

CHAPTER 297A

GENERAL SALES AND USE TAXES

- 297A.01 Definitions.
 297A.02 Imposition of tax.
 297A.022 Coordination of state and local sales tax rates.
 297A.023 Remittance of amounts collected as taxes.
 297A.03 Separate statement; collection from purchaser; advertising no tax; minimum; uniform tax collection methods
 297A.04 Applications; member; form.
 297A.041 Operator of flea markets, seller's permits required.
 297A.06 Permit.
 297A.065 Cancellation of permits.
 297A.07 Revocation of permits.
 297A.09 Presumption of tax; burden of proof.
 297A.10 Exemption certificate, duty of retailer.
 297A.11 Content and form of exemption certificate.
 297A.12 Improper use of subject of purchase obtained with exemption certificate.
 297A.13 Commingling exemption certificate goods.
 297A.135 Rental motor vehicle tax
 297A.14 Use tax.
 297A.141 Local admissions and amusement taxes; exemption for arts organizations.
 297A.15 Collection and payment; penalty.
 297A.16 Collection of tax at time of sale.
 297A.17 Status as debt.
 297A.18 Minimum tax
 297A.21 Registration to collect use tax.
 297A.211 Common carriers as retailers.
 297A.213 Direct payment by purchasers permitted.
 297A.22 Presumption of purpose of sale, burden of proof
 297A.23 Property brought to state; presumption; burden of proof.
 297A.24 Taxes in other states or other counties.
 297A.25 Exemptions.
 297A.2531 Satellite broadcasting facility materials; exemptions.
 297A.2545 Steel reproducers; exemption for pollution control equipment.
 297A.255 Aircraft; payment of taxes prior to registration and licensing.
 297A.256 Exemptions for certain nonprofit groups.
 297A.2571 Aircraft facility materials; exemptions.
 297A.2572 Agriculture processing facility materials; exemption.
 297A.2573 Mineral production facilities; exemption.
 297A.259 Lottery tickets; in lieu tax.
 297A.26 Offset against other taxes.
 297A.28 Security
 297A.33 Jeopardy assessment and collection; protection against evasion.
 297A.44 Deposit of revenues; costs of administration; appropriation
 297A.46 Local governments exempt from local sales taxes.
 297A.47 Reporting of sales tax on Minnesota governments
 297A.48 Local sales tax rules.
 DEFINITIONS
 297A.61 Definitions.
 TAXES; RATES
 297A.62 Sales tax imposed; rates.
 297A.63 Use taxes imposed; rates.
 297A.64 Rental motor vehicle tax imposed; rate.
 297A.65 Lottery tickets; in-lieu tax.
 REQUIREMENT TO COLLECT AND REMIT
 297A.66 Jurisdiction to require collection and remittance of tax by retailer.
 297A.665 Presumption of tax; burden of proof.
 EXEMPTIONS
 297A.67 General exemptions.
 297A.68 Business exemptions.
 297A.69 Agricultural exemptions.
 297A.70 Exemptions for governments and nonprofit groups.
 297A.71 Construction exemptions.
 EXEMPTION CERTIFICATES
 297A.72 Exemption certificates.
 297A.73 Improper use of item obtained with exemption certificate.
 297A.74 Commingling exemption certificate items.
 EXEMPTION REFUNDS
 297A.75 Refund; appropriation.
 COMPUTATION AND COLLECTION OF SALES AND USE TAXES
 297A.76 Computation of sales and use taxes.
 297A.77 Collection of sales and use taxes.
 297A.78 Liability for use tax; receipt as evidence.
 297A.79 Reporting of gross receipts.
 297A.80 Taxes in other states; offset against use tax
 297A.81 Uncollectible debts; offset against other taxes.
 AIRCRAFT AND FLIGHT EQUIPMENT
 297A.82 Aircraft; flight equipment, payment of taxes; exemptions.
 PERMITS
 297A.83 Application for permit.
 297A.84 Permits issued.
 297A.85 Cancellation of permits.
 297A.86 Revocation of permits.
 297A.87 Flea markets, shows, and other selling events.
 DIRECT PAY
 297A.89 Direct payment by purchasers permitted
 297A.90 Interstate motor carriers as retailers.
 ENFORCEMENT
 297A.91 Seizure; court review.
 297A.92 Security.
 297A.93 Jeopardy assessment and collection.
 DEPOSIT OF REVENUES
 297A.94 Deposit of revenues.
 LOCAL SALES AND USE TAXES
 297A.95 Coordination of state and local sales tax rates.
 297A.96 Local admissions and amusement taxes; exemption for arts organizations
 297A.97 Outstate retailers; local tax collection not required.
 297A.98 Local governments exempt from local sales taxes.
 297A.99 Local sales taxes
 297A.991 Reporting of sales tax on Minnesota governments.

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.

Subd. 2. "Person" includes any individual, partner, officer, director, firm, partnership, joint venture, limited liability company, association, cooperative, social club, fraternal organization, municipal or private corporation whether organized for profit or not, estate, trusts, business trusts, receiver, trustee, syndicate, the United States, the state of Minnesota, any political subdivision of Minnesota, or any other group or combination acting as a unit, and the plural as well as the singular number. As used in the preceding sentence, the term "person" includes, but is not limited to, directors and officers of corporations, governors and managers of a limited liability company, or members of partnerships who, either individually or jointly with others, have the control, supervision or responsibility of filing returns and making payment of the amount of tax imposed by this chapter. "Person" shall also include any agent or consignee of any individual or organization enumerated in this subdivision.

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 sold by the retailer for immediate consumption on the retailer's premises. 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;

(ii) 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;

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

(iv) 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, and noncarbonated and noneffervescent bottled water sold in individual containers of one-half gallon or more in size;

MINNESOTA STATUTES 2000

(v) 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;

(vi) ice;

(vii) all food sold from vending machines;

(viii) all food for immediate consumption sold from concession stands and vehicles;

(ix) party trays;

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

(xi) bakery products:

(A) prepared by the retailer for consumption on the retailer's premises;

(B) sold at a place that charges admission;

(C) sold from vending machines; or

(D) sold in single or individual servings from concession stands, vehicles, bars, and restaurants. For purposes of this subdivision, "single or individual servings" does not include products when sold in bulk containers or bulk packaging.

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. The premises of a caterer is the place where the catered food or drinks are served;

(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,

MINNESOTA STATUTES 2000

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.

Subd. 5. "Storage" includes any keeping or retention in Minnesota for any purpose except sale in the regular course of business or subsequent use solely outside Minnesota of tangible personal property.

Subd. 6. "Use" includes the exercise of any right or power over tangible personal property, or tickets or admissions to places of amusement or athletic events, purchased from a retailer incident to the ownership of any interest in that property, except that it does not include the sale of that property in the regular course of business.

"Use" includes the consumption of printed materials which are consumed in the creation of nontaxable advertising that is distributed, either directly or indirectly, within Minnesota.

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.

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

Subd. 9. "Gross receipts" means the total amount received, in money or otherwise, for all sales at retail as measured by the sales price. Gross receipts from sales may, at the option of the taxpayer, be reported on the cash basis as the consideration is received or on the accrual basis as sales are made.

Subd. 10. "Retailer" includes every person engaged in making sales at retail as herein defined.

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 9, clauses (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 purposes of this chapter, "prepaid telephone calling card" means any card or other similar arrangement, including prepaid authorization numbers, which permit its holder to obtain telephone services and pay for such services in advance.

Subd. 12. "Commissioner" means the commissioner of revenue of the state of Minnesota.

Subd. 13. "Agricultural production," as used in section 297A.25, subdivision 9, includes, but is not limited to, horticulture; floriculture; maple syrup harvesting; raising of pets, fur bearing animals, research animals, farmed cervidae, as defined in section 17.451, subdivision 2, llamas, as defined in section 17.455, subdivision 2, ratitae, as defined in section 17.453, subdivision 3, and horses.

Subd. 14. "Handicapped" means a permanent and total disability as defined in section 273.13, subdivision 22.

Subd. 15. "Farm machinery" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in the production for sale, but not including the processing, of livestock, dairy animals, dairy products, poultry and poultry products, fruits, vegetables, trees and shrubs, forage, grains and bees and apiary products. "Farm machinery" includes:

(1) machinery for the preparation, seeding or cultivation of soil for growing agricultural crops and sod, harvesting and threshing of agricultural products, harvesting or mowing of sod, and certain machinery for dairy, livestock and poultry farms;

(2) barn cleaners, milking systems, grain dryers, automatic feeding systems and similar installations; whether or not the equipment is installed by the seller and becomes part of the real property;

(3) irrigation equipment sold for exclusively agricultural use, including pumps, pipe fittings, valves, sprinklers and other equipment necessary to the operation of an irrigation system when sold as part of an irrigation system, whether or not the equipment is installed by the seller and becomes part of the real property;

(4) logging equipment, including chain saws used for commercial logging;

(5) fencing used for the containment of farmed cervidae, as defined in section 17.451, subdivision 2;

(6) primary and backup generator units used to generate electricity for the purpose of operating farm machinery, as defined in this subdivision, or providing light or space heating necessary for the production of livestock, dairy animals, dairy products, or poultry and poultry products;

(7) aquaculture production equipment as defined in subdivision 19; and

(8) equipment used for maple syrup harvesting.

Repair or replacement parts for farm machinery shall not be included in the definition of farm machinery.

Tools, shop equipment, grain bins, feed bunks, fencing material except fencing material covered by clause (5), communication equipment and other farm supplies shall not be considered to be farm machinery. "Farm machinery" does not include motor vehicles taxed under chapter 297B, snowmobiles, snow blowers, lawn mowers except those used in the production of sod for sale, garden-type tractors or garden tillers and the repair and replacement parts for those vehicles and machines.

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;

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

(8) ready-mixed concrete trucks in which the ready-mixed concrete is mixed as part of the delivery 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.

Subd. 17. **Special tooling.** Special tooling means tools, dies, jigs, patterns, gauges and other special tools which have value and use only for the buyer and for the use for which it is made. An item has use or value only to the buyer if the item is not standard enough to be stocked or ordered from a catalog or other sales literature, but must be produced in accordance with special requirements peculiar to the buyer and not common to someone else whose conditions for possible use of the material are reasonably similar to the buyer's.

Subd. 18. **Custom computer program.** "Custom computer program" means a computer program prepared to the special order of the customer, either in the form of written procedures or in the form of storage media on which, or in which, the program is recorded, or any required documentation or manuals designed to facilitate the use of the custom computer program transferred. It includes those services represented by separately stated charges for modifications to an existing prewritten program that are prepared to the special order of the customer. It does not include a "canned" or prewritten computer program that is held or existing for general or repeated sale or lease, even if the prewritten or "canned" program was initially developed on a custom basis or for in-house use. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification. For purposes of this subdivision:

(1) "Storage media" includes punched cards, tapes, discs, diskettes, or drums on which computer programs may be embodied or stored;

(2) "Computer" does not include tape-controlled automatic drilling, milling, or other manufacturing machinery or equipment; and

(3) "Computer program" means the complete plan for the solution of a problem, such as the complete sequence of automatic data processing equipment instructions necessary to solve a problem and includes both systems and application programs and subdivisions, such as assemblers, compilers, routines, generators, and utility programs.

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

Subd. 20. [Repealed, 1997 c 231 art 7 s 46]

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: *Ex1967 c 32 art 13 s 1; 1969 c 62 s 1,2; 1969 c 571 s 1,2; 1969 c 634 s 1; Ex1971 c 31 art 1 s 1; 1973 c 36 s 1; 1973 c 582 s 3; 1975 c 312 s 1,2; 1975 c 397 s 1; 1977 c 363 s 1; 1979 c 303 art 9 s 1; 1980 c 607 art 5 s 1; 1Sp1981 c 1 art 4 s 1,2; 1982 c 523 art 34 s 1; 1982 c 641 art 2 s 4; 3Sp1982 c 1 art 6 s 1; 1983 c 327 s 1,2; 1984 c 502 art 6 s 1-3; 1984 c 655 art 1 s 53; 1985 c 83 s 1; 1Sp1985 c 14 art 2 s 6; art 4 s 90; 1987 c 268 art 4 s 1-6; 1987 c 400 s 52; 1988 c 719 art 10 s 1; 1Sp1989 c 1 art 12 s 2; art 19 s 3; 1990 c 480 art 4 s 3,4; 1990 c 604 art 6 s 1,2; 1991 c 291 art 8 s 7-10; 1991 c 309 s 14; 1993 c 137 s 10; 1993 c 375 art 1 s 4; art 8 s 14; art 9 s 22-25; 1994 c 416 art 3 s 1; 1994 c 510 art 3 s 9; 1994 c 587 art 2 s 2,3; 1995 c 264 art 2 s 22,23; art 17 s 2; 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; 1998 c 300 art 2 s 2,3; 1998 c 389 art 8 s 1-3; 2000 c 490 art 8 s 4,5*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.02 IMPOSITION OF TAX.

Subdivision 1. **Generally.** Except as otherwise provided in this chapter, there is imposed an excise tax of 6.5 percent of the gross receipts from sales at retail made by any person in this state.

Subd. 2. [Repealed, 1998 c 389 art 8 s 47]

Subd. 3. **Liquor and beer sales.** Notwithstanding the provisions of subdivision 1, the rate of the excise tax imposed upon sales of intoxicating liquor, as defined in section 340A.101, subdivision 14, and 3.2 percent malt liquor, as defined in section 340A.101, subdivision 19, shall be nine percent. The 3.2 percent malt liquor is subject to taxation under this subdivision only when sold at an on-sale or off-sale municipal liquor store or other establishment licensed to sell any type of intoxicating liquor.

Subd. 4. **Manufactured housing and park trailers.** Notwithstanding the provisions of subdivision 1, for sales at retail of manufactured homes as defined in section 327.31, subdivision 6, that are used for residential purposes, the excise tax is imposed upon 65 percent of the dealer's cost of the home, and for sales of new and 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 park trailer.

Subd. 5. [Repealed, 1997 c 231 art 7 s 46]

History: *Ex1967 c 32 art 13 s 2; Ex1971 c 31 art 1 s 2; 1Sp1981 c 1 art 4 s 3; 3Sp1981 c 2 art 5 s 1; 3Sp1982 c 1 art 6 s 2; 1983 c 342 art 6 s 4; 1984 c 502 art 6 s 4,5; 1984 c 655 art 1 s 54; 1Sp1985 c 14 art 2 s 7; 1987 c 384 art 2 s 1; 1Sp1989 c 1 art 12 s 3; 1991 c 249 s 31; 1991 c 291 art 8 s 11; 1991 c 309 s 15; 1994 c 483 s 1; 1994 c 587 art 2 s 4; 1995 c 264 art 2 s 24; 1996 c 471 art 2 s 11; 1998 c 389 art 8 s 4,5*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.021 [Repealed, 1994 c 587 art 2 s 22]

297A.022 COORDINATION OF STATE AND LOCAL SALES TAX RATES.

In preparing and distributing a sales tax schedule for use within a local jurisdiction with a separate general sales tax, the state department of revenue shall coordinate the state, local option, and local sales tax so that a sale of \$1 reflects a tax equal to the combination of the state, local option, and local sales tax rate. The combined sales tax on other sales amounts shall also reflect the coordinated rather than the separate effects of the three sales taxes. The schedule must be coordinated as long as the local sales tax is in effect. If the sales tax percentage is changed for any of the taxes, the schedule shall be adjusted to reflect the change.

History: *1994 c 587 art 2 s 5*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.023 REMITTANCE OF AMOUNTS COLLECTED AS TAXES.

Any amounts collected, even if erroneously or illegally collected, from a purchaser under a representation that they are taxes imposed under this chapter are state funds from the time of collection and must be reported on a return filed with the commissioner and are not subject to refund without proof that such amounts have been refunded or credited to the purchaser by the seller.

History: 1996 c 471 art 2 s 12

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.03 SEPARATE STATEMENT; COLLECTION FROM PURCHASER; ADVERTISING NO TAX; MINIMUM; UNIFORM TAX COLLECTION METHODS.

Subdivision 1. The tax shall be stated and charged separately from the sales price or charge for service insofar as practicable and shall be collected by the seller from the purchaser and shall be a debt from the purchaser to the seller recoverable at law in the same manner as other debts.

Subd. 2. In computing the tax to be collected as the result of any transaction amounts of tax less than one-half of one cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent. If the sales price of any sale at retail is eight cents or less, no tax shall be collected.

Subd. 3. Agreements between competitive retailers or the adoption of appropriate rules or regulations by organizations or associations of retailers to provide uniform methods for adding such tax or the average equivalent thereof, and which do not involve price fixing agreements otherwise unlawful, are expressly authorized and shall be held not in violation of any laws of Minnesota prohibiting such agreements. The commissioner may prescribe rules for such agreements.

History: Ex1967 c 32 art 13 s 3; 1969 c 571 s 3; Ex1971 c 31 art 1 s 3; 1Sp1981 c 1 art 4 s 4; 3Sp1982 c 1 art 6 s 3; 1983 c 342 art 6 s 5; 1990 c 480 art 1 s 39

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.04 APPLICATIONS; MEMBER; FORM.

Every person desiring to engage in the business of making retail sales within Minnesota shall file with the commissioner an application for a permit. The commissioner may require any person or class of persons obligated to file a use tax return under section 289A.11, subdivision 3, to file application for a permit. Every application for a permit shall be made upon a form prescribed by the commissioner and shall set forth the name under which the applicant intends to transact business, the location of the applicant's place or places of business, and such other information as the commissioner may require. The application shall be filed by the owner, if a natural person; by a member or partner, if the owner is an association or partnership; by a person authorized to file the application, if the owner is a corporation.

History: Ex1967 c 32 art 13 s 4; 1969 c 571 s 4; 1986 c 444; 1990 c 480 art 1 s 46; 1993 c 375 art 9 s 26

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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: 1983 c 327 s 3; 1985 c 83 s 2; 1986 c 444; 1990 c 480 art 1 s 40; 1997 c 84 art 3 s 4

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.05 [Repealed, 1983 c 301 s 235; 1983 c 327 s 16]

297A.06 PERMIT.

After compliance with sections 297A.04 and 297A.28, when security is required, the commissioner shall grant to each applicant a permit. A permit is valid until canceled or revoked but is not assignable and is valid only for the person in whose name it is granted and for the transaction of business at the places designated.

History: Ex1967 c 32 art 13 s 6; 1987 c 384 art 2 s 73; 1989 c 277 art 1 s 13; 1993 c 375 art 9 s 27

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.065 CANCELLATION OF PERMITS.

The commissioner may cancel a permit when one of the following conditions occurs:

- (1) the permit holder has not filed a sales or use tax return for one year or more;
- (2) the permit holder has not reported any sales or use tax liability on the permit holder's returns for two or more years; or
- (3) the permit holder requests cancellation of the permit.

History: 1989 c 277 art 1 s 14

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.07 REVOCATION OF PERMITS.

Subdivision 1. **Hearings.** If any person fails to comply with this chapter or the sales and use tax provisions of chapter 289A or the rules adopted thereunder, without reasonable cause, the commissioner may give the person 30 days' notice in writing, specifying the violations, and that based upon such violations the commissioner intends to revoke the person's permit. The notice shall also advise the person of the person's right to contest the revocation under this subdivision, and the general procedures for a contested case hearing under chapter 14. The notice may be served personally or by mail in the manner prescribed for service of an order of assessment. A permit is revoked when the commissioner serves a notice of revocation of permit upon the person after 30 days have passed following the date of the notice of intent to revoke without the person requesting a hearing, or if a hearing is timely requested, and held, after the commissioner serves an order of revocation of permit under section 14.62, subdivision 1.

Subd. 2. [Repealed, 1994 c 510 art 3 s 13]

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: *Ex1967 c 32 art 13 s 7; 1985 c 248 s 70; 1986 c 444; 1987 c 268 art 17 s 25; 1989 c 184 art 2 s 27; 1992 c 511 art 8 s 7; 1993 c 375 art 9 s 28; 1994 c 416 art 3 s 3; 1994 c 510 art 3 s 10; 1997 c 84 art 5 s 10*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.08 [Repealed, 1990 c 480 art 1 s 45]

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: *Ex1967 c 32 art 13 s 9; 1986 c 444; 1997 c 31 art 2 s 7; 1997 c 231 art 7 s 9*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.10 EXEMPTION CERTIFICATE, DUTY OF RETAILER.

The exemption certificate will conclusively relieve the retailer from collecting and remitting the tax only if taken in good faith from a purchaser who holds the permit provided for in section 297A.06.

History: *Ex1967 c 32 art 13 s 10*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.11 CONTENT AND FORM OF EXEMPTION CERTIFICATE.

The exemption certificate shall be signed by and bear the name and address of the purchaser, shall indicate the sales tax account number if any issued to the purchaser and shall indicate the general character of the property sold by the purchaser in the regular course of business and shall identify the property purchased. The certificate shall be substantially in such form as the commissioner may prescribe.

History: *Ex1967 c 32 art 13 s 11; 1993 c 375 art 9 s 29*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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: *Ex1967 c 32 art 13 s 12; 1971 c 151 s 1; 1986 c 444; 1997 c 31 art 2 s 8*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46

297A.121 [Repealed, 1990 c 480 art 1 s 45]

297A.13 COMMINGLING EXEMPTION CERTIFICATE GOODS.

If a purchaser gives an exemption certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

History: *Ex1967 c 32 art 13 s 13*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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. 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. It applies whether or not the vehicle is licensed in the state.

Subd. 1a. **Fee imposed.** A fee equal to three percent of the sales price is imposed on leases or rentals of vehicles subject to the tax under subdivision 1. The lessor on the invoice to the customer may designate the fee as "a fee imposed by the State of Minnesota for the registration of rental cars."

