

CHAPTER 297A

GENERAL SALES TAX AND DISTRIBUTION

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297A.01 DEFINITIONS.

Subdivision 1. The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning.

[For text of subd 2, see M.S.1996]

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" or "purchase" 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) food or drinks prepared by the retailer for immediate consumption either on or off the retailer's premises. For purposes of this subdivision, "food or drinks prepared for immediate consumption" includes any food product upon which an act of preparation including, but not limited to, cooking, mixing, sandwich making, blending, heating, or pouring has been performed by the retailer so the food product may be immediately consumed by the purchaser. For purposes of this subdivision, "premises" means the total space and facilities, including buildings, grounds, and parking lots that are made available or that are available for use by the retailer or customer for the purpose of sale or consumption of prepared food and drinks. Food and drinks sold within a building or grounds which require an admission charge for entrance are presumed to be sold for consumption on the premises. The premises of a caterer is the place where the catered food or drinks are served;

(ii) ice cream, ice milk, or frozen yogurt products including novelties, cones, sundaes, and snow cones, sold in single or individual servings. For purposes of this subdivision, "single or individual servings" does not include products prepackaged and sold in bulk containers or packaging;

(iii) soft drinks and other beverages including all carbonated and noncarbonated beverages or drinks sold in liquid form except beverages or drinks which contain milk or milk products, beverages or drinks containing 15 or more percent fruit juice, or noncarbonated and noneffervescent bottled water sold in individual containers of one-half gallon or more in size;

(iv) gum, candy, and candy products, except when sold for fundraising purposes by a nonprofit organization that provides educational and social activities primarily for young people 18 years of age and under;

(v) ice;

(vi) all food sold from vending machines, pushcarts, lunch carts, motor vehicles, or any other form of vehicle except home delivery vehicles;

(vii) party trays;

(viii) all meals and single servings of packaged snack food sold in restaurants and bars;
and

(ix) bakery products prepared by the retailer for consumption on the retailer's premises;

(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 does not include services purchased with prepaid telephone calling cards. Telephone service includes paging services and private communication service, as defined in United States Code, title 26, section 4252(d), as amended through December 31, 1991, 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; but not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1, or services provided by a nonprofit organization for monitoring and electronic surveillance of persons placed on in-home detention pursuant to court order or under the direction of the Minnesota department of corrections;

(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; indoor plant care; 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) 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

(viii) 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, as amended through December 31, 1987, 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.

Subd. 4. (a) A "retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business.

(b) 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.

(c) Master computer software programs that are purchased and used to make copies for sale or lease are considered property purchased for resale.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) Tangible personal property that is awarded as prizes shall not be considered property purchased for resale.

(i) Tangible personal property that is utilized or employed in the furnishing or providing of services under section 297A.01, subdivision 3, paragraph (d), or in conducting lawful gambling under chapter 349 or the state lottery under chapter 349A, including property given as promotional items, shall not be considered property purchased for resale. Machines, equipment, or devices that are used to furnish, provide, or dispense goods or services, including coin-operated devices, shall not be considered property purchased for resale.

[For text of subs 5 and 6, see M.S.1996]

Subd. 7. "Storage" and "use" do not include the keeping or retaining in a public warehouse of tangible personal property or tickets or admissions to places of amusement or athletic events when shipped or brought into Minnesota by common carrier, for the purpose of subsequently being transported outside Minnesota and thereafter used solely outside Minnesota, except in the course of interstate commerce.

[For text of subs 8 to 10, see M.S.1996]

Subd. 11. "Tangible personal property" means corporeal personal property of any kind whatsoever, including property which is to become real property as a result of incorporation, attachment, or installation following its acquisition.

Personal property does not include:

- (a) large ponderous machinery and equipment used in a business or production activity which at common law would be considered to be real property;
- (b) property which is subject to an ad valorem property tax;
- (c) property described in section 272.02, subdivision 1, clause (8), paragraphs (a) to (d);
- (d) property described in section 272.03, subdivision 2, clauses (3) and (5).

Tangible personal property includes computer software, whether contained on tape, discs, cards, or other devices. Tangible personal property also includes prepaid telephone calling cards.

[For text of subs 12 to 15, see M.S.1996]

Subd. 16. Capital equipment. (a) Capital equipment means machinery and equipment purchased or leased for use in this state and used by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail and for electronically transmitting results retrieved by a customer of an on-line computerized data retrieval system.

(b) Capital equipment includes all machinery and equipment that is essential to the integrated production process. Capital equipment includes, but is not limited to:

(1) machinery and equipment used or required to operate, control, or regulate the production equipment;

(2) machinery and equipment used for research and development, design, quality control, and testing activities;

(3) environmental control devices that are used to maintain conditions such as temperature, humidity, light, or air pressure when those conditions are essential to and are part of the production process;

(4) materials and supplies necessary to construct and install machinery or equipment;

(5) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to machinery or equipment;

(6) materials used for foundations that support machinery or equipment; or

(7) materials used to construct and install special purpose buildings used in the production process.

(c) Capital equipment does not include the following:

(1) motor vehicles taxed under chapter 297B;

(2) machinery or equipment used to receive or store raw materials;

(3) building materials;

(4) machinery or equipment used for nonproduction purposes, including, but not limited to, the following: machinery and equipment used for plant security, fire prevention, first aid, and hospital stations; machinery and equipment used in support operations or for administrative purposes; machinery and equipment used solely for pollution control, prevention, or abatement; and machinery and equipment used in plant cleaning, disposal of scrap and waste, plant communications, space heating, lighting, or safety;

(5) "farm machinery" as defined by subdivision 15, and "aquaculture production equipment" as defined by subdivision 19; or

(6) any other item that is not essential to the integrated process of manufacturing, fabricating, mining, or refining.

