

2012 SALES AND USE TAX LEGISLATIVE BULLETIN

(2012 Regular Session)

MINNESOTA • REVENUE

Appeals and Legal Services Division
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Sourcing of a sale; situs in this state. Minn. Stat. § 297A.668, subd. 7, was amended by changing the word “either” to “one of the following” because that provision has three conditions not two. Effective August 1, 2012. 2012 Minn. Laws, Chapter 187 Article 1, Section 48.

Petroleum products. Minn. Stat. § 297A.68, subd. 19, was amended by adding two new clauses (7) and (8), providing two new exemptions. The first exempts petroleum products purchased by transportation providers to qualified recipients enrolled in day programs, including adult day care, family adult day care, day treatment and habilitation, prevocational services, and structured day services. The second exempts petroleum products used in a motor vehicle used exclusively as a mobile medical unit that provides medical or dental services by a federally qualified health center. Clause (7) is effective retroactively from January 1, 2012, and clause (8) is effective retroactively from January 1, 2011. Minn. Laws, Chapter 287, Article 3, Section 50.

Sales of certain goods to government. Minn. Stat. §§ 297A.70 subd. 3, paragraph (c), and 297A.75, subd. 1, clause (12), were amended to change the number “11” to “10” to correct a reference for an exemption for commuter rail vehicle and repair parts. Effective August 1, 2012. 2012 Minn. Laws, Chapter 187, Article 1, Sections 49 and 50.

Football stadium and infrastructure construction exemption. Minn. Stat. § 297A.71 was amended to add a subd. 43 that provides an upfront exemption from sales and use tax for those materials and supplies used or consumed in, and equipment incorporated into, the construction or improvement of the football stadium and stadium infrastructure as defined in section 473J.03, subdivisions 8 and 10. In those subdivisions “stadium” is defined to mean “the stadium suitable for professional football to be designed, constructed, and financed under this chapter. A stadium must have a roof that covers the stadium, as set forth in section 473J.11, subd. 3”; and “stadium infrastructure” is defined to mean “plazas, parking structures, rights of way, connectors, skyways and tunnels, and other such property, facilities, and improvements, owned by the authority or determined by the authority to facilitate the use and development of the stadium.” For materials and supplies, and equipment used in the construction and equipping of the stadium, the exemption expires one year after the date that the first National Football League game is played in the stadium. For materials, supplies, and equipment used in the stadium infrastructure, the exemption expires five years after the issuance of the first bonds. Effective May 15, 2012. Minn. Laws 2012, Chapter 299, Article 1, sections 6 and 10.

Capital projects construction exemption for cities of the first class. Minn. Stat. § 297A.71 was amended to add a subdivision 44; Minn. Stat. § 297A.75, subdivisions. 1 to 3 were amended; and a new section Minn. Stat. § 297A.9905 was added. The new subdivision 44 creates a sales and use tax exemption for materials and supplies used or consumed in and equipment incorporated into the construction or improvements of a capital project funded partially or wholly under a new section 297A.9905. The tax on purchases exempt under subdivision 44 must be imposed and collected as if the rate in 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75. The applicant for the refund must be the governmental entity that owns or contracts for the project or facility.

The newly created section 297A.9905 provides that, if the revenues from any local tax imposed on retail sales under a special law by a city of the first class exceed the amount needed to fund the uses authorized in the special law, the city may expend the excess revenue to fund other capital projects of regional significance. The project must have a total construction cost of at least \$40 million within a 24-month period. This refund would apply to capital projects in “cities of the first class”: Minneapolis, St. Paul, Rochester, and Duluth.

The amendments to sections 297A.71 and 297A.75, subd. 3, are effective for sales and purchases made after June 30, 2013. The amendments to subdivisions 1 and 2 of section 297A.75 are effective July 1, 2012. The new section 297A.9905 is effective May 15, 2012. Minn. Laws 2012, Chapter 299, Article 5, sections 2 through 6.

International economic development zones. Minn. Stat. § 297A.75, subd. 1, was amended to delete clause (11), which provided an exemption refund for tangible personal property, taxable services and construction materials, supplies and equipment used or consumed by a qualified business located in the international economic development zones as defined by Minn. Stat. § 469.322. Effective August 1, 2012. 2012 Minn. Laws, Chapter 294, Section 18.

Remittance of Minneapolis local sales and use taxes, and liquor, lodging, and restaurant taxes. Creates a new section, Minn. Stat. § 297A.994, which governs the remittance of the proceeds of Minneapolis local sales and use taxes, and liquor, lodging, and restaurant taxes [imposed under Laws 1986, chapter 396, sections 4 and 5, as amended], notwithstanding the provisions of section 297A.99, subdivision 11. Besides deducting costs of administering the taxes, and making appropriate refunds to taxpayers, the commissioner of revenue is to retain and deposit to the general fund allocations for the following purposes:

- for state bond debt service support for calendar years 2021 through 2046 so that an aggregate amount with a present value of \$150,000,000 has been deposited;
- (2) for appropriations to the sports facility authority for the capital improvement reserve and for operating expenses for calendar years 2021 through 2046; and
- (3) to fully recapture, beginning in calendar year 2021, the state advances for capital improvements and operating expenses paid in calendar years 2016 through 2020.

