

# MINNESOTA DEPARTMENT OF REVENUE

## Modification of Revenue Notice #96-15

### Revenue Notice #96-15: Sales and Use Tax – Capital Equipment and Replacement Capital Equipment - What Activities Qualify; Revocation of Revenue Notice #96-11\*

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

#### Introduction

Minnesota Statutes, section 297A.68~~25~~<sup>26</sup>, subdivision 5~~42~~<sup>43</sup> 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.75~~46~~<sup>47</sup>, subdivision 5. Minnesota Statutes, section 297A.68~~04~~<sup>05</sup>, subdivisions 4~~6~~<sup>7</sup> and 20~~5~~<sup>6</sup>, defines capital equipment as equipment and machinery 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.

#### Sold Ultimately at Retail

Although the tangible personal property produced must be intended to be sold at retail, the capital equipment refund extends to all machinery and equipment used in the integrated production process. Each processor that modifies the article of tangible personal property or makes a component of the final article of tangible personal property qualifies for the refund. The tangible personal property produced does not need to be a taxable item. In addition, this refund also extends to machinery and equipment used to electronically transmit results retrieved by a customer of an on-line computerized data retrieval system.

#### Tangible Personal Property Created vs. Business Activity

~~Previously, the capital equipment refund only applied to businesses that were primarily engaged in the manufacture, fabrication, mining, or refining of tangible personal property to be sold at retail. However, law changes made in 1994 expanded the eligibility for the refund. The refund now focuses on the purpose and use of the individual equipment and machinery, not on the principal activity of the business. The refund also applies to businesses that provide outside fabrication services that are part of the integrated production process. Equipment and machinery used 50% or more of its operating time to fabricate tangible personal property for other manufacturers is eligible for a refund. For example:~~

- A retailer selling lumber and other building materials, buys a saw and sander to cut and finish wood to its customers' specifications. While the primary business is that of a retailer, the saw and sander are used to fabricate the lumber that is sold at retail. The saw and sander are eligible for refund.
- A manufacturer contracts with an outside fabricator for precision drilling to be performed on its steel tubes. While the outside fabricator does not produce a tangible product that will be sold ultimately at retail, the precision drilling is essential to the integrated production process for the manufacturer. Any equipment and machinery used 50% or more of the time to fabricate tangible personal property for other manufacturers is eligible for a refund.

#### Effective Date

~~This notice is effective for purchases or leases of capital equipment or replacement capital equipment made on or after July 1, 1994.~~

**Revenue Notice #96-11: Sales and Use Tax - Capital Equipment and Replacement Capital Equipment - What Activities Qualify is hereby revoked.**

Dated: ~~September 9, 1996~~  
September 20, 2004

Patricia A. Lion  
Assistant Commissioner for Tax Policy

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

**Please see page 2 for a clean, printable copy of this notice as modified.**

# MINNESOTA DEPARTMENT OF REVENUE

## Modification of Revenue Notice #96-15

### Revenue Notice #96-15: Sales and Use Tax – Capital Equipment – What Activities Qualify; Revocation of Revenue Notice #96-11\*\*

\*\*As modified

#### 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 equipment and machinery 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.

#### Sold Ultimately at Retail

Although the tangible personal property produced must be intended to be sold at retail, the capital equipment refund extends to all machinery and equipment used in the integrated production process. Each processor that modifies the article of tangible personal property or makes a component of the final article of tangible personal property qualifies for the refund. The tangible personal property produced does not need to be a taxable item. In addition, this refund also extends to machinery and equipment used to electronically transmit results retrieved by a customer of an on-line computerized data retrieval system.

#### Tangible Personal Property Created vs. Business Activity

The refund focuses on the purpose and use of the individual equipment and machinery, not on the principal activity of the business. The refund also applies to businesses that provide outside fabrication services that are part of the integrated production process. Equipment and machinery used 50% or more of its operating time to fabricate tangible personal property for other manufacturers is eligible for a refund. For example:

- A retailer selling lumber and other building materials, buys a saw and sander to cut and finish wood to its customers' specifications. While the primary business is that of a retailer, the saw and sander are used to fabricate the lumber that is sold at retail. The saw and sander are eligible for refund.
- A manufacturer contracts with an outside fabricator for precision drilling to be performed on its steel tubes. While the outside fabricator does not produce a tangible product that will be sold ultimately at retail, the precision drilling is essential to the integrated production process for the manufacturer. Any equipment and machinery used 50% or more of the time to fabricate tangible personal property for other manufacturers is eligible for a refund.

Revenue Notice #96-11: Sales and Use Tax - Capital Equipment and Replacement Capital Equipment - What Activities Qualify is hereby revoked.

TERESE M. MITCHELL, Director  
Appeals and Legal Services Division  
Publication Date: September 20, 2004