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

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

Subd. 4. **Exemptions.** (a) The tax and the fee imposed by this section do not apply to a lease or rental of (1) a vehicle to be used by the lessee to provide a licensed taxi service; (2) a hearse or limousine used in connection with a burial or funeral service; or (3) a van designed or adapted primarily for transporting property rather than passengers.

(b) The lessor may elect not to charge the fee imposed in subdivision 1a if in the previous calendar year the lessor had no more than 20 vehicles available for lease that

MINNESOTA STATUTES 2000

would have been subject to tax under this section, or no more than \$50,000 in gross receipts that would have been subject to tax under this section.

Subd. 5. Payment of excess fees. On the first sales tax return due following the end of a calendar year during which a lessor has imposed a fee under subdivision 1a, the lessor shall report to the commissioner of revenue, in the form required by the commissioner, the amount of the fee collected and the amount of motor vehicle registration taxes paid by the lessor under chapter 168 on vehicles subject to the fee under this section. If the amount of the fee collected during the previous year exceeds the amount of motor vehicle registration taxes paid under chapter 168 during the previous year, the lessor shall remit the excess to the commissioner of revenue at the time the report is submitted.

History: 1991 c 291 art 8 s 12; 1992 c 511 art 8 s 8,9; 1994 c 587 art 2 s 6; 1995 c 264 art 2 s 25; 3Sp1997 c 3 s 23; 1998 c 389 art 8 s 6,7

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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

297A.14 USE TAX.

Subdivision 1. Imposition. For the privilege of using, storing, distributing, or consuming in Minnesota tangible personal property or taxable services purchased for use, storage, distribution, or consumption in this state, a use tax is imposed on every person in this state at the rate of tax imposed under section 297A.02 on the sales price of sales at retail of the items, unless the tax imposed by section 297A.02 was paid on the sales price.

A use tax is imposed on every person who uses, stores, distributes, or consumes tangible personal property in Minnesota which has been manufactured, fabricated, or assembled by the person from materials, either within or without this state, at the rate of tax imposed under section 297A.02 on the sales price of sales at retail of the materials contained in the tangible personal property, unless the tax imposed by section 297A.02 was paid on the sales price.

Subd. 2. Motor vehicles. A motor vehicle subject to tax under this section shall be taxed at its fair market value at the time of transport into Minnesota if the motor vehicle was acquired more than three months prior to its transport into this state.

Subd. 3. [Repealed, 1996 c 471 art 9 s 16]

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: Ex1967 c 32 art 13 s 14; 1971 c 430 s 1; Ex1971 c 31 art 1 s 4; 1973 c 650 art 13 s 1; 1Sp1981 c 1 art 4 s 5; 3Sp1982 c 1 art 6 s 4; 1983 c 342 art 6 s 6; 1984 c 502 art 6 s 6; 1Sp1985 c 14 art 2 s 8; 1987 c 268 art 4 s 7; 1990 c 480 art 4 s 5; 1991 c 291 art 2 s 7; 1992 c 511 art 8 s 11; 1993 c 375 art 9 s 31; 1996 c 471 art 2 s 13; 1997 c 31 art 2 s 9

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46

297A.141 LOCAL ADMISSIONS AND AMUSEMENT TAXES; EXEMPTION FOR ARTS ORGANIZATIONS.

No tax imposed by a local unit of government or imposed on sales taking place in a single named local unit of government on sales of admissions or amusements under a law enacted prior or subsequent to the enactment of this provision, other than a

general sales tax law, shall apply to amounts charged for admission to the premises of or events sponsored by a nonprofit arts organization.

History: 1980 c 607 art 5 s 4

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.15 COLLECTION AND PAYMENT; PENALTY.

Subdivision 1. **Liability for payment.** Liability for the payment of the use tax is not extinguished until the tax has been paid to Minnesota. However, a receipt from a retailer given to the purchaser pursuant to section 297A.16 relieves the purchaser of further liability for the tax to which the receipt refers, unless the purchaser knows or has reason to know that the retailer did not have a permit to collect the tax.

Subd. 2. [Repealed, 1988 c 719 art 10 s 20]

Subd. 3. [Repealed, 1990 c 480 art 1 s 45]

Subd. 4. **Seizure; court review.** The commissioner of revenue or the commissioner's duly authorized agents are empowered to seize and confiscate in the name of the state any truck, automobile or means of transportation not owned or operated by a common carrier, used in the illegal importation and transportation of any article or articles of tangible personal property by a retailer or the retailer's agent or employee who does not have a sales or use tax permit and has been engaging in transporting personal property into the state without payment of the tax. The commissioner may demand the forfeiture and sale of the truck, automobile or other means of transportation together with the property being transported illegally, unless the owner establishes to the satisfaction of the commissioner or the court that the owner had no notice or knowledge or reason to believe that the vehicle was used or intended to be used in any such violation. Within two days after the seizure, the person making the seizure shall deliver an inventory of the vehicle and property seized to the person from whom the seizure was made, if known, and to any person known or believed to have any right, title, interest or lien on the vehicle or property, and shall also file a copy with the commissioner. Within ten days after the date of service of the inventory, the person from whom the vehicle and property was seized or any person claiming an interest in the vehicle or property may file with the commissioner a demand for a judicial determination of the question as to whether the vehicle or property was lawfully subject to seizure and forfeiture. The commissioner, within 30 days, shall institute an action in the district court of the county where the seizure was made to determine the issue of forfeiture. The action shall be brought in the name of the state and shall be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and shall try and determine the issues of fact and law involved. Whenever a judgment of forfeiture is entered, the commissioner may, unless the judgment is stayed pending an appeal, cause the forfeited vehicle and property to be sold at public auction as provided by law. If a demand for judicial determination is made and no action is commenced as provided in this subdivision, the vehicle and property shall be released by the commissioner and redelivered to the person entitled to it. If no demand is made, the vehicle and property seized shall be deemed forfeited to the state by operation of law and may be disposed of by the commissioner as provided where there has been a judgment of forfeiture. The forfeiture and sale of the automobile, truck or other means of transportation, and of the property being transported illegally in it, is a penalty for the violation of this chapter. After deducting the expense of keeping the vehicle and property, the fee for seizure, and the costs of the sale, the commissioner shall pay from the funds collected all liens according to their priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the vehicle or property was being used or was intended to be used for or in connection with any such violation as specified in the order of the court, and shall pay the balance of the proceeds into the state treasury to be credited to the general fund. The state shall not be liable for any liens in excess of the proceeds from the sale after deductions provided. Any sale under the provisions

MINNESOTA STATUTES 2000

of this section shall operate to free the vehicle and property sold from any and all liens on it, and appeal from the order of the district court will lie as in other civil cases.

For the purposes of this section, "common carrier" means any person engaged in transportation for hire of tangible personal property by motor vehicle, limited to (1) a person possessing a certificate or permit or having completed a registration process that authorizes for-hire transportation of property from the United States Department of Transportation, the transportation regulation board, or the department of transportation; or (2) any person transporting commodities defined as "exempt" in for-hire transportation; or (3) any person who pursuant to a contract with a person described in clause (1) or (2) above transports tangible personal property.

Subd. 5. Refund; appropriation. Notwithstanding the provisions of sections 297A.02, subdivision 5, and 297A.25, subdivision 42, the tax on sales of capital equipment, and replacement capital equipment, shall be imposed and collected as if the rate under section 297A.02, subdivision 1, applied. Upon application by the purchaser, on forms prescribed by the commissioner, a refund equal to the reduction in the tax due as a result of the application of the exemption under section 297A.25, subdivision 42, and the rate under section 297A.02, subdivision 5, shall be paid to the purchaser. The application must include sufficient information to permit the commissioner to verify the sales tax paid for the project. The application shall include information necessary for the commissioner initially to verify that the purchases qualified as capital equipment under section 297A.25, subdivision 42, or replacement capital equipment under section 297A.01, subdivision 20. No more than two applications for refunds may be filed under this subdivision in a calendar year. Unless otherwise specifically provided by this subdivision, the provisions of sections 289A.40 and 289A.50 apply to the refunds payable under this subdivision. There is annually appropriated to the commissioner of revenue the amount required to make the refunds.

The amount to be refunded shall bear interest at the rate in section 270.76 from the date the refund claim is filed with the commissioner.

Subd. 6. Refund; appropriation. The tax on the gross receipts from the sale of items exempt under section 297A.25, subdivision 43, must be imposed and collected as if the sale were taxable and the rate under section 297A.02, subdivision 1, applied.

Upon application by the owner of the homestead property on forms prescribed by the commissioner, a refund equal to the tax paid on the gross receipts of the building materials and equipment must be paid to the homeowner. In the case of building materials in which the tax was paid by a contractor, application must be made by the homeowner for the sales tax paid by the contractor. The application must include sufficient information to permit the commissioner to verify the sales tax paid for the project. The contractor must furnish to the homeowner a statement of the cost of building materials and the sales taxes paid on the materials. 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.

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

Subd. 8. Refund; appropriation; agricultural processing facilities. The tax on the gross receipts from the sale of items exempt under section 297A.25, subdivision 87 or 90, must be imposed and collected as if the sale were taxable and the rate under section 297A.02, subdivision 1, applied.

Upon application by the owner of the property on forms prescribed by the commissioner, a refund equal to the tax paid on the gross receipts of the building materials and equipment must be paid to the owner. In the case of materials and equipment in which the tax was paid by a contractor, application must be made by the owner for the sales tax paid by the contractor. The application must include sufficient information to permit the commissioner to verify the sales tax paid for the project. The contractor must furnish to the owner a statement of the cost of building materials and equipment and the sales taxes paid on these items. 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: *Ex1967 c 32 art 13 s 15; 1969 c 915 s 1; 1975 c 397 s 2; 1980 c 614 s 123; 1983 c 247 s 128; 1984 c 502 art 6 s 7; 1985 c 248 s 70; 1Sp1985 c 14 art 8 s 17; 1986 c 441 s 7; 1986 c 444; 1988 c 719 art 10 s 2,3; 1Sp1989 c 1 art 12 s 4,5; 1990 c 480 art 1 s 46; 1992 c 464 art 2 s 4; 1992 c 511 art 7 s 21,22; art 8 s 12; 1994 c 587 art 2 s 7; 1995 c 264 art 2 s 26; 1996 c 471 art 2 s 14; art 9 s 3,4; 1997 c 231 art 7 s 10; 1997 c 251 s 21; 1999 c 243 art 16 s 22; 2000 c 490 art 8 s 6.*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.151 [Renumbered 270.73]

297A.16 COLLECTION OF TAX AT TIME OF SALE.

Any retailer who is required under section 297A.21 or authorized by the commissioner to collect the use tax upon making retail sales of any items enumerated in this chapter not exempted under sections 297A.01 to 297A.44 to which the use tax applies shall at the time of making such sales collect the use tax from the purchaser and give to the purchaser a receipt therefor in the form of a notation on the sales slip or receipt for the sales price or in such other form as prescribed by the commissioner. Any such retailer shall not collect the tax from a purchaser who furnishes to such retailer a copy of a certificate issued by the commissioner authorizing such purchaser to pay any sales or use tax due on purchases made by such purchaser directly to the commissioner. The tax collected by such retailer pursuant to the provisions of this section shall be remitted to the commissioner as provided in other sections of this chapter.

History: *Ex1967 c 32 art 13 s 16; 1969 c 915 s 2; 1986 c 444; 1988 c 719 art 10 s 4*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.17 STATUS AS DEBT.

The use tax required to be collected by the retailer shall be a debt from the purchaser to the retailer recoverable at law in the same manner as other debts.

History: *Ex1967 c 32 art 13 s 17; 1988 c 719 art 10 s 5; 1989 c 277 art 1 s 15; 1990 c 480 art 1 s 41*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.18 MINIMUM TAX.

In computing the tax to be collected as the result of any transaction amounts of tax less than one-half of one cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent.

History: *Ex1967 c 32 art 13 s 18; 1987 c 268 art 4 s 8; 1990 c 480 art 1 s 42*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.19 [Repealed, 1989 c 277 art 1 s 35]

297A.20 [Repealed, 1990 c 480 art 1 s 45]

297A.21 REGISTRATION TO COLLECT USE TAX.

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

Subd. 2. **Destination.** The destination of a sale is the location to which the retailer makes delivery of the property sold, or causes the property to be delivered, to the purchaser of the property, or to the agent or designee of the purchaser by any means of delivery, including the United States Postal Service, a common carrier, or a contract carrier.

Subd. 3. **Out-of-state retailer maintaining place of business in Minnesota.** A retailer making retail sales from outside this state to a destination within this state and maintaining a place of business in this state shall file an application for a permit pursuant to section 297A.04 and shall collect and remit the use tax as provided in section 297A.16.

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

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

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

(3) advertisements in newspapers published in this state;

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

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

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

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

or

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

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

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

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

Subd. 5. Voluntary registration by out-of-state retailer not maintaining place of business in Minnesota. A retailer making retail sales from outside this state to a destination within this state who is not required to collect and remit use tax may nevertheless voluntarily file an application for a permit pursuant to section 297A.04. If the application is granted, the retailer shall collect and remit the use tax as provided in section 297A.16 until the permit is canceled or revoked.

Subd. 6. Commissioner's discretion. (a) The commissioner may decline to issue a permit to any retailer not maintaining a place of business in this state, or may cancel a permit previously issued to the retailer, if the commissioner believes that the use tax can be collected more effectively from the persons using the property in this state. A refusal to issue or cancellation of a permit on such grounds does not affect the retailer's right to make retail sales from outside this state to destinations within this state.

(b) When, in the opinion of the commissioner, it is necessary for the efficient administration of sections 297A.14 to 297A.25 to regard a salesperson, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer, or other person under whom that person operates or from whom the person obtains the tangible personal property sold, whether making sales personally or in behalf of that dealer, distributor, supervisor, employer, or other person the commissioner may regard the salesperson, representative, trucker, peddler, or canvasser as such agent, and may regard the dealer, distributor, supervisor, employer, or other person as a retailer for the purposes of sections 297A.14 to 297A.25.

History: *Ex 1967 c 32 art 13 s 21; 1969 c 915 s 3; 1986 c 444; 1988 c 719 art 10 s 6; 1989 c 277 art 1 s 17; 1991 c 291 art 8 s 13,14; 1992 c 511 art 8 s 13; 1996 c 471 art 9 s 5*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46

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

MINNESOTA STATUTES 2000

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.

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

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

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

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

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

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

Subd. 4. Notwithstanding subdivisions 1 to 3, the commissioner may enter into an agreement with the commissioner of public safety, whereby upon approval of both commissioners, the commissioner of public safety will collect the sales tax on motor vehicles from persons defined in subdivision 1. For the purpose of collecting the tax, the commissioner of public safety shall act as the agent of the commissioner of revenue and shall be subject to all rules not inconsistent with the provisions of this chapter, that may be prescribed by the commissioner.

History: 1971 c 115 s 1; 1977 c 15 s 1; 1978 c 539 s 1; 1980 c 607 art 5 s 3; 1980 c 614 s 123; 1983 c 327 s 5; 1985 c 248 s 70; 1987 c 268 art 4 s 9,10; 1990 c 480 art 1 s 43,46; 1991 c 291 art 2 s 8; art 8 s 15; 1994 c 587 art 2 s 21; 1996 c 471 art 2 s 15; art 9 s 6; 1997 c 231 art 7 s 11

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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

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

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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: Ex1967 c 32 art 13 s 22; 1986 c 444; 1997 c 31 art 2 s 10

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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: Ex1967 c 32 art 13 s 23; 1986 c 444; 1997 c 31 art 2 s 11

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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

Subdivision 1. **State tax.** If any article of tangible personal property or any item enumerated in section 297A.14 has already been subjected to a tax by any other state in respect of its sale, storage, use or other consumption in an amount less than the tax imposed by sections 297A.01 to 297A.44, then as to the person who paid the tax in such other state, the provisions of section 297A.14 shall apply only at a rate measured by the difference between the rate imposed under section 297A.02 and the rate by which the previous tax was computed. If such tax imposed in such other state was equal to or greater than the tax imposed in this state, then no tax shall be due from such person under section 297A.14.

Subd. 2. [Repealed, 1996 c 471 art 9 s 16]

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: Ex1967 c 32 art 13 s 24; 1973 c 501 s 13; 1Sp1981 c 1 art 4 s 6; 1991 c 291 art 2 s 9; 1996 c 471 art 9 s 7; 1997 c 84 art 3 s 5

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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.

Medical supplies purchased by a licensed health care facility or licensed health care professional to provide medical treatment to residents or patients are exempt. The exemption does not apply to medical equipment or components of medical equipment, laboratory supplies, radiological supplies, and other items used in providing medical services. For purposes of this subdivision, "medical supplies" means adhesive and nonadhesive bandages, gauze pads and strips, cotton applicators, antiseptics, nonprescription drugs, eye solution, and other similar supplies used directly on the resident or patient in providing medical services.

Subd. 4. **Constitutional prohibitions.** The gross receipts from the sale of and the storage, use or other consumption in Minnesota of tangible personal property, tickets, or admissions, electricity, gas, or local exchange telephone service, which under the Constitution or laws of the United States or under the Constitution of Minnesota, the state of Minnesota is prohibited from taxing, are exempt.

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;

(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; or

(3) aircraft, as defined in section 360.511 and approved by the Federal Aviation Administration, and which the seller delivers to a purchaser outside Minnesota or which, without intermediate use, is shipped or transported outside Minnesota by the purchaser, but only if the purchaser is not a resident of Minnesota and provided that the aircraft is not thereafter returned to a point within Minnesota, except in the course of interstate commerce or isolated and occasional use and will be registered in another state or country upon its removal from Minnesota; this exemption applies even if the purchaser takes possession of the aircraft in Minnesota and uses the aircraft in the state exclusively for training purposes for a period not to exceed ten days prior to removing the aircraft from this state.

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 296A, and no refund has been or will be allowed because the buyer used the fuel for nonhighway 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 296A.01, subdivision 39, for off-highway business use as part of the operations of a resort as provided under section 296A.16, subdivision 2, 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

MINNESOTA STATUTES 2000

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, 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. The following materials, tools, and equipment used in metalcasting are exempt under this subdivision: crucibles, thermocouple protection sheaths and tubes, stalk tubes, refractory materials, molten metal filters and filter boxes, degassing lances, and base blocks. Electricity used to make snow for outdoor use for ski hills, ski slopes, or ski trails is included in this exemption. Petroleum and special fuels used in producing or generating power for propelling ready-mixed concrete trucks on the public highways of this state are not included in this exemption.

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

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 Perpich center for arts education, an instrumentality of a political subdivision that is accredited as an optional/special function school by the North Central Association of Colleges and Schools, school districts, public libraries, public library systems, multicounty, multitype library systems as defined in section 134.001, county law libraries under chapter 134A, state agency libraries, the state library under section 480.09, and the legislative reference library 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,

MINNESOTA STATUTES 2000

671.

GENERAL SALES AND USE TAXES 297A.25

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.

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 to a town of gravel and of machinery, equipment, and accessories, except motor vehicles, used exclusively for road and bridge maintenance, and leases of motor vehicles exempt from tax under section 297B.03, clause (10), 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.

Subd. 13. [Repealed, 1987 c 268 art 4 s 25]

Subd. 14. **Airflight equipment.** The gross receipts from sales of airflight equipment to, and the storage, use or other consumption of such property by airline companies, as defined in section 270.071, subdivision 4, are exempt. For purposes of this subdivision, "airflight equipment" includes airplanes and parts necessary for the repair and maintenance of such airflight equipment, and flight simulators, but does not include airplanes with a gross weight of less than 30,000 pounds that are used on intermittent or irregularly timed flights.

Subd. 15. **Taconite production materials.** The gross receipts from the sale of and the storage, use or other consumption by persons taxed under the in lieu provisions of chapter 298, of mill liners, grinding rods and grinding balls which are substantially consumed in the production of taconite, the material of which primarily is added to and becomes a part of the material being processed are exempt.

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 applies to the leasing of a motor vehicle as defined in section 297B.01, subdivision 5, only if the vehicle is:

(1) a truck, as defined in section 168.011, a bus, as defined in section 168.011, or a passenger automobile, as defined in section 168.011, if the automobile is designed and used for carrying more than nine persons including the driver; and

(2) intended to be used primarily to transport tangible personal property or individuals, other than employees, to whom the organization provides service in performing its charitable, religious, or educational purpose.

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 commissioner of children, families, and learning and a "private school" is one which under the standards of the commissioner of children, families, and learning, 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.

Subd. 22. **Advertising materials.** The gross receipts from the sale of and the storage of material designed to advertise and promote the sale of merchandise or services, which material is purchased and stored for the purpose of subsequently shipping or otherwise transferring outside the state by the purchaser for use thereafter solely outside the state of Minnesota are exempt. Mailing and reply envelopes and cards used exclusively in connection with the advertising and promotional materials are included in this exemption.

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;

MINNESOTA STATUTES 2000

(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.

Subd. 24. Nonprofit tickets or admissions. The gross receipts from the sale or use of tickets or admissions to the premises of or events sponsored by an association, corporation or other group of persons which provides an opportunity for citizens of the state to participate in the creation, performance or appreciation of the arts and which either (1) qualifies as a tax-exempt organization within the meaning of Minnesota Statutes 1980, section 290.05, subdivision 1, clause (i), or (2) is a municipal board that promotes cultural and arts activities are exempt. The exemption provided with respect to a municipal board applies only to tickets and admissions to events sponsored by the board.

