

FINDINGS & STATEMENT OF SUPPORTING REASONS

Adoption of Permanent Exempt Rule Governing Sales and Use Tax on Property Brought into Minnesota: Amending Minnesota Rules, part 8130.4300, subpart 1.

FINDINGS

The term “sales and use tax” describes two kinds of taxes. The first kind of tax, commonly referred to as “sales tax,” is the most common form of sales and use tax and is owed on gross receipts from retail sales made in this state or to a destination in this state. Minnesota Statutes, section 297A.62, subdivision 1. The other complimentary tax, which is the less common “use tax,” is owed when a person purchases tangible personal property or taxable services for use, storage, distribution, or consumption in Minnesota and Minnesota sales tax was not paid on the purchase. Minnesota Statutes, section 297A.63, subdivision 1. A common example of its application is when a person purchases tangible personal property in a neighboring state for use in Minnesota. If the neighboring state has a lower sales and use tax rate than Minnesota, the person owes Minnesota use tax equal to the difference between the amount owed under the higher Minnesota rate and amount already paid to the neighboring, lower-rate state. Minnesota Statutes, section 297A.80.

The sales and use tax rule at issue, found at [Minnesota Rules, Part 8130.4300](#) (the “Rule”), does two things. First, it describes various statutory provisions regarding the application of Minnesota’s use tax, including statutes governing whether property purchased in a lower-rate state, and then brought into Minnesota, will be subject to Minnesota use tax. Second, the Rule makes two closely related clarifications: 1) whether property has been purchased for use in Minnesota “usually will be determinable at or near the time of its purchase”; and 2) if a nonresident purchaser can show property was purchased and used in another state for a reasonable period of time before being brought into Minnesota for use, the property will usually not be subject to use tax.

STATEMENT OF SUPPORTING REASONS

The proposed Rule updates are necessary because of three changes to statutes. First, the current Rule’s first sentence references an outdated exemption to use tax. The legislature repealed this exemption in 2008, and reference to it should be removed. Second, the current Rule’s two references to Minnesota Statutes, section 297A.665(c), are outdated because this paragraph was re-lettered to Minnesota Statutes, section 297A.665(f). Finally, the proposed Rule updates will add language to the rule from the same statute (*i.e.*, Minnesota Statutes, section 297A.665(f)) so the substance of the statute and rule are appropriately aligned.