

**This notice was revoked on July 31, 2000 by Revenue Notice # 00-08.**

## **Minnesota revenue notice number 98-12**

### **Sales and Use Tax - Transitional Period for Sales of Ready-Mix**

Minnesota Statutes, § 297A.01, subdivision 8, was amended to provide that effective for all sales and purchases of ready-mix contracts made after June 30, 1998, the sales tax will be computed on the total sales price including all delivery, transportation or other service charges. The legislation making this change did not include any transitional language to grandfather in existing construction contracts.

The Commissioner will allow a transitional period for sales of ready-mix made to contractors who use the ready-mix under a bona fide written lump sum or fixed price construction contract that does not provide for allocation of future taxes. The construction contract must be executed prior to April 22, 1998. Separately stated delivery or service charges for ready-mix provided to contractors who have qualifying contracts are exempt from the sales tax if delivery of the ready-mix is made on or before April 21, 1999.

A bid submitted prior to April 22, 1998, that requires the contractor to include a bond is a binding contract, if the contractor is required to perform the work at the bid price or forfeit the bond, and the bid is accepted. A bid made prior to April 22, 1998, that does not require a bond is considered a proposal and is not a binding contract for purposes of this notice.

A contract to provide ready-mix to a contractor or other customer at a fixed price for a certain period of time does not qualify for the transitional rule unless there is an existing lump sum or fixed price construction contract that was entered into prior to April 22, 1998, and the contract did not provide for an allocation of future taxes.

In order to obtain the transitional period treatment, the contractor must provide the ready-mix vendor with a signed document for each qualifying contract that sets forth:

- the contractor's name and address, and Minnesota ID number (if no number, state reason)
- the name and address of the party contracting for the improvement
- name and location of the project, and contract or project number
- date of the contract
- a statement that the ready-mix will be used by the contractor under a lump sum or fixed price construction contract that does not provide for the payment or allocation of future taxes.

The document will be considered an exemption certificate subject to the penalty provisions of Minnesota Statutes, § 289A.60.

Dated: 13 July 1998

Jennifer L. Engh  
Assistant Commissioner for Tax Policy