(d) For purposes of this subdivision:

(1) "Equipment" means independent devices or tools separate from machinery but essential to an integrated production process, including computers and software, used in operating, controlling, or regulating machinery and equipment; and any subunit or assembly comprising a component of any machinery or accessory or attachment parts of machinery, such as tools, dies, jigs, patterns, and molds.

(2) "Fabricating" means to make, build, create, produce, or assemble components or property to work in a new or different manner.

(3) "Machinery" means mechanical, electronic, or electrical devices, including computers and software, that are purchased or constructed to be used for the activities set forth in paragraph (a), beginning with the removal of raw materials from inventory through the completion of the product, including packaging of the product.

(4) "Manufacturing" means an operation or series of operations where raw materials are changed in form, composition, or condition by machinery and equipment and which results in the production of a new article of tangible personal property. For purposes of this subdivision, "manufacturing" includes the generation of electricity or steam to be sold at retail.

(5) "Mining" means the extraction of minerals, ores, stone, and peat.

(6) "On-line data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

(7) "Pollution control equipment" means machinery and equipment used to eliminate, prevent, or reduce pollution resulting from an activity described in paragraph (a).

(8) "Primarily" means machinery and equipment used 50 percent or more of the time in an activity described in paragraph (a).

(9) "Refining" means the process of converting a natural resource to a product, including the treatment of water to be sold at retail.

(e) For purposes of this subdivision the requirement that the machinery or equipment "must be used by the purchaser or lessee" means that the person who purchases or leases the machinery or equipment must be the one who uses it for the qualifying purpose. When a contractor buys and installs machinery or equipment as part of an improvement to real property, only the contractor is considered the purchaser.

[For text of subs 17 to 20, see M.S.1996]

Subd. 21. [Repealed, 1997 c 231 art 13 s 20]

Subd. 22. **Leasing.** "Leasing" includes all transfers of possession of tangible personal property or the use thereof by the lessee for a consideration when title remains with the lessor at the end of the lease. If a contract designated as a lease binds the lessee for a fixed term and the lessee is to obtain title at the end of the term of the agreement or has the option at that time to purchase the property for a nominal amount, the contract is regarded as a sale and not as a lease. For purposes of this chapter, a lease of tangible personal property is a series of transactions that impose upon the lessee multiple payment obligations. A taxable transaction is considered to have occurred when an obligation to make a lease payment becomes due under the terms of the agreement or trade practices of the lessor. For purposes of this subdivision, "nominal amount" means an amount so small, slight, or negligible that it is not economically significant and bears no relation to the real value of the item being purchased.

History: 1997 c 31 art 2 s 6; 1997 c 84 art 3 s 3; 1997 c 231 art 7 s 4-8; art 13 s 2

NOTE: The amendment to subdivision 16 by Laws 1997, chapter 231, article 7, section 8, is effective July 1, 1998. Laws 1997, chapter 231, article 7, section 47.

NOTE: Subdivision 20 is repealed by Laws 1997, chapter 231, article 7, section 46, effective July 1, 1998. Laws 1997, chapter 231, article 7, section 47.

297A.041 OPERATOR OF FLEA MARKETS; SELLER'S PERMITS REQUIRED.

The operator of a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event, as a prerequisite to renting or leasing space on the premises owned or controlled by the operator to a person desiring to engage in or conduct business as a seller, shall obtain evidence that the seller is the holder of a valid seller's permit issued under section 297A.04, or a written statement from the seller that the seller is not offering for sale any item that is taxable under this chapter.

Flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event, as used in this section, means an activity involving a series of sales sufficient in number, scope, and character to constitute a regular course of business, and that would not qualify as an isolated or occasional sale under section 297A.25, subdivision 12.

History: 1997 c 84 art 3 s 4

297A.07 REVOCATION OF PERMITS.

[For text of subd 1, see M.S.1996]

Subd. 3. **New permits after revocation.** The commissioner shall not issue a new permit or reinstate a revoked permit after revocation unless the taxpayer applies for a permit and provides reasonable evidence of intention to comply with the sales and use tax laws and rules. The commissioner may require the applicant to supply security, in addition to that authorized by section 297A.28, as is reasonably necessary to insure compliance with the sales and use tax laws and rules.

If a taxpayer has had a permit or permits revoked three times in a five-year period, the commissioner shall not issue a new permit or reinstate the revoked permit until 24 months

have elapsed after revocation and the taxpayer has satisfied the conditions for reinstatement of a revoked permit or issuance of a new permit imposed by this section and rules adopted hereunder.

For purposes of this subdivision, the term "taxpayer" means an individual, if a revoked permit was issued to or in the name of an individual, or a corporation or partnership, if a revoked permit was issued to or in the name of a corporation or partnership. Taxpayer also means an officer of a corporation, a member of a partnership, or an individual who is liable for delinquent sales taxes, either for the entity for which the new or reinstated permit is at issue, or for another entity for which a permit was previously revoked, or personally as a permit holder.

History: 1997 c 84 art 5 s 10

297A.09 PRESUMPTION OF TAX; BURDEN OF PROOF.

