

# 2011 SALES AND USE TAXES LEGISLATIVE BULLETIN

## (2011 1<sup>st</sup> Special Session)

MINNESOTA • REVENUE

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Unless otherwise noted, the provisions discussed in this bulletin can be found in 2011 Minn. Laws, 1<sup>st</sup> Special Session, Chapter 7, Articles 3 and 4.

### SALES AND USE TAXES

**Ring tones.** Minn. Stat. § 297A.61, subd. 3, was amended to delete the furnishing of ring tones from the definition of sale and purchase, effectively exempting ring tones. This change brings Minnesota into compliance with the Streamlined Sales Tax Agreement. Effective for sales and purchases made after September 30, 2011.

The purpose of this law change, besides Streamlined Sales Tax Agreement compliance, is to encourage enactment of federal legislation that would allow state and local governments to require remote sellers to collect use tax for the governments. (See purpose statement in 2011 Minn. Laws, 1<sup>st</sup> Special Session, Chapter 7, Article 10, Section 7.)

**Lodging related services by accommodations intermediary.** Minn. Stat. § 297A.61 was amended to modify subd. 3 and add subs. 47 and 48, and Minn. Stat. § 297A.66 was amended to add a subd. 6, as follows:

- Includes, in the definition of sale or purchase, lodging-related services by an online lodging seller or other type of accommodation intermediary making a sale of lodging;
- defines “accommodations intermediary” to be someone who charges a fee to facilitate sales of lodging to customers, which includes resellers of hotel rooms (e.g., the online sites that directly charge a purchaser for the room; that is, the payment is made to the intermediary, rather than the hotel), and that charges a room charge. This would not include traditional travel agents, who book rooms and are compensated by the hotel, and the customer pays the hotel for the room charge;
- defines “accommodations provider” to be anyone who sells lodging to the general public for compensation; and
- clarifies that an accommodations intermediary is required to collect sales tax on services provided in connection with selling lodging located in the state.

Effective July 21, 2011.

**Sourcing of florist sales.** Minn. Stat. § 297A.668 was amended by adding a subd. 9 to modify the sales tax sourcing rules for florist sales when one retailer transmits a florist sales order to another retailer of florist sales through a floral network service or floral delivery association, by whatever means of communication (often referred to as a “telefloral order”). In that case, the sale is sourced to the location of the retailer taking the order from the customer, rather than to the location of the floral delivery. This is the current practice in most states. Sales where the Minnesota retailer delivers floral or nursery products inside or outside of Minnesota, whether to the customer or a third party, continue to follow the general sourcing rules of subdivision 2 (usually where delivered). Also defines “florist sales” to list a variety of floral or nursery products. Effective for sales and purchases made after September 30, 2011.

**Taconite, other ores, metals, or minerals; production materials.** Minn. Stat. § 297A.68, subd. 4, was amended to extend a current sales tax exemption for certain milling and grinding materials used in taconite production to those materials used in the production of other ores, metals, and minerals. Effective for sales and purchases made after September 30, 2011. The purpose of this law is to provide sales tax treatment for the nonferrous mining industry that is equivalent to that provided to the taconite mining industry. (See purpose statement in 2011 Minn. Laws, 1<sup>st</sup> Special Session, Chapter 7, Article 10, Section 7.)

**Qualified data centers.** Minn. Stat. § 297A.68 was amended by adding a subd. 42 and Minn. Stat. § 297A.75, subds. 1, 2, and 3, were amended to provide a sales tax exemption for technology equipment, computer software, and electricity used by a qualifying data center. This is an upfront exemption for electricity purchases but administered as a refund for the equipment and software, for which the owner of the center will apply. A “qualified data center” is a center in Minnesota consisting of at least 30,000 square feet, on a single parcel or contiguous parcels, with an initial investment of at least \$50 million in a two-year period that is used to house enterprise information technology equipment. Contractors, subcontractors, and builders are required to supply the owner of the center with the information necessary to apply for the refund. The exemption expires July 1, 2042, and a facility can only get this exemption for the lesser of 20 years or until July 1, 2042. Effective for sales and purchases after June 30, 2012, and before July 1, 2042, but no refunds can be applied for until July 1, 2013.

