

CHAPTER 297A

GENERAL SALES TAX AND DISTRIBUTION

297A.01	Definitions.	297A.212	Repealed.
297A.02	Imposition of tax.	297A.25	Exemptions.
297A.135	Rental motor vehicle tax.	297A.38	Repealed.
297A.136	Repealed.	297A.45	Mixed municipal solid waste management services.
297A.15	Collection and payment; penalty.		

297A.01 DEFINITIONS.

[For text of subs 1 and 2, see M.S.1994]

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 service, charges for premium service, and any other charges for any other pay-per-view, monthly, or similar television services;

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

(i) *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) detective services, 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; tree, bush, and shrub pruning, bracing, spraying, and surgery; tree, bush, shrub and stump removal; 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) mixed municipal solid waste management 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;

(j) 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

(k) 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, 1992, for educational and social activities for young people primarily age 18 and under.

[For text of subs 4 to 20, see M.S.1994]

Subd. 21. Mixed municipal solid waste management services. "Mixed municipal solid waste management services" or "waste management services" means services relating to the management of mixed municipal solid waste from collection to disposal, including transportation and management at waste facilities. The definitions in section 115A.03 apply to this subdivision.

History: 1995 c 264 art 2 s 22,23; art 17 s 2

297A.02 IMPOSITION OF TAX.

[For text of subs 1 to 3, see M.S.1994]

Subd. 4. Manufactured housing and park trailers. Notwithstanding the provisions of subdivision 1, for sales at retail of new manufactured homes used for residential purposes and new or used park trailers, as defined in section 168.011, subdivision 8, paragraph (b), the excise tax is imposed upon 65 percent of the sales price of the home or park trailer.

[For text of subd 5, see M.S.1994]

History: 1995 c 264 art 2 s 24

NOTE: The amendments to subdivision 4 by Laws 1995, chapter 264, article 2, section 24, are effective for sales made after December 31, 1996. See Laws 1995, chapter 264, article 2, section 44.

297A.135 RENTAL MOTOR VEHICLE TAX.

Subdivision 1. Tax imposed. A tax is imposed on the lease or rental in this state for not more than 28 days 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. A van designed or adapted primarily for transporting property rather than passengers is exempt from the tax imposed under this section. The tax is imposed at the rate of 6.2 percent of the sales price as defined for the purpose of imposing the sales and use tax in this chapter. The tax does not apply to the lease or rental of a hearse or limousine used in connection with a burial or funeral service. It applies whether or not the vehicle is licensed in the state.

[For text of subs 2 to 4, see M.S.1994]

History: 1995 c 264 art 2 s 25

297A.136 [Repealed, 1995 c 264 art 2 s 43]

297A.15 COLLECTION AND PAYMENT; PENALTY.

[For text of subs 1 to 6, see M.S.1994]

Subd. 7. Refund; appropriation; adult and juvenile correctional facilities. (a) If construction materials and supplies described in paragraph (b) are purchased by a contractor, subcontractor, or builder as part of a lump-sum contract or similar type of contract with a price covering both labor and materials for use in the project, a refund equal to 20 percent of the taxes paid by the contractor, subcontractor, or builder must be paid to the governmental subdivision. An application must be submitted by the governmental subdivision and must include sufficient information to permit the commissioner to verify the sales taxes paid for the project. The contractor, subcontractor, or builder must furnish to the governmental subdivision a statement of the cost of the construction materials and supplies and the sales taxes paid on them. The amount required to make the refunds is annually appropriated to the commissioner. Interest must be paid on the refund at the rate in section 270.76 from 60 days after the date the refund claim is filed with the commissioner.

(b) Construction materials and supplies qualify for the refund under this section if: (1) the materials and supplies are for use in a project to construct or improve an adult or juvenile correctional facility in a county, home rule charter city, or statutory city, and (2) the project is mandated by state or federal law, rule, or regulation. The refund applies regardless of whether the materials and supplies are purchased by the city or county, or by a contractor, subcontractor, or builder under a contract with the city or county.