For these allocations the commissioner of revenue must consult with the commissioner of management and budget regarding the terms, calculations, and schedules as described in the law. Effective June 5, 2012. Minn. Laws 2012, Chapter 299, Article 3, section 1.

Motor Vehicle Sales Tax. Minn. Stat. §297B.03 was amended by adding clause (15) that exempts the purchase of a motor vehicle used exclusively as a mobile medical unit for the provision of medical or dental services by a federally qualified health center. Effective retroactively for sales and purchases made on and after January 1, 2011. Minn. Laws 2012, Chapter 287, Article 3, section 51.

Annual adjustment factor definition. Creates Minn. Stat. § 473J.03, subdivision 2, which defines “annual adjustment factor” to mean, for any year, the increase, if any, in the amounts of the Minneapolis taxes that were originally enacted in 1986 (local sales and use taxes, and liquor, lodging, and restaurant taxes), that the commissioner of revenue receives in the preceding year over the amount received in the year prior to the preceding year. The increase is to be expressed as a percentage of the amount received in the year prior to the preceding year. The adjustment factor

must not be less than zero percent nor more than five percent. Effective May 15, 2012. Minn. Laws 2012, Chapter 299, Article 1, section 10.

Prohibition against new or additional local taxes at stadium site. Creates Minn. Stat. § 473J.23 to prohibit the imposition or increase of the certain taxes unless they are applicable throughout the taxing jurisdiction. A local sales tax may not be imposed or increased at the stadium site; and local taxes may not be imposed or increased on sales of tickets and admissions to NFL team, NFL team-owned major league soccer, or other team related events at the stadium (except under new section 16A.1524, which, if electronic pull-tabs and bingo do not produce enough revenue, authorizes backup revenues for the football stadium—either a sports-themed lottery game or a tax on suites at the NFL stadium, with a tax on suites to be remitted to the commissioner of management and budget. See Minn. Laws 2012, Chapter 299, Article 6.). However, the admissions and amusements tax currently imposed by the city of Minneapolis pursuant to Laws 1969, chapter 1092, may apply to admissions for football and NFL team related events, including NFL team-owned major league soccer, as provided in section 473J.15, subdivision 15, at the stadium. Effective May 15, 2012. Minn. Laws 2012, Chapter 299, Article 1, section 23.

Minneapolis local sales and use tax; tax must not be terminated before 2047; additional purposes for revenue. Amends Laws 1986, chapter 396, section 4, as amended by Laws 1987, chapter 55, sections 5 and 6, and Laws 2009, chapter 88, article 4, sections 11 and 12. This amendment makes technical changes, deletes obsolete or redundant language, and provides that the tax imposed under this section must not be terminated before January 1, 2047. It also adds to the purposes of the use of the revenues funding other city expenditures in support of the basketball arena, other capital projects, or for other economic development. Further, the city may direct excess revenue from the local sales and use tax and from the local liquor, lodging, and restaurant taxes, first to convention center debt, operations, capital improvements, and marketing, and the city may issue bonds to fund any such projects or improvements using these taxes or any other available city resources to finance or secure the bonds. Effective June 5, 2012. Minn. Laws 2012, Chapter 299, Article 3, section 2.

Minneapolis liquor, lodging, and restaurant taxes; taxes must not be terminated before 2047; authorization to adjust rate; allocation and purposes. Amends Laws 1986, chapter 396, section 5, as amended by Laws 2001, First Special Session chapter 5, article 12, section 87. This amendment makes technical changes, deletes obsolete or redundant language, and provides that the liquor, lodging, and restaurant taxes imposed under this section (which they currently impose) must not be terminated before January 1, 2047. It adds language authorizing the periodic adjustment of tax rates so that the revenue produced under this section and under section 4 [Minneapolis local sales and use tax] of the same amended session law is sufficient to finance the purposes described in both Minn. Stat. § 297A.994 and section 4 of the same session law. It also adds language to provide that the allocation of the revenues from these tax types is applied first as provided in Minn. Stat. § 297A.994, subdivision 3, clauses (1) to (3), and then for the purposes in section 4, subdivision 3 or 4, of the same amended session law. Effective June 5, 2012. Minn. Laws 2012, Chapter 299, Article 3, section 3.

Minneapolis local sales and use tax, and liquor, lodging, and restaurant taxes; exempted from certain resolution, adoption, use and termination requirements. This uncodified provision provides that the taxes authorized under Laws 1986, chapter 396, sections 4 and 5, as amended (Minneapolis local sales and use tax, and liquor, lodging, and restaurant taxes), are exempt from the requirements of Minn. Stat. § 297A.99, subs. 2 and 3, which otherwise would require local resolution before application to the legislature for the authority to impose the local sales tax, and would provide the requirements for adoption (such as voter approval), use and termination of the local sales tax. Effective June 5, 2012. Minn. Laws 2012, Chapter 299, Article 3, section 6.

Repealer—International economic development zones. Minn. Stat. § 297A.68, subd. 41, that provided an exemption for tangible personal property, taxable services and construction materials, supplies and equipment used or consumed by a qualified business located in the international economic development zones as defined by Minn. Stat. § 469.322, was repealed. Effective August 1, 2012. 2012 Minn. Laws, Chapter 294, Section 43.