

This notice was revoked on November 22, 2010 by Revenue Notice # 10-05.

Minnesota revenue notice number 02-05

Sales and Use Tax - Transitional Period for Delivery Charges for Construction Materials; Revocation of Revenue Notice # 01-11

This Revenue Notice revokes and supersedes Revenue Notice # 01-11, which was published on December 31, 2001. It provides an amended transitional period for delivery charges for construction materials.

Minnesota Statutes, section 297A.61, subdivision 7, was amended to provide that effective for all sales made after December 31, 2001, the sales price when computing the sales tax includes all delivery or transportation charges. The legislation making this change did not include any transitional language to grandfather in existing construction contracts.

The Commissioner will allow a transitional period for sales of construction materials made to contractors who have entered into a bona fide written lump sum or fixed price construction contract that does not provide for allocation of future taxes. The construction contract must be executed prior to January 1, 2002. Delivery charges for construction materials purchased by contractors who have qualifying contracts are exempt from the sales tax if delivery of the construction materials are made on or before June 30, 2002.

A bid submitted prior to January 1, 2002, that requires the contractor to include a bond is a binding contract, if the contractor is required to perform the work at the bid price or forfeit the bond, and the bid is accepted. A bid made prior to January 1, 2002, that does not require a bond is considered a proposal and is not a binding contract for purposes of this notice.

A contract to provide construction materials to a contractor at a fixed price for a certain period of time does not qualify for the transitional rule unless there is an existing lump sum or fixed price construction contract that was entered into prior to January 1, 2002, and the contract did not provide for an allocation of future taxes.

In order to obtain the transitional period treatment, the contractor must provide the vendor with a signed document for each qualifying contract that sets forth:

- the contractor's name and address, and Minnesota ID number (if no number, state reason)
- the name and address of the party contracting for the improvement
- name and location of the project, and contract or project number
- date of the contract
- a statement that the materials will be used by the contractor under a lump sum or fixed price construction contract that does not provide for the payment or allocation of future taxes.

The document will be considered an exemption certificate subject to the penalty provisions of *Minnesota Statutes*, section 289A.60, subdivision 14 regarding improper use of sales tax exemption certificates.

Revenue Notice # 01-11: Sales and Use Tax - Transitional Period for Delivery Charges for Construction Materials is hereby revoked.

Dated: 11 February, 2002

Jennifer Engh
Assistant Commissioner for Tax Policy