For the purpose of the proper administration of this chapter and to prevent evasion of the tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale is not a sale at retail is upon the person who makes the sale, but that person may take from the purchaser, at the time the exempt purchase occurs, an exemption certificate to the effect that the property purchased is for resale or that the sale is otherwise exempt from the application of the tax imposed by sections 297A.01 to 297A.44. A person asserting a claim that certain sales are exempt, who does not have the required exemption certificates in their possession, shall acquire the certificates within 60 days after receiving written notice from the commissioner that the certificates are required. If the certificates are not obtained within the 60-day period, the sales are deemed taxable sales under this chapter.

History: 1997 c 31 art 2 s 7; 1997 c 231 art 7 s 9

297A.12 IMPROPER USE OF SUBJECT OF PURCHASE OBTAINED WITH EXEMPTION CERTIFICATE.

If a purchaser who gives an exemption certificate makes any use of the subject of the purchase other than for a purpose exempted under this chapter, such use shall be deemed a retail sale by the purchaser as of the time of first use by the purchaser, and the sales price to the purchaser shall be deemed the gross receipts from such retail sale. If the sole nonexempt use is rental while holding for sale, the purchaser shall include in the purchaser's gross receipts the amount of the rental charged. Upon subsequent sale of such property, the seller shall include the entire amount of gross receipts received therefrom without deduction of amounts previously received as rentals.

History: 1997 c 31 art 2 s 8

297A.14 USE TAX.

[For text of subs 1 and 2, see M.S.1996]

Subd. 4. De minimis exemption. Purchases subject to use tax under this section are exempt if (1) the purchase is made by an individual for personal use, and (2) the total purchases that are subject to the use tax do not exceed \$770 in the calendar year. For purposes of this subdivision, "personal use" includes purchases for gifts. If an individual makes purchases, which are subject to use tax, of more than \$770 in the calendar year the individual must pay the use tax on the entire amount. This exemption does not apply to purchases made from retailers who are required or registered to collect taxes under this chapter.

History: 1997 c 31 art 2 s 9

297A.15 COLLECTION AND PAYMENT; PENALTY.

[For text of subs 1 to 6, see M.S.1996]

Subd. 7. Refund; appropriation; adult and juvenile correctional facilities. If construction materials and supplies described in section 297A.25, subdivision 65, are pur-

chased 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 the taxes paid by the contractor, subcontractor, or builder must be paid to the governmental subdivision. The tax must be imposed and collected as if the sales were taxable and the rate under section 297A.02, subdivision 1, applied. An application for refund 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.

History: 1997 c 231 art 7 s 10; 1997 c 251 s 21

297A.211 COMMON CARRIERS AS RETAILERS.

Subdivision 1. Every person, as defined in this chapter, who is engaged in interstate for-hire transportation of tangible personal property or passengers by motor vehicle may at their option, under rules prescribed by the commissioner, register as retailers and pay the taxes imposed by this chapter in accordance with this section. Any taxes paid under this section are deemed use taxes, except local sales taxes when no corresponding local use tax is imposed. Persons referred to herein are: (1) 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 department of transportation; or (2) persons transporting commodities defined as "exempt" in for-hire transportation in interstate commerce; or (3) persons who, pursuant to contracts with persons described in clause (1) or (2) above, transport tangible personal property in interstate commerce. Persons qualifying under clauses (2) and (3) must maintain on a current basis the same type of mileage records that are required by persons specified in clause (1) by the United States Department of Transportation. Persons who in the course of their business are transporting solely their own goods in interstate commerce may also register as retailers pursuant to rules prescribed by the commissioner and pay the taxes imposed by this chapter in accordance with this section.

[For text of subds 2 to 4, see M.S.1996]

History: 1997 c 231 art 7 s 11

297A.213 DIRECT PAYMENT BY PURCHASERS PERMITTED.

The commissioner may permit purchasers to pay taxes imposed by this chapter directly to the commissioner. Any taxes paid by purchasers under this section are deemed use taxes, except local sales taxes when no corresponding local use tax is imposed.

History: 1997 c 231 art 7 s 12

297A.22 PRESUMPTION OF PURPOSE OF SALE, BURDEN OF PROOF.

For the purpose of the proper administration of sections 297A.01 to 297A.44 and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that all retail sales for delivery in Minnesota are for storage, use or other consumption in Minnesota until the contrary is established. The retailer who makes the sale may take from the purchaser an exemption certificate in accordance with sections 297A.09 to 297A.13.

History: 1997 c 31 art 2 s 10

297A.23 PROPERTY BROUGHT TO STATE; PRESUMPTION; BURDEN OF PROOF.

Any purchaser of tangible personal property or any items enumerated in section 297A.14 which are shipped or brought to Minnesota by the purchaser shall have the burden of proving that the same were not purchased from a retailer for storage, use or consumption in Minnesota.

History: 1997 c 31 art 2 s 11

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

[For text of subd 1, see M.S.1996]

Subd. 3. **Local taxes.** If an item has been subjected to a sales tax imposed by a political subdivision of this state and is used, stored, or consumed in another political subdivision imposing a local use tax, a credit shall be given for all legally imposed sales taxes paid by the purchaser with respect to that item.

History: 1997 c 84 art 3 s 5

297A.25 EXEMPTIONS.

Subdivision 1. **Scope.** The items contained in this section are specifically exempted from the taxes imposed by this chapter.