History: 1995 c 264 art 2 s 26

297A.212 [Repealed, 1995 c 264 art 12 s 5]

297A.25 EXEMPTIONS.

[For text of subs 1 to 8, see M.S.1994]

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. Sales to a veterinarian of materials used or consumed in the care, medication, and treatment of agricultural production animals and horses used in agricultural production are exempt under this subdivision. Chemicals used for cleaning food processing machinery and equipment are included in this exemption. Materials, including chemicals, fuels, and electricity purchased by persons engaged in agricultural or industrial production to treat waste generated as a result of the production process 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.

[For text of subd 10, see M.S.1994]

Subd. 11. Sales to government. The gross receipts from all sales, including sales in which title is retained by a seller or a vendor or is assigned to a third party under an installment sale or lease purchase agreement under section 465.71, of tangible personal property to, and all storage, use or consumption of such property by, the United States and its agencies and instrumentalities, the University of Minnesota, state universities, community colleges, technical colleges, state academies, the Minnesota center for arts education, and school districts are exempt.

As used in this subdivision, "school districts" means public school entities and districts of every kind and nature organized under the laws of the state of Minnesota, including, without limitation, school districts, intermediate school districts, education districts, educational cooperative service units, secondary vocational cooperative centers, special education cooperatives, joint purchasing cooperatives, telecommunication cooperatives, regional management information centers, technical colleges, joint vocational technical districts, and any instrumentality of a school district, as defined in section 471.59.

Sales exempted by this subdivision include sales under section 297A.01, subdivision 3, paragraph (f), but do not include sales under section 297A.01, subdivision 3, paragraph (j), clause (vii).

Sales to hospitals and nursing homes owned and operated by political subdivisions of the state are exempt under this subdivision.

The sales to and exclusively for the use of libraries of books, periodicals, audio-visual materials and equipment, photocopiers for use by the public, and all cataloguing and circulation equipment, and cataloguing and circulation software for library use are exempt under this subdivision. For purposes of this paragraph "libraries" means libraries as defined in section 134.001, county law libraries under chapter 134A, the state library under section 480.09, and the legislative reference library.

Sales of supplies and equipment used in the operation of an ambulance service owned and operated by a political subdivision of the state are exempt under this subdivision provided that the supplies and equipment are used in the course of providing medical care. Sales to a political subdivision of repair and replacement parts for emergency rescue vehicles and fire trucks and apparatus are exempt under this subdivision.

Sales to a political subdivision of machinery and equipment, except for motor vehicles, used directly for mixed municipal solid waste management services at a solid waste disposal facility as defined in section 115A.03, subdivision 10, are exempt under this subdivision.

Sales to political subdivisions of chore and homemaking services to be provided to elderly or disabled individuals are exempt.

Sales of telephone services to the department of administration that are used to provide telecommunications services through the intertechnologies revolving fund are exempt under this subdivision.

This exemption shall not apply to building, construction or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility. This exemption does not apply to construction materials purchased by tax exempt entities or their contractors to be used in constructing buildings or facilities which will not be used principally by the tax exempt entities.

This exemption does not apply to the leasing of a motor vehicle as defined in section 297B.01, subdivision 5, except for leases entered into by the United States or its agencies or instrumentalities.

The tax imposed on sales to political subdivisions of the state under this section applies to all political subdivisions other than those explicitly exempted under this subdivision, not-

withstanding section 115A.69, subdivision 6, 116A.25, 360.035, 458A.09, 458A.30, 458D.23, 469.101, subdivision 2, 469.127, 473.394, 473.448, 473.545, or 473.608 or any other law to the contrary enacted before 1992.

Sales exempted by this subdivision include sales made to other states or political subdivisions of other states, if the sale would be exempt from taxation if it occurred in that state, but do not include sales under section 297A.01, subdivision 3, paragraphs (c) and (e).