Subd. 25. Veterans groups. The gross receipts from either the sales to or the storage, use or consumption of tangible personal property by an organization of military service veterans or an auxiliary unit of an organization of military service veterans are exempt, provided that:

(1) the organization or auxiliary unit is organized within the state of Minnesota and is exempt from federal taxation pursuant to section 501(c), clause (19), of the Internal Revenue Code of 1986, as amended through December 31, 1992; and

(2) the tangible personal property which is sold to or stored, used or consumed by the organization or auxiliary unit is for charitable, civic, educational, or nonprofit uses and not for social, recreational, pleasure or profit uses.

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 120A.22, subdivision 4.

Subd. 31. Sales by government taxable. This section shall not be construed to exempt the gross receipts from sales of tangible personal property or taxable services purchased from the United States or any of its agencies or instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political subdivisions by ultimate consumers, and such purchases are hereby declared to be subject to tax, except as they may be otherwise exempted.

Subd. 32. Property brought into Minnesota by nonresident. All articles of tangible personal property brought into Minnesota by a person who was a nonresident of this

state immediately prior to bringing such property into this state for the person's use, storage, or consumption are hereby exempted from the tax imposed by section 297A.14.

Subd. 33. Road materials. Nothing in this section shall exempt the gross receipts from sales of road building materials intended for use in state trunk highway or interstate highway construction, purchased by contractors.

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), or exempt from taxation under section 473.448.

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.

Subd. 36. Interstate WATS lines. The gross receipts from the sale of long distance telephone services are exempt, if the service (1) consists of a wide area telephone line that permits a long distance call to an individual or business located in Minnesota to be made from a location outside of Minnesota at no toll charge to the person placing the call; or (2) entitles a customer, upon payment of a periodic charge that is determined either as a flat amount or upon the basis of total elapsed transmission time, to the privilege of an unlimited number of long distance calls made from a location in Minnesota to a location outside of Minnesota if the customer is a qualified provider of telemarketing services. As used in this subdivision, a "qualified provider of telemarketing services" is a telemarketing firm that derives at least 80 percent of its revenues from one or more of the following activities: soliciting or providing information, soliciting sales or receiving orders, and conducting research by means of telegraph, telephone, computer database, fiber optic, microwave, or other communication system.

Subd. 37. YMCA, YWCA, and JCC memberships. The gross receipts from the sale of memberships, including both one-time initiation fees and periodic membership dues, to an association incorporated under section 315.44 or an organization defined under section 315.51, are exempt. However, all separate charges made for the privilege of having access to and the use of the association's sports and athletic facilities are taxable.

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

MINNESOTA STATUTES 2000

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.

Subd. 45. **Ships used in interstate commerce.** The gross receipts from sales of, and use, storage, or consumption of:

- (1) repair, replacement, and rebuilding parts and materials, and lubricants, for ships or vessels used or to be used principally in interstate or foreign commerce; and
- (2) vessels with a gross registered tonnage of at least 3,000 tons are exempt.

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. 47. [Expired]

Subd. 48. [Expired]

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

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.

Subd. 54. **Used farm tires.** The first \$5,000 of gross receipts from the sales of used, remanufactured, or repaired tires for farm machinery, by a sole proprietor, in a calendar year are exempt provided that:

- (1) the seller had gross receipts from all sales of less than \$10,000 in the previous year; and
- (2) the tires are not retreaded.

Subd. 55. **Construction materials; corrugated recycling facilities.** 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 a new facility which reduces the flow of solid waste by creating a market for recycled corrugated waste; and
- (2) the recycling process of the facility produces pulp or paper from corrugated waste.

The exemption provided by this subdivision applies to construction materials and supplies purchased prior to December 31, 1997.

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 within this exemption.

Subd. 58. Personal computers prescribed for use by school. The gross receipts from the sale, or the storage, use or consumption, of personal computers and related software sold by a public or private school, college, university, or business or trade school to students who are enrolled at the institutions are exempt if:

(1) the use of the personal computer, or of a substantially similar model of computer, and the related software is prescribed by the institution in conjunction with a course of study; and

(2) each student of the institution, or of a unit of the institution in which the student is enrolled, is required by the institution to purchase or otherwise to acquire and possess such a personal computer and related software as a condition of enrollment. For the purposes of this subdivision, "public school," "private school," and "business and trade schools" have the meanings given in subdivision 21.

Subd. 59. Farm machinery. The gross receipts from the sale of used farm machinery and, after June 30, 2000, the gross receipts from the sale of new 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.

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 and outpatient surgical centers. (a) 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" means services authorized or required to be performed by a hospital under chapter 144 and rules thereunder or under the applicable licensure law of any other jurisdiction.

(b) The gross receipts from the sale of tangible personal property to, and the storage, use, or consumption of such property by, an outpatient surgical center are exempt, if the property purchased is to be used in providing outpatient surgical services to human beings. For purposes of this subdivision, "outpatient surgical center" means an outpatient surgical center 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 the purposes of this subdivision, "outpatient surgical services" means: (1) services authorized or required to be performed by an outpatient surgical center under chapter 144 and rules thereunder or under the applicable licensure law of any other jurisdiction; and (2) urgent care. For purposes of this subdivision, "urgent care" means health services furnished to a person whose medical condition is sufficiently acute to require treatment unavailable through, or inappropriate to be provided by, a clinic or physician's office, but not so acute as to require treatment in a hospital emergency room.

(c) These exemptions do not apply to purchases made by a clinic, physician's office, or any other medical facility not operating as a hospital or outpatient surgical center, even though the clinic, office, or facility may be owned and operated by a hospital or outpatient surgical center. Sales exempted by this subdivision do not include sales under section 297A.01, subdivision 3, paragraphs (c) and (e). These exemptions do 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 or outpatient surgical center. These exemptions do not apply to construction materials to be used in constructing buildings or facilities which will not be used principally by a hospital or outpatient surgical

center. These exemptions do 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. [Expired]

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.

Subd. 73. **Biosolids processing equipment.** (a) The gross receipts from the sale of and the storage, use, or consumption of equipment designed to process, dewater, and recycle biosolids for wastewater treatment facilities of political subdivisions, and materials incidental to installation of that equipment, are exempt.

(b) The gross receipts from the sale of and the storage, use, or consumption of materials used to construct buildings to house the equipment in paragraph (a) are exempt if purchased after June 30, 1998, and before July 1, 2001.

Subd. 74. **Construction materials; Minneapolis convention center.** Purchases of materials, supplies, or equipment used or consumed in the construction, equipment, improvement, or expansion of the Minneapolis convention center are exempt from the tax imposed under this chapter and from any sales and use tax imposed by a local unit of government notwithstanding any ordinance or charter provision. This exemption applies regardless of whether the materials, supplies, or equipment are purchased by the city or by a construction manager or contractor.

Subd. 75. **Construction materials; RiverCentre arena.** Purchases of materials, supplies, or equipment used or consumed in the construction, equipment, improvement, or expansion of the RiverCentre arena complex in the city of St. Paul are exempt from the tax imposed under this chapter and from any sales and use tax imposed by a local unit of government notwithstanding any ordinance or charter provision. This exemption applies regardless of whether the materials, supplies, or equipment are purchased by the city or by a construction manager or contractor.

Subd. 76. **Construction materials for an environmental learning center.** Construction materials and supplies are exempt from the tax imposed under this section, regardless of whether purchased by the owner or a contractor, subcontractor, or builder, if they are used or consumed in constructing or improving the Long Lake Conservation Center pursuant to the funding provided under Laws 1994, chapter 643, section 23, subdivision 28, as amended by Laws 1995, First Special Session chapter 2, article 1, section 48; and Laws 1996, chapter 463, section 7, subdivision 26. The tax shall be calculated and paid as if the rate in section 297A.02, subdivision 1, was in effect and a refund applied for in the manner prescribed in section 297A.15, subdivision 7.

Subd. 77. **Soybean oilseed processing and refining facility.** 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 for soybean oilseed processing and refining;

(2) the total capital investment made in the facility is at least \$60,000,000; and

(3) the facility is constructed by a Minnesota-based cooperative, organized under chapter 308A.

Subd. 78. Earle Brown Heritage Center construction materials. Purchases of materials and supplies used or consumed in and equipment incorporated into the construction, improvement, or expansion of the Earle Brown Heritage Center in Brooklyn Center are exempt from the tax imposed under this chapter, and from any sales and use tax imposed by a local unit of government notwithstanding any ordinance or charter provision. This exemption applies regardless of whether the materials, supplies, or equipment are purchased by the city or a contractor, subcontractor, or builder.

Subd. 79. Prizes. The gross receipts from the sales of tangible personal property which will be given as prizes to players in games of skill or chance conducted at events such as community festivals, fairs, and carnivals lasting less than six days are exempt. This exemption shall not apply to property awarded as prizes in connection with lawful gambling as defined in section 349.12 or the state lottery.

Subd. 80. Construction materials and supplies; agricultural processing facility. Purchases of construction materials, supplies, and equipment 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, and the equipment is incorporated into, the expansion, remodeling, or improvement of a facility used for cattle slaughtering;

(2) the cost of the project is expected to exceed \$15,000,000;

(3) the expansion, remodeling, or improvement of the facility will be used to fabricate beef;

(4) the number of jobs at the facility are expected to increase by at least 150 when the project is completed; and

(5) the project is expected to be completed by December 31, 2001.

Subd. 81. Television commercials. The gross receipts from the sale of and storage, use, or consumption of tangible personal property which is primarily used or consumed in the preproduction, production, or postproduction of any television commercial and any such commercial, regardless of the medium in which it is transferred, are exempt. "Preproduction" and "production" include but are not limited to all activities related to the preparation for shooting and the shooting of television commercials, including film processing. Equipment rented for the preproduction and production activities is exempt. "Postproduction" includes but is not limited to all activities related to the finishing and duplication of television commercials. This exemption does not apply to tangible personal property used primarily in administration, general management, or marketing. Machinery and equipment purchased for use in producing such commercials and fuel, electricity, gas, or steam used for space heating or lighting are not exempt under this subdivision.

Subd. 82. Construction materials and equipment; biomass electrical generating facility. The gross receipts from the purchases of materials and supplies used or consumed in, and equipment incorporated into, the construction, improvement, or expansion of a facility using biomass to generate electricity 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 facility exclusively utilizes residue wood, sawdust, bark, chipped wood, or brush to generate electricity;

(2) the facility utilizes a reciprocated grate combination system; and

(3) the total gross capacity of the facility is 15 to 21 megawatts.

Subd. 83. Waste management containers and compactors. The gross receipts from the sale of and storage, use, or consumption of compactors and waste collection containers are exempt from the sales and use taxes imposed under this chapter

provided that they are purchased by a waste management service provider, and are used in providing waste management services as defined in section 297H.01, subdivision 12. A waste management service provider that does not remit tax on customer charges or lease or rental payments for compactors and waste collection containers under chapter 297H is ineligible for this exemption.

Subd. 84. Materials used to make residential property handicapped accessible. The gross receipts from the sale of, and the storage, use, or consumption of building materials and equipment to a nonprofit organization are exempt if:

(1) the materials and equipment are used or incorporated into modifying an existing residential structure to make it handicapped accessible; and

(2) the materials and equipment used in the modification would qualify for an exemption under either subdivision 20 or 43 if made by the current owner of the residence.

For purposes of this subdivision, "nonprofit organization" means any nonprofit corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, educational, or civic purposes; or a veterans' group exempt from federal taxation under section 501(c), clause (19), of the Internal Revenue Code.

Subd. 85. Maintenance of cemetery grounds. Lawn care and related services used in the maintenance of cemetery grounds are exempt. For purposes of this subdivision, "lawn care and related services" means the services listed in section 297A.01, subdivision 3, paragraph (i), clause (vi), and "cemetery" means a cemetery for human burial.

Subd. 86. Patent, trademark, and copyright drawings and documents. The gross receipts from the sale of, and use, storage, distribution, or consumption of a drawing, diagram, or similar or related document or a copy of such a document are exempt if the document:

(1) is produced and sold by a patent drafter; and

(2) is for use in:

(i) a patent, trademark, or copyright application to be filed with government agencies;

(ii) an application to the federal Food and Drug Administration for approval of a medical device; or

(iii) a judicial or quasi-judicial proceeding, including mediation and arbitration, relating to the validity of or legal rights under a patent, trademark, or copyright.

For purposes of this subdivision, a "patent drafter" is a person who prepares illustrative documents required in the preparation of intellectual property applications.

Subd. 87. Construction materials and equipment; pork and beef agricultural processing facility. Materials, supplies, and equipment used or consumed in the construction and initial equipping of an agricultural processing facility are exempt from the tax imposed under this chapter provided that the following conditions are met:

(1) the construction and equipping of the facility will be at least \$1,500,000;

(2) the facility is owned and operated by a C corporation, as defined in section 1361(a)(2) of the Internal Revenue Code of 1986, with fewer than 20 shareholders of which at least one-half of them are full-time or part-time farmers; and

(3) the facility will have a weekly processing capacity of at least 50 hogs and 30 beef animals.

The exemption applies regardless of whether the materials, supplies, and equipment are purchased by the owner or by a contractor, subcontractor, or builder. The tax must be calculated and paid at the time of purchase and a refund applied for in the manner prescribed in section 297A.15, subdivision 8.

Subd. 88. Machinery and equipment for ski areas. The gross receipts from the sale, storage, use, or consumption of tangible personal property used or consumed

MINNESOTA STATUTES 2000

683

GENERAL SALES AND USE TAXES 297A.25

primarily and directly for tramways at ski areas or in snowmaking and snow-grooming operations at ski hills, ski slopes, or ski trails, including machinery, equipment, fuel, electricity, and water additives used in the production and maintenance of machine-made snow, are exempt.

Subd. 89. Feed for poultry raised for human consumption. The gross receipts from the sale of, and storage, use, or consumption of poultry feed are exempt if the poultry is raised for human consumption.

Subd. 90. Construction materials and equipment; agricultural pork processing facility. Materials, supplies, and equipment used or consumed in the construction and initial equipping of an agricultural pork processing facility are exempt from the tax imposed under this chapter provided that the following conditions are met:

- (1) the construction and equipping of the facility will be at least \$4,000,000;
- (2) the facility is owned and operated by a cooperative organized under chapter 308A; and
- (3) the facility will have a maximum daily processing capacity of at least 400 hogs.

The exemption applies regardless of whether the materials, supplies, and equipment are purchased by the owner or by a contractor, subcontractor, or builder. The tax must be calculated and paid at the time of purchase and a refund applied for in the manner prescribed in section 297A.15, subdivision 8.

History: *Ex1967 c 32 art 13 s 25; 1969 c 881 s 18; 1971 c 123 s 1; 1971 c 124 s 1; 1971 c 740 s 2; 1971 c 853 s 17; Ex1971 c 31 art 1 s 5; 1973 c 75 s 1; 1973 c 452 s 1; 1973 c 582 s 3; 1973 c 650 art 13 s 2; 1974 c 11 s 1; 1974 c 155 s 1; 1978 c 721 art 1 s 1; 1979 c 191 s 1; 1980 c 607 art 5 s 2; 1Sp1981 c 1 art 4 s 7; 3Sp1981 c 2 art 5 s 2; 1982 c 523 art 15 s 2; art 34 s 2; 1982 c 641 art 2 s 5; 1983 c 327 s 6; 1983 c 342 art 6 s 7; 1984 c 502 art 6 s 8; 1984 c 525 s 2; 1984 c 548 s 3; 1984 c 644 s 55; 1984 c 655 art 1 s 55; 1985 c 83 s 3; 1985 c 248 s 70; 1Sp1985 c 10 s 86; 1Sp1985 c 14 art 2 s 9; 1986 c 444; 1987 c 268 art 4 s 12-17; 1987 c 384 art 2 s 74; 1988 c 719 art 10 s 8-15; 1989 c 209 art 2 s 1; 1989 c 246 s 2; 1989 c 277 art 1 s 18,19; 1989 c 329 art 12 s 6; 1Sp1989 c 1 art 12 s 6-8; art 19 s 4,5; 1990 c 480 art 4 s 6; 1990 c 556 s 5; 1990 c 604 art 6 s 3-5; 1990 c 612 s 13; 1991 c 199 art 1 s 64; 1991 c 291 art 8 s 16-20; 1992 c 363 art 1 s 19; 1992 c 511 art 8 s 14-23; 1992 c 597 s 15; 1993 c 375 art 8 s 14; art 9 s 32-38; 1994 c 510 art 3 s 11,12; 1994 c 587 art 2 s 8-13,21; 1994 c 642 s 7; 1995 c 186 s 59; 1995 c 264 art 2 s 27-32; 1996 c 305 art 1 s 66,138; 1996 c 395 s 13; 1996 c 412 art 9 s 19; 1996 c 471 art 2 s 16-21; 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 13-29,47; art 13 s 3-4; 1Sp1997 c 5 s 42; 1998 c 299 s 30; 1998 c 389 art 8 s 8-18; 1998 c 397 art 11 s 3; 1998 c 398 art 5 s 55; 1Sp1998 c 3 s 2; 1999 c 241 art 10 s 8; 1999 c 243 art 4 s 4-11; 2000 c 490 art 8 s 7-18*

NOTE: Subdivision 69, as added by Laws 1997, chapter 231, article 7, section 26, is effective for purchases, sales, storage, use, or consumption occurring after July 31, 1997, and before August 1, 2003, in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington. Laws 1997, chapter 231, article 7, sections 45 and 47.

NOTE: Subdivision 78, as added by Laws 1998, chapter 389, article 8, section 18, is effective for purchases made after June 30, 1998, and before July 1, 2003. Laws 1998, chapter 389, article 8, section 48.

NOTE: Subdivision 82, as added by Laws 1999, chapter 243, article 4, section 10, is effective for purchases made after May 25, 1999, and before July 1, 2001. Laws 1999, chapter 243, article 4, section 19.

NOTE: Subdivision 87, as added by Laws 2000, chapter 490, article 8, section 18, is effective for sales and purchases made after December 31, 1999, and before December 31, 2000. Laws 2000, chapter 490, article 8, section 18, the effective date.

NOTE: Subdivision 90, as added by Laws 2000, chapter 490, article 8, section 17, is effective for sales and purchases made after December 31, 2000. Laws 2000, chapter 490, article 8, section 18, the effective date.

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.251 [Repealed, 1983 c 327 s 16]

297A.252 [Repealed, 1973 c 650 art 13 s 3]

297A.253 [Repealed, 1989 c 277 art 1 s 35]

297A.2531 SATELLITE BROADCASTING FACILITY MATERIALS; EXEMPTIONS.

Notwithstanding the provisions of this chapter, there shall be exempt from the tax imposed therein all materials and supplies or equipment used or consumed in constructing, or incorporated into the construction of, a new facility in Minnesota for providing federal communications commission licensed direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band or fixed satellite regional or national program services, as defined in section 272.02, subdivision 16, construction of which was commenced after June 30, 1993, and all machinery, equipment, tools, accessories, appliances, contrivances, furniture, fixtures, and all technical equipment or tangible personal property of any other nature or description necessary to the construction and equipping of that facility in order to provide those services.

History: 1993 c 375 art 9 s 39

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.254 [Repealed, 1987 c 268 art 8 s 8]**297A.2545 STEEL REPROCESSORS; EXEMPTION FOR POLLUTION CONTROL EQUIPMENT.**

Notwithstanding the provisions of this chapter, the purchase of pollution control equipment by a steel reprocessing firm is exempt from the sales and use tax provided that the equipment is necessary to meet state or federal emission standards. For purposes of this section "pollution control equipment" means any equipment used for the purpose of eliminating, preventing, or reducing air, land, or water pollution during or as a result of the manufacturing process. "Steel reprocessing firm" means a firm whose primary business is the recovery of steel from automobiles, appliances, and other steel products and the rerefining of this recovered metal into new steel products.

History: 1993 c 375 art 9 s 40

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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

Subdivision 1. Notwithstanding the provisions of section 297A.25, subdivision 12, no aircraft shall be registered or licensed in this state unless the applicant presents proof that the sales or use tax imposed by this chapter has been paid or that said transaction is exempt from the imposition of the sales and use tax under that chapter.

Subd. 2. In the case of an aircraft purchased from a dealer holding a valid sales and use tax permit provided for by this chapter, the applicant shall present proof that the tax has been paid to such dealer.

Subd. 3. In the case of aircraft purchased from persons who are not the holder of valid sales and use tax permits under this chapter, the purchaser shall pay the tax to the department of revenue prior to registering or licensing such aircraft within this state. The commissioner of revenue shall issue a certificate stating that the sales and use tax in respect to the transaction has been paid.

Subd. 4. In the case of the purchase of an aircraft that is exempt under this chapter, the commissioner shall issue a certificate that no sales or use tax is due and owing in respect to such transaction.

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

History: 1973 c 476 s 1; 1973 c 582 s 3; 1986 c 444; 1990 c 480 art 4 s 7; 1991 c 291 art 8 s 21

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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 123B.49, subdivision 2, or be recorded in the same manner as other revenues or expenditures of the school district under section 123B.49, subdivision 4.

(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 five 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.

Subd. 2. **Statewide amateur athletic games.** Notwithstanding section 297A.01, subdivision 3, or any other provision of this chapter, the gross receipts from the

following sales made to or by a nonprofit corporation designated by the Minnesota amateur sports commission to conduct a series of statewide amateur athletic games and related events, workshops, and clinics are exempt:

(1) sales of tangible personal property to or the storage, use, or other consumption of tangible personal property by the nonprofit corporation; and

(2) sales of tangible personal property, admission charges, and sales of food, meals, and drinks by the nonprofit corporation at fundraising events, athletic events, or athletic facilities.

History: *1Sp1985 c 14 art 2 s 10; 1987 c 268 art 4 s 18; 1988 c 719 art 10 s 16; 1994 c 587 art 2 s 14; 1996 c 471 art 2 s 22; 1997 c 31 art 2 s 46; 1998 c 389 art 8 s 19; 1998 c 397 art 11 s 3*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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

297A.2571 AIRCRAFT FACILITY MATERIALS; EXEMPTIONS.