Subd. 2. **Food products.** The gross receipts from the sale of and storage, use, or consumption of food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products, and food products which are not taxable pursuant to section 297A.01, subdivision 3, clause (c) are exempt.

Subd. 3. **Medicines; medical devices.** The gross receipts from the sale of and storage, use, or consumption of prescribed drugs, prescribed medicine and insulin, intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings are exempt, together with prescription glasses, fever thermometers, therapeutic, and prosthetic devices. "Prescribed drugs" or "prescribed medicine" includes over-the-counter drugs or medicine prescribed by a licensed physician. "Therapeutic devices" includes reusable finger pricking devices for the extraction of blood, blood glucose monitoring machines, and other diagnostic agents used in diagnosing, monitoring, or treating diabetes. Nonprescription analgesics consisting principally (determined by the weight of all ingredients) of acetaminophen, acetylsalicylic acid, ibuprofen, ketoprofen, naproxen, and other nonprescription analgesics that are approved by the United States Food and Drug Administration for internal use by human beings, or a combination thereof, are exempt.

[For text of subd 4, see M.S.1996]

Subd. 5. **Outstate transport or delivery.** The gross receipts from the following sales of, and storage, use, or consumption of, tangible personal property are exempt:

(1) property which, without intermediate use, is shipped or transported outside Minnesota by the purchaser and thereafter used in a trade or business or is stored, processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property transported or shipped outside Minnesota and thereafter used in a trade or business outside Minnesota, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce (storage shall not constitute intermediate use); provided that the property is not subject to tax in that state or country to which it is transported for storage or use and provided further that sales of tangible personal property to be used in other states or countries as part of a maintenance contract shall be specifically exempt; or

(2) property which the seller delivers to a common carrier for delivery outside Minnesota, places in the United States mail or parcel post directed to the purchaser outside Minnesota, or delivers to the purchaser outside Minnesota by means of the seller's own delivery vehicles, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce.

Subd. 6. **Packing materials.** The gross receipts from the sale of and storage, use, or consumption of packing materials used to pack and ship household goods, the ultimate destination of which is outside the state of Minnesota and which are not thereafter returned to a point within Minnesota, except in the course of interstate commerce, are exempt.

Subd. 7. **Petroleum products.** The gross receipts from the sale of and storage, use or consumption of the following petroleum products are exempt:

(1) products upon which a tax has been imposed and paid under the provisions of chapter 296, and no refund has been or will be allowed because the buyer used the fuel for non-highway use;

(2) products which are used in the improvement of agricultural land by constructing, maintaining, and repairing drainage ditches, tile drainage systems, grass waterways, water impoundment, and other erosion control structures;

(3) products purchased by a transit system receiving financial assistance under section 174.24 or 473.384;

(4) products used in a passenger snowmobile, as defined in section 296.01, subdivision 27a, for off-highway business use as part of the operations of a resort as provided under section 296.18, subdivision 1, clause (2); or

(5) products purchased by a state or a political subdivision of a state for use in motor vehicles exempt from registration under section 168.012, subdivision 1, paragraph (b).

Subd. 8. Clothing. The gross receipts from the sale of and storage, use, or consumption 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, as amended through December 31, 1991, 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 horses and agricultural production animals 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, im-

plements, 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.1996]

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 Lola and Rudy Perpich 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, service cooperatives, secondary vocational cooperative centers, special education cooperatives, joint purchasing cooperatives, telecommunication cooperatives, regional management information centers, 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).

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, notwithstanding section 115A.69, subdivision 6, 116A.25, 360.035, 458A.09, 458A.30, 458D.23, 469.101, subdivision 2, 469.127, 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).

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; (2) the sale is between members of a controlled group as defined in section 1563(a) of the Internal Revenue Code of 1986, as amended through December 31, 1990; (3) the sale is a sale of farm machinery; (4) the sale is a farm auction sale; (5) the sale is a sale of substantially all of the assets of a trade or business; or (6) the total amount of gross receipts from the sale of trade or business property made during the calendar month of the sale and the preceding 11 calendar months does not exceed \$1,000.

(c) For purposes of this subdivision, the following terms have the meanings given.

(1) A "farm auction" is a public auction conducted by a licensed auctioneer if substantially all of the property sold consists of property used in the trade or business of farming and property not used primarily in a trade or business.

(2) "Trade or business" includes the assets of a separate division, branch, or identifiable segment of a trade or business if, before the sale, the income and expenses attributable to the separate division, branch, or identifiable segment could be separately ascertained from the books of account or record (the lease or rental of an identifiable segment does not qualify for the exemption).

(3) A "sale of substantially all of the assets of a trade or business" must occur as a single transaction or a series of related transactions occurring within the 12-month period beginning on the date of the first sale of assets intended to qualify for the exemption provided in paragraph (b), clause (5).

For purposes of this subdivision, "normal course of business" means activities that demonstrate a commercial continuity or consistency of making sales or performing services for the purposes of attaining profit or producing income. Factors that indicate that a person is acting in the normal course of business include:

- (1) systematic solicitation of sales through advertising media;
- (2) entering into contracts to perform services or provide tangible personal property;
- (3) maintaining a place of business; or
- (4) use of exemption certificates to purchase goods exempt from the sales tax.

