

**2014 SALES AND USE TAX
LEGISLATIVE BULLETIN
(2014 Regular Session)**

MINNESOTA • REVENUE

Appeals and Legal Services Division
600 North Robert Street
Saint Paul, Minnesota 55146-2220

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Unless otherwise noted, the provisions discussed in this bulletin can be found in 2014 Minn. Laws, Chapter 308.

June accelerated sales and use tax payment. Minn. Stat. §289A.20, subd. 4, was amended to increase the annual tax liability threshold for vendors required to remit June sales tax collections on an accelerated basis from \$120,000 to \$250,000 and also decrease the percentage of June liability that must be paid early from 90 to 81.4 percent. Also amended is Minn. Stat. §289A.60, subd. 15, the penalty for underpayment of the June sales tax liability to reflect the decrease in the required payment percentage from 90 percent to 81.4 percent. Effective for taxes remitted after May 30, 2014.

Repair and maintenance labor; warehousing and storage services. Minn. Stat. §297A.61, subd. 3, was amended by deleting paragraph (m). This effectively repeals: (1) sales and use tax on repair and maintenance labor for commercial, industrial, electronic, and precision machinery and equipment; and (2) sales and use tax on warehousing and storage services. The definition of self-storage service found at Minn.Stat. §297A.61, subd. 57, was also repealed. This definition is no longer necessary because the sales and use tax on warehousing and storage services was repealed. Effective for sales and purchases made after March 31, 2014. 2014 Laws, chapter 150, article 2, sections 1 and 5.

Solicitor nexus. Minn. Stat. §297A.66, subd. 3 and 4a are amended to correct technical changes to those subdivisions. The first change corrects a cross reference found in paragraph (d) from paragraph (a) to (b). The second change provides that the definition of “resident” properly applies to the entire subdivision 4a, not just the paragraph. 2014 Laws, chapter 275, article 1, sections 96 and 97. Effective August 1, 2014.

Instructional materials for postsecondary study; digital goods. Minn. Stat. § 297A.67, subd. 13a, was amended to clarify that digital audio and audiovisual works required for a postsecondary course of study are included in the instructional materials exemption. Effective May 21, 2014.

Presentations accessed as digital audio and audiovisual works. Minn. Stat. § 297A.67 was amended to add subd. 33 to provide a sales tax exemption for certain live and prerecorded presentations such as classes and seminars where participants access the presentation as a digital audio work or a digital audiovisual work over the Internet, or by using telecommunication equipment or other devices that transfer the presentation electronically. To be eligible for the exemption, (1) the presentation must allow the participants to interact with the presenter and each other during the time the participants access the presentation, although the presenter may limit the amount and timing of the interaction; and (2) if participants have the option of attending the presentation in person, then the exemption only applies (a) if participants attending the presentation in person and participants accessing the presentation as a digital work are both subject to the same interaction rules, and (b) if admission for those attending the presentation in person are not subject to sales tax. Effective for sales and purchases made after June 30, 2014.

Coin-operated entertainment and amusement devices. Minn. Stat. §297A.68 was amended to add subd. 3a to exempt from sales tax coin-operated devices purchased by those who sell taxable admissions and/or make available amusement devices as provided in section 297A.61, subd. 3(g)(1). Examples of coin-operated entertainment and amusement devices are, fortune-telling machines, cranes, foosball and pool tables, video and pinball games, batting cages, rides, photo or video booths, and jukeboxes; specifically excluded are vending machines, lottery devices or gaming devices as described in chapter 297E and 349. Effective for sales and purchases made after June 30, 2014.

Telecommunications, pay television services machinery and equipment. Minn. Stat. §297A.68 was amended to add subd. 35a to exempt certain machinery and equipment purchased by telecommunications or pay television service providers. This effectively repeals the 2013 law change that imposed sales and use tax on this machinery and equipment. A cross-reference in §297A.68, subd. 5, was also amended. Effective for sales and purchases made after March 31, 2014. 2014 Laws, chapter 150, article 2, sections 2 and 3.

