

This notice was revoked on April 24, 2006 by Revenue Notice # 06-03.

Minnesota revenue notice number 98-03

Sales and Use Tax - On-line Data Retrieval for Capital Equipment

Minnesota Statutes, § 297A.25, subdivision 42, 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, § 297A.15, subdivision 5. Minnesota Statutes, § 297A.01, subdivisions 16 and 20, define 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. "On-line data retrieval system" is defined in Minnesota Statutes, § 297A.01, subdivision 16 (d)(9), as a system whose cumulation of information is equally available and accessible to all its customers.

Definitions

For purposes of the capital equipment refund for on-line data retrieval systems, the following definitions apply:

"Computerized system" means an electronic device or a group of hardware and software components that performs logical, arithmetical, and memory functions by manipulations of electronic or magnetic impulses. This definition includes all input, output, processing, storage, computer software, and communication facilities that are connected or related in some way and contribute to the performance of these operations.

"Customer" means a person who pays a direct consideration to another person for retrieval or access to information. In this case, "person" means a separate legal entity. Payments for services between divisions or units of a single legal entity do not constitute payments to another person.

"Data retrieval" means electronic transmission of information, knowledge, facts, concepts, or instructions that have been compiled based on the request of the customer.

"Direct consideration" means that the customer pays a fee for information requested. In situations where the information is provided both free of charge to some parties and sold to others, the system will qualify if 50 percent or more of its operating time is used to provide information to paying customers.

"Electronic transmission" means any one-way transmission or any two-way interactive transmission of sounds, signals, or other intelligence converted to like form, which effect or are intended to effect meaningful communications by electronic or electromagnetic means via wire, cable, satellite, light waves, microwaves, radio waves, or otherwise.

"Equally available and accessible" means all customers can access all information on the database.

"Internet access service" means the offering or provision of the storage, computer processing, and transmission of information that enables the customer to make use of resources found via the Internet.

"Internet on-line services" means the offering or provision of information, information processing, and products or services to a customer as part of a package of services that are combined with Internet access service and offered to the customer for a single price.

"On-line" means that a computerized system is capable of connecting with a communications network.

"Primarily" means that the software or hardware is used 50 percent or more of its operating time in a qualifying activity.

“Results” means data or information provided in a format intended to be usable by the customer.

General Requirements

To qualify for the capital equipment refund, the information within the on-line data retrieval system must be equally available and accessible to all customers. In addition, the hardware and software applications must be primarily used to support the on-line data retrieval system. To determine if a system qualifies, answer the following two questions:

Is all of the information in the system equally available and accessible to each customer group, or within a fee structure?

Do the customers pay a direct consideration for the specific information requested?

If the answer to either of the questions is “no,” the equipment does not qualify for a capital equipment refund. If the answer to both of the questions above is “yes,” the hardware and software components that are used primarily for supporting the on-line data retrieval system qualify for a capital equipment refund.

Examples

A research company offers its services on-line to subscribers. The database is created from information gathered from outside sources and is refined by the company through the addition of narrative comments, additional reference sources, and notations as to related topics. No other information is included on the hardware or software that supports this system. This system qualifies as capital equipment.

A provider offers varying levels of subscription services. While all information within the system is available for access, access to certain portions of the data is limited by the service level selected by the subscriber. However, each subscriber is able to participate at each service level they subscribe to without restriction. If the system meets all other criteria, this system qualifies as capital equipment.

A bank uses on-line systems to receive payroll and other payable information from their clients. The bank uses this information to debit the client’s account, and generate and mail checks on behalf of the client. Each client is able to access their own bank account information through the incoming software systems, but they are not able to access accounting information for other clients. Because the data privacy provisions prevent clients from accessing all information on the system, this system does not qualify for the capital equipment exemption.

An individual buys a computer, a modem, a computerized outdoor weather information system, and software to provide a temperature and time service to people who call in. If the customer is billed a direct fee for this use (e.g., on their telephone bill), the system will qualify for the capital equipment exemption. If there is no direct charge to the customer, then the system does not qualify.

An Internet access service provides customers with direct access to the Internet for a fee. Equipment used to provide the Internet access service does not qualify for the capital equipment exemption.

An Internet on-line service charges customers a fee for access to information that the service maintains and provides access to the Internet. Equipment that is used primarily by the Internet on-line service to provide, maintain, and allow access to their own information service qualifies for the capital equipment exemption.

A business buys computers, modems and software to provide E-Mail and other on-line communications between the various divisions of the business. The divisions share the cost of the system through inter-company funds transfers to the administrative division. Equipment used to provide this service does not qualify for the capital equipment exemption because the service is limited to inter-company use.

Effective Date

This notice is effective for purchases or leases of capital equipment made on or after July 1, 1993.

Dated: 9 March 1998

Jennifer L. Engh

Assistant Commissioner for Tax Policy