**Resold admission tickets.** Minn. Stat. § 297A.68 was amended by adding subd. 43 to allow a ticket reseller who did not purchase its tickets exempt for resale to either claim a refund (if it paid tax on the purchase of the original ticket) or pass on to the ticket purchaser an amount equal to the sales tax paid on the original ticket sale, after calculating the tax based on the sales price of the ticket. The credited amount that can be passed on to the purchaser is limited to the lesser of (1) the tax paid at the time of the original ticket sales, or (2) the tax charged by the reseller. However, if the sales tax was not paid on the original ticket sale, then the reseller must charge the sales tax on the full price of the ticket resold, and is not allowed to pass on any credit. The ticket reseller must maintain records necessary to document the price and tax paid by the ticket reseller when they purchase a ticket and when they resell a ticket. Effective for sales and purchases made September 30, 2011. The purpose of this law change is to reduce the competitive advantage of ticket resellers without nexus, and to ensure that resold tickets are subject to sales tax on the full, final retail price. (See purpose statement in 2011 Minn. Laws, 1<sup>st</sup> Special Session, Chapter 7, Article 10, Section 7.)

**Sales to local governments; towns.** Minn. Stat. § 297A.70, subds. 1, 2, and 3 were amended as follows:

- Makes a technical correction by explicitly listing “units of local governments” within the scope of the government and nonprofit sales tax exemption statute;
- Expands the sales tax exemption for certain goods and services to local governments to include purchases by towns (i.e., townships), except when the purchase is an input to a good or service generally provided by a private business and the purchase would be taxable if purchased by a private business engaged in the same activity.
- Eliminates a sales tax exemption for gravel and road repair vehicles purchased by a town, which is unnecessary with the general exemption for sales to towns.

Effective for sales and purchases made after September 30, 2011. The purpose of these law changes is to provide state assistance for the functions of townships not currently exempted from sales tax. (See purpose statement in 2011 Minn. Laws, 1<sup>st</sup> Special Session, Chapter 7, Article 10, Section 7.)

**Water used directly in providing fire protection.** Minn. Stat. § 297A.70, subd. 3, was amended to exempt water used directly by a fire department, fire protection district, or fire company providing services to the state or a political subdivision for fire protection. Effective retroactively for sales and purchases made after June 30, 2007; however, no refunds may be made for amounts already paid on water purchased between June 30, 2007, and January 30, 2010. The purpose of this law change is to provide state assistance for this public safety function to Minnesota local governments. (See purpose statement in 2011 Minn. Laws, 1<sup>st</sup> Special Session, Chapter 7, Article 10, Section 7.)

**Emergency response vehicles; sales and use tax and motor vehicle sales tax.** Minn. Stat. § 297A.70, subd. 6, was amended to extend the current sales tax exemption for the lease of motor vehicles used as ambulances to the lease of motor vehicles used for emergency response. Effective for purchases made after September 30, 2011.

Similarly, Minn. Stat. § 297B.03 was amended to extend the current exemption for the purchase of motor vehicles used as ambulances to the purchases of motor vehicles used for emergency response. Effective July 21, 2011.

These amendments make the sales tax and the motor vehicle sales tax treatment consistent with the registration tax exemption enacted in 2008. The purpose of these law changes was to provide consistent treatment of emergency vehicles and to clarify the exemption. (See purpose statement in 2011 Minn. Laws, 1<sup>st</sup> Special Session, Chapter 7, Article 10, Section 7.)

**Grant application and awards by joint powers board for Twin Cities area transit funding.** Minn. Stat. § 297A.992, subd. 5, is amended, and a new subdivision is created, to require the Counties Transit Improvement Board to allocate funds to the Metropolitan Council for the cost of operations of certain transit ways. The fund allocation must be at least 75 percent of the net cost of operations for these transit ways. Also establishes that the first priority in allocation of funds by the Counties Transit Improvement Board is for necessary debt service on bonds issued prior to 2011 under the board's bonding authority. Effective retroactively to July 1, 2011. 2011 Minn. Laws, 1<sup>st</sup> Special Session, chapter 3, article 2, sections 1 and 2.

**Sunset of exemption delayed; admission to events sponsored by the Minnesota State High School League.** The effective date of 2006 Minn. Laws, Chapter 257, Section 2, is amended to extend to July 1, 2015, the current sales tax exemption for tickets to regional and statewide events sponsored by the Minnesota State High School League (see Minn. Stat. § 297A.70, subd. 11, for this exemption). This exemption expired July 1, 2011. Effective retroactively to June 30, 2011.

