

Minnesota Department of Revenue

Revenue Notice # 18-03: Sales Tax - Capital Equipment - Revocation of Revenue Notice # 96-08.

Introduction

Revenue Notice # 96-08, which instructs contractors on how to draft a purchasing agent agreement for use when they are purchasing and installing capital equipment into real property, is revoked.

Department Position

Enacted in 2017, *Minnesota Statutes*, section 297A.61, subdivision 58(b) excludes from the definition of “real property” for sales tax purposes any tools, implements, machinery and equipment installed into real property for use in a business or production activity conducted thereon that qualifies for exemption under *Minnesota Statutes*, section 297A.68 regardless of size, weight or method of incorporation into the real property.

Due to this law change, when a contractor installs machinery and equipment that qualifies for exemption under *Minnesota Statutes*, section 297A.68, subdivision 5, they are no longer improving real property but are making a retail sale of tangible personal property, regardless of how the item is incorporated into the real estate. Consequently:

- The contractor can purchase the qualifying machinery and equipment exempt for resale.
- The customer can purchase the qualifying machinery and equipment exempt by providing a completed exemption certificate to the contractor at the time of sale.

Note: If the customer is also purchasing other improvements to real property, they must specify in detail the exempt items or risk loss of the exemption under *Minnesota Statutes*, section 297A.73.

Due to this law change, the instructions provided in Revenue Notice # 96-08 are no longer needed.

Revenue Notice # 96-08 is hereby revoked effective for sales and purchases after May 31, 2017, the effective date for 2017 Laws, 1st Special Session, ch. 1, art. 3, sec. 8.

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Lee Ho, Deputy Commissioner