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

History: *1991 c 350 art 1 s 19*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.2572 AGRICULTURE PROCESSING FACILITY MATERIALS; EXEMPTION.

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 the materials and supplies are used or consumed in constructing an agriculture processing facility as defined in section 469.1811 in which the total capital investment in the processing facility is expected to exceed \$100,000,000. The tax shall be imposed and collected as if the rate under section 297A.02, subdivision 1, applied, and then refunded in the manner provided in section 297A.15, subdivision 5.

History: *1994 c 587 art 2 s 15; 1996 c 471 art 9 s 8*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.2573 MINERAL PRODUCTION FACILITIES; EXEMPTION.

Materials, equipment, and supplies used or consumed in constructing, or incorporated into the construction of exempted facilities as defined in this section 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 section, "exempted facilities" means:

(1) a value added iron products plant, which may be either a new plant or a facility incorporated into an existing plant that produces iron upgraded to a minimum of 75 percent iron content or any iron alloy with a total minimum metallic content of 90 percent;

(2) a facility used for the manufacture of fluxed taconite pellets as defined in section 298.24;

(3) a new capital project that has a total cost of over \$40,000,000 that is directly related to production, cost, or quality at an existing taconite facility that does not qualify under clause (1) or (2); and

(4) a new mine or minerals processing plant for any mineral subject to the net proceeds tax imposed under section 298.015.

The tax shall be imposed and collected as if the rate under section 297A.02, subdivision 1, applied, and then refunded in the manner provided in section 297A.15, subdivision 5.

History: 1994 c 587 art 6 s 1; 1996 c 471 art 9 s 9

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.258 [Repealed, 1993 c 375 art 1 s 7]

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: 1Sp1989 c 1 art 12 s 10; 1991 c 233 s 109; 1991 c 291 art 2 s 10; 1997 c 7 art 1 s 121

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.26 OFFSET AGAINST OTHER TAXES.

Subdivision 1. [Repealed, 1990 c 480 art 1 s 45]

Subd. 2. The taxpayer may offset against the taxes payable with respect to any reporting period the amount of taxes imposed by sections 297A.01 to 297A.44 previously paid as a result of any transaction the consideration for which became a debt owed to the taxpayer which became uncollectible during such reporting period, but only in proportion to the portion of such debt which became uncollectible.

Subd. 3. [Repealed, 1987 c 268 art 17 s 42]

Subd. 4. [Repealed, 1990 c 480 art 1 s 45]

History: Ex1967 c 32 art 13 s 26; 1983 c 327 s 7; 1987 c 268 art 4 s 19; art 17 s 27

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.27 [Repealed, 1990 c 480 art 1 s 45]

297A.275 [Repealed, 1990 c 480 art 1 s 45]

297A.28 SECURITY.

On finding it necessary to insure compliance with sections 297A.01 to 297A.44 the commissioner may require a retailer subject thereto to deposit with the commissioner security in such form and in such amount as the commissioner may determine but not more than twice the estimated average liability for the period for which the returns are required to be filed, or \$10,000, whichever amount is the lesser. The amount of security may be increased or decreased by the commissioner, subject to the limitations herein provided. The commissioner may sell property deposited as security at public auction if necessary in order to recover any tax or any amount required to be collected, including interest and penalties, if any. Notice of the sale must be served upon the person who

MINNESOTA STATUTES 2000

deposited the security personally, or by mail in the manner hereinafter prescribed for the service of a notice of a deficiency. After any sale any surplus above the amount due not required as security under this section shall be returned to the person who deposited the security. In lieu of security, the commissioner may require a retailer to file a bond, issued by a surety company authorized to transact business in this state and approved by the commissioner of commerce as to solvency and responsibility.

History: *Ex1967 c 32 art 13 s 28; 1983 c 289 s 114 subd 1; 1983 c 327 s 10; 1984 c 655 art 1 s 92; 1986 c 444*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.29 [Repealed, 1990 c 480 art 2 s 18]

297A.30 [Repealed, 1990 c 480 art 1 s 45]

297A.31 [Repealed, 1990 c 480 art 1 s 45]

297A.32 [Repealed, 1990 c 480 art 1 s 45]

297A.33 JEOPARDY ASSESSMENT AND COLLECTION; PROTECTION AGAINST EVASION.

Subdivision 1. [Repealed, 1990 c 480 art 1 s 45]

Subd. 2. If the commissioner has reason to believe that the person required to file the return is about to leave the state or remove the person's property from this state with the purpose of evading the tax and penalties imposed by sections 297A.01 to 297A.44, or that the collection of such tax will be jeopardized by delays incident to other methods of collection, the commissioner may immediately declare such person's reporting period at an end and assess a tax on the basis of the commissioner's own knowledge or information available, demand its immediate payment; and, if payment is not immediately made, collect the tax by any method prescribed in chapter 270. It shall not be a defense to any assessment made under this section that the tax period has not terminated, or that the time otherwise allowed by law for filing a return has not expired, or that the notices otherwise required by law for making an assessment have not been given, or that the time otherwise allowed by law for taking or prosecuting an appeal or for paying the tax has not expired.

Subd. 3. [Repealed, 1990 c 480 art 1 s 45]

Subd. 4. [Repealed, 1990 c 480 art 1 s 45]

Subd. 5. [Repealed, 1990 c 480 art 1 s 45]

Subd. 6. [Repealed, 1982 c 523 art 2 s 49]

History: *Ex1967 c 32 art 13 s 33; 1969 c 544 s 1,2; 1978 c 767 s 33; 1982 c 523 art 2 s 43; 1986 c 444*

NOTE: Subdivision 2 is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.34 [Repealed, 1990 c 480 art 1 s 45]

297A.35 [Repealed, 1990 c 480 art 1 s 45]

297A.36 [Repealed, 1982 c 523 art 2 s 49]

297A.37 [Repealed, 1990 c 480 art 2 s 18]

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

297A.39 Subdivision 1. [Repealed, 1990 c 480 art 1 s 45]

Subd. 2. [Repealed, 1990 c 480 art 1 s 45]

Subd. 2a. [Repealed, 1990 c 480 art 1 s 45]

Subd. 3. [Repealed, 1990 c 480 art 1 s 45]

Subd. 4. [Repealed, 1990 c 480 art 1 s 45]

Subd. 5. [Repealed, 1990 c 480 art 2 s 18]

Subd. 6. [Repealed, 1982 c 523 art 2 s 49]

Subd. 7. [Repealed, 1990 c 480 art 1 s 45]

Subd. 8. [Repealed, 1990 c 480 art 1 s 45]

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

297A.391 [Repealed, 1987 c 268 art 14 s 25]

297A.40 [Repealed, 1990 c 480 art 1 s 45]

297A.41 [Repealed, 1990 c 480 art 1 s 45]

297A.42 [Repealed, 1990 c 480 art 1 s 45]

297A.43 [Repealed, 1989 c 184 art 1 s 20]

297A.431 [Repealed, 1990 c 480 art 10 s 12]

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

Subdivision 1. (a) Except as provided in paragraphs (b) to (f), 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.

(d) The revenues, including interest and penalties, collected under section 297A.135, subdivision 5, shall be deposited by the commissioner in the state treasury and credited to the general fund. By July 15 of each year the commissioner shall transfer to the highway user tax distribution fund an amount equal to the excess fees collected under section 297A.135, subdivision 5, for the previous calendar year.

(e) For fiscal year 2001, 97 percent, and for fiscal year 2002 and thereafter, 87 percent of the revenues, including interest and penalties, transmitted to the commissioner under section 297A.259, must be deposited by the commissioner in the state treasury as follows:

(1) 50 percent of the receipts must be deposited in the heritage enhancement account in the game and fish fund, and may be spent only on activities that improve, enhance, or protect fish and wildlife resources, including conservation, restoration, and enhancement of land, water, and other natural resources of the state;

(2) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only for state parks and trails;

(3) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only on metropolitan park and trail grants;

(4) three percent of the receipts must be deposited in the natural resources fund, and may be spent only on local trail grants; and

(5) two percent of the receipts must be deposited in the natural resources fund, and may be spent only for the Minnesota zoological garden, the Como park zoo and conservatory, and the Duluth zoo.

(f) The revenue dedicated under paragraph (e) may not be used as a substitute for traditional sources of funding for the purposes specified, but the dedicated revenue shall supplement traditional sources of funding for those purposes. Land acquired with money deposited in the game and fish fund under paragraph (e) must be open to public hunting and fishing during the open season. At least 87 percent of the money deposited in the game and fish fund for improvement, enhancement, or protection of fish and wildlife resources under paragraph (e) must be allocated for field operations.

Subd. 2. [Repealed, 1990 c 480 art 1 s 45]

Subd. 3. [Repealed, 1969 c 399 s 51]

Subd. 4. [Repealed, 1994 c 587 art 2 s 22]

History: *Ex1967 c 32 art 13 s 44; 1969 c 399 s 38,39; 1984 c 502 art 10 s 8; 1987 c 386 art 9 s 21; 1987 c 400 s 53; 1988 c 633 s 6; 1989 c 335 art 4 s 80; 1Sp1989 c 1 art 19 s 6; 1991 c 291 art 2 s 11,12; 1994 c 587 art 2 s 16; 1996 c 471 art 9 s 10; 1997 c 31 art 2 s 47; 1997 c 231 art 13 s 5; 3Sp1997 c 3 s 24; 2000 c 463 s 20; 2000 c 488 art 3 s 29,44*

NOTE: Subdivision 1 is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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

297A.46. LOCAL GOVERNMENTS EXEMPT FROM LOCAL SALES TAXES.

Notwithstanding any other law, ordinance, or charter provision, no political subdivision of the state shall be required to pay any general sales tax imposed by a political subdivision of the state.

History: *1992 c 511 art 8 s 24; 1996 c 471 art 9 s 14*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.47. REPORTING OF SALES TAX ON MINNESOTA GOVERNMENTS.

The commissioner shall estimate the amount of revenues derived from imposing the tax under this chapter and chapter 297B on state agencies and political subdivisions for each fiscal year and shall report this amount to the commissioner of finance before the time for filing reports for the fiscal year with the United States Department of Commerce. The commissioner of finance in reporting the sales tax and sales tax on motor vehicles collections to the United States Department of Commerce shall exclude this amount from the sales and motor vehicle collections. Sales tax and sales tax on motor vehicles revenues received from political subdivisions must be reported as intergovernmental grants or similar intergovernmental revenue. The amount of the sales tax and sales tax on motor vehicles paid by state agencies must be reported as reduced state expenditures.

History: *1992 c 511 art 8 s 25; 1994 c 587 art 2 s 21*

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

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 June 2, 1997, or

(2) enacted on or after June 2, 1997, 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. 1a. Rules for adoption, use, termination. (a) Imposition of a local sales tax is subject to approval by voters of the political subdivision at a general election.

(b) The proceeds of the tax must be dedicated exclusively to payment of the cost of a specific capital improvement which is designated at least 90 days before the referendum on imposition of the tax is conducted.

(c) The tax must terminate after the improvement designated under paragraph (b) has been completed.

(d) After a sales tax imposed by a political subdivision has expired or been terminated, the political subdivision is prohibited from imposing a local sales tax for a period of one year. Notwithstanding subdivision 10, this paragraph applies to all local sales taxes in effect at the time of or imposed after May 25, 1999.

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.

MINNESOTA STATUTES 2000

(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. 7a. Use of zip code in determining location of sale. To determine whether to impose the local tax, the retailer may use zip codes if the zip code area is entirely within the political subdivision. When a zip code area is not entirely within a political subdivision, the retailer shall not collect the local tax if the purchaser notified the retailer that their delivery address is outside of the political subdivision, unless the retailer verifies that the delivery address is in the political subdivision using a means other than the zip code. Notwithstanding subdivision 10, this subdivision applies to all local sales taxes without regard to the date of authorization.

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. 9a. Local resolution before application for authority. Before the governing body of a political subdivision requests legislative approval of a special law for a local sales tax that is administered under this section, it shall adopt a resolution indicating its approval of the tax. The resolution must include, at a minimum, information on the proposed tax rate, how the revenues will be used, the total revenue that will be raised before the tax expires, and the estimated length of time that the tax will be in effect.

Subd. 10. Application. This section applies to all local sales taxes authorized on or after June 2, 1997. Starting January 1, 2000, this section applies to all local sales taxes that were authorized before June 2, 1997.

History: 1997 c 231 art 7 s 30; 1998 c 254 art 1 s 81,82; 1998 c 389 art 8 s 20; 1999 c 243 art 4 s 12,13.

NOTE: This section is repealed by Laws 2000, chapter 418, article 1, section 45, effective July 1, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.51 [Repealed, Ex1971 c 31 art 31 s 1]

297A.52 [Repealed, Ex1971 c 31 art 31 s 1]

297A.53 [Repealed, Ex1971 c 31 art 31 s 1]

297A.54 [Repealed, Ex1971 c 31 art 31 s 1]

297A.55 [Repealed, Ex1971 c 31 art 31 s 1]

297A.56 [Repealed, Ex1971 c 31 art 31 s 1]

297A.57 [Repealed, Ex1971 c 31 art 31 s 1]

297A.58 [Repealed, Ex1971 c 31 art 31 s 1]

297A.59 [Repealed, Ex1971 c 31 art 31 s 1]

297A.60 [Repealed, Ex1971 c 31 art 31 s 1]

DEFINITIONS

297A.61 DEFINITIONS.

Subdivision 1. **Applicability.** The following words, terms, and phrases when used in this chapter have the meanings given them in this section, unless the context clearly indicates a different meaning.

Subd. 2. **Person.** "Person" includes any individual, and any group or combination of individuals acting as a unit, and the plural as well as the singular number. Person includes a firm, partnership, joint venture, limited liability company, association, cooperative, social club, fraternal organization, municipal or private corporation whether or not organized for profit, estates, trusts, business trusts, receiver, trustee, syndicate, the United States, and a state and its political subdivisions. Person includes, but is not limited to, directors and officers of corporations, governors and managers of a limited liability company, or members of partnerships who, either individually or jointly with others, have the control, supervision, or responsibility of filing returns and making payment of the amount of tax imposed by this chapter. Person also includes any agent or consignee of any individual or organization enumerated in this subdivision.

Subd. 3. **Sale and purchase.** (a) "Sale" and "purchase" include, but are not limited to, each of the transactions listed in this subdivision.

(b) Sale and purchase include 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, for a consideration, tangible personal property, other than a manufactured home used for residential purposes for a continuous period of 30 days or more.

(c) Sale and purchase include 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.

(d) Sale and purchase include the furnishing, preparing, or serving for a consideration of food or drinks. Notwithstanding section 297A.67, subdivision 2, taxable food or drinks include, but are not limited to, the following:

(1) food or drinks sold by the retailer for immediate consumption on the retailer's premises. Food and drinks sold within a building or grounds that require an admission charge for entrance are presumed to be sold for consumption on the premises;

(2) 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" means 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;

(3) ice cream, ice milk, frozen yogurt products, or frozen novelties sold in single or individual servings including, but not limited to, cones, sundaes, and snow cones;

(4) soft drinks and other beverages, including all carbonated and noncarbonated beverages or drinks sold in liquid form, but not including beverages or drinks which contain milk or milk products, beverages or drinks containing 15 or more percent fruit juice, and noncarbonated and noneffervescent bottled water sold in individual containers of one-half gallon or more in size;

(5) gum, candy, and candy products;

- (6) ice;
- (7) all food sold from vending machines;
- (8) all food for immediate consumption sold from concession stands and vehicles;
- (9) party trays;
- (10) all meals and single servings of packaged snack food sold in restaurants and bars; and
- (11) bakery products that are:
 - (i) prepared by the retailer for consumption on the retailer's premises;
 - (ii) sold at a place that charges admission;
 - (iii) sold from vending machines; or
 - (iv) sold in single or individual servings from concession stands, vehicles, bars, and restaurants.

For purposes of this paragraph, "single or individual servings" does not include products when sold in bulk containers or bulk packaging.

For purposes of this paragraph, "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. The premises of a caterer is the place where the catered food or drinks are served.

(e) A sale and a purchase includes 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 (1) paging services, and (2) 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. Telephone service does not include services purchased with a prepaid telephone calling card. The furnishing for a consideration of access to telephone services by a hotel to its guests is a sale. The furnishing for a consideration of items listed in this paragraph by a municipal corporation is a sale.

(f) A sale and a purchase includes the transfer for a consideration of computer software.

(g) A sale and a purchase includes the furnishing for a consideration of taxable services as defined in subdivision 16.

(h) A sale and a purchase includes the furnishing for a consideration of tangible personal property or taxable services by the United States or any of its agencies or instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political subdivisions.

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

(b) A sale of property used by the owner only by leasing it to others or by holding it in an effort to lease it, and put to no use by the owner other than resale after the lease or effort to lease, is a sale of property for resale.

(c) A sale of master computer software that is purchased and used to make copies for sale or lease is a sale of property for resale.

(d) A sale 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 is a retail sale in whatever quantity sold, whether the sale is for purposes of resale in the form of real property or otherwise.

(e) A sale of carpeting, linoleum, or similar floor covering to a person who provides for installation of the floor covering is a retail sale and not a sale for resale.

since a sale of floor covering which includes installation is a contract for the improvement of real property.

(f) A sale of shrubbery, plants, sod, trees, and similar items to a person who provides for installation of the items is a retail sale and not a sale for resale since a sale of shrubbery, plants, sod, trees, and similar items that includes installation is a contract for the improvement of real property.

(g) A sale of tangible personal property that is awarded as prizes is a retail sale and is not considered a sale of property for resale.

(h) A sale of tangible personal property utilized or employed in the furnishing or providing of services under subdivision 16, paragraph (b), including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(i) A sale of tangible personal property used in conducting lawful gambling under chapter 349 or the state lottery under chapter 349A, including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(j) A sale of machines, equipment, or devices that are used to furnish, provide, or dispense goods or services, including, but not limited to, coin-operated devices, is a retail sale and is not considered a sale of property for resale.

(k) In the case of a lease, a retail sale occurs when an obligation to make a lease payment becomes due under the terms of the agreement or the trade practices of the lessor.

(l) In the case of a conditional sales contract, a retail sale occurs upon the transfer of title or possession of the tangible personal property.

Subd. 5. Storage. "Storage" includes keeping or retaining tangible personal property in Minnesota for any purpose except sale in the regular course of business or subsequent use solely outside Minnesota of tangible personal property.

Subd. 6. Use. (a) "Use" includes the exercise of a right or power incident to the ownership of any interest in tangible personal property, or taxable services, purchased from a retailer, other than the sale of that property in the regular course of business.

(b) Use includes the consumption of printed materials in the creation of nontaxable advertising that is distributed; either directly or indirectly, within Minnesota.

Subd. 7. Sales price. (a) "Sales price" means the total consideration for a retail sale, valued in money, whether paid in money or by barter or exchange.

(b) Sales price includes:

(1) the cost of the property sold, cost of materials used, labor or service cost, interest, or discount allowed after the sale is consummated;

(2) the cost of transportation incurred prior to the time of sale;

(3) any amount for which credit is given by the seller to the purchaser;

(4) charges for services that are part of a sale; or

(5) any other expense whatsoever.

(c) Sales price does not include the following:

(1) an amount allowed as credit for tangible personal property taken in trade for resale;

(2) charges of up to 15 percent in lieu of tips if the charges are separately stated;

(3) interest, financing, or carrying charges if the charges are separately stated;

(4) charges for labor or services used in installing or applying the property sold if the charges are separately stated;

(5) transportation charges if the transportation occurs after the retail sale of the property if the charges are separately stated;

(6) cash discounts allowed and taken on sales or the amount refunded either in cash or in credit for property returned by purchasers;

(7) the rental motor vehicle tax imposed under section 297A.64; or

(8) the amount of any tax imposed by the United States on communications services under United States Code, title 26, section 4251(a).

(d) Notwithstanding paragraph (c), "sales price," for purposes of sales of ready-mixed concrete sold from a ready-mixed concrete truck, includes any transportation, delivery, or other service charges, and no deduction is allowed for those charges, whether or not the charges are separately stated.

Subd. 8. **Gross receipts.** "Gross receipts" means the total amount received, in money or by barter or exchange, for all sales at retail as measured by the sales price.

Subd. 9. **Retailer.** "Retailer" means every person engaged in making retail sales.

Subd. 10. **Tangible personal property.** (a) "Tangible personal property" means corporeal personal property of any kind, including property that is to become real property as a result of incorporation, attachment, or installation following its acquisition.

(b) Tangible personal property includes, but is not limited to:

(1) computer software, whether contained on tape, discs, cards, or other devices; and

(2) prepaid telephone calling cards.

(c) Personal property does not include:

(1) large ponderous machinery and equipment used in a business or production activity which at common law would be considered to be real property;

(2) property which is subject to an ad valorem property tax;

(3) property described in section 272.02, subdivision 9, clauses (a) to (d); and

(4) property described in section 272.03, subdivision 2, clauses (3) and (5).

Subd. 11. **Commissioner.** "Commissioner" means the commissioner of revenue of the state of Minnesota.

Subd. 12. **Farm machinery.** (a) "Farm machinery" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in the production for sale, but not including the processing, of livestock, dairy animals, dairy products, poultry and poultry products, fruits, vegetables, trees and shrubs, forage, grains, and bees and apiary products.