Qualified data centers. Minn. Stat. § 297A.68, subd. 42, was amended to clarify changes made to this exemption in 2013, adding the term “qualified refurbished data centers” to several existing references to a “qualified data center”; to clarify that the exemption added in 2013 for computer software maintenance agreements applies to purchases made after June 30, 2013, and any maintenance agreements purchased before that date do not count toward the required investment threshold; and to provide that the commissioner of employment and economic development (DEED) shall certify to the commissioner of revenue when a data center or refurbished data center meets the investment requirements in order to qualify for this exemption. The certification must include information on the square footage of the facility, the total costs involved, and the dates of the beginning and end of the qualifying investment period (must not begin before July 1, 2012). DEED must also annually inform the commissioner of revenue of the data centers which are likely to be certified for this exemption each of the next four years. Effective May 21, 2014.

Additionally, Laws 2013, ch. 143, art. 8, § 27, the effective date, was amended to be consistent with the changes to Minn. Stat. § 297A.68, subd. 42. Computer software maintenance agreements count toward the required investment threshold (regardless of whether it is used in a data center or a refurbished data center), as are all requirements related to “refurbished data centers,” effective for sales and purchases made after June 30, 2013. All other requirements for new data centers continue to be effective for sales and purchases made after June 30, 2012. Effective May 21, 2014.

Greater Minnesota business expansion. Minn. Stat. § 297A.68, subd. 44, was amended to require that the sales tax exemption for greater Minnesota business expansions only applies to purchases to be used at the facility in greater Minnesota identified in the business subsidy agreement and limits the total amount of refund to a business to the amount in the business subsidy agreement. Also clarifies that for refund claims, given that no more than \$7 million may be refunded in a fiscal year and unpaid claims must carry over into the subsequent fiscal year on a first-come first-serve basis, that any interest to be paid to the claimant would not start to accrue until 90 days after the beginning of the fiscal year in which the funds are available for the particular eligible claim. Effective May 21, 2014.

Additionally, Minn. Stat. § 116J.8738, subs. 2, 3, and 4, were amended as follows:

- Subd. 2—the definition of businesses that can qualify for the sales tax exemption for Greater Minnesota business expansions was amended to also exclude businesses primarily engaged in lobbying, gambling, entertainment, professional sports, political consulting, leisure, hospitality, and the professional services of attorneys, accountants, business consultants, physicians, or health care consultants.
- Subd. 3—the expansion requirements for qualifying for the exemption were amended to require an increase in the number of full-time equivalent employees by the greater of two employees or ten percent of the business’s current number of employees; to limit the exemption to 7 years instead of 12 years; and to allow the commissioner of employment and economic development (DEED) 90 days rather than 60 days to act on an application for this program.
- Subd. 4—the tax incentive language was amended to limit the exemption for a qualified business to \$2 million annually and a total of \$10 million, and to allow the commissioner of DEED to negotiate the exemption for each business as part of the business subsidy agreement.

Each subdivision is effective May 21, 2014.

Sales to government. Minn. Stat. §297A.70, subd. 2, was amended to modify the sales tax exemption for purchases made by local governments as follows:

- Removes the exclusion for inputs to goods and services generally provided by private business found at clause (5) and replaces it with a definite list of excluded activities. Goods and services purchased by exempt local governments for a liquor store, gas or electric utility, golf course, marina, campground, cafe, laundromat, solid waste hauling, solid waste recycling, or a landfill remain taxable. This portion of the law change is effective for sales and purchases made after June 30, 2014.
- Expands the definition of tax exempt local government, which currently includes counties, cities and townships to include all special districts, special taxing districts (except excludes the Metropolitan Council until January 1, 2017) city, county and town instrumentalities, and joint powers boards and organizations. This portion of the law change is effective for sales and purchases made after January 1, 2016. All current Metropolitan Council sales and use tax exemptions remain.
- Clarifies that the word “cities” means both statutory and home-rule charter cities consistent with current department interpretation. This portion of the law change is effective for sales and purchases made after June 30, 2014.

Threshold for fund-raising sales exemption. Minn. Stat. § 297A.70, subd. 13, was amended to increase the annual exemption threshold for fund-raising sales by or for nonprofit groups from \$10,000 to \$20,000 in annual gross receipts from sales (the \$10,000 threshold was set in 1985), and to provide that only the sales that exceed the \$20,000 threshold will be subject to sales tax. Effective for sales and purchases made after December 31, 2014.

