

DEPARTMENT OF REVENUE

Modification of Revenue Notice #96-13

Revenue Notice #96-13: Sales and Use Tax – Capital Equipment and ~~Replacement Capital Equipment~~ – Used by the Purchaser

Introduction

Minnesota Statutes, section 297A.~~6825~~, subdivision ~~542~~ provides an exemption from sales and use tax for sales of capital equipment. Procedures for obtaining a refund of taxes paid on capital equipment ~~and replacement capital equipment~~ are found in Minnesota Statutes, section 297A.~~7515~~, subdivision ~~5~~. Minnesota Statutes, section 297A.~~6801~~, subdivisions ~~16 and 20~~, 5 defines capital equipment ~~and replacement capital equipment~~ as machinery and equipment used by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail, and for electronically transmitting results retrieved by a customer of an on-line computerized data retrieval system.

General Requirements

Generally, equipment and machinery must be used by the purchaser or lessee in a qualifying activity to qualify for a capital equipment ~~or replacement capital equipment~~ refund. However, the purchase or lease of equipment to be used by another party qualifies for the capital equipment ~~or replacement capital equipment~~ refund if there is a written agreement between the principal purchaser or lessee and a second party containing all the following elements:

1. The agreement must state that the principal manufacturer will purchase and provide the second party with machinery and equipment necessary to fulfill the agreement.
2. The agreement must include provisions for payment to the second party for manufacture of the principal's product.
3. There must be no payment by the second party for use of the machinery or equipment.
4. None of the capital equipment purchased or leased by the principal is used by the second party for its own use.
5. The principal must purchase and pay for the capital equipment in its own name, and must include the equipment on its balance sheet as a depreciable asset.
6. The principal must hold title to the equipment or be the lessee of the equipment at all times, even at the end of the agreement between the principal and the second party.
7. The risks of ownership or leasehold for the capital equipment must remain with the principal at all times rather than with the second party.

Example

A snack manufacturer expands its product line and enters into an agreement with a second company to produce a specific snack line. The snacks will be sold and marketed under the manufacturer's label. Under the terms of the agreement, the manufacturer purchased and installed all equipment necessary to produce the new snack line in the second company's plant. The second company receives payment on a per-completed-case basis. The amount received per case is negotiable every six months.

The terms of the agreement require the equipment be used only for production of the new snack product. Title remains at all times with the snack manufacturer. At the end of the agreement, the equipment will be returned to the snack manufacturer. The equipment purchased by the snack manufacturer for the new snack line is eligible for the capital equipment refund.

~~Effective Date~~

~~This notice is effective for all periods open under the statute of limitations.~~

Dated: ~~August 26, 1996~~
September 20, 2004

~~Patricia A. Lien~~
~~Assistant Commissioner for Tax Policy~~

DEPARTMENT OF REVENUE

Modification of Revenue Notice #96-13

Revenue Notice #96-13: Sales and Use Tax - Capital Equipment – Used by the Purchaser

Introduction

Minnesota Statutes, section 297A.68, subdivision 5 provides an exemption from sales and use tax for sales of capital equipment. Procedures for obtaining a refund of taxes paid on capital equipment are found in *Minnesota Statutes*, section 297A.75. *Minnesota Statutes*, section 297A.68, subdivision 5 defines capital equipment as machinery and equipment used by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail, and for electronically transmitting results retrieved by a customer of an on-line computerized data retrieval system.

General Requirements

Generally, equipment and machinery must be used by the purchaser or lessee in a qualifying activity to qualify for a capital equipment refund. However, the purchase or lease of equipment to be used by another party qualifies for the capital equipment refund if there is a written agreement between the principal purchaser or lessee and a second party containing all the following elements:

1. The agreement must state that the principal manufacturer will purchase and provide the second party with machinery and equipment necessary to fulfill the agreement.
2. The agreement must include provisions for payment to the second party for manufacture of the principal's product.
3. There must be no payment by the second party for use of the machinery or equipment.
4. None of the capital equipment purchased or leased by the principal is used by the second party for its own use.
5. The principal must purchase and pay for the capital equipment in its own name, and must include the equipment on its balance sheet as a depreciable asset.
6. The principal must hold title to the equipment or be the lessee of the equipment at all times, even at the end of the agreement between the principal and the second party.
7. The risks of ownership or leasehold for the capital equipment must remain with the principal at all times rather than with the second party.

Example

A snack manufacturer expands its product line and enters into an agreement with a second company to produce a specific snack line. The snacks will be sold and marketed under the manufacturer's label. Under the terms of the agreement, the manufacturer purchased and installed all equipment necessary to produce the new snack line in the second company's plant. The second company receives payment on a per-completed-case basis. The amount received per case is negotiable every six months.

The terms of the agreement require the equipment be used only for production of the new snack product. Title remains at all times with the snack manufacturer. At the end of the agreement, the equipment will be returned to the snack manufacturer. The equipment purchased by the snack manufacturer for the new snack line is eligible for the capital equipment refund.

TERESE M. MITCHELL, Director
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