(b) Farm machinery includes:

(1) machinery for the preparation, seeding, or cultivation of soil for growing agricultural crops and sod, for the harvesting and threshing of agricultural products, or for the harvesting or mowing of sod;

(2) barn cleaners, milking systems, grain dryers, automatic feeding systems, and similar installations, whether or not the equipment is installed by the seller and becomes part of the real property;

(3) irrigation equipment sold for exclusively agricultural use, including pumps, pipe fittings, valves, sprinklers, and other equipment necessary to the operation of an irrigation system when sold as part of an irrigation system, whether or not the equipment is installed by the seller and becomes part of the real property;

(4) logging equipment, including chain saws used for commercial logging;

(5) fencing used for the containment of farmed cervidae, as defined in section 17.451, subdivision 2;

(6) primary and backup generator units used to generate electricity for the purpose of operating farm machinery, as defined in this subdivision, or providing light or space heating necessary for the production of livestock, dairy animals, dairy products, or poultry and poultry products;

- (7) aquaculture production equipment as defined in subdivision 13; and
- (8) equipment used for maple syrup harvesting.
- (c) Farm machinery does not include:
 - (1) repair or replacement parts;
 - (2) tools, shop equipment, grain bins, feed bunks, fencing material except fencing material covered by paragraph (b), clause (5), communication equipment, and other farm supplies;
 - (3) motor vehicles taxed under chapter 297B;
 - (4) snowmobiles or snow blowers; or
 - (5) lawn mowers except those used in the production of sod for sale, or garden-type tractors or garden tillers.

Subd. 13. **Aquaculture production equipment.** (a) "Aquaculture production equipment" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in aquaculture production.

(b) Aquaculture production equipment includes augers and blowers, automatic feed systems, manual feeding equipment, shockers, gill nets, trap nets, seines, box traps, round nets and traps, net pens, dip nets, net washers, floating net supports, floating access walkways, net supports and walkways, growing tanks, holding tanks, troughs, raceways, transport tanks, egg taking equipment, egg hatcheries, egg incubators, egg baskets and troughs, egg graders, egg counting equipment, fish counting equipment, fish graders, fish pumps and loaders, fish elevators, air blowers, air compressors, oxygen generators, oxygen regulators, diffusers and injectors, air supply equipment, oxygenation columns, water coolers and heaters, heat exchangers, water filter systems, water purification systems, waste collection equipment, feed mills, portable scales, feed grinders, feed mixers, feed carts and trucks, power feed wagons, fertilizer spreaders, fertilizer tanks, forage collection equipment, land levelers, loaders, post hole diggers, disc, harrow, plow, and water diversion devices.

(c) Aquaculture production equipment does not include repair or replacement parts for aquaculture production equipment.

Subd. 14. **Leasing; lease.** "Leasing" includes all transfers of possession or the use of tangible personal property by the lessee for a consideration, if title remains with the lessor at the end of the lease. For purposes of this chapter, a lease of tangible personal property is a series of sales transactions that impose upon the lessee multiple payment obligations. "Leasing" does not include a transaction defined under subdivision 15.

Subd. 15. **Conditional sales contract.** A "conditional sales contract" means a contract, whether or not the contract is designated as a lease, that provides that the purchaser or lessee is to obtain title to the property at the end of the term of the contract or has the option to purchase the property at the end of the term of the contract for a nominal amount. 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.

Subd. 16. **Taxable services.** (a) "Taxable services" means the services listed in this subdivision and other services listed in subdivision 3.

(b) Taxable services includes the granting of the privilege of admission to places of amusement, recreational areas, or athletic events, and the making available of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, health clubs, and spas or athletic facilities.

(c) Taxable services includes the furnishing of lodging and related services by a hotel, rooming house, resort, campground, motel, or trailer camp and 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.

(d) Taxable services includes the furnishing of cable television services or similar television services, including, but not limited to, charges for basic, premium, pay-per-view, and any other similar service.

(e) Taxable services includes the furnishing of parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter.

(f) Taxable services includes 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 facility is not made available to the general public on the same basis as it is made available to members.

Granting of membership means 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.

(g) Taxable services includes the furnishing of the following services as provided in this paragraph:

(1) 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;

(2) 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;

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

(4) detective, security, 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;

(5) pet grooming services;

(6) 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;

(7) 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

(8) the furnishing 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.62 if the service is performed wholly within Minnesota or if the service is performed partly within and partly outside 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. Services performed by a partnership or association for another partnership or association are not taxable 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 members of an affiliated group under United States Code, title 26, section 1504, and that are eligible to file a consolidated tax return for federal income tax purposes.

Subd. 17. Computer software. "Computer software" means a computer program, either in the form of written procedures or in the form of storage media on which, or in which, the program is recorded, or any required documentation or manuals designed to facilitate the use of the computer program. For purposes of this subdivision:

(1) "Storage media" includes punched cards, tapes, discs, diskettes, or drums on which computer programs may be embodied or stored;

(2) "Computer" does not include tape-controlled automatic drilling, milling, or other manufacturing machinery or equipment; and

(3) "Computer program" means information and directions that dictate the function performed by data processing equipment. It includes the complete plan for the solution of a problem, such as the complete sequence of automatic data processing equipment instructions necessary to solve a problem and includes both systems and application programs and subdivisions, such as assemblers, compilers, routines, generators, and utility programs. Computer program includes a "canned" or prewritten computer program that is held or existing for general or repeated sale or lease, even if the prewritten or "canned" program was initially developed on a custom basis or for in-house use.

Subd. 18. Handicapped. "Handicapped" means an individual who has a permanent and total disability as defined in section 273.13, subdivision 22.

Subd. 19. Common carrier. "Common carrier" means a person engaged in transportation for hire of tangible personal property by motor vehicle, if the person:

(1) has a certificate or permit or has completed a registration process that authorizes for-hire transportation of property from the United States Department of Transportation, the transportation regulation board, or the department of transportation;

(2) is transporting commodities defined as "exempt" in for-hire transportation; or

(3) transports tangible personal property pursuant to a contract with a person described in clause (1) or (2).

Subd. 20. Prepaid telephone calling card. "Prepaid telephone calling card" means any card or other similar arrangement, including a prepaid authorization number, that permits its holder to obtain telephone services and pay for such services in advance.

Subd. 21. Normal course of business. "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 items exempt from the sales tax.

Subd. 22. Internal Revenue Code. Unless specifically provided otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1999.

Subd. 23. United States Code. Unless specifically provided otherwise, "United States Code" means the United States Code as amended through December 31, 1999.

History: 2000 c 418 art 1 s 4,44 subd 3; 2000 c 490 art 8 s 5

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 4, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

TAXES; RATES

297A.62 SALES TAX IMPOSED; RATES.

Subdivision 1. **Generally.** Except as otherwise provided in subdivision 2 or 3 or in this chapter, a sales tax of 6.5 percent is imposed on the gross receipts from retail sales as defined in section 297A.61, subdivision 4, made in this state or to a destination in this state by a person who is required to have or voluntarily obtains a permit under section 297A.83, subdivision 1.

Subd. 2. **Liquor and beer sales.** The rate of the sales tax imposed is nine percent on the gross receipts from retail sales of:

(1) intoxicating liquor, as defined in section 340A.101, subdivision 14; and

(2) 3.2 percent malt liquor, as defined in section 340A.101, subdivision 19, when sold at an on-sale or off-sale municipal liquor store or other establishment licensed to sell any type of intoxicating liquor.

Subd. 3. **Manufactured housing and park trailers.** For retail sales of manufactured homes as defined in section 327.31, subdivision 6, for residential uses, the sales tax under subdivision 1 is imposed on 65 percent of the dealer's cost of the manufactured home. For retail sales of new or used park trailers, as defined in section 168.011, subdivision 8, paragraph (b), the sales tax under subdivision 1 is imposed on 65 percent of the sales price of the park trailer.

History: 2000 c 418 art 1 s 5

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 5, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.63 USE TAXES IMPOSED; RATES.

Subdivision 1. **Use of tangible personal property or taxable services.** (a) For the privilege of using, storing, distributing, or consuming in Minnesota tangible personal property or taxable services purchased for use, storage, distribution, or consumption in this state, a use tax is imposed on a person in Minnesota. The tax is imposed on the sales price of retail sales of the tangible personal property or taxable services at the rate of tax imposed under section 297A.62.

(b) No tax is imposed under paragraph (a) if the tax imposed by section 297A.62 was paid on the sales price of the tangible personal property or taxable services.

(c) No tax is imposed under paragraph (a) if the purchase meets the requirements for exemption under section 297A.67, subdivision 21.

Subd. 2. **Use of tangible personal property made from materials.** (a) A use tax is imposed on a person who manufactures, fabricates, or assembles tangible personal property from materials, either within or outside this state and who uses, stores, distributes, or consumes the tangible personal property in Minnesota. The tax is imposed on the sales price of retail sales of the materials contained in the tangible personal property at the rate of tax imposed under section 297A.62.

(b) No tax is imposed under paragraph (a) if the tax imposed by section 297A.62 was paid on the sales price of materials contained in the tangible personal property.

History: 2000 c 418 art 1 s 6

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 6, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.64 RENTAL MOTOR VEHICLE TAX IMPOSED; RATE.

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. The rate of tax is 6.2 percent of the sales price. The tax applies whether or not the vehicle is licensed in the state.

Subd. 2. **Fee imposed.** A fee equal to three percent of the sales price is imposed on leases or rentals of vehicles subject to the tax under subdivision 1. The lessor on the invoice to the customer may designate the fee as "a fee imposed by the State of Minnesota for the registration of rental cars."

Subd. 3. **Administration.** The retailer shall report and pay the tax imposed in subdivision 1 to the commissioner of revenue with the taxes imposed in this chapter. The tax imposed in subdivision 1 and the fee imposed in subdivision 2 are subject to the same interest, penalty, and other provisions provided for sales and use taxes under chapter 289A and this chapter. The commissioner has the same powers to assess and collect the tax and fee that are given the commissioner in chapters 270 and 289A and this chapter to assess and collect sales and use tax.

Subd. 4. **Exemptions.** (a) The tax and the fee imposed by this section do not apply to a lease or rental of (1) a vehicle to be used by the lessee to provide a licensed taxi service; (2) a hearse or limousine used in connection with a burial or funeral service; or (3) a van designed or adapted primarily for transporting property rather than passengers.

(b) The lessor may elect not to charge the fee imposed in subdivision 2 if in the previous calendar year the lessor had no more than 20 vehicles available for lease that would have been subject to tax under this section, or no more than \$50,000 in gross receipts that would have been subject to tax under this section.

Subd. 5. **Payment of excess fees.** On the first sales tax return due following the end of a calendar year during which a lessor has imposed a fee under subdivision 2, the lessor shall report to the commissioner of revenue, in the form required by the commissioner, the amount of the fee collected during the previous year and the amount of motor vehicle registration taxes paid during the previous year by the lessor under chapter 168 on vehicles subject to the fee under this section. If the amount of the fees collected exceeds the amount of motor vehicle registration taxes paid, the lessor shall remit the excess to the commissioner of revenue at the time the report is submitted.

History: 2000 c 418 art 1 s 7

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 7, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.65 LOTTERY TICKETS; IN-LIEU TAX.

Sales of state lottery tickets are exempt from the tax imposed under section 297A.62. 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.62, 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.94 and the money must be treated as other proceeds of the sales tax. For purposes of this section, "gross receipts" means 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: 2000 c 418 art 1 s 8

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 8, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

REQUIREMENT TO COLLECT AND REMIT

297A.66 JURISDICTION TO REQUIRE COLLECTION AND REMITTANCE OF TAX BY RETAILER.

Subdivision 1. **Definitions.** (a) "Retailer maintaining a place of business in this state," or a similar term, means a retailer:

(1) having or maintaining within this state, directly or by a subsidiary, an office, place of distribution, sales or sample room or place, warehouse, or other place of business; or

(2) having a representative, agent, salesperson, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary, for any purpose, including the repairing, selling, delivering, installing, or soliciting of orders for the retailer's goods or services, or the leasing of tangible personal property located in this state, whether the place of business or agent, representative, salesperson, canvasser, or solicitor is located in the state permanently or temporarily, or whether or not the retailer or subsidiary is authorized to do business in this state.

(b) "Destination of a sale" means the location to which the retailer makes delivery of the property sold, or causes the property to be delivered, to the purchaser of the property, or to the agent or designee of the purchaser. The delivery may be made by any means, including the United States Postal Service, a common carrier, or a contract carrier.

Subd. 2. Retailer maintaining a place of business in this state. (a) A retailer maintaining a place of business in this state who makes retail sales in Minnesota or to a destination in Minnesota shall collect sales and use taxes and remit them to the commissioner under section 297A.77.

Subd. 3. Retailer not maintaining a place of business in this state. (a) To the extent allowed by the United States Constitution and the laws of the United States, a retailer making retail sales from outside this state to a destination within this state and not maintaining a place of business in this state shall collect sales and use taxes and remit them to the commissioner under section 297A.77, if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state by:

(1) distribution, by mail or otherwise, of catalogs, periodicals, advertising flyers, or other written solicitations of business to customers in this state;

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

(3) advertisements in newspapers published in this state;

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

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

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

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

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

This paragraph (a) must be construed without regard to the state from which distribution of the materials originated or in which they were prepared.

(b) The location of vendors independent of the retailer that provide products or services to the retailer in connection with its solicitation of customers within this state, including such products and services as creation of copy, printing, distribution, and recording, is not considered in determining whether the retailer is required to collect tax.

(c) A retailer not maintaining a place of business in this state is presumed, subject to rebuttal, to be engaged in regular solicitation within this state if it engages in any of the activities in paragraph (a) and:

(1) makes 100 or more retail sales from outside this state to destinations in this state during a period of 12 consecutive months; or

(2) makes ten or more retail sales totaling more than \$100,000 from outside this state to destinations in this state during a period of 12 consecutive months.

History: 2000 c 418 art 1 s 9

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 9, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.665 PRESUMPTION OF TAX; BURDEN OF PROOF.

(a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax, until the contrary is established, it is presumed that:

(1) all gross receipts are subject to the tax; and

(2) all retail sales for delivery in Minnesota are for storage, use, or other consumption in Minnesota.

(b) The burden of proving that a sale is not a retail sale is on the seller. However, the seller may take from the purchaser at the time of the sale an exemption certificate claiming that the property purchased is for resale or that the sale is otherwise exempt from the tax imposed by this chapter. A seller claiming that certain sales are exempt, who does not possess the required exemption certificates, must 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 considered taxable sales under this chapter.

(c) A purchaser of tangible personal property or any items listed in section 297A.63 that are shipped or brought to Minnesota by the purchaser has the burden of proving that the property was not purchased from a retailer for storage, use, or consumption in Minnesota.

History: 2000 c 418 art 1 s 10

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 10, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

EXEMPTIONS

297A.67 GENERAL EXEMPTIONS.

Subdivision 1. **Scope.** The gross receipts from the sale and purchase of, and storage, distribution, use, or consumption of the items contained in this section are specifically exempted from the taxes imposed by this chapter.

Subd. 2. **Food products.** 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, and cocoa and cocoa products are exempt.

Subd. 3. **Food stamps.** Tangible personal property purchased with food stamps, coupons, or vouchers issued by the federal government under the Food Stamp Program is 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.

Subd. 4. **Exempt meals at residential facilities.** Meals or drinks served to patients, inmates, or persons residing at hospitals, sanitariums, nursing homes, senior citizen homes, and correctional, detention, and detoxification facilities are exempt.

Subd. 5. **Exempt meals at schools.** Meals and lunches served at public and private schools, universities, or colleges are exempt.

Subd. 6. **Other exempt meals.** Meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to handicapped persons and their spouses by governmental agencies, nonprofit organizations, or

churches, or pursuant to any program funded in whole or in part through United States Code, title 42, sections 3001 through 3045, wherever delivered, prepared, or served, are exempt.

Subd. 7. **Medicines; medical devices.** (a) Prescribed drugs and medicine, and insulin, intended for internal or external use, in the cure, mitigation, treatment, or prevention of illness or disease in human beings are exempt. "Prescribed drugs and medicine" includes over-the-counter drugs or medicine prescribed by a licensed physician.

(b) Nonprescription medicines consisting principally (determined by the weight of all ingredients) of analgesics that are approved by the United States Food and Drug Administration for internal use by human beings are exempt. For purposes of this subdivision, "principally" means greater than 50 percent analgesics by weight.

(c) Prescription glasses, hospital beds, fever thermometers, reusable finger-pricking devices for the extraction of blood, blood glucose monitoring machines, and other diagnostic agents used in diagnosing, monitoring, or treating diabetes, and therapeutic and prosthetic devices are exempt. "Therapeutic devices" means devices that are attached or applied to the human body to cure, heal, or alleviate injury, illness, or disease, either directly or by administering a curative agent. "Prosthetic devices" means devices that replace injured, diseased, or missing parts of the human body, either temporarily or permanently.

Subd. 8. **Clothing.** Clothing and wearing apparel, including sewing materials to be directly incorporated into wearing apparel, are exempt. For purposes of this subdivision, clothing and wearing apparel do not include the following:

(1) articles designed primarily for use while engaging in a specific sport or recreational activity that are not also worn for general use;

(2) articles designed primarily to provide safety or protection against injury while the user is engaged in industrial or general job activities;

(3) all articles commonly or commercially known as jewelry including, but not limited to, watches;

(4) nonprescription optical glasses of any sort;

(5) articles made entirely of fur on the hide or pelt, or partially of such fur if the value of the fur is more than three times the value of the next most valuable component material;

(6) perfume, lotions, creams, dyes, or other substances that are applied to the skin or the hair; and

(7) luggage, bags, purses, wallets, or cases of any sort.

Subd. 9. **Baby products.** (a) Products such as lotion, creams, ointments, oil, powder, or shampoo, and other articles designed for application to the hair or skin of babies are exempt.

(b) Baby bottles and nipples, pacifiers, teething rings, thumb sucking preventatives, and infant syringes are exempt.

Subd. 10. **Caskets; vaults.** Caskets and burial vaults for human burial are exempt.

Subd. 11. **Automobiles; disabled veterans.** Automobiles or other conveyances are exempt if the purchaser is assisted by a grant from the United States in accordance with United States Code, title 38, section 3902.

Subd. 12. **Parts and accessories used to make a motor vehicle handicapped accessible.** Parts, accessories, and labor charges that are used solely to modify a motor vehicle to make it handicapped accessible are exempt.

Subd. 13. **Textbooks.** Textbooks that are prescribed for use in conjunction with a course of study in a school, college, university, and private career school to students who are regularly enrolled at such institutions are exempt. For purposes of this subdivision (1) a "school" is as defined in section 120A.22, subdivision 4; and (2) "private career school" means a school licensed under section 141.25.

Subd. 14. **Personal computers prescribed for use by school.** Personal computers and related computer software sold by a school, college, university, or private career school to students who are enrolled at the institutions are exempt if:

(1) the use of the personal computer, or of a substantially similar model of computer, and the related computer software is prescribed by the institution in conjunction with a course of study; and

(2) each student of the institution, or of a unit of the institution in which the student is enrolled, is required by the institution to have such a personal computer and related software as a condition of enrollment.

For the purposes of this subdivision, "school" and "private career school" have the meanings given in subdivision 13.

Subd. 15. **Residential heating fuels.** Residential heating fuels are exempt as follows:

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

(2) for the billing months of November, December, January, February, March, and April, 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; and

(3) for the billing months of November, December, January, February, March, and April, 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.

Subd. 16. **Residential water services.** Water services for residential use are exempt regardless of how the services are billed.

Subd. 17. **Feminine hygiene products.** Sanitary napkins, tampons, or similar items used for feminine hygiene are exempt.

Subd. 18. **Used motor oils.** Used motor oils are exempt.

Subd. 19. **Cross-country ski passes.** Cross-country ski passes issued under sections 85.40 to 85.43 are exempt.

Subd. 20. **Manufactured homes.** Manufactured homes, 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. 21. **De minimis exemption.** A purchase subject to use tax under section 297A.63 is 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 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.

Subd. 22. **Property brought into Minnesota by nonresident.** All articles of tangible personal property brought into Minnesota by a person who was a nonresident of this state immediately prior to bringing such property into this state for the person's use, storage, or consumption are exempt from the use tax imposed by section 297A.63.

Subd. 23. **Occasional sales.** Isolated and occasional sales in Minnesota not made in the normal course of business, and the storage, use, or consumption of property or services resulting from such sales, are exempt.

Subd. 24. **Constitutional prohibitions.** The gross receipts from the sale of and the storage, use, or other consumption in Minnesota of tangible personal property, tickets, or admissions, electricity, gas, or local exchange telephone service, that the state of Minnesota is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of Minnesota, are exempt.

Subd. 25. **Maintenance of cemetery grounds.** Lawn care and related services used in the maintenance of cemetery grounds are exempt. For purposes of this subdivision, "lawn care and related services" means the services listed in section 297A.61, subdivision 16, paragraph (g), clause (6), and "cemetery" means a cemetery for human burial.

History: 2000 c 418 art 1 s 11,44 subd 3; 2000 c 490 art 8 s 13

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 11, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.68 BUSINESS EXEMPTIONS.

Subdivision 1. **Scope.** The gross receipts from the sale of, and storage, distribution, use, or consumption of the items contained in this section are specifically exempted from the taxes imposed by this chapter.

Subd. 2. **Materials consumed in industrial production.** (a) Materials stored, used, or consumed in industrial production of personal property intended to be sold ultimately at retail are exempt, whether or not the item so used becomes an ingredient or constituent part of the property produced. Materials that qualify for this exemption include, but are not limited to, the following:

(1) chemicals, including chemicals used for cleaning food processing machinery and equipment;

(2) materials, including chemicals, fuels, and electricity purchased by persons engaged in industrial production to treat waste generated as a result of the production process;

(3) fuels, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating or lighting is exempt only if it is necessary to produce that particular industrial product;

(4) petroleum products and lubricants;

(5) packaging materials, including returnable containers used in packaging food and beverage products;

(6) accessory tools, equipment, and other items that are separate detachable units with an ordinary useful life of less than 12 months used in producing a direct effect upon the product; and

(7) the following materials, tools, and equipment used in metalcasting: crucibles, thermocouple protection sheaths and tubes, stalk tubes, refractory materials, molten metal filters and filter boxes, degassing lances, and base blocks.