Definition of fund-raising events. Minn. Stat. § 297A.70, subd. 14, the exemption for fund-raising events sponsored by nonprofit groups, was amended to explicitly define, with examples, “fund-raising events.” The definition clarifies, for purposes of the 24-day limitation, that the term means community, social, and entertainment events such as bake sales, galas, and carnivals, and not activities that are carried out in the normal course of business, such as the operation of the nonprofit’s gift shops, bookstores, or restaurants. Effective May 21, 2014.

Nonprofit snowmobile clubs, grooming machinery and equipment. Minn. Stat. §297A.70, was amended by adding subd. 19 to exempt purchases of trail grooming machinery and equipment made

by a nonprofit snowmobile club. To qualify, the nonprofit snowmobile club must be working with a local government sponsor, and must be receiving or have received in the last three years a state grant for this purpose. Effective for sales and purchases made after June 30, 2014.

Motor vehicle lease sales tax revenue. Minn. Stat. §297A.815, subd. 3, was amended to delete obsolete language, with clarifying changes; and to modify the allocation of funds that the commissioner of management and budget is to transfer from the general fund from net revenues of the motor vehicle lease sales tax remitted. As amended, the 50 percent that is to be transferred annually to the county state-aid highway fund (with remainder to the greater Minnesota transit account) will begin one year sooner because the annual transfer of \$9,000,000 will only apply until January 1, 2015. Effective July 1, 2014. 2014 Minn. Laws, Chapter 312, Article 11, Section 29.

Motor vehicle registrar. Minn. Stat. §297B.01, subd. 12, was amended to update the statutes to properly identify the motor vehicle division of the Department of Public Safety as the Division of Driver and Vehicle Services. Effective August 1, 2014. 2014 Laws, Chapter 275, Article 1, Section 98.

Special revenue account appropriation; prepaid wireless fees. Minn. Stat. § 403.162, subd. 5, was amended to provide a special revenue account and annual appropriation language for the amounts the commissioner of revenue is authorized to deduct as reimbursement of its indirect costs for administering collection and remittance of the prepaid wireless E911 fee and the prepaid wireless telecommunications access Minnesota fee. Effective retroactively from January 1, 2014.

Contribution in aid of construction; effective date. Laws 2013, chapter 143, article 8, section 3, the effective date, was amended so that paragraph (p) of the underlying law is effective the day following final enactment, May 23, 2013 (rather than July 1, 2013). This amendment reflects that the underlying law, which provided that payments to cooperative electric associations or public utilities as a contribution in aid of construction are not retail sales, was a clarification. Effective retroactively to May 23, 2013 [the effective date of that law].

Exemption for medical items covered by Medicare or Medicaid; retroactive effective date. Laws 2013, chapter 143, article 8, sections 22 and 23, the effective dates for the exemption of purchases of drugs, medical devices, and medical accessories and supplies, covered by Medicare or Medicaid, was amended to be retroactive for sales and purchases made after April 1, 2009; to allow a refund for the period after April 1, 2009 and before July 1, 2013, if the tax was paid by the vendor but never collected from the purchaser; and to clarify the applicable interest provision. The refund request must be filed by June 30, 2015. Effective May 21, 2014.

Capital equipment; up-front exemption effective date. Laws 2013, chapter 143, article 8, section 26, the effective date for the 2013 session law that makes the capital equipment exemption under Minn. Stat. §297A.68, subd. 5(a), an up-front exemption, was amended so that it is now effective for sales and purchases made after June 30, 2015 (instead of August 31, 2014). Effective March 22, 2014. 2014 Laws, chapter 150, article 2, section 4.

Donated materials for a library expansion. A session law provides an exemption for building materials purchased and donated by a private entity and used in building an addition to a city library. Effective for materials and supplies used in the construction of the addition between April 1, 2014 and July 1, 2015.

Effective date clarification for pharmaceutical manufacturing facility refund. Laws 2013, Chapter 143, Article 8, Section 37, the effective date was amended to clarify that the sales tax refund on construction materials and capital equipment for the construction or expansion of a specific large pharmaceutical manufacturing facility may not be applied for before June 30, 2015. Effective May 21, 2014.