[For text of subds 14 and 15, see M.S.1996]

Subd. 16. Sales to nonprofit groups. The gross receipts from the sale of tangible personal property to, and the storage, use or other consumption of such property by, any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes if the property purchased is to be used in the performance of charitable, religious, or educational functions, or any senior citizen group or association of groups that in general limits membership to persons who are either (1) age 55 or older, or (2) physically disabled, and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders, are exempt. For purposes of this subdivision, charitable purpose includes the maintenance of a cemetery owned by a religious organization. Sales

exempted by this subdivision include sales pursuant to section 297A.01, subdivision 3, paragraphs (d) and (f). 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.

Subd. 17. Caskets; vaults. The gross receipts from the sale of and storage, use, or consumption of caskets and burial vaults are exempt.

Subd. 18. Automobiles; disabled veterans. The gross receipts from the sale of and storage, use, or consumption of an automobile or other conveyance are exempt if the purchaser is assisted by a grant from the United States in accordance with United States Code, title 38, section 3901, as amended through August 6, 1991.

Subd. 19. Aircraft. The gross receipts from the sale to and the storage, use, or consumption by a licensed aircraft dealer of an aircraft for which a commercial use permit has been issued pursuant to section 360.654 is exempt, if the aircraft is resold while the permit is in effect.

Subd. 20. Building materials; disabled veterans. The gross receipts from the sale of and the storage, use, or consumption of building materials to be used in the construction or remodeling of a residence are exempt when the construction or remodeling is financed in whole or in part by the United States in accordance with United States Code, title 38, sections 2101 to 2105, as amended through August 6, 1991. This exemption shall not be effective at time of sale of the materials to contractors, subcontractors, builders or owners, but shall be applicable only upon a claim for refund to the commissioner of revenue filed by recipients of the benefits provided in United States Code, title 38, chapter 21, as amended through August 6, 1991. The commissioner shall provide by rule for the refund of taxes paid on sales exempt in accordance with this subdivision.

Subd. 21. Textbooks. The gross receipts from the sale of and storage, use, or consumption 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 subd 22, see M.S.1996]

Subd. 23. Residential heating fuels. The gross receipts from the sale of and the storage, use, or consumption of residential heating fuels are exempt in the following manner:

(1) all fuel oil, coal, wood, steam, hot water, propane gas, and L.P. gas sold to residential customers for residential use;

(2) natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat, for the billing months of November, December, January, February, March and April;

(3) electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat, for the billing months of November, December, January, February, March and April.

[For text of subs 24 and 25, see M.S.1996]

Subd. 26. Feminine hygiene products. The gross receipts from the sale of and storage, use, or consumption of sanitary napkins, tampons, or similar items used for feminine hygiene, are exempt.

Subd. 27. **Manufactured homes.** The gross receipts from the sale of and the storage, use, or consumption of a manufactured home, as defined in section 327.31, subdivision 6, to be used by the purchaser for residential purposes are exempt, unless the sale is the first retail sale of the manufactured home in this state.

Subd. 28. **Waste processing equipment.** The gross receipts from the sale of and storage, use, or consumption of equipment used for processing solid or hazardous waste at a resource recovery facility, as defined in section 115A.03, subdivision 28, are exempt, including pollution control equipment at a resource recovery facility that burns refuse-derived fuel or mixed municipal solid waste as its primary fuel.

Subd. 29. **Farm machinery repair parts.** The gross receipts from the sale of and the storage, use, or consumption of repair and replacement parts, except tires, used for maintenance or repair of farm machinery are exempt, if the part replaces a farm machinery part assigned a specific or generic part number by the manufacturer of the farm machinery.

Subd. 30. **School tickets or admissions.** The gross receipts from sales and use of tickets or admissions to regular season school games, events, and activities are exempt. For purposes of this subdivision, "school" has the meaning given it in section 120.101, subdivision 4.

[For text of subs 31 to 33, see M.S.1996]

Subd. 34. **Motor vehicles.** The gross receipts from the sale or use of any motor vehicle taxable under the provisions of the sales tax on motor vehicles laws of Minnesota shall be exempt from taxation under this chapter. Notwithstanding subdivision 11, the exemption provided under this subdivision remains in effect for motor vehicles purchased or leased by political subdivisions of the state if the vehicles are exempt from registration under section 168.012, subdivision 1, paragraph (b).

Subd. 35. **Food stamps.** The gross receipts from the sale and the storage, use, or consumption of tangible personal property purchased with food stamps, coupons, or vouchers issued by the federal government under the Food Stamp Program are exempt. This exemption also applies to food purchased under the Special Supplemental Food Program for Women, Infants, and Children. The exemption provided by this subdivision is effective and applies only to the extent required by federal law.

[For text of subs 36 and 37, see M.S.1996]

Subd. 38. **Used motor oils.** The gross receipts from the sale of and the storage, use, or consumption of used motor oils are exempt.

Subd. 39. **Cross-country ski passes.** The gross receipts from the sale and use of cross-country ski passes issued under sections 85.40 to 85.43 are exempt.

Subd. 40. **State fair admissions.** The gross receipts from the sale and use of tickets to the premises of or events sponsored by the state agricultural society and conducted on the state fairgrounds during the period of the annual state fair are exempt, provided that:

(1) the tax foregone under this subdivision is used exclusively for the purpose of making capital improvements to state-owned buildings and facilities on the state fairgrounds; and

(2) the tax foregone under this subdivision is matched in equal amount by proceeds from special assessments levied against commercial exhibits, concessions and rentals, and from other special user fees specifically designated for capital improvements.