(b) This exemption does not include:

(1) machinery, equipment, implements, tools, accessories, appliances, contrivances and furniture and fixtures, except those listed in paragraph (a), clause (6); and

(2) petroleum and special fuels used in producing or generating power for propelling ready-mixed concrete trucks on the public highways of this state.

(c) Industrial production includes, 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. Industrial production does not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process.

Subd. 3. **Materials used in providing certain taxable services.** (a) Materials stored, used, or consumed in providing a taxable service listed in section 297A.61, subdivision 16, paragraph (g), 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, if these items are used or consumed in providing the taxable service;

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

(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; and

(4) fuel, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating or lighting is exempt only if it is necessary to produce that particular taxable service.

(c) This exemption does not include machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture, and fixtures used in providing the taxable service.

Subd. 4. Taconite production materials. Mill liners, grinding rods, and grinding balls that are substantially consumed in the production of taconite are exempt when sold to or stored, used, or consumed by persons taxed under the in-lieu provisions of chapter 298.

Subd. 5. Capital equipment. (a) Capital equipment is exempt. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

“Capital equipment” means machinery and equipment purchased or leased and used in this state by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail.

Capital equipment means machinery and equipment essential to the integrated production process. Capital equipment also includes machinery and equipment used to electronically transmit results retrieved by a customer of an online computerized data retrieval system.

(b) Capital equipment includes, but is not limited to:

(1) machinery and equipment used 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 used 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;

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

(8) ready-mixed concrete trucks in which the ready-mixed concrete is mixed as part of the delivery 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, except for materials included in paragraph (b), clauses (6) and (7);

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

(5) farm machinery and aquaculture production equipment as defined by section 297A.61, subdivisions 12 and 13;

(6) machinery or equipment purchased and installed by a contractor as part of an improvement to real property; or

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

(d) For purposes of this subdivision:

(1) "Machinery" means mechanical, electronic, or electrical devices, including computers and computer software, that are purchased or constructed to be used for the activities set forth in paragraph (a).

(2) "Equipment" means independent devices or tools separate from machinery, including computers and computer 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.

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

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

(6) "Mining" means the extraction of minerals, ores, stone, or peat.

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

(8) "Integrated production process" means a process beginning with the removal of raw materials from inventory through the completion of the product, including packaging of the product.

(9) "Online data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

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

Subd. 6. Special tooling. Special tooling is exempt. "Special tooling" means tools, dies, jigs, patterns, gauges, and other special tools that have value and use only for the buyer and for the use for which they are made. An item has value and use only to the buyer if the item is not standard enough to be stocked or ordered from a catalog or other sales literature, but must be produced in accordance with special requirements peculiar to the buyer and not common to someone else whose conditions for possible use of the material are reasonably similar to the buyer's.

Subd. 7. Air cooling equipment. Equipment used for air cooling is 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. 8. Pollution control equipment. Pollution control equipment purchased by a steel reprocessing firm is exempt if the equipment is necessary to meet state or federal emission standards. For purposes of this subdivision:

(1) "pollution control equipment" means equipment used for the purpose of eliminating, preventing, or reducing air, land, or water pollution during or as a result of the manufacturing process; and

(2) "steel reprocessing firm" means a firm whose primary business is the recovery of steel from automobiles, appliances, and other steel products and the rerefining of this recovered metal into new steel products.

Subd. 9. **Super Bowl admissions.** The granting of the privilege of admission to a world championship football game sponsored by the national football league is exempt.

Subd. 10. **Publications; publication materials.** Tangible personal property that is used or consumed in producing any publication regularly issued at average intervals not exceeding three months is exempt, and any such publication is exempt. "Publication" includes, but is not limited to, a qualified newspaper as defined by section 331A.02, together with any supplements or enclosures. "Publication" does not include magazines and periodicals sold over the counter. Tangible personal property that is used or consumed in producing a publication does not include machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture, and fixtures used in the publication, or fuel, electricity, gas, or steam used for space heating or lighting.

Advertising contained in a publication is a nontaxable service and is exempt. Persons who publish or sell newspapers are engaging in a nontaxable service with respect to gross receipts realized from such news-gathering or news-publishing activities, including the sale of advertising.

Subd. 11. **Advertising materials.** Material designed to advertise and promote the sale of merchandise or services is exempt if the material is purchased and stored for the purpose of subsequently shipping or otherwise transferring outside the state by the purchaser for later use solely outside the state of Minnesota. Mailing and reply envelopes and cards used exclusively in connection with these advertising and promotional materials are included in this exemption regardless of where the mailing occurs.

Subd. 12. **Wind energy conversion systems.** Wind energy conversion systems, as defined in section 216C.06, subdivision 12, that are used as an electric power source are exempt, and the materials used to manufacture, install, construct, repair, or replace them are exempt.

Subd. 13. **Outstate transport or delivery.** (a) Tangible personal property is exempt if the property, without intermediate use, is:

(1) shipped or transported outside Minnesota by the purchaser or is stored, processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property that is transported or shipped outside Minnesota; and

(2) used in a trade or business outside Minnesota after being shipped or transported outside of Minnesota, and is not returned to Minnesota, except in the course of interstate commerce; and

(3) either (i) not subject to tax in the state or country to which it is transported for storage or use, or (ii) to be used in other states or countries as part of a maintenance contract.

(b) For purposes of this subdivision, storage or processing, fabricating, manufacturing, attaching to, or incorporating into other property is not intermediate use.

Subd. 14. **Temporary storage.** Tangible personal property is exempt if all of the following conditions are met:

(1) it is shipped or brought into Minnesota by a common carrier;

(2) without intermediate use, it is kept in a public warehouse;

(3) it is kept for the purpose of being later transported outside Minnesota; and

(4) after storage, it is used solely outside Minnesota, except in the course of interstate commerce.

Subd. 15. **Outstate delivery by seller.** Property is exempt if:

(1) it is delivered in one of the following ways:

(i) delivery by the seller to a common carrier for delivery outside Minnesota;

(ii) placement in the United States mail or parcel post directed to the purchaser outside Minnesota; or

(iii) delivery to the purchaser outside Minnesota by means of the seller's own delivery vehicles; and

(2) it is not later returned to a point within Minnesota, except in the course of interstate commerce.

Subd. 16. Packing materials. Packing materials used to pack and ship household goods are exempt if the ultimate destination of the goods is outside Minnesota and if the goods are not later returned to a point within Minnesota, except in the course of interstate commerce.

Subd. 17. Ships used in interstate commerce. Repair, replacement, and rebuilding parts and materials, and lubricants, for ships or vessels used or to be used principally in interstate or foreign commerce are exempt. Vessels with a gross registered tonnage of at least 3,000 tons are exempt.

Subd. 18. Custom computer software. The design, development, writing, translation, fabrication, lease, or transfer for a consideration of title or possession of a custom computer program is exempt. "Custom computer program" means a computer program prepared to the special order of the customer, either in the form of written procedures or in the form of storage media on which, or in which, the program is recorded, or any required documentation or manuals designed to facilitate the use of the custom computer program transferred. It includes those services represented by separately stated charges for modifications to an existing prewritten program that are prepared to the special order of the customer. It does not include a "canned" or prewritten computer program that is held or existing for general or repeated sale or lease, even if the prewritten or "canned" program was initially developed on a custom basis or for in-house use. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification.

Subd. 19. Petroleum products. The following petroleum products are exempt:

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

(2) products that 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 296A.01, subdivision 39, for off-highway business use as part of the operations of a resort as provided under section 296A.16, subdivision 2, 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. 20. Natural gas in vehicles. Natural gas to be used as a fuel in vehicles propelled by natural gas is exempt.

Subd. 21. Snowmaking. Electricity used to make snow for outdoor use for ski hills, ski slopes, or ski trails is exempt.

Subd. 22. Copies of court reporter documents. Transcripts or copies of transcripts of verbatim testimony are exempt if 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.

Subd. 23. Automatic fire-safety sprinkler systems. Automatic fire-safety sprinkler systems described in section 273.11, subdivision 6a, are exempt.

Subd. 24. **Waste processing equipment.** Equipment used for processing solid or hazardous waste at a resource recovery facility, as defined in section 115A.03, subdivision 28, is 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. 25. **Occasional sales.** (a) Isolated or occasional sales of tangible personal property in Minnesota not made in the normal course of business of selling that kind of property are exempt. The storage, use, or consumption of property acquired as a result of such a sale is exempt.

(b) This exemption applies to a sale of tangible personal property primarily used in a trade or business only if one of the following conditions is satisfied: (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; (2) the sale is between members of a controlled group as defined in section 1563(a) of the Internal Revenue Code; (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 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).

Subd. 26. **Interstate WATS lines.** Long distance telephone services are exempt if the service (1) consists of a wide area telephone line that permits a long distance call to an individual or business located in Minnesota to be made from a location outside of Minnesota at no toll charge to the person placing the call; or (2) entitles a customer, upon payment of a periodic charge that is determined either as a flat amount or upon the basis of total elapsed transmission time, to the privilege of an unlimited number of long distance calls made from a location in Minnesota to a location outside of Minnesota if the customer is a qualified provider of telemarketing services. As used in this subdivision, a "qualified provider of telemarketing services" is a telemarketing firm that derives at least 80 percent of its revenues from one or more of the following activities: soliciting or providing information, soliciting sales or receiving orders, and conducting research by means of telegraph, telephone, computer database, fiber optic, microwave, or other communication system.

Subd. 27. **Motor vehicles.** Motor vehicles taxable under the provisions of chapter 297B are exempt.

Subd. 28. **Medical supplies.** Medical supplies purchased by a licensed health care facility or licensed health care professional to provide medical treatment to residents or patients are exempt. The exemption does not apply to medical equipment or components of medical equipment, laboratory supplies, radiological supplies, and other items used in providing medical services. For purposes of this subdivision, "medical supplies" means adhesive and nonadhesive bandages, gauze pads and strips, cotton applicators, antiseptics, nonprescription drugs, eye solution, and other similar supplies used directly on the resident or patient in providing medical services.

Subd. 29. **Prizes.** Tangible personal property that will be given as prizes to players in games of skill or chance is exempt if the games are conducted at events such as community festivals, fairs, and carnivals and if the events last less than six days. This exemption does not apply to property awarded as prizes in connection with lawful gambling as defined in section 349.12 or the state lottery.

Subd. 30. **Television commercials.** Tangible personal property primarily used or consumed in the preproduction, production, or postproduction of a television commercial is exempt. Any such commercial, regardless of the medium in which it is transferred, is exempt. "Preproduction" and "production" include, but are not limited to, all activities related to the preparation for shooting and the shooting of television commercials, including film processing. Equipment rented for the preproduction and production activities is exempt. "Postproduction" includes, but is not limited to, all activities related to the finishing and duplication of television commercials. This exemption does not apply to tangible personal property used primarily in administration, general management, or marketing. Machinery and equipment purchased for use in producing such commercials and fuel, electricity, gas, or steam used for space heating or lighting are not exempt under this subdivision.

Subd. 31. **Waste management containers and compactors.** Compactors and waste collection containers are exempt if they are purchased by a waste management service provider and are used in providing waste management services as defined in section 297H.01, subdivision 12. A waste management service provider that does not remit tax on customer charges or lease or rental payments for compactors and waste collection containers under chapter 297H is ineligible for this exemption.

Subd. 32. **Events located outside Minnesota.** Tickets or admissions to places of amusement located outside Minnesota or to athletic events to be held outside Minnesota are exempt.

Subd. 33. **Patent, trademark, and copyright drawings and documents.** A drawing, diagram, or similar or related document or a copy of such a document is exempt if the document:

- (1) is produced and sold by a patent drafter; and
- (2) is for use in:
 - (i) a patent, trademark, or copyright application to be filed with government agencies;
 - (ii) an application to the federal Food and Drug Administration for approval of a medical device; or
 - (iii) a judicial or quasi-judicial proceeding, including mediation and arbitration, relating to the validity of or legal rights under a patent, trademark, or copyright.

For purposes of this subdivision, a "patent drafter" is a person who prepares illustrative documents required in the preparation of intellectual property applications.

Subd. 34. **Machinery and equipment for ski areas.** Tangible personal property used or consumed primarily and directly for tramways at ski areas or in snowmaking and snow-grooming operations at ski hills, ski slopes, or ski trails, including machinery, equipment, fuel, electricity, and water additives used in the production and maintenance of machine-made snow, is exempt.

History: 2000 c 418 art 1 s 12,44 subd 3; 2000 c 490 art 8 s 8,14,15

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 12, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.69 AGRICULTURAL EXEMPTIONS.

Subdivision 1. **Scope.** The gross receipts from the sale of, and storage, distribution, use, or consumption of the items contained in this section are specifically exempted from the taxes imposed by this chapter.

Subd. 2. **Materials consumed in agricultural production:** (a) Materials stored, used, or consumed in agricultural production of personal property intended to be sold

ultimately at retail are exempt; whether or not the item becomes an ingredient or constituent part of the property produced. Materials that qualify for this exemption include, but are not limited to, the following:

- (1) feeds, seeds, trees, fertilizers, and herbicides, including when purchased for use by farmers in a federal or state farm or conservation program;
- (2) materials sold to a veterinarian to be used or consumed in the care, medication, and treatment of agricultural production animals and horses;
- (3) chemicals, including chemicals used for cleaning food processing machinery and equipment;
- (4) materials, including chemicals, fuels, and electricity purchased by persons engaged in agricultural production to treat waste generated as a result of the production process;
- (5) fuels, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating or lighting is exempt only if it is necessary to produce that particular agricultural product;
- (6) petroleum products and lubricants;
- (7) packaging materials; including returnable containers used in packaging food and beverage products; and
- (8) accessory tools and equipment that are separate detachable units with an ordinary useful life of less than 12 months used in producing a direct effect upon the product.

Machinery, equipment, implements, tools, accessories, appliances, contrivances, and furniture and fixtures, except those listed in this clause are not included within this exemption.

(b) For purposes of this subdivision, "agricultural production" includes, but is not limited to, horticulture, floriculture, maple syrup harvesting, and the raising of pets, fur-bearing animals, research animals, horses, farmed cervidae as defined in section 17.451, subdivision 2, llamas as defined in section 17.455, subdivision 2, and ratitae as defined in section 17.453, subdivision 3.

Subd. 3. Farm machinery repair parts. 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. 4. Farm machinery. Farm machinery is exempt.

Subd. 5. Used farm tires. The first \$5,000 of gross receipts from the sales of used, remanufactured, or repaired tires for farm machinery, by a sole proprietor, in a calendar year are exempt if:

- (1) the seller had gross receipts from all sales of less than \$10,000 in the previous year; and
- (2) the tires are not retreaded.

Subd. 6. Horses; related materials. (a) Horses, including racehorses, are exempt.

(b) 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 within this exemption.

Subd. 7. Feed for poultry raised for human consumption. Poultry feed is exempt if the poultry is raised for human consumption.

History: 2000 c 418 art 1 s 13,44 subd 3; 2000 c 490 art 8 s 4,16

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 13, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.70 EXEMPTIONS FOR GOVERNMENTS AND NONPROFIT GROUPS.

Subdivision 1. **Scope.** (a) The gross receipts from sales of items to or by, and storage, distribution, use, or consumption of items by the organizations listed in this section are specifically exempted from the taxes imposed by this chapter.

(b) Notwithstanding any law to the contrary enacted before 1992, only sales to governments and political subdivisions listed in this section are exempt from the taxes imposed by this chapter.

(c) "Sales" includes purchases under an installment contract or lease purchase agreement under section 465.71.

Subd. 2. **Sales to government.** (a) All sales, except those listed in paragraph (b), to the following governments and political subdivisions, or to the listed agencies or instrumentalities of governments and political subdivisions, are exempt:

(1) the United States and its agencies and instrumentalities;

(2) school districts, the University of Minnesota, state universities, community colleges, technical colleges, state academies, the Perpich Minnesota center for arts education, and an instrumentality of a political subdivision that is accredited as an optional/special function school by the North Central Association of Colleges and Schools;

(3) hospitals and nursing homes owned and operated by political subdivisions of the state;

(4) other states or political subdivisions of other states, if the sale would be exempt from taxation if it occurred in that state; and

(5) sales to public libraries, public library systems, multicounty, multitype library systems as defined in section 134.001, county law libraries under chapter 134A, state agency libraries, the state library under section 480.09, and the legislative reference library.

(b) This exemption does not apply to the sales of the following products and services:

(1) 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;

(2) 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;

(3) 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; or

(4) meals and lodging as defined under section 297A.61, subdivisions 3, paragraph (d), and 16, paragraph (c), except for meals and lodging purchased directly by the United States or its agencies or instrumentalities.

(c) 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, and any instrumentality of a school district, as defined in section 471.59.

Subd. 3. **Sales of certain goods and services to government.** (a) The following sales to or use by the specified governments and political subdivisions of the state are exempt:

(1) supplies and equipment used to provide medical care in the operation of an ambulance service owned and operated by a political subdivision of the state;

(2) repair and replacement parts for emergency rescue vehicles, fire trucks, and fire apparatus to a political subdivision;

(3) 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;

(4) chore and homemaking services to a political subdivision of the state to be provided to elderly or disabled individuals;

(5) telephone services to the department of administration that are used to provide telecommunications services through the intertechnologies revolving fund;

(6) firefighter personal protective equipment as defined in paragraph (b), if purchased or 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;

(7) bullet-resistant body armor that provides the wearer with ballistic and trauma protection, 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;

(8) 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), or exempt from taxation under section 473.448;

(9) equipment designed to process, dewater, and recycle biosolids for wastewater treatment facilities of political subdivisions, and materials incidental to installation of that equipment; and materials used to construct buildings to house the equipment, if the materials are purchased after June 30, 1998, and before July 1, 2001; and

(10) sales to a town of gravel and of machinery, equipment, and accessories, except motor vehicles, used exclusively for road and bridge maintenance, and leases by a town of motor vehicles exempt from tax under section 297B.03, clause (10).

(b) For purposes of this subdivision, "firefighters personal protective equipment" means 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 apparatus; 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. 4. **Sales to nonprofit groups.** (a) All sales, except those listed in paragraph (b), to the following "nonprofit organizations" are exempt:

(1) an entity organized and operated exclusively for charitable, religious, or educational purposes if the item purchased is used in the performance of charitable, religious, or educational functions;

(2) any senior citizen group or association of groups that:

(i) in general limits membership to persons who are either age 55 or older, or physically disabled; and

(ii) 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; and

(3) an entity organized and operated exclusively to maintain a cemetery owned by a religious organization.

(b) This exemption does not apply to the following sales:

(1) 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;

(2) construction materials purchased by tax-exempt entities or their contractors to be used in constructing buildings or facilities that will not be used principally by the tax-exempt entities; and

(3) meals and lodging as defined under section 297A.61, subdivisions 3, paragraph (d), and 16, paragraph (c); and

(4) leasing of a motor vehicle as defined in section 297B.01, subdivision 5, except as provided in paragraph (c).

(c) This exemption applies to the leasing of a motor vehicle as defined in section 297B.01, subdivision 5, only if the vehicle is:

(1) a truck, as defined in section 168.011, a bus, as defined in section 168.011, or a passenger automobile, as defined in section 168.011, if the automobile is designed and used for carrying more than nine persons including the driver; and

(2) intended to be used primarily to transport tangible personal property or individuals, other than employees, to whom the organization provides service in performing its charitable, religious, or educational purpose.

Subd. 5. Veterans groups. Sales to an organization of military service veterans or an auxiliary unit of an organization of military service veterans are exempt if:

(1) the organization or auxiliary unit is organized within the state of Minnesota and is exempt from federal taxation under section 501(c), clause (19), of the Internal Revenue Code; and

(2) the tangible personal property is for charitable, civic, educational, or nonprofit uses and not for social, recreational, pleasure, or profit uses.

Subd. 6. Ambulances. The lease of a motor vehicle for use as an ambulance by an ambulance service licensed under section 144E.10 is exempt.

Subd. 7. Hospitals and outpatient surgical centers. (a) Sales, except for those listed in paragraph (c), to a hospital are exempt, if the items purchased are used in providing hospital services. 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, and licensed under chapter 144 or by any other jurisdiction, and "hospital services" are services authorized or required to be performed by a "hospital" under chapter 144.

(b) Sales, except for those listed in paragraph (c), to an outpatient surgical center are exempt, if the items purchased are used in providing outpatient surgical services. For purposes of this subdivision, "outpatient surgical center" means an outpatient surgical center organized and operated for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, and licensed under chapter 144 or by any other jurisdiction. For the purposes of this subdivision, "outpatient surgical services" means: (1) services authorized or required to be performed by an outpatient surgical center under chapter 144 or under the applicable licensure law of any other jurisdiction; and (2) urgent care. For purposes of this subdivision, "urgent care" means health services furnished to a person whose medical condition is sufficiently acute to require treatment unavailable through, or inappropriate to be provided by, a clinic or physician's office, but not so acute as to require treatment in a hospital emergency room.