[For text of subs 12 to 20, see M.S.1994]

Subd. 21. Textbooks. The gross receipts from the sale of textbooks which are prescribed for use in conjunction with a course of study in a public or private school, college, university and business or trade school to students who are regularly enrolled at such institutions are exempt. For purposes of this subdivision a "public school" is defined as one that furnishes course of study, enrollment and staff that meets standards of the state board of education and a "private school" is one which under the standards of the state board of education, provides an education substantially equivalent to that furnished at a public school. "Business and trade schools" shall mean such schools licensed pursuant to section 141.25.

[For text of subs 22 to 49, see M.S.1994]

Subd. 50. [Repealed, 1995 c 186 s 60]

[For text of subs 51 to 56, see M.S.1994]

Subd. 57. Horses. The gross receipts from the sale of horses, including racehorses, and all sales to persons who raise or board horses, of all materials, including feed and bedding, used or consumed in the breeding, raising, and keeping of horses, are exempt. Machinery, equipment, implements, tools, appliances, furniture, and fixtures, used in the breeding, raising, and keeping of horses, are not included within this exemption.

[For text of subd 58, see M.S.1994]

Subd. 59. Farm machinery. From July 1, 1994, until June 30, 1996, the gross receipts from the sale of used farm machinery are exempt.

Subd. 60. Construction materials; state convention center. Construction materials and supplies are exempt from the tax imposed under this chapter, regardless of whether purchased by the owner or a contractor, subcontractor, or builder, if:

(1) the materials and supplies are used or consumed in constructing improvements to a state convention center located in a city located outside of the metropolitan area as defined in section 473.121, subdivision 2, and the center is governed by an 11-person board of which four are appointed by the governor; and

(2) the improvements are financed in whole or in part by nonstate resources including, but not limited to, revenue or general obligations issued by the state convention center board of the city in which the center is located.

The exemption provided by this subdivision applies to construction materials and supplies purchased prior to December 31, 1998.

Subd. 61. Construction materials for indoor ice arenas. The gross receipts from the sale of construction materials and supplies are exempt if:

(1) the materials and supplies are to be used in constructing an indoor ice arena intended to be used predominantly for youth athletic activities; and

(2) a school district is a party to a joint powers agreement that governs the ownership, operation, and maintenance of the facility.

This exemption applies regardless of whether the purchases are made by the owner of the facility or a contractor.

History: 1995 c 186 s 59; 1995 c 264 art 2 s 27-32

NOTE: Subdivision 61, as added by Laws 1995, chapter 264, article 2, section 32, is effective for sales made after June 30, 1995, and before July 1, 1996. See Laws 1995, chapter 264, article 2, section 44.

297A.38 [Repealed, 1995 c 264 art 13 s 23]

297A.45 MIXED MUNICIPAL SOLID WASTE MANAGEMENT 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 management services.

Notwithstanding section 297A.25, subdivision 11, a political subdivision that purchases waste management services on behalf of its citizens shall pay the taxes.

If a political subdivision provides a waste management service 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 waste 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 managed separately from other solid waste.

(d) The following costs are exempt from the taxes imposed in sections 297A.02 and 297A.021:

- (1) costs of providing educational materials and other information to residents;
- (2) costs of managing solid waste other than mixed municipal solid waste, including household hazardous waste; and
- (3) costs of court litigation and associated damages.

(e) The cost of a waste management service is exempt from the taxes imposed in sections 297A.02 and 297A.021 to the extent that the cost was previously subject to the tax.

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 management services that are subject to the tax under this section. This subdivision does not apply to a tax imposed under section 297A.021.

Subd. 5. **Separate accounting.** The commissioner shall account for revenue collected from public and private mixed municipal solid waste management services under this section separately from other tax revenue collected under this chapter.

History: 1995 c 264 art 2 s 33