Sales to instrumentalities of all the states. A session law provides a temporary sales tax exemption for prepared food, candy, beverages, and alcoholic beverages for an instrumentality of all the states for an annual meeting in Minnesota. Effective for purchases made after June 30, 2014, and before January 1, 2015.

Voluntary tax compliance program; animal shelters. A session law provides that Minnesota nonprofit organizations that rescue, shelter and find homes for unwanted animals that are not currently registered to collect and remit sales and use tax, that voluntarily register and begin collecting and remitting tax before January 1, 2015, will not be held liable for uncollected or unpaid sales and use tax, interest and penalties for prior tax periods. Effective May 21, 2014.

Rules

- Minn. Rules part 8130.8900, subp. 3 was repealed. This subpart, which provided for sourcing of telegraphic orders by florists and nurseries, became obsolete when Minn. Stat. §297A.668 was amended in 2011 to add subd. 9. Effective May 21, 2014.
- Minn. Rules part 8130.9500, subps. 1, 1a, 2, 3, 4, and 5 (entire part), was repealed. The aircraft registration rule was repealed in its entirety, as the reporting and registration requirements in the rule are obsolete. Aircrafts are registered through the Office of Aeronautics, Department of Transportation, by using its aircraft registration application and procedures. Effective May 21, 2014.

LOCAL TAXES

Lewis and Clark regional water system project. Various provisions provide bonding and taxing authority and state aid to assist local governments in southwestern Minnesota in completing the construction of the Lewis and Clark Regional Water System Project as follows:

- **Bonding.** Minn. Stat. §469.194 was added to provide the cities of Luverne and Worthington, and the counties of Rock and Nobles, to issue up to \$45 million in bonds for the completion of the construction of the Lewis and Clark Regional Water System Project. The bond limit and the responsibility of repaying the bonds shall be allocated among the governmental units through the Lewis and Clark Joint Powers Board. Effective without local approval under Minn. Stat. § 645.023 on May 21, 2014.
- **State Aid.** Minn. Stat. § 477A.20 was added to provide that the commissioner of revenue pay state aid to the Lewis and Clark Joint Powers Board to pay the debt service on the local bonds issued to finance the project. The aid paid must equal the payments of principal and interest on the bonds due in the next year less, 1.5 percent of the combined adjusted net tax capacity of Rock and Nobles counties, and 50 percent of any federal grants and aids received for the project. The aid will be paid in July and December along with local government aids and county program aids. Any aid received in excess of the local payment obligation must be repaid to the commissioner of revenue. Effective beginning with aids payable in 2015.
- **Local Sales and Use Taxes.** Session law allows the city of Worthington to extend its general 0.5 percent sales tax through 2039 and use the revenues for the Lewis and Clark water system

project. Session law allows the city of Luverne to impose by ordinance a 0.5 percent general sales tax to finance its portion of the project. Any revenues collected by Luverne that exceed what is needed to meet the debt service may be used for other city capital projects. Both Nobles and Rock counties are authorized to impose up to a 0.5 percent sales tax to fund the water system project without voter approval.

If Worthington and Luverne elect to impose their 0.5 percent tax then Nobles and Rock counties will exclude those parts of Worthington and Luverne (respectively) from the countywide tax so a uniform county-wide rate of 0.5 percent rate would result in both Nobles and Rock counties. Any revenue collected by Nobles and Rock counties in excess of what is needed to pay the county's share of debt service can be used for capital projects in the county. The county tax terminates when the bonds for the water project are paid off or when the county votes to terminate the tax. The counties are prohibited from terminating the tax unless they have determined that they have collected sufficient revenues to pay their share of the bonds. Effective the day after the respective governing body complies with Minn. Stat. § 645.021, subs. 2 and 3.

Duluth local taxes; food and beverage tax, lodging tax. Laws 1980, chapter 511, section 1, subdivision 2, as amended by Laws 1991, chapter 291, article 8, section 22, Laws 1998, chapter 389, article 8, section 25, Laws 2003, First Special Session chapter 21, article 8, section 11, and Laws 2008, chapter 154, article 5, section 2, was amended to allow the Duluth city council to increase its food and beverage tax from the current rate of 1.75% percent to 2.25%.