(c) This exemption does not apply to the following products and services:

(1) purchases made by a clinic, physician's office, or any other medical facility not operating as a hospital or outpatient surgical center, even though the clinic, office, or facility may be owned and operated by a hospital or outpatient surgical center;

(2) sales under section 297A.61, subdivisions 3, paragraph (d), and 16, paragraph (c);

(3) building and construction materials used in constructing buildings or facilities that will not be used principally by the hospital or outpatient surgical center;

(4) 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 or outpatient surgical center; or

(5) the leasing of a motor vehicle as defined in section 297B.01, subdivision 5.

Subd. 8. **Regionwide public safety radio communication system; products and services.** Products and services including, but not limited to, 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. This subdivision is effective for purchases, sales, storage, use, or consumption occurring before August 1, 2003.

Subd. 9. **Sacramental wine.** Wine for sacramental purposes in religious ceremonies, as described in section 340A.316, is exempt if the wine is purchased from a nonprofit religious organization meeting the requirements of subdivision 4 or from a person authorized to import sacramental wine without a license as provided in section 340A.316.

Subd. 10. **Nonprofit tickets or admissions.** Tickets or admissions to the premises of or events sponsored by an organization that provides an opportunity for citizens of the state to participate in the creation, performance, or appreciation of the arts are exempt if the organization is either (1) a tax-exempt organization within the meaning of Minnesota Statutes 1980, section 290.05, subdivision 1, clause (i), or (2) a municipal board that promotes cultural and arts activities. The exemption provided with respect to a municipal board applies only to tickets and admissions to events sponsored by the board.

Subd. 11. **School tickets or admissions.** 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 120A.22, subdivision 4.

Subd. 12. **YMCA, YWCA, and JCC memberships.** The sale of memberships, meaning both one-time initiation fees and periodic membership dues, to an association incorporated under section 315.44 or an organization defined under section 315.51, are exempt. However, all separate charges made for the privilege of having access to and the use of the association's sports and athletic facilities are taxable.

Subd. 13. **Fundraising sales by or for nonprofit groups.** (a) The following sales by the specified organizations for fundraising purposes are exempt, subject to the limitations listed in paragraph (b):

(1) all sales made by an organization that exists solely for the purpose of providing educational or social activities for young people primarily age 18 and under;

(2) all sales made by an organization that is a senior citizen group or association of groups if (i) in general it limits membership to persons age 55 or older; (ii) it is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes; and (iii) no part of its net earnings inures to the benefit of any private shareholders;

(3) the sale or use of tickets or admissions to a golf tournament held in Minnesota 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; and

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

(b) The exemptions listed in paragraph (a) are limited in the following manner:

(1) the exemption under paragraph (a), clauses (1) and (2), applies only if the gross annual receipts of the organization from fundraising do not exceed \$10,000; and

(2) the exemption under paragraph (a), clause (1), 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 123B.49, subdivision 2, or be recorded in the same manner as other revenues or expenditures of the school district under section 123B.49, subdivision 4.

(c) For purposes of this subdivision, 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.

Subd. 14. **Fundraising events sponsored by nonprofit groups.** (a) Sales of tangible personal property at, and admission charges for fundraising events sponsored by, a nonprofit organization are exempt if the entire proceeds, less the necessary expenses for the event, will be used solely and exclusively for charitable, religious, or educational purposes. Exempt sales include the sale of food, meals, drinks, and taxable services at the fundraising event.

(b) This exemption is limited in the following manner:

(1) it 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;

(2) all gross receipts are taxable if the profits are not used solely and exclusively for charitable, religious, or educational purposes;

(3) it does not apply unless the organization keeps a separate accounting record, including receipts and disbursements from each fundraising event that documents all deductions from gross receipts with receipts and other records;

(4) it 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;

(5) all gross receipts are taxable if fundraising events exceed 24 days per year; and

(6) it does not apply to fundraising events conducted on premises leased for more than five days but less than 30 days.

(c) For purposes of this subdivision, a "nonprofit organization" means any unit of government, corporation, society, association, foundation, or institution organized and operated for charitable, religious, educational, civic, fraternal, and senior citizens' or veterans' purposes, no part of the net earnings of which inures to the benefit of a private individual.

Subd. 15. **Statewide amateur athletic games.** Notwithstanding section 297A.61, subdivision 3, or any other provision of this chapter, the gross receipts from the following sales made to or by a nonprofit corporation designated by the Minnesota amateur sports commission to conduct a series of statewide amateur athletic games and related events, workshops, and clinics are exempt:

(1) sales of tangible personal property to or the storage, use, or other consumption of tangible personal property by the nonprofit corporation; and

(2) sales of tangible personal property, admission charges, and sales of food, meals, and drinks by the nonprofit corporation at fundraising events, athletic events, or athletic facilities.

Subd. 16. **Camp fees.** Camp fees to camps or other recreation facilities owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code are exempt if the camps or facilities provide educational and social activities for young people primarily age 18 and under.

History: 2000 c 418 art 1 s 14,44 subd 3; 2000 c 490 art 8 s 9-11

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 14, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.71 CONSTRUCTION EXEMPTIONS.

Subdivision 1. **Scope.** The gross receipts from the sale of, and storage, distribution, use, or consumption of the tangible personal property contained in this section are specifically exempted from the taxes imposed by this chapter. Building materials, equipment, and supplies and other items exempt under this section are exempt.

regardless of whether purchased by the owner or a contractor, subcontractor, or builder.

Subd. 2. **State convention center.** Building materials and supplies for constructing improvements to a state convention center located in a city outside the metropolitan area as defined in section 473.121, subdivision 2, and governed by an 11-person board of which four are appointed by the governor are exempt if 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.

Subd. 3. **Correctional facilities.** Building materials and supplies for constructing or improving an adult or juvenile correctional facility by a county, home rule charter city, or statutory city are exempt if the project is mandated by state or federal law, rule, or regulation. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

Subd. 4. **Lake Superior Center.** Building materials and supplies for construction of the Lake Superior Center are exempt.

Subd. 5. **Science Museum.** Building materials and supplies for construction of the Science Museum of Minnesota are exempt.

Subd. 6. **Business incubator and industrial park.** Building materials and supplies for construction of a facility that includes a business incubator and industrial park are exempt if the facility:

(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. 7. **Alfalfa processing facility.** Building materials and supplies for constructing a facility that either develops market-value agricultural products made from alfalfa leaf material, or produces biomass energy fuel or electricity from alfalfa stems in accordance with the biomass mandate imposed under section 216B.2424 are exempt if the total capital investment made in the value-added agricultural products and biomass electric generation facilities is at least \$50,000,000.

Subd. 8. **Wood waste cogeneration facility.** Building materials and supplies for constructing, equipping, or modifying a district heating and cooling system cogeneration facility are exempt if the facility:

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

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

Subd. 9. **Direct satellite broadcasting facility.** Building materials and supplies for constructing a new facility in Minnesota for providing federal communications commission licensed direct satellite broadcasting services using direct broadcast satellites operating in the 12-GHz. band or fixed satellite regional or national program services, as defined in section 272.02, subdivision 16, are exempt if construction of the facility was commenced after June 30, 1993. All machinery, equipment, tools, accessories, appliances, contrivances, furniture, fixtures, and all technical equipment or tangible

personal property of any other nature or description necessary to the construction and equipping of that facility in order to provide those services are also exempt.

Subd. 10. **Aircraft heavy maintenance facility.** Materials, equipment, and supplies used or consumed in constructing a heavy maintenance facility for aircraft that is to be owned by the state of Minnesota or one of its political subdivisions and leased by an airline company, or an aircraft engine repair facility described in section 116R.02, subdivision 6, are exempt. Except for equipment owned or leased by a contractor, all machinery, equipment, and tools necessary to the construction and equipping of that facility in order to provide those services are also exempt.

Subd. 11. **Building materials; disabled veterans.** 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. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

Subd. 12. **Chair lifts, ramps, elevators.** 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. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

Subd. 13. **Agriculture processing facility materials.** Building materials and supplies for constructing an agriculture processing facility as defined in section 469.1811 in which the total capital investment in the processing facility is expected to exceed \$100,000,000 are exempt. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

Subd. 14. **Mineral production facilities.** Building materials, equipment, and supplies used for the construction of the following mineral production facilities are exempt.

The mineral production facilities that qualify for this exemption are:

(1) a value added iron products plant, which may be either a new plant or a facility incorporated into an existing plant that produces iron upgraded to a minimum of 75 percent iron content or any iron alloy with a total minimum metallic content of 90 percent;

(2) a facility used for the manufacture of fluxed taconite pellets as defined in section 298.24;

(3) a new capital project that has a total cost of over \$40,000,000 that is directly related to production, cost, or quality at an existing taconite facility that does not qualify under clause (1) or (2); and

(4) a new mine or minerals processing plant for any mineral subject to the net proceeds tax imposed under section 298.015.

The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

Subd. 15. **Minneapolis convention center.** Materials, supplies, or equipment used or consumed in the construction, equipment, improvement, or expansion of the Minneapolis convention center are exempt.

Subd. 16. **RiverCentre arena.** Materials, supplies, or equipment used or consumed in the construction, equipment, improvement, or expansion of the RiverCentre arena complex in the city of St. Paul are exempt.

Subd. 17. **Environmental learning center.** Construction materials and supplies are exempt if they are used or consumed in constructing or improving the Long Lake Conservation Center pursuant to the funding provided under Laws 1994, chapter 643, section 23, subdivision 28; as amended by Laws 1995, First Special Session chapter 2, article 1, section 48; Laws 1996; chapter 463, section 7, subdivision 26; and Laws 1997;

chapter 246, section 24. The tax must be calculated and paid as if the rate in section 297A.62, subdivision 1, was in effect and a refund applied for in the manner prescribed in section 297A.75.

Subd. 18. **Soybean oilseed processing and refining facility.** Construction materials and supplies are exempt if:

- (1) the materials and supplies are used or consumed in constructing a facility for soybean oilseed processing and refining;
- (2) the total capital investment made in the facility is at least \$60,000,000; and
- (3) the facility is constructed by a Minnesota-based cooperative organized under chapter 308A.

Subd. 19. **Earle Brown Heritage Center.** Materials and supplies used or consumed in and equipment incorporated into the construction, improvement, or expansion of the Earle Brown Heritage Center in Brooklyn Center are exempt. This subdivision is effective for purchases made before July 1, 2003.

Subd. 20. **Construction materials and supplies; beef processing facility.** Materials and supplies used or consumed in, and equipment incorporated into, the expansion, remodeling, or improvement of a facility used for cattle slaughtering are exempt if:

- (1) the cost of the project is expected to exceed \$15,000,000;
- (2) the expansion, remodeling, or improvement of the facility will be used to fabricate beef;
- (3) the number of jobs at the facility is expected to increase by at least 150 when the project is completed; and
- (4) the project is expected to be completed by December 31, 2001.

Subd. 21. **Construction materials and equipment; biomass electrical generating facility.** Materials and supplies used or consumed in, and equipment incorporated into, the construction, improvement, or expansion of a facility using biomass to generate electricity are exempt if:

- (1) the facility exclusively utilizes residue wood, sawdust, bark, chipped wood, or brush to generate electricity;
- (2) the facility utilizes a reciprocated grate combination system; and
- (3) the total gross capacity of the facility is 15 to 21 megawatts.

Subd. 22. **Materials used to make residential property handicapped accessible.** Building materials and equipment sold to, or stored, used, or consumed by, a nonprofit organization are exempt if:

- (1) the materials and equipment are used or incorporated into modifying an existing residential structure to make it handicapped accessible; and
- (2) the materials and equipment used in the modification would qualify for an exemption under either subdivision 11 or 12 if made by the current owner of the residence.

For purposes of this subdivision, "nonprofit organization" means any nonprofit corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, educational, or civic purposes; or a veterans' group exempt from federal taxation under section 501(c), clause (19), of the Internal Revenue Code.

History: 2000 c 418 art 1 s 15,44 subd 3; 2000 c 490 art 8 s 12

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 15, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

EXEMPTION CERTIFICATES

297A.72 EXEMPTION CERTIFICATES.

Subdivision 1. **Duty of retailer.** An exemption certificate conclusively relieves the retailer from collecting and remitting the tax only if taken in good faith from the purchaser.

Subd. 2. **Content and form of exemption certificate.** An exemption certificate must be substantially in the form prescribed by the commissioner and:

- (1) be signed by the purchaser or meet the requirements of section 289A.07;
- (2) bear the name and address of the purchaser;
- (3) indicate the sales tax account number, if any, issued to the purchaser;
- (4) indicate the general character of the property sold by the purchaser in the regular course of business or the activities carried on by the organization; and
- (5) identify the property purchased.

History: 2000 c 418 art 1 s 16

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 16, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.73 IMPROPER USE OF ITEM OBTAINED WITH EXEMPTION CERTIFICATE.

If a purchaser who gives an exemption certificate makes any use of the item that is not for a purpose exempted under this chapter, that use is considered a retail sale by the purchaser and the sales price to the purchaser is considered the gross receipts. If the sole 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 the item, the seller shall include the entire amount of gross receipts received from the sale without deduction of amounts previously received as rentals.

History: 2000 c 418 art 1 s 17

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 17, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.74 COMMINGLING EXEMPTION CERTIFICATE ITEMS.

If a purchaser gives an exemption certificate for the purchase of fungible items and later commingles the items with similar fungible items not purchased exempt, sales from the commingled items are considered sales of items purchased exempt until a quantity has been sold that equals the quantity purchased exempt.

History: 2000 c 418 art 1 s 18

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 18, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

EXEMPTION REFUNDS

297A.75 REFUND; APPROPRIATION.

Subdivision 1. **Tax collected.** The tax on the gross receipts from the sale of the following exempt items must be imposed and collected as if the sale were taxable and the rate under section 297A.62, subdivision 1, applied. The exempt items include:

- (1) capital equipment exempt under section 297A.68, subdivision 5;
- (2) building materials for an agricultural processing facility exempt under section 297A.71, subdivision 13;
- (3) building materials for mineral production facilities exempt under section 297A.71, subdivision 14;
- (4) building materials for correctional facilities under section 297A.71, subdivision 3;
- (5) building materials used in a residence for disabled veterans exempt under section 297A.71, subdivision 11; and
- (6) chair lifts, ramps, elevators, and associated building materials exempt under section 297A.71, subdivision 12.

Subd. 2. **Refund; eligible persons.** Upon application on forms prescribed by the commissioner, a refund equal to the tax paid on the gross receipts of the exempt items must be paid to the applicant. Only the following persons may apply for the refund:

- (1) for subdivision 1, clauses (1) to (3), the applicant must be the purchaser;
- (2) for subdivision 1, clause (4), the applicant must be the governmental subdivision;
- (3) for subdivision 1, clause (5), the applicant must be the recipient of the benefits provided in United States Code, title 38, chapter 21; and
- (4) for subdivision 1, clause (6), the applicant must be the owner of the homestead property.

Subd. 3. Application. (a) The application must include sufficient information to permit the commissioner to verify the tax paid. If the tax was paid by a contractor, subcontractor, or builder, under subdivision 1, clause (4), (5), or (6), the contractor, subcontractor, or builder must furnish to the refund applicant a statement including the cost of the exempt items and the taxes paid on the items unless otherwise specifically provided by this subdivision. The provisions of sections 289A.40 and 289A.50 apply to refunds under this section.

(b) An applicant may not file more than two applications per calendar year for refunds for taxes paid on capital equipment exempt under section 297A.68, subdivision 5.

Subd. 4. Interest. Interest must be paid on the refund at the rate in section 270.76 from the date the refund claim is filed for taxes paid under subdivision 1, clauses (1) to (3), and (5), and from 60 days after the date the refund claim is filed with the commissioner for claims filed under subdivision 1, clauses (4) and (6).

Subd. 5. Appropriation. The amount required to make the refunds is annually appropriated to the commissioner.

History: 2000 c 418 art 1 s 19,44 subd 3; 2000 c 490 art 8 s 6

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 19, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

COMPUTATION AND COLLECTION OF SALES AND USE TAXES

297A.76 COMPUTATION OF SALES AND USE TAXES.

Subdivision 1. Rounding up or down. In computing the sales or use tax to be collected or remitted as the result of a transaction, amounts of tax less than one-half of one cent must be disregarded and amounts of tax of one-half cent or more must be considered an additional cent.

Subd. 2. Uniform tax collection methods; rules. Agreements between competitive retailers or the adoption of appropriate rules or regulations by organizations or associations of retailers to provide uniform methods for adding the sales tax or its average equivalent, which do not involve otherwise unlawful price fixing agreements, are expressly authorized and are not in violation of any Minnesota laws prohibiting such agreements. The commissioner may prescribe rules for such agreements.

History: 2000 c 418 art 1 s 20

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 20, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.77 COLLECTION OF SALES AND USE TAXES.

Subdivision 1. Collection of tax at time of sale. The tax must be stated and charged separately from the sales price or charge for service insofar as practicable and must be collected by the seller from the purchaser.

Subd. 2. Receipt. For use tax, the retailer shall give the purchaser a tax receipt. The receipt must indicate the tax in the form of a notation on the sales slip or receipt for the sales price or in another form as prescribed by the commissioner.

Subd. 3. Tax must be remitted. The tax collected by a retailer under this section must be remitted to the commissioner as provided in chapter 289A and this chapter.

Subd. 4. **Status of sales and use taxes as debt.** Sales and use taxes that are required to be collected by a retailer are debts from the purchaser to the retailer recoverable at law in the same manner as other debts.

History: 2000 c 418 art 1 s 21

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 21, is effective for sales and purchases occurring after June 30, 2001. Laws 2000, chapter 418, article 1, section 46

297A.78 LIABILITY FOR USE TAX; RECEIPT AS EVIDENCE.

Liability for the payment of the use tax is not extinguished until the tax has been paid to Minnesota. However, a receipt from a retailer given to the purchaser under section 297A.77, subdivision 2, relieves the purchaser of further liability for the tax to which the receipt refers, unless the purchaser knows or has reason to know that the retailer did not have a permit to collect the tax.

History: 2000 c 418 art 1 s 22

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 22, is effective for use tax liabilities incurred after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.79 REPORTING OF GROSS RECEIPTS.

At the option of the taxpayer, gross receipts from sales may be reported on the cash basis as the consideration is received or on the accrual basis as sales are made.

History: 2000 c 418 art 1 s 23

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 23, is effective for gross receipts reported after June 30, 2001. Laws 2000, chapter 418, article 1, section 46

297A.80 TAXES IN OTHER STATES; OFFSET AGAINST USE TAX.

If an article of tangible personal property or an item listed in section 297A.63 has already been taxed by another state for its sale, storage, use, or other consumption in an amount less than the tax imposed by this chapter, then as to the person who paid the tax in the other state, section 297A.63 applies only at a rate measured by the difference between the rate imposed under section 297A.62 and the rate by which the previous tax was computed. If the tax imposed in the other state is equal to or greater than the tax imposed in this state, then no tax is due from that person under section 297A.63.

History: 2000 c 418 art 1 s 24

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 24, is effective for offsets against taxes after June 30, 2001. Laws 2000, chapter 418, article 1, section 46

297A.81 UNCOLLECTIBLE DEBTS; OFFSET AGAINST OTHER TAXES.

The taxpayer may offset against the taxes payable for any reporting period the amount of taxes imposed by this chapter previously paid as a result of any transaction the consideration for which became a debt owed to the taxpayer that became uncollectible during the reporting period, but only in proportion to the portion of the debt that became uncollectible. Section 289A.40, subdivision 2, applies to an offset under this section.

History: 2000 c 418 art 1 s 25

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 25, is effective for offsets against taxes after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

AIRCRAFT AND FLIGHT EQUIPMENT

297A.82 AIRCRAFT; FLIGHT EQUIPMENT; PAYMENT OF TAXES; EXEMPTIONS.

Subdivision 1. **Requirements for registration.** An aircraft must not be registered or licensed in this state unless the applicant presents proof that the sales or use tax imposed by this chapter has been paid or that the transaction is exempt from the sales and use tax. The exemption for an occasional sale under section 297A.67, subdivision 23, or 297A.68, subdivision 25, does not apply to the sale or purchase of an aircraft.

Subd. 2. **Payment of tax to dealer.** If an aircraft is purchased from a dealer holding a valid sales and use tax permit under this chapter, the applicant shall present proof that the tax has been paid to the dealer.

Subd. 3. **Payment of tax to commissioner.** If the aircraft is purchased from a person who is not the holder of a valid sales and use tax permit under this chapter, the purchaser shall pay the tax to the commissioner of revenue prior to registering or licensing the aircraft in this state. The commissioner of revenue shall issue a certificate stating that the sales and use tax in respect to the transaction has been paid.

Subd. 4. **Exemptions.** (a) The following transactions are exempt from the tax imposed in this chapter to the extent provided.

(b) The purchase or use of aircraft previously registered in Minnesota by a corporation or partnership is exempt if the transfer constitutes a transfer within the meaning of section 351 or 721 of the Internal Revenue Code.

(c) The sale to or purchase, 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.

(d) Airflight equipment when sold to, or purchased, stored, used, or consumed by airline companies, as defined in section 270.071, subdivision 4, is exempt. For purposes of this subdivision, "airflight equipment" includes airplanes and parts necessary for the repair and maintenance of such airflight equipment, and flight simulators, but does not include airplanes with a gross weight of less than 30,000 pounds that are used on intermittent or irregularly timed flights.

(e) Sales of, and the storage, distribution, use, or consumption of aircraft, as defined in section 360.511 and approved by the Federal Aviation Administration, and which the seller delivers to a purchaser outside Minnesota or which, without intermediate use, is shipped or transported outside Minnesota by the purchaser are exempt, but only if the purchaser is not a resident of Minnesota and provided that the aircraft is not thereafter returned to a point within Minnesota, except in the course of interstate commerce or isolated and occasional use, and will be registered in another state or country upon its removal from Minnesota. This exemption applies even if the purchaser takes possession of the aircraft in Minnesota and uses the aircraft in the state exclusively for training purposes for a period not to exceed ten days prior to removing the aircraft from this state.

