

This notice was corrected on December 2, 2002 by Revenue Notice # 02-20.

Minnesota revenue notice number 98-01

Sales and Use Tax - Materials Used to Construct or Improve Correctional Facilities

Minnesota Statutes, § 297A.25, subdivision 65, provides an exemption from sales and use tax for construction materials and supplies used in a project mandated by state or federal law, rule or regulation to construct or improve an adult or juvenile correctional facility. However, Minnesota Statutes, § 297A.15, subdivision 7, requires that the sales or use tax must first be paid on purchases of the construction materials and supplies and the governmental subdivision must apply for a refund of the tax paid. Materials and supplies purchased from June 1, 1992 through August 31, 1997 are eligible for a refund of 20 percent of the sales or use tax paid. Purchases of materials and supplies made after August 31, 1997 are eligible for a full refund of the sales or use tax paid.

The Department of Revenue interprets "state or federal mandate" as any state or federal statute, regulation, or rule with which the correctional facility must comply. Examples include, but are not limited to, OSHA regulations, federal occupancy limits for correctional facilities, Minnesota Department of Corrections rules or regulations, and fire codes. Improvements or construction undertaken in compliance with any ordinance, board decision, or other rule promulgated by governmental bodies at the county, city, municipal, or local level do not qualify for the sales tax refund. Building materials and supplies used in the construction of a new correctional facility do not qualify for the refund unless there is a federal or state mandate to construct the facility.

Materials and supplies used to construct or improve buildings, as well as outdoor recreational structures at adult and juvenile facilities, qualify for the refund if the project is required by state or federal law. If the facility under construction has multiple purposes (e.g., as a police station or courthouse in addition to a correctional facility), the cost of materials will be prorated based on the square footage of the correctional facility compared to the entire structure for refund purposes. The entire cost of any materials specific to the correctional facility portion, such as alarm systems, bars, cells, or other security equipment, are eligible for the sales tax refund.

If the construction materials for a qualifying project are a part of a lump-sum construction contract that covers both materials and labor, the contractor, subcontractor, or builder must furnish the governmental subdivision with a statement of the cost of the construction materials and supplies and the sales taxes paid on them.

Dated: 26 January 1998

Jennifer L. Engh
Assistant Commissioner for Tax Policy