Subd. 41. **Bullet-proof vests.** The gross receipts from the sale of and storage, use, or consumption of bullet-resistant body armor that provides the wearer with ballistic and trauma protection are exempt if purchased by a law enforcement agency of the state or a political subdivision of the state, or a licensed peace officer, as defined in section 626.84, subdivision 1.

Subd. 42. **Capital equipment.** The gross receipts from the sale of and storage, use, or consumption of capital equipment are exempt.

Subd. 43. **Chair lifts, ramps, elevators.** The gross receipts from the sale of and storage, use, or consumption of chair lifts, ramps, and elevators and building materials used to install or construct them are exempt, if they are authorized by a physician and installed in or attached to the owner's homestead.

Subd. 44. **Ambulances.** The lease of a motor vehicle for use as an ambulance by an ambulance service licensed under section 144E.10 is exempt.

[For text of subd 45, see M.S.1996]

Subd. 46. **Sacramental wine.** The gross receipts from the sale of and storage, use, or consumption 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.

Subd. 49. **Air cooling equipment.** The gross receipts from the sale of and storage, use, or consumption of equipment used for air cooling are exempt, if the equipment is purchased for conversion or replacement of an existing groundwater based once-through cooling system as required under section 103G.271, subdivision 5.

Subd. 51. **Automatic fire-safety sprinkler systems.** The gross receipts from the sale of and storage, use, or consumption of automatic fire-safety sprinkler systems described in section 273.11, subdivision 6a, are exempt.

Subd. 52. **Parts and accessories used to make a motor vehicle handicapped accessible.** The gross receipts from the sale of and storage, use, or consumption of parts and accessories that are used solely to modify a motor vehicle to make it handicapped accessible are exempt. Labor charges for modifying a motor vehicle to make it handicapped accessible are included in this exemption.

Subd. 53. **Special tooling.** The gross receipts from the sale of and storage, use, or consumption of special tooling are exempt.

[For text of subds 54 and 55, see M.S.1996]

Subd. 56. **Firefighters personal protective equipment.** The gross receipts from the sale of and storage, use, or consumption of firefighters personal protective equipment are exempt if purchased by, or when authorized by and for the use of, an organized fire department, fire protection district, or fire company, regularly charged with the responsibility of providing fire protection to the state or a political subdivision. For purposes of this subdivision, "personal protective equipment" includes: helmets (including face shields, chin straps, and neck liners), bunker coats and pants (including pant suspenders), boots, gloves, head covers or hoods, wildfire jackets, protective coveralls, goggles, self-contained breathing apparatuses, canister filter masks, personal alert safety systems, spanner belts, optical or thermal imaging search devices, and all safety equipment required by the Occupational Safety and Health Administration.

Subd. 57. **Horses; related materials.** (a) The gross receipts from the sale of and storage or use of horses, including racehorses, are exempt.

(b) Sales of and storage, use, or consumption of all materials, including feed and bedding, used or consumed in the breeding, raising, owning, boarding, and keeping of horses, are exempt. Machinery, equipment, implements, tools, appliances, furniture, and fixtures, used in the breeding, raising, owning, boarding, and keeping of horses, are not included with in this exemption.

[For text of subd 58, see M.S.1996]

Subd. 59. **Farm machinery.** The gross receipts from the sale of used farm machinery are exempt.

[For text of subd 60, see M.S.1996]

Subd. 61. **Construction materials for indoor ice arenas.** The gross receipts from the sale of and storage, use, or consumption 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) the construction project is financed in whole or in part from a grant under sections 240A.09 and 240A.10 or the proceeds of obligations issued under section 373.43 or 475.58, subdivision 3.

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

Subd. 62. Materials used in providing taxable services. (a) The gross receipts from the sale of and the storage, use, or consumption of all materials used or consumed in providing a taxable service intended to be sold ultimately at retail are exempt.

(b) This exemption includes, but is not limited to:

(1) chemicals, lubricants, packaging materials, seeds, trees, fertilizers, and herbicides, used or consumed in providing the taxable service;

(2) chemicals used to treat waste generated as a result of providing the taxable service; and

(3) accessory tools, equipment, and other items that are separate detachable units used in providing the service and that have an ordinary useful life of less than 12 months.

(c) This exemption does not include:

(1) machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture, and fixtures used in providing the taxable service; and

(2) fuel, electricity, gas, and steam used for space heating or lighting.

(d) For purposes of this subdivision, "taxable services" means the services listed in section 297A.01, subdivision 3, paragraph (i).

Subd. 63. Hospitals. The gross receipts from the sale of tangible personal property to, and the storage, use, or consumption of such property by, a hospital are exempt, if the property purchased is to be used in providing hospital services to human beings. For purposes of this subdivision, "hospital" means a hospital organized and operated for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and licensed under chapter 144 or by any other jurisdiction. For purposes of this subdivision, "hospital services" are services authorized or required to be performed by a "hospital" under chapter 144 and regulations thereunder or under the applicable licensure law of any other jurisdiction. This exemption does not apply to purchases made by a clinic, physician's office, or any other medical facility not operating as a hospital, even though the clinic, office, or facility may be owned and operated by a hospital. Sales exempted by this subdivision do not include sales under section 297A.01, subdivision 3, paragraphs (c) and (e). This exemption does 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 hospital. This exemption does not apply to construction materials to be used in constructing buildings or facilities which will not be used principally by a hospital. This exemption does not apply to the leasing of a motor vehicle as defined in section 297B.01, subdivision 5.

