

Revenue Notice # 98-11 was corrected on April 5, 2010 by publication of the correction language listed below.

Department of Revenue

Correction to Modification of Revenue Notice # 98-11: Sales and Use Tax – Written Notice to Obtain Required Exemption Certificates

The modified revenue notice published in the *State Register* on March 29, 2010 (34 SR 1301) had an error and should contain the following correction. The first name located at the end of the revenue notice is stricken language, ~~Jennifer L. Engh, Assistant Commissioner for Tax Policy.~~

Publication Date: April 5, 2010

Modified on March 29, 2010.

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

Department of Revenue

Modification of Revenue Notice # 98-11: Sales and Use Tax – Written Notice to Obtain Required Exemption Certificates

In general:

Minnesota Statutes, section-§ 297A.09 297A.665 [Presumption of Tax; Burden of Proof], provides that all gross receipts are presumed subject to sales tax until the contrary is established. The seller has the burden of proving a transaction is not taxable. Sellers may accept from purchasers valid fully completed exemption certificates from purchasers which comply with Minnesota Statutes, section 297A.72 in good faith to show that certain sales are not subject to tax.

Effective for sales made after December 31, 2007, occurring after June 30, 1997, sellers who do not have the required exemption certificates in their possession within 90 days after the date of the sale, to support that certain sales are exempt, must within 60 120 days after receiving written request notice from the commissioner, substantiate the claim for exemption. that the certificates are required, In order to substantiate a claim for exemption, the seller must meet one of the following requirements: (1) obtain in good faith the a fully completed exemption certificates or all of the relevant information, specified in Minnesota Statutes, section 297A.72, subdivision 2; or (2) prove by other means that the transaction is not taxable.

Department position

The following are examples of sufficient proof that a transaction is not taxable: a written and executed affidavit by the purchaser that the item purchased was put to exempt use; or a fully completed Uniform Sales and Use Tax Certificate developed by the Multistate Tax Commission (MTC) and executed by the purchaser. If the certificates, or proof by other means that the transaction is not taxable, are not obtained within the 120 60-day period, the sales will be deemed taxable sales. The law prevents sellers from supplying proof of exemption at a later date. The time period cannot be extended.

Application of law during the audit process:

Form STA-635 “Written Notice to Obtain Required Exemption Certificates,” will serve as the official notice to sellers that certain sales will be deemed taxable if missing exemption certificates or other information, as allowed in Minnesota Statutes, section 297A.665, are not provided within 120 60 days of the notice date. ~~The department will request the required missing exemption certificates once in writing before issuing Form STA-63 to the seller.~~

The notice will be electronically transmitted, hand-delivered or mailed to the seller’s last known address or faxed to the seller. ~~If service is made by mail, the department will presume the notice is received by the seller three business days after it is mailed unless the seller can prove otherwise.~~ The notice will identify which sales will be considered taxable if the required exemption certificates, or other means as noted above, are not provided within the 120 60-day period.

The seller must hand-deliver, mail, fax, or transmit electronically the required exemption certificates to the address listed on the notice on or before the due date on the notice. If the 120 ~~60~~th day falls on a weekend or legal holiday, the time allowed is extended to the next business day.

~~Like any other exemption certificate,~~ Certificates acquired during the 120 ~~60~~-day period must be accepted in good faith.

Within the 120 ~~60~~-day period, the department may accept written statements ~~submitted in good faith~~ in lieu of exemption certificates from purchasers who say they have paid use tax directly to the state of Minnesota. To be considered acceptable, a written statement must contain the following information: a description of the item(s) purchased, purchase date, purchase amount, tax amount, the period or audit period that the use tax was reported to the state, and the taxpayer's name and identification number under which the use tax was paid.

~~Dated: 20 July 1998~~

Jennifer L. Engh
Assistant Commissioner for Tax Policy

Publication Date: March 29, 2010

ELIZABETH KADOUN, Assistant Commissioner
for Tax Policy and External Relations

***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.

****As modified.**

Department of Revenue

Modification of Revenue Notice # 98-11: Sales and Use Tax – Written Notice to Obtain Required Exemption Certificates

In general

Minnesota Statutes, section 297A.665 [Presumption of Tax; Burden of Proof], provides that all gross receipts are presumed subject to sales tax until the contrary is established. The seller has the burden of proving a transaction is not taxable. Sellers may accept from purchasers fully completed exemption certificates which comply with *Minnesota Statutes*, section 297A.72 to show that certain sales are not subject to tax.

Effective for sales made after December 31, 2007, sellers who do not have the required exemption certificates in their possession within 90 days after the date of the sale, to support that certain sales are exempt, must within 120 days after request from the commissioner, substantiate the claim for exemption. In order to substantiate a claim for exemption, the seller must meet one of the following requirements: (1) obtain in good faith a fully completed exemption certificate or all of the relevant information, specified in *Minnesota Statutes*, section 297A.72, subdivision 2; or (2) prove by other means that the transaction is not taxable.

Department position

The following are examples of sufficient proof that a transaction is not taxable: a written and executed affidavit by the purchaser that the item purchased was put to exempt use; or a fully completed Uniform Sales and Use Tax Certificate developed by the Multistate Tax Commission (MTC) and executed by the purchaser. If the certificates, or proof by other means that the transaction is not taxable, are not obtained within the 120-day period, the sales will be deemed taxable sales. The time period cannot be extended.

Application of law during the audit process

Form STA-65 “Written Notice to Obtain Required Exemption Certificates,” will serve as the official notice to sellers that certain sales will be deemed taxable if missing exemption certificates or other information, as allowed in *Minnesota Statutes*, section 297A.665, are not provided within 120 days of the notice date.

The notice will be electronically transmitted, hand-delivered or mailed to the seller’s last known address or faxed to the seller. The notice will identify which sales will be considered taxable if the required exemption certificates, or other means as noted above, are not provided within the 120-day period.

The seller must hand-deliver, mail, fax, or transmit electronically the required exemption certificates to the address listed on the notice on or before the due date on the notice. If the 120th day falls on a weekend or legal holiday, the time allowed is extended to the next business day.

Certificates acquired during the 120-day period must be accepted in good faith.

Within the 120-day period, the department may accept written statements in lieu of exemption certificates from purchasers who say they have paid use tax directly to the state of Minnesota. To be considered acceptable, a written statement must contain the following information: a description of the item(s) purchased, purchase date, purchase amount, tax amount, the period or audit period that the use tax was reported to the state, and the taxpayer's name and identification number under which the use tax was paid.

Publication Date: March 29, 2010

ELIZABETH KADOUN, Assistant Commissioner
for Tax Policy and External Relations

See the next page for a correction to the published copy of this notice that appeared in the March 29, 2010 edition of the *State Register* (34 SR 1301).

**This correction refers to the published copy located in the March 29, 2010
State Register (34 SR 1301).**

Department of Revenue

Correction to Modification of Revenue Notice # 98-11: Sales and Use Tax – Written Notice to Obtain Required Exemption Certificates

The modified revenue notice published in the *State Register* on March 29, 2010 (34 SR 1301) had an error and should contain the following correction. The first name located at the end of the revenue notice is stricken language, ~~Jennifer L. Engh, Assistant Commissioner for Tax Policy.~~

Publication Date: April 5, 2010