

# MINNESOTA DEPARTMENT OF REVENUE

## Modification of Revenue Notice: 19 # 93-09: Sales and Use Tax – Goods Property for Business Use Outside Minnesota\*

\*With modifications shown (see “Key” below).

### General Information:

#### Background

The sale of merchandise picked up in Minnesota by the purchaser for use in a trade or business outside of Minnesota is generally taxable. However, ~~Minn. Stat. § 297A.25, subd. 5~~ Minnesota Statutes, section 297A.68, subdivision 13, and Minnesota Rules, part 8130.3000, subp. 4, item C, provides that if the ~~goods~~ property is shipped or transported outside Minnesota by the customer purchaser (without any intermediate use) for use in trade or business outside Minnesota, and ~~will not be~~ is not returned to Minnesota except in the course of interstate commerce, the ~~goods property is~~ are exempt from Minnesota sales tax if:

1. the ~~goods are~~ property is not subject to tax in the state or country to which ~~they are~~ it is transported; or
2. the ~~goods are~~ property is to be used in other states or countries as part of a maintenance contract.

### Question:

#### Issue

What ~~does~~ is exempt as part of a "maintenance contract" ~~refer~~ and where must the maintenance work be performed?

### Answer:

#### Department Position

It is the ~~D~~department's position that the property used as part of a "maintenance contract" refers to repair or replacement parts, and not to equipment or tools used in the the performing the repair or maintenance business.

It is the department's position that the repair or replacement parts must be shipped or transported outside of Minnesota by the purchaser and the repair or maintenance work must be performed outside Minnesota in order for the exemption to apply. If the repair or maintenance work is performed in Minnesota, the exemption does not apply even though the property repaired or maintained will be shipped or transported by the purchaser for use outside Minnesota.

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~~Michael E. Boekhaus, Director  
Appeals, Legal Services &  
Criminal Investigation Division  
Dated: February 22, 1993~~

John H. Mansun, Assistant Commissioner  
for Tax Policy and External Relations  
Publication Date: May 7, 2007

\***Key:** Underlining indicates additions to existing Revenue Notice language. Strikeouts indicate deletions from existing Revenue Notice language.

**Please see next page for a clean, printable copy of this notice as modified.**

# MINNESOTA DEPARTMENT OF REVENUE

## Modification of Revenue Notice: # 93-09: Sales and Use Tax – Property for Business Use Outside Minnesota\*\*

**\*\*As modified**

### Background

The sale of merchandise picked up in Minnesota by the purchaser for use in a trade or business outside of Minnesota is generally taxable. However, Minnesota Statutes, section 297A.68, subdivision 13 provides that if the property is shipped or transported outside Minnesota by the purchaser (without any intermediate use) for use in trade or business outside Minnesota, and is not returned to Minnesota except in the course of interstate commerce, the property is exempt from Minnesota sales tax if:

1. the property is not subject to tax in the state or country to which it is transported; or
2. the property is to be used in other states or countries as part of a maintenance contract.

### Issue

What is exempt as part of a "maintenance contract" and where must the maintenance work be performed?

### Department Position

It is the department's position that the property used as part of a "maintenance contract" refers to repair or replacement parts, and not to equipment or tools used in performing the repair or maintenance.

It is the department's position that the repair or replacement parts must be shipped or transported outside of Minnesota by the purchaser and the repair or maintenance work must be performed outside Minnesota in order for the exemption to apply. If the repair or maintenance work is performed in Minnesota, the exemption does not apply even though the property repaired or maintained will be shipped or transported by the purchaser for use outside Minnesota.

John H. Mansun, Assistant Commissioner  
for Tax Policy and External Relations  
Publication Date: May 7, 2007