**Vehicles Crimes Unit appropriation.** Appropriates \$693,000 for each fiscal year, 2012 and 2013, to Public Safety's Vehicle Crimes Unit to investigate nonpayment of registration tax and motor vehicle sales tax liabilities, and illegal activities related to the sale, transfer, titling, and registration of motor vehicles. Effective for fiscal years 2012 and 2013.

## LOCAL TAXES

**Prohibition on promoting local sales taxes.** Minn. Stat. § 297A.99 was amended to delete obsolete language that prohibited political subdivisions from spending money to promote new local sales tax provisions until after May 31, 2010, and to add a new provision that prohibits a local government from spending money to promote a local sales tax referendum, and limits it to spending money only on conducting the vote. Effective July 21, 2011, and applies to all sales tax referenda, including all those summarized in this bulletin.

**Requirement of voter approval prior to seeking legislative authorization.** Minn. Stat. § 297A.99, subd. 3, was amended to require that a local government receive voter approval of the imposition of a local sales tax at a general election before requesting authorization by the legislature for a local sales tax. Effective July 21, 2011.

**Limit on deposits to reserve fund; Hennepin county ballpark tax.** Minn. Stat. § 473.757, subd. 11, is amended to impose a limit on the amount of reserves that may be maintained for the baseball park equal to (1) the net present value of all its obligations to fund the ball park authority operating costs, youth sports, extension of library hours, and required capital improvements for a thirty year period starting from when the first bonds were issued, minus (2) the amount of these obligations already paid. This limit will ensure that the ballpark bonds will be paid off and the sales tax ended at the earlier possible date consistent with meeting all other obligations related to the sales tax revenue. Effective July 21, 2011.

**City of Hermantown; sales tax.** Authorizes the city of Hermantown to increase the local sales tax rate from the current ½ percent rate to the originally authorized one percent rate if approved by the voters at a general election held by the end of calendar year 2012. Effective the day after local compliance.

**City of Rochester; use of sales tax revenues.** Authorizes the city to use its local sales tax revenues to fund the following additional projects:

- \$47 million for transportation infrastructure improvements (highways and airport), but prohibits any money to be used to fund a railroad bypass that would affect rail traffic in the city of Rochester;
- \$26.5 million for higher education facilities;
- \$20 million for the Destination Medical Community initiative;
- \$8 million for construction of regional public safety facilities;
- \$20 million for a regional recreation/senior center;
- \$10 million for an economic development fund; and
- \$8 million for downtown infrastructure.
- \$5 million of the \$10 million earmarked for economic development must be used for development grants to the surrounding communities of Byron, Chatfield, Dodge Center, Dover, Elgin, Eyota, Kasson, Mantorville, Oronoco, Pine Island, Plainview, St. Charles, Stewartville, Zumbrota, Spring Valley, West Concord, and Hayfield.

Effective the day after local compliance.

**City of Rochester; bonding authority.** Authorizes the city to hold the election to issue bonds for the projects in section 5 at the same time they hold the election for the extension of the local sales

tax. The amount of the bonds is limited to \$139.5 million plus associated bond costs. Effective the day after local compliance.

**City of Rochester; termination of sales taxes.** Authorizes the city to extend the current tax beyond the date necessary to raise sufficient funds for current authorized projects. The tax is extended to December 31, 2012, so it does not expire before the required referendum is held at the 2012 general election. If the tax extension is approved by the voters, the tax is extended until sufficient revenues are raised to fund the additional \$139.5 million in projects plus associated bond costs. Effective the day after local compliance.

**City of Clearwater; sales tax.** Expands the authorized uses of the Clearwater sales tax to include improvements to regional parks, bicycle trails, park land, open space, and walkways included in the city improvement plan adopted in December 2006. Effective the day after local compliance.

**City of Marshall; extension of authorization for voter approval of lodging tax and food and beverage tax.** Extends the date by which the city of Marshall must go to the voters for approval of local lodging and food and beverage taxes authorized in the 2010 tax bill. This will allow the city to hold this vote with the vote on its local sales tax also authorized (see next bullet). Effective July 21, 2011.

**City of Marshall; sales and use tax.** Allows the city to impose a ½ of one percent sales tax in the city of Marshall for the indicated projects if approved by voters at a general election held in the next two years. The city is required to present separate ballot questions for the two authorized projects which are:

- new and existing facilities of the Minnesota Emergency Response and Industry Training Center and
- new facilities of the Southwest Minnesota Regional Amateur Sports Center.