Minn. Laws 1980, chapter 511, section 2, as amended by Laws 1998, chapter 389, article 8, section 26, and Laws 2003, First Special Session chapter 21, article 8, section 12, regarding Duluth's lodging tax, was amended to allow the Duluth city council to increase its lodging tax from the current rate of 1.0% percent to 1.5%.

Amendments to these session laws also provide that additional revenue from these taxes are dedicated to fund up to \$18 million of capital projects related to tourism and recreation in the portion of the city west of 34th Avenue West; that the temporary increases end when the additional revenue raised from the increase in the rate of these taxes is sufficient to fund the allowed projects. Additionally, the city may issue up to \$18 million in general obligation bonds for these projects without a referendum; the bonds will not count toward the city's net debt limit; and the revenues from these taxes may be pledged to repay the bonds. And finally, each amendment eliminates obsolete language related to a 1998 temporary increase of these taxes to fund the Duluth Entertainment and Convention Center (DECC) and the Great Lakes Aquarium, which has expired. Each amendment is effective upon the city filing approval with the secretary of state.

Albert Lea local sales tax; termination, and validation of prior act.

Laws 2005, First Special Session chapter 3, article 5, section 38, subdivision 4, was amended to modify the time period allowed for imposing the local sales tax in Albert Lea from the lesser of 10 years or when \$15 million is raised, to the lesser of 15 years or when the \$15 million is raised. Effective upon the city filing approval with the secretary of state.

Additionally, an uncodified provision allows the city to file its approval of its original 2005 and 2006 sales tax laws [Laws 2005, First Special Session chapter 3, article 5, section 38, as amended by Laws 2006, chapter 259, article 3, section 6] and to retroactively validate the

enactment of that tax by June 15, 2014 (normally a special law must be approved in the biennium in which it is enacted or it does not take effect). Effective May 21, 2014.

Baxter local sales tax; use of revenues, bonds, and termination. Minn. Laws 2006, chapter 259, article 3, section 10, subdivisions 3, 4 and 5, regarding the city of Baxter's local sales taxes, were amended to allow the city, with approval of the voters, to extend its local sales tax to fund up to an additional \$40 million in sanitary sewer and storm sewer projects, transportation safety improvements, and improvements to the Brainerd Lakes Area Airport; to allow the city to issue up to \$40 million in bonds for the new projects based on the vote on the tax extension. \$8 million of the bonding authority must be for the airport improvements; and to allow the city to extend its local sales taxes if approved by the voters at the 2014 general election. If approved the tax would expire at the earlier of (1) December 31, 2037, or (2) when revenues are sufficient to pay for the authorized projects plus associated bond costs. The amendments concerning use of revenue and termination of taxes are effective upon filing approval with the secretary of state. The amendment concerning bonds is effective May 21, 2014.

Brainerd local sales tax; use of revenues, bonds, termination. Laws 2006, chapter 259, article 3, section 11, subdivisions 3, 4 and 5, regarding the city of Brainerd's local sales taxes were amended to allow the city, with approval of the voters, to extend its local sales tax to fund up to an additional \$15 million for improvements in a joint waste treatment facility, other water infrastructure, and trail improvements; to clarify that the existing bond authority only applies to the original projects authorized in 2006; and to allow the city to extend its local sales taxes if approved by the voters at the 2014 general election. If approved the tax would expire at the earlier of (1) when an additional \$15 million is raised, or (2) 18 years after the original termination date for the tax. The amendments concerning use of revenue and termination of taxes are effective upon filing approval with the secretary of state. The amendment concerning bonds is effective May 21, 2014.

Proctor food and beverage tax authorized. Session law allows the city of Proctor, by ordinance, to impose a food and beverage tax of up to one percent. "Food and beverage" also includes "retail on-sale of intoxicating liquor and fermented malt beverages." The revenue must be used to pay for trails, a civic center and parking improvements, and realignment of roads through the county fairgrounds. The city may contract with the commissioner of revenue for collection and administration of the tax. Effective upon filing approval with the secretary of state.