

Minnesota revenue notice number 02-14

Exemption for Purchases of Telecommunications Equipment - Internet Service Providers

Background

Minnesota Statutes, section 297A.68, subdivision 35, provides a sales tax exemption for purchases of machinery and equipment to be used directly by a telecommunications service provider in providing telecommunications services for sale at retail. The statute provides that the exemption only applies to machinery and equipment used to provide telecommunications services as defined in Minnesota Statutes, section 297A.61, subdivision 24, paragraph (a).

Issue

Does the exemption found in Minnesota Statutes, section 297A.68, subdivision 35, apply to the purchase of machinery and equipment by an Internet Service Provider (ISP)?

Department Position

An ISP does not provide a telecommunications service as defined in Minnesota Statutes, section 297A.61, subdivision 24, paragraph (a), and therefore cannot use the exemption to purchase machinery and equipment exempt from the sales tax. Subdivision 24, paragraph (a), provides a comprehensive definition as to what constitutes a telecommunications service but specifically provides that the furnishing of information services is not included within the definition. Subdivision 24, paragraph (d) defines information services as "the offering of the capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information". It is the department's position that an ISP is providing an information service and therefore does not qualify for the telecommunications equipment exemption found under Minnesota Statutes, section 297A.68, subdivision 35.

When machinery and equipment is purchased that can be used in providing both telecommunications services and internet services, the exemption will apply only if the taxpayer can document that the machinery and equipment is to be used principally in the providing of telecommunications services.

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