Subd. 5. **Exempt purchase certificate.** If the purchase of an aircraft is exempt under this chapter, the commissioner shall issue a certificate that no sales or use tax is due and owing in respect to the transaction.

Subd. 6. **Sales and leases; tax treatment.** (a) A sale of aircraft and parts for the repair of aircraft purchased by a nonprofit, incorporated flying club or association utilized solely by the corporation by leasing the aircraft to shareholders of the corporation is exempt as property purchased for resale. The leasing of the aircraft to the shareholders by the flying club or association is taxable as a retail sale.

(b) A lease of aircraft utilized by a lessee for leasing to others, whether or not the lessee also utilizes the aircraft for charter service or for flight instruction if no separate charge is made for aircraft rental, is exempt as a purchase for resale. However, a proportionate share of the lease payment reflecting use for flight instruction or charter service is taxable under section 297A.63.

History: 2000 c 418 art 1 s 26,44 subd 3; 2000 c 490 art 8 s 7

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 26, is effective for aircraft registered or licensed and for sales or purchases of aircraft after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

PERMITS

297A.83 APPLICATION FOR PERMIT.

Subdivision 1. **Persons applying.** (a) A retailer required to collect and remit sales taxes under section 297A.66 shall file with the commissioner an application for a permit.

(b) A retailer making retail sales from outside this state to a destination within this state who is not required to obtain a permit under paragraph (a) may nevertheless voluntarily file an application for a permit.

(c) The commissioner may require any person or class of persons obligated to file a use tax return under section 289A.11, subdivision 3, to file an application for a permit.

Subd. 2. Application requirements. The application must be made on a form prescribed by the commissioner and indicate the name under which the applicant intends to transact business, the location of the applicant's place or places of business, and other information the commissioner may require. The application must be filed by the owner, if a natural person; by a member or partner, if the owner is an association or partnership; or by a person authorized to file the application, if the owner is a corporation.

Subd. 3. Commissioner's discretion. (a) The commissioner may decline to issue a permit to a retailer not maintaining a place of business in this state, or may cancel a permit previously issued to the retailer, if the commissioner believes that the tax can be collected more effectively from the persons using the property in this state. A refusal to issue or cancellation of a permit on such grounds does not affect the retailer's right to make retail sales from outside this state to destinations within this state.

(b) If the commissioner considers it necessary for the efficient administration of the tax to regard a salesperson, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer, or other person under whom that person operates or from whom the person obtains the tangible personal property sold; whether making sales personally or in behalf of that dealer, distributor, supervisor, employer, or other person, the commissioner may regard the salesperson, representative, trucker, peddler, or canvasser as such agent, and may regard the dealer, distributor, supervisor, employer, or other person as a retailer for the purposes of collecting the tax.

History: 2000 c 418 art 1 s 27

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 27, is effective for permits applied for after June 30, 2001. Laws 2000, chapter 418, article 1, section 46

297A.84 PERMITS ISSUED.

The commissioner shall issue a permit to each applicant who has complied with section 297A.83, and with section 297A.92 if security is required. A person is considered to have a permit if the person has a Minnesota tax identification number issued by the department that is currently active for taxes imposed by this chapter. A permit is valid until canceled or revoked. It is not assignable and is valid only for the person in whose name it is granted and for the transaction of business at the places designated on the permit.

History: 2000 c 418 art 1 s 28

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 28, is effective for permits issued after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.85 CANCELLATION OF PERMITS.

The commissioner may cancel a permit if one of the following conditions occurs:

- (1) the permit holder has not filed a sales or use tax return for at least one year;
- (2) the permit holder has not reported any sales or use tax liability on the permit holder's returns for at least two years; or
- (3) the permit holder requests cancellation of the permit.

History: 2000 c 418 art 1 s 29

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 29, is effective for permits canceled after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.86 REVOCATION OF PERMITS.

Subdivision 1. **Notice of revocation; hearings.** (a) If a person fails to comply with this chapter or the sales and use tax provisions of chapter 289A or the rules adopted under either chapter, without reasonable cause, the commissioner may give the person 30 days' notice in writing, specifying the violations, and stating that based on the violations the commissioner intends to revoke the person's permit. The notice must also advise the person of the right to contest the revocation under this subdivision. It must also explain the general procedures for a contested case hearing under chapter 14. The notice may be served personally or by mail in the manner prescribed for service of an order of assessment.

(b) If the person does not request a hearing within 30 days after the date of the notice of intent, the commissioner may serve a notice of revocation of permit upon the person, and the permit is revoked. If a hearing is timely requested, and held, the permit is revoked after the commissioner serves an order of revocation of permit under section 14.62, subdivision 1.

Subd. 2. **New permits after revocation.** (a) The commissioner shall not issue a new permit after revocation or reinstate a revoked permit 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 provide security, in addition to that authorized by section 297A.92, in an amount reasonably necessary to ensure compliance with the sales and use tax laws and rules.

(b) 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 under this section.

(c) For purposes of this subdivision, "taxpayer" means:

(1) 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; and

(2) 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: 2000 c 418 art 1 s 30

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 30, is effective for permits revoked after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.87 FLEA MARKETS, SHOWS, AND OTHER SELLING EVENTS.

Subdivision 1. **Events affected.** (a) This section applies to a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event.

(b) To be subject to this section, the operator of an event described in paragraph (a) must rent or lease space on the sale premises to the seller, charge the seller a registration or participation fee, or receive a percentage of sales or other consideration from a seller as a condition to participation by a seller in the event.

Subd. 2. **Seller's permit or alternate statement.** (a) The operator of an event under subdivision 1 shall obtain one of the following from a person who wishes to do business as a seller at the event:

(1) evidence that the person holds a valid seller's permit under section 297A.84; or

(2) a written statement that the person is not offering for sale any item that is taxable under this chapter.

(b) The operator shall require the evidence or statement as a prerequisite to participating in the event as a seller.

Subd. 3. **Occasional sale provisions not applicable.** The isolated and occasional sale provisions under section 297A.67, subdivision 23, or under section 297A.68, subdivision 25, do not apply to a seller at an event under this section.

History: 2000 c 418 art 1 s 31

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 31, is effective for selling events held after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

DIRECT PAY

297A.89 DIRECT PAYMENT BY PURCHASERS PERMITTED.

Subdivision 1. **Commissioner may permit.** 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 considered use taxes, except for local sales taxes when no corresponding local use tax is imposed.

Subd. 2. **Retailer does not collect.** The retailer shall not collect the tax from a purchaser who furnishes to the retailer a copy of a certificate issued by the commissioner authorizing the purchaser to pay any sales or use tax due on purchases made by the purchaser directly to the commissioner under subdivision 1.

History: 2000 c 418 art 1 s 32

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 32, is effective for direct payment by purchasers after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.90 INTERSTATE MOTOR CARRIERS AS RETAILERS.

Subdivision 1. **Registration; records.** (a) A person who is engaged in interstate for-hire transportation of tangible personal property or passengers by motor vehicle may, under rules prescribed by the commissioner, register as a retailer and pay the taxes imposed by this chapter in accordance with this section. Any taxes paid under this section are use taxes, except local sales taxes when no corresponding local use tax is imposed.

(b) As used in this section, "person" means: (1) one who possesses a certificate or permit or has 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; (2) one who transports commodities defined as "exempt" in for-hire transportation in interstate commerce; or (3) one who transports tangible personal property in interstate commerce, pursuant to contracts with persons described in clause (1) or (2). Persons qualifying under clause (2) or (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.

(c) Persons who in the course of their business are transporting solely their own goods in interstate commerce may also register as retailers under rules prescribed by the commissioner and pay the taxes imposed by this chapter in accordance with this section.

Subd. 2. **Payment of tax.** (a) Persons who are registered as retailers may make purchases in this state or import property into this state without payment of the sales or use taxes imposed by this chapter at the time of purchase or importation, if the purchases or importations come within the provisions of this section and are made in strict compliance with the rules of the commissioner.

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

(c) The total cost of such equipment and parts and accessories attached or to be attached to such equipment must be multiplied by a fraction. The numerator of the fraction is the Minnesota mileage as reported on the current pro rata application

provided for in section 168.187 and the denominator of the fraction is the total mileage reported on the current pro rata registration application. The amount so determined must be multiplied by the tax rate to obtain the tax due.

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

(d) A retailer covered by this section shall make a return and remit to the commissioner the tax due for the preceding calendar month in accordance with sections 289A.11 and 289A.20, subdivision 4.

Subd. 3. Registration subsequent to payment of tax. A person who has paid the tax under this chapter or chapter 297B and who meets the requirements of this section at the time of the sale, but was not registered under this section at the time of the sale, may register as a retailer, make a return, and file for a refund of the difference between the tax calculated under this chapter or chapter 297B and the tax calculated under subdivision 2.

Subd. 4. Agreement with commissioner of public safety. Notwithstanding subdivisions 1 to 3, the commissioner may enter into an agreement with the commissioner of public safety whereby, upon approval of both commissioners, the commissioner of public safety shall collect the sales tax on motor vehicles from persons defined in subdivision 1. For the purpose of collecting the tax, the commissioner of public safety shall act as the agent of the commissioner of revenue and shall be subject to all rules consistent with this chapter that may be prescribed by the commissioner.

History: 2000 c 418 art 1 s 33

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 33, is effective for registered motor carriers after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

ENFORCEMENT

297A.91 SEIZURE; COURT REVIEW.

Subdivision 1. Seizure of property used in illegal transport. (a) If the retailer does not have a sales or use tax permit and has been engaging in transporting personal property into the state without payment of the tax, the commissioner of revenue or the commissioner's agents may seize in the name of the state any truck, automobile, or means of transportation not owned or operated by a common carrier, used in the illegal importation and transportation of any tangible personal property by a retailer or the retailer's agent or employee. The commissioner may demand the forfeiture and sale of the truck, automobile, or other means of transportation together with the property being transported illegally, unless the owner establishes to the satisfaction of the commissioner or the court that the owner had no notice or knowledge or reason to believe that the vehicle was used or intended to be used in any such violation.

(b) Within two days after the seizure, the person making the seizure shall deliver an inventory of the vehicle and property seized to the person from whom the seizure was made, if known, and to any person known or believed to have any right, title, interest, or lien on the vehicle or property. The person making the seizure shall also file a copy of the inventory with the commissioner.

Subd. 2. Court review of forfeiture. (a) Within ten days after the date of service of the inventory, the person from whom the vehicle and property were seized or any person claiming an interest in the vehicle or property may file with the commissioner a demand for a judicial determination of the question of whether the vehicle or property was lawfully subject to seizure and forfeiture. The commissioner, within 30 days, shall institute an action in the district court of the county where the seizure was made to determine the issue of forfeiture.

(b) The action must be brought in the name of the state and prosecuted by the county attorney or the attorney general. The court shall hear the action without a jury and shall determine the issues of fact and law involved. If a judgment of forfeiture is entered and is not stayed pending an appeal, the commissioner may have the forfeited vehicle and property sold at public auction as provided by law.

Subd. 3. **Treatment of seized property.** If a demand for judicial determination is made and no action is commenced as provided in this subdivision, the vehicle and property must be released by the commissioner and redelivered to the person entitled to it. If no demand is made, the vehicle and property seized are considered forfeited to the state by operation of law and may be disposed of by the commissioner as if there were a judgment of forfeiture. The forfeiture and sale of the automobile, truck, or other means of transportation, and of the property being transported illegally in it, are a penalty for the violation of this chapter. After deducting the expense of keeping the vehicle and property, the fee for seizure, and the costs of the sale, the commissioner shall pay liens from the funds collected. The commissioner shall pay all liens, according to their priority, that are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the vehicle or property was being used or was intended to be used for or in connection with any such violation as specified in the order of the court. The commissioner shall pay the balance of the proceeds into the state treasury to be credited to the general fund. The state is not liable for any liens in excess of the proceeds from the sale after allowable deductions. A sale under this section frees the vehicle and property sold from all liens. The order of the district court may be appealed as in other civil cases.

History: 2000 c 418 art 1 s 34

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 34, is effective for seizures after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.92 SECURITY.

Subdivision 1. **Amount of security.** To ensure compliance with the taxes imposed by this chapter, the commissioner may require a retailer subject to this chapter to deposit security with the commissioner. The security must be in the form and amount the commissioner requires, but not more than twice the retailer's estimated average liability for the period for which the returns are required to be filed, or \$10,000, whichever is less. The amount of security may be increased or decreased by the commissioner, subject to the limitations in this section.

Subd. 2. **Auctions of security.** The commissioner may sell property deposited as security at public auction if necessary to recover the amount required to be collected, including any interest and penalties. Notice of the sale must be served upon the person who deposited the security. It must be served personally, or by mail as prescribed for the service of a notice of a deficiency. After a sale any surplus above the amount due not required as security under this section must be returned to the person who deposited the security.

Subd. 3. **Bond.** In lieu of security, the commissioner may require a retailer to file a bond. The bond must be issued by a surety company authorized to transact business in this state and approved by the commissioner of commerce as to solvency and responsibility.

History: 2000 c 418 art 1 s 35

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 35, is effective for security required, security auctions held, and security bonds required after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.93 JEOPARDY ASSESSMENT AND COLLECTION.

(a) If the commissioner has reason to believe that the person required to file the return is about to leave the state or remove the person's property from this state with the purpose of evading the tax and penalties imposed by this chapter, or that the collection of the tax will be jeopardized by delays incident to other methods of collection, the commissioner may immediately declare the person's reporting period at

an end and assess a tax on the basis of the commissioner's own knowledge or information available. The commissioner may then demand immediate payment of the tax, and, if payment is not immediately made, collect the tax by any method prescribed in chapter 270.

(b) It is not a defense to an assessment made under this section that the tax period has not terminated, that the time otherwise allowed by law for filing a return has not expired, that the notices otherwise required by law for making an assessment have not been given, or that the time otherwise allowed by law for taking or prosecuting an appeal or for paying the tax has not expired.

History: 2000 c 418 art 1 s 36

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 36, is effective for assessments after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

DEPOSIT OF REVENUES

297A.94 DEPOSIT OF REVENUES.

(a) Except as provided in this section, the commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed by this chapter in the state treasury and credit them to the general fund.

(b) The commissioner shall deposit taxes in the Minnesota agricultural and economic account in the special revenue fund if:

(1) the taxes are derived from sales and use of property and services purchased for the construction and operation of an agricultural resource project; and

(2) the purchase was made on or after the date on which a conditional commitment was made for a loan guaranty for the project under section 41A.04, subdivision 3.

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 must 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) The commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed on sales and purchases included in section 297A.61, subdivision 16, paragraphs (b) and (f), in the state treasury, and credit them 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 to the general fund.

(d) The commissioner shall deposit the revenues, including interest and penalties, collected under section 297A.64, subdivision 5, in the state treasury and credit them to the general fund. By July 15 of each year the commissioner shall transfer to the highway user tax distribution fund an amount equal to the excess fees collected under section 297A.64, subdivision 5, for the previous calendar year.

(e) For fiscal year 2001, 97 percent, and for fiscal year 2002 and thereafter, 87 percent of the revenues, including interest and penalties, transmitted to the commissioner under section 297A.65, must be deposited by the commissioner in the state treasury as follows:

(1) 50 percent of the receipts must be deposited in the heritage enhancement account in the game and fish fund, and may be spent only on activities that improve, enhance, or protect fish and wildlife resources, including conservation, restoration, and enhancement of land, water, and other natural resources of the state;

(2) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only for state parks and trails;

(3) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only on metropolitan park and trail grants;

(4) three percent of the receipts must be deposited in the natural resources fund, and may be spent only on local trail grants; and

(5) two percent of the receipts must be deposited in the natural resources fund, and may be spent only for the Minnesota zoological garden, the Como park zoo and conservatory, and the Duluth zoo.

(f) The revenue dedicated under paragraph (e) may not be used as a substitute for traditional sources of funding for the purposes specified, but the dedicated revenue shall supplement traditional sources of funding for those purposes. Land acquired with money deposited in the game and fish fund under paragraph (e) must be open to public hunting and fishing during the open season. At least 87 percent of the money deposited in the game and fish fund for improvement, enhancement, or protection of fish and wildlife resources under paragraph (e) must be allocated for field operations.

History: 2000 c 418 art 1 s 37; 2000 c 488 art 3 s 29

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 37, is effective for revenues deposited after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

LOCAL SALES AND USE TAXES

297A.95 COORDINATION OF STATE AND LOCAL SALES TAX RATES.

In preparing and distributing a sales tax schedule for use within a local jurisdiction with a separate general sales tax, the state department of revenue shall coordinate the state and local sales tax so that a sale of \$1 reflects a tax equal to the combination of the state and local sales tax rates. The combined sales tax on other sales amounts must also reflect the coordinated rather than the separate effects of the state and local sales taxes. The schedule must be coordinated as long as the local sales tax is in effect. If the sales tax percentage is changed for either of the taxes, the schedule must be adjusted to reflect the change.

History: 2000 c 418 art 1 s 38

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 38, is effective for sales tax schedules distributed after June 30, 2001. Laws 2000, chapter 418, article 1, section 46

297A.96 LOCAL ADMISSIONS AND AMUSEMENT TAXES; EXEMPTION FOR ARTS ORGANIZATIONS.

If an event is sponsored by a nonprofit arts organization, then amounts charged for admission to the event or to the organization's premises are not subject to a tax imposed by a local unit of government or imposed on sales taking place in a single named local unit of government on sales of admissions or amusements, under a law other than a general sales tax law.

History: 2000 c 418 art 1 s 39

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 39, is effective for local sales taxes collected after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.97 OUTSTATE RETAILERS; LOCAL TAX COLLECTION NOT REQUIRED.

A retailer not maintaining a place of business in this state is not required to collect taxes imposed by a political subdivision of this state.

History: 2000 c 418 art 1 s 40

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 40, is effective for local sales taxes collected after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.98 LOCAL GOVERNMENTS EXEMPT FROM LOCAL SALES TAXES.

Notwithstanding any other law, ordinance, or charter provision, a political subdivision of the state is not required to pay any general sales tax imposed by a political subdivision of the state.

History: 2000 c 418 art 1 s 41

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 41, is effective for local sales taxes collected after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.99 LOCAL SALES TAXES.

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 political 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 June 2, 1997, or
- (2) enacted on or after June 2, 1997, 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. **Local resolution before application for authority.** Before the governing body of a political subdivision requests legislative approval of a special law for a local sales tax that is administered under this section, it shall adopt a resolution indicating its approval of the tax. The resolution must include, at a minimum, information on the proposed tax rate, how the revenues will be used, the total revenue that will be raised before the tax expires, and the estimated length of time that the tax will be in effect. This subdivision applies to local laws enacted after June 30, 1998.

Subd. 3. **Requirements for adoption, use, termination.** (a) Imposition of a local sales tax is subject to approval by voters of the political subdivision at a general election.

(b) The proceeds of the tax must be dedicated exclusively to payment of the cost of a specific capital improvement which is designated at least 90 days before the referendum on imposition of the tax is conducted.

(c) The tax must terminate after the improvement designated under paragraph (b) has been completed.

(d) After a sales tax imposed by a political subdivision has expired or been terminated, the political subdivision is prohibited from imposing a local sales tax for a period of one year. Notwithstanding subdivision 13, this paragraph applies to all local sales taxes in effect at the time of or imposed after May 26, 1999.

Subd. 4. **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. 5. **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. 6. **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. 7. **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.68, subdivision 13 or 14, are exempt, except the qualifica-

tion 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.90.

Subd. 8. Credit for other local taxes. If a person paid sales or use tax to another political subdivision of this state on an 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. 9. 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 shall 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 11.

Subd. 10. Use of zip code in determining location of sale. To determine whether to impose the local tax, the retailer may use zip codes if the zip code area is entirely within the political subdivision. When a zip code area is not entirely within a political subdivision, the retailer shall not collect the local tax if the purchaser notifies the retailer that the purchaser's delivery address is outside of the political subdivision, unless the retailer verifies that the delivery address is in the political subdivision using a means other than the zip code. Notwithstanding subdivision 13, this subdivision applies to all local sales taxes without regard to the date of authorization.

Subd. 11. 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. 12. 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 shall notify the commissioner of revenue at least 90 days before imposing or repealing a tax under this section.

Subd. 13. Application. This section applies to all local sales taxes that were authorized before, on, or after June 2, 1997.

History: 2000 c 418 art 1 s 42

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 42, is effective for local sales taxes collected after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.

297A.991 REPORTING OF SALES TAX ON MINNESOTA GOVERNMENTS.

Subdivision 1. Commissioner of revenue to report. For each fiscal year, the commissioner shall estimate the amount of revenues derived from imposing the tax under this chapter and chapter 297B on state agencies and political subdivisions. The commissioner shall report this amount to the commissioner of finance before the time for filing reports for the fiscal year with the United States Department of Commerce.

MINNESOTA STATUTES 2000

735

GENERAL SALES AND USE TAXES 297A.991

Subd. 2. Commissioner of finance to report. In reporting the sales tax and sales tax on motor vehicles collections to the United States Department of Commerce, the commissioner of finance shall exclude the estimated amount from the sales and motor vehicle collections. Sales tax and sales tax on motor vehicles revenues received from political subdivisions must be reported as intergovernmental grants or similar intergovernmental revenue. The amount of the sales tax and sales tax on motor vehicles paid by state agencies must be reported as reduced state expenditures.

History: 2000 c 418 art 1 s 43

NOTE: This section, as added by Laws 2000, chapter 418, article 1, section 43, is effective for sales taxes reported after June 30, 2001. Laws 2000, chapter 418, article 1, section 46.