Subd. 64. Copies of court reporter documents. The gross receipts from sales of, and use, storage, or consumption of, transcripts or copies of transcripts of verbatim testimony produced and sold by court reporters or other transcribers of legal proceedings to individuals or entities that are parties to or representatives of parties to the proceeding to which the transcript relates, are exempt.

Subd. 65. Construction materials for correctional facilities. The gross receipts from the sale of and storage, use, or consumption of construction materials and supplies are exempt from the tax imposed under this chapter if purchased 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 if the project is mandated by state or federal law, rule, or regulation. The exemption 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.

Subd. 66. Construction materials; Lake Superior Center. Construction materials and supplies are exempt from the tax imposed under this chapter, regardless of whether purchased by the owner, a contractor, subcontractor, or builder, provided the materials and supplies are used or consumed in constructing the Lake Superior Center.

Subd. 67. Construction materials; Science Museum. Construction materials and supplies are exempt from the tax imposed under this chapter, regardless of whether purchased by

the owner, a contractor, subcontractor, or builder, provided the materials and supplies are used or consumed in constructing the Science Museum of Minnesota.

Subd. 68. Construction materials; business incubator and industrial park facility. Materials and supplies used or consumed in constructing, or incorporated into the construction of, an exempted facility as defined in this subdivision 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.

As used in this subdivision, an "exempted facility" is a facility that includes a business incubator and industrial park that:

(1) is owned and operated by a nonprofit charitable organization that qualifies for tax exemption under section 501(c)(3) of the Internal Revenue Code;

(2) is used for the development of nonretail businesses, offering access to equipment, space, services, and advice to the tenant businesses, for the purpose of encouraging economic development and job creation in the area served by the organization, and emphasizes development of businesses that manufacture products from materials found in the waste stream, or manufacture alternative energy and conservation systems, or make use of emerging environmental technologies;

(3) includes in its structure systems of material and energy exchanges that use waste products from one industrial process as sources of energy and material for other processes; and

(4) makes use of solar and wind energy technology and incorporates salvaged materials in its construction.

Subd. 69. Regionwide public safety radio communication system; products and services. The gross receipts from the sale of, and the storage, use, or consumption of, products and services including end user equipment used for construction, ownership, operation, maintenance, and enhancement of the backbone system of the regionwide public safety radio communication system established under sections 473.891 to 473.905, are exempt. For purposes of this subdivision, backbone system is defined in section 473.891, subdivision 9.

Subd. 70. Alfalfa processing facilities construction materials. Purchases of construction materials and supplies are exempt from the sales and use taxes 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 a facility which either (i) develops market-value agricultural products made from alfalfa leaf material, or (ii) produces biomass energy fuel or electricity from alfalfa stems in accordance with the biomass mandate imposed under section 216B.2424; and

(2) the total capital investment made in the value-added agricultural products and biomass electric generation facilities is at least \$50,000,000; or

(3) the materials and supplies are used or consumed in constructing, equipping or modifying a district heating and cooling system cogeneration facility that:

(i) utilizes wood waste as a primary fuel source; and

(ii) satisfies the requirements of the biomass mandate in section 216B.2424, subdivision 5.

Subd. 71. Firewood. The gross receipts from the sale of and the storage, use, or consumption of wood used for fires for heating, cooking, or any other purpose are exempt.

Subd. 72. Wind energy conversion systems. The gross receipts from the sale of and the storage, use, or consumption of wind energy conversion systems, as defined in section 216C.06, subdivision 12, and the materials used to manufacture, install, construct, repair, or replace them are exempt if the systems are used as an electric power source.

History: 1997 c 31 art 2 s 12-45; 1997 c 84 art 3 s 6,7; 1997 c 199 s 14; 1997 c 231 art 7 s 13-29; art 13 s 3-4; 1Sp1997 c 5 s 42

NOTE: The amendment to subdivision 3 by Laws 1997, chapter 231, article 7, section 14, is effective for purchases and sales after June 30, 1999. Laws 1997, chapter 231, article 7, section 47.

NOTE: Subdivision 62, as added by Laws 1997, chapter 231, article 7, section 19, is effective for purchases and sales after June 30, 1999. Laws 1997, chapter 231, article 7, section 47.

297A.256 EXEMPTIONS FOR CERTAIN NONPROFIT GROUPS.

Subdivision 1. **Fundraising sales by nonprofit groups.** Notwithstanding the provisions of this chapter, the following sales made by a "nonprofit organization" are exempt from the sales and use tax.

(a)(1) All sales made by an organization for fundraising purposes if that organization exists solely for the purpose of providing educational or social activities for young people primarily age 18 and under. This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(2) A club, association, or other organization of elementary or secondary school students organized for the purpose of carrying on sports, educational, or other extracurricular activities is a separate organization from the school district or school for purposes of applying the \$10,000 limit. This paragraph does not apply if the sales are derived from admission charges or from activities for which the money must be deposited with the school district treasurer under section 123.38, subdivision 2, or be recorded in the same manner as other revenues or expenditures of the school district under section 123.38, subdivision 2b.

(b) All sales made by an organization for fundraising purposes if that organization is a senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation and other nonprofit purposes and no part of the net earnings inure to the benefit of any private shareholders. This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(c) The gross receipts from the sales of tangible personal property at, admission charges for, and sales of food, meals, or drinks at fundraising events sponsored by a nonprofit organization when the entire proceeds, except for the necessary expenses therewith, will be used solely and exclusively for charitable, religious, or educational purposes. This exemption does not apply to admission charges for events involving bingo or other gambling activities or to charges for use of amusement devices involving bingo or other gambling activities. For purposes of this paragraph, a "nonprofit organization" means any unit of government, corporation, society, association, foundation, or institution organized and operated for charitable, religious, educational, civic, fraternal, senior citizens' or veterans' purposes, no part of the net earnings of which inures to the benefit of a private individual.

