

## Minnesota revenue notice number 98-13

### Solid Waste Management Tax Waiver

Construction debris is normally considered mixed municipal solid waste when it is not maintained as a separate waste stream and its collection and disposal would therefore be taxed accordingly. The department takes the position that there is authority to waive the solid waste management tax for certain construction debris generated from repair and demolition activities due to tornado and other weather damage on March 29, 1998 and disposed of in a mixed municipal solid waste cell.

### Statutory Authority

Minnesota Laws 1998, Chapter 383, Sec. 15. [Solid Waste Management Tax Waiver]. Notwithstanding any law to the contrary, the commissioner of revenue may waive solid waste management taxes under Minnesota Statutes, chapter 297H, for construction debris generated from repair and demolition activities in the area designated under Presidential Declaration of Major Disaster, DR1212, whether included in the original declaration or added later by federal government action due to tornado and other weather damage on March 29, 1998, and disposed of in a waste management facility designated by the commissioner of the pollution control agency. The commissioner of revenue's authority under this section to waive the taxes expires for waste transported to the designated facilities after March 31, 1999

Minnesota Statutes, § 297H.01, subdivision 5. Mixed municipal solid waste. "Mixed municipal solid waste" means mixed municipal solid waste as defined in section 115A.03, subdivision 21.

Minnesota Statutes, § 297H.01, subdivision 6. Non-mixed municipal solid waste. "Non-mixed municipal solid waste" means:

- (1) infectious waste as defined in section 116.76, subdivision 12;
- (2) pathological waste as defined in section 116.76, subdivision 14;
- (3) industrial waste as defined in section 115A.03, subdivision 13a; and
- (4) construction debris as defined in section 115A.03, subdivision 7.

Minnesota Statutes, § 115A.03, subdivision 7, contains the following definition: "Construction debris. "Construction debris" means waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads.."

Minnesota Statutes, § 115A.03, subdivision 21, defines mixed municipal solid waste as: Subdivision 21. Mixed municipal solid waste.

(a) "Mixed municipal solid waste" means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, except as provided in paragraph (b).

(b) Mixed municipal solid waste does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams, but does include source-separated compostable materials.

### Discussion

The intent of the 1998 legislation is to provide relief from the solid waste management tax for construction debris generated in areas designated as disaster areas due to tornado and other weather damage occurring on March 29, 1998. A strict reading of the law would result in construction debris which is not

collected processed, and disposed of in a separate waste stream, to be considered mixed municipal solid waste and taxed as such. The department takes the position that construction debris will not be subject to the tax if it is disposed of in a waste management facility designated by the commissioner of the pollution control agency. This will be the case even if the construction debris is not processed separately from mixed municipal solid waste.

Dated: August 10, 1998

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