalties, derived from the excise and use taxes imposed on sales and purchases included in section 297A.01, subdivision 3, paragraphs (d) and (l), clauses (1) and (2), must be deposited by the commissioner in the state treasury, and credited as follows:

(1) first to the general obligation special tax bond debt service account in each fiscal year the amount required by section 16A.661, subdivision 3, paragraph (b); and

(2) after the requirements of clause (1) have been met, the balance must be credited to the general fund.

(d) The revenues, including interest and penalties, derived from the taxes imposed

on solid waste collection services as described in section 297A.45, except for the tax imposed under section 297A.021, shall be deposited by the commissioner in the state treasury and credited to the general fund to be used for funding solid waste reduction and recycling programs.

**Subd. 4. Local option tax.** (a) The commissioner shall deposit all revenues, including interest and penalties, derived from the local option excise taxes imposed under sections 297A.021 and 297A.14 in the local government trust fund.

(b) In addition, the commissioner shall deposit revenues derived from imposing a rate of 1.5 percent on all taxable sales, including interest and penalties, under this chapter in the local government trust fund.

**History:** 1991 c 291 art 2 s 11,12

#### **297A.45 SOLID WASTE COLLECTION AND DISPOSAL SERVICES.**

**Subdivision 1. Definitions.** The definitions in sections 115A.03 and 297A.01 apply to this section.

**Subd. 2. Application.** The taxes imposed by sections 297A.02 and 297A.021 apply to all public and private mixed municipal solid waste collection and disposal services. Notwithstanding section 297A.25, subdivision 11, a political subdivision that purchases collection or disposal services on behalf of its citizens shall pay the taxes. If a political subdivision provides collection or disposal services to its residents at a cost in excess of the total direct charge to the residents for the service, the political subdivision shall pay the taxes based on its cost of providing the service in excess of the direct charges. A person who transports mixed municipal solid waste generated by that person or by another person without compensation shall pay the taxes at the disposal or resource recovery facility based on the disposal charge or tipping fee.

**Subd. 3. Exemptions.** (a) The cost of a service or the portion of a service to collect and manage recyclable materials separated from mixed municipal solid waste by the waste generator is exempt from the taxes imposed in sections 297A.02 and 297A.021.

(b) The amount of a surcharge or fee imposed under section 115A.919, 115A.921, 115A.923, or 473.843 is exempt from the taxes imposed in sections 297A.02 and 297A.021.

(c) Waste from a recycling facility that separates or processes recyclable materials and that reduces the volume of the waste by at least 85 percent is exempt from the taxes imposed in sections 297A.02 and 297A.021. To qualify for the exemption under this paragraph, the waste exempted must be collected and disposed of separately from other solid waste.

**Subd. 4. City sales tax may not be imposed.** Notwithstanding any other law or charter provision to the contrary, a home rule charter or statutory city that imposes a general sales tax may not impose the sales tax on solid waste disposal and collection services that are subject to the tax under this section. This subdivision does not apply to a tax imposed under section 297A.021.

**History:** 1991 c 291 art 2 s 13