If the profits are not used solely and exclusively for charitable, religious, or educational purposes, the entire gross receipts are subject to tax.

Each nonprofit organization shall keep a separate accounting record, including receipts and disbursements from each fundraising event. All deductions from gross receipts must be documented with receipts and other records. If records are not maintained as required, the entire gross receipts are subject to tax.

The exemption provided by this paragraph does not apply to any sale made by or in the name of a nonprofit corporation as the active or passive agent of a person that is not a nonprofit corporation.

The exemption for fundraising events under this paragraph is limited to no more than 24 days a year. Fundraising events conducted on premises leased for more than four days but less than 30 days do not qualify for this exemption.

(d) The gross receipts from the sale or use of tickets or admissions to a golf tournament held in Minnesota are exempt if the beneficiary of the tournament's net proceeds qualifies as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code, as amended through December 31, 1994, including a tournament conducted on premises leased or occupied for more than four days.

[For text of subd 2, see M.S.1996]

History: 1997 c 31 art 2 s 46

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 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 tax rate under section 297A.02, 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: 1997 c 7 art 1 s 121

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

Subdivision 1. (a) Except as provided in paragraphs (b) and (c), 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 (k), 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.

History: 1997 c 31 art 2 s 47; 1997 c 231 art 13 s 5

297A.45 [Repealed, 1997 c 231 art 13 s 20]

297A.48 LOCAL SALES TAX RULES.

Subdivision 1. **Authorization; scope.** (a) A political subdivision of this state may impose a general sales tax if permitted by special law or if the subdivision enacted and imposed the tax before the effective date of section 477A.016 and its predecessor provision.

(b) This section governs the imposition of a general sales tax by the political subdivision. The provisions of this section preempt the provisions of any special law:

(1) enacted before its effective date, or

(2) enacted after its effective date that does not explicitly exempt the special law provision from this section's rules by reference.

(c) This section does not apply to or preempt a sales tax on motor vehicles or a special excise tax on motor vehicles.

Subd. 2. **Tax base.** (a) The tax applies to sales taxable under this chapter that occur within the political subdivision.

(b) Taxable services are subject to a political subdivision's sales tax, if they are performed either:

(1) within the political subdivision, or

(2) partly within and partly without the political subdivision and more of the service is performed within the political subdivision, based on the cost of performance.

Subd. 3. **Tax rate.** (a) The tax rate is as specified in the special law authorization and as imposed by the political subdivision.

(b) The full political subdivision rate applies to any sales that are taxed at a state rate less than or more than the state general sales and use tax rate.

Subd. 4. **Use tax.** A compensating use tax applies, at the same rate as the sales tax, on the use, storage, distribution, or consumption of tangible personal property or taxable services.

Subd. 5. **Exemptions.** (a) All goods or services that are otherwise exempt from taxation under this chapter are exempt from a political subdivision's tax.

(b) The gross receipts from the sale of tangible personal property that meets the requirement of section 297A.25, subdivision 5, are exempt, except the qualification test applies based on the boundaries of the political subdivision instead of the state of Minnesota.

(c) All mobile transportation equipment, and parts and accessories attached to or to be attached to the equipment are exempt, if purchased by a holder of a motor carrier direct pay permit under section 297A.211.

Subd. 6. **Credit for other local taxes.** If a person paid sales or use tax to another political subdivision on tangible personal property or another item subject to tax under this section, a credit applies against the tax imposed under this section. The credit equals the tax the person paid to the other political subdivision for the item.

Subd. 7. **Enforcement; collection; and administration.** (a) The commissioner of revenue shall collect the taxes subject to this section. The commissioner may collect the tax with the state sales and use tax. All taxes under this section are subject to the same penalties, interest, and enforcement provisions as apply to the state sales and use tax.

(b) A request for a refund of state sales tax paid in excess of the amount of tax legally due includes a request for a refund of the political subdivision taxes paid on the goods or services. The commissioner must refund to the taxpayer the full amount of the political subdivision taxes paid on exempt sales or use.

(c) A political subdivision that is collecting and administering its own sales and use tax before January 1, 1998, may elect to be exempt from this subdivision and subdivision 8.

Subd. 8. **Revenues; cost of collection.** The commissioner shall remit the proceeds of the tax, less refunds and a proportionate share of the cost of collection, at least quarterly, to the political subdivision. The commissioner shall deduct from the proceeds remitted an amount that equals

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

(2) the political subdivision's proportionate share of the indirect cost of administering all taxes under this section.

Subd. 9. **Effective dates; notification.** (a) A political subdivision may impose a tax under this section starting only on the first day of a calendar quarter. A political subdivision may repeal a tax under this section stopping only on the last day of a calendar quarter.

(b) The political subdivision must notify the commissioner of revenue at least 90 days before imposing or repealing a tax under this section.

Subd. 10. **Application.** This section applies to all local sales taxes authorized on or after the day of enactment of Laws 1997, chapter 231. Starting January 1, 2000, this section applies to all local sales taxes that were authorized before the day of enactment of Laws 1997, chapter 231.

History: 1997 c 231 art 7 s 30