Allows the city to issue up to \$17.29 million in bonds for the projects listed in subdivision 3, based on the voter approval of the sales tax imposition and the bonds are not included in any debt or levy limit on the city. The local sales tax ends at the earlier of (1) 15 years, or (2) when revenues raised are sufficient to pay for the projects, including all associated bond costs. Because of the timing requirements for termination; any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date. Effective the day after local compliance.

**City of Cloquet; sales and use tax, vehicle tax, authorized.** Authorizes the city to impose a local sales tax of up to ½ of one percent, subject to approval at a general election. The imposition and administration of the tax is subject to the provisions in Minn. Stat. § 297A.99. The city may also impose a flat \$20/vehicle tax on motor vehicles sold by dealers located in the city. Revenues from the taxes must be used to pay the costs of administration and to pay for the following projects:

- \$4.5 million for the following park improvements: St. Louis River riverfront improvements, the Veteran's Park, a soccer complex, baseball complex, hockey arena, recreation center, and pedestrian trails throughout the city;
- \$5.8 million for extension of utilities and other improvements related to property development adjacent to Highway 33 and Interstate 35; and
- \$6.2 million for engineering and construction of infrastructure improvements identified in the city's comprehensive land use plan.

The city may issue up to \$16.5 million in bonds for the projects listed based on the voter approval of the sales tax imposition. No separate vote is required for issuing the bonds and the bonds are not included in any debt or levy limit on the city. The taxes expire at the earlier of (1) 30 years or (2) when the revenues collected are sufficient to pay for the projects and retire any associated bonds and bond costs. Because of the timing requirements for termination, any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date. Effective the day after local compliance.

**City of Fergus Falls; sales and use tax authorized.** Authorizes the city to impose a local sales tax of one-half of one percent to finance a regional ice arena, as approved by their voters at the 2010 general election. The imposition and administration of the tax is subject to the provisions on Minn. Stat. § 297A.99, including the requirement for approval by the voters at a general election.

The city may use up to \$6.6 million in revenues from the taxes to pay the costs of administration and to pay for the acquisition and betterment of a regional ice center facility, including associated bond costs. Allowed costs include furnishing and equipment costs as well as acquisition, design, and construction costs, and associated bond costs. The tax expires when the revenues collected are sufficient to pay for the project and retire any associated bonds and bond costs. Because of the timing requirements for termination; any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date. Effective the day after local compliance.

**City of Hutchinson, sales tax, vehicle tax authorized.** Authorizes the city to impose a local sales tax of one-half of one percent to pay for its wastewater treatment facility, as approved by their voters at the 2010 general election. Allows the city to impose a complementary flat \$20/vehicle tax on motor vehicles sold by dealers located in the city.

Revenues from the taxes must be used to pay the costs of administration and to pay for the construction and renovation of the city's wastewater treatment facility, including construction, engineering, and associated bond costs. The taxes end at the earlier of (1) 18 years, or (2) when revenues raised are sufficient to pay for the project, including all associated bond costs. Because of the timing requirements for termination; any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date. Effective the day after local compliance.

**City of Lanesboro; sales and use tax.** Allows the city to impose a ½ of one percent sales tax in the city of Lanesboro, as approved by the voters at the 2010 general election, for the indicated projects. Revenues from the taxes must be used to pay the costs of administration and to pay for the following projects:

- street and utility improvements along a number of specified streets,
- street lighting on State Highways 250 and 16;
- wastewater treatment facility improvements;
- electric utility improvements to the Lanesboro High Hazard Dam; and
- improvements to the community center, library, and city hall.

Total improvements under this section are limited to \$800,000 and associated bond costs. Allows the city to issue up to \$800,000 in bonds for the projects listed in subdivision 3, based on the voter approval of the sales tax imposition and the bonds are not included in any debt or levy limit on the city. The taxes end when revenues raised are sufficient to pay for the projects, including all

associated bond costs. Because of the timing requirements for termination, any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date. Effective the day after local compliance.

**City of Medford; sales and use tax.** Authorizes the city to impose a ½ of one percent sales tax in the city of Medford to repay Minnesota Public Facilities Authority loans, if approved by the voters at the next general election. The loans were used to finance \$4.2 million of improvements to the city's water and wastewater systems. The local sales tax ends at the earlier of (1) 20 years, or (2) when revenues raised are sufficient to repay the loans, including interest. Because of the timing requirements for termination; any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date. Effective the day after local compliance.