

MINNESOTA • REVENUE

SALES AND USE TAX Walker Art Center and City Parking Garage

April 7, 2003

Department of Revenue
Analysis of S.F. 1423 (Betzold)

	Yes	No
Separate Official Fiscal Note Requested		
Fiscal Impact		
DOR Administrative Costs/Savings		

	<u>Revenue Gain or (Loss)</u>			
	<u>F.Y. 2004</u>	<u>F.Y. 2005</u>	<u>F.Y. 2006</u>	<u>F.Y. 2007</u>
		(000's)		
General Fund	(\$1,220)	(\$610)	\$0	\$0

Effective the day following final enactment (assumed June 1, 2003)

EXPLANATION OF THE BILL

Current Law: Materials and supplies acquired by a contractor for the improvement of real property are generally subject to the sales and use tax, regardless of whether the contract is with a for-profit, nonprofit, or government entity.

Purchases by nonprofit organizations defined by section 501(c)(3) of the Internal Revenue Code are generally exempt from sales and use tax. However, in the case of construction contracts, it is the contractor who normally purchases materials and supplies for a project, and sales to contractors are taxable. Under Minnesota Rule 8130.1200, Subpart 3, an exempt entity may appoint the contractor as its purchasing agent. The rule requires the written contract to set forth that: (1) such appointment has been made; (2) title to all materials and supplies purchased under the contract vest to the owner; (3) the owner assumes the risk of loss for the materials; and (4) the owner, not the contractor, is responsible for defective materials and supplies, including those incorporated into reality. Until and unless all the requirements under this rule have been met, purchases by contractors remain taxable.

Proposed Law: The bill exempts materials, equipment, and supplies used or consumed in construction of the Walker Art Center. The exemption also applies to construction of a related parking facility. Purchases by construction contractors are included in the exemption.

REVENUE ANALYSIS DETAIL

- The estimate was based on information from Walker and construction project management.
- For the Walker Art Center, materials, supplies, and construction labor costs are estimated at \$44 million. Of this total, 50% was the estimated portion for materials and supplies.
- The Walker construction is scheduled to begin on May 1, 2003, and end by February 2005.

REVENUE ANALYSIS DETAIL (Cont.)

- Construction of the underground parking ramp (a \$21.5 million project) began about six months ago and, because it is being built by the city of Minneapolis, some tax has been paid already. The analysis excluded tax already paid.
- Parking ramp construction is scheduled to be finished by January 2004.
- Total estimated exemptible purchases were multiplied by the 6.5% state sales and use tax rate. Fiscal year impacts were based on the planned construction time lines.

Source: Minnesota Department of Revenue
Tax Research Division
<http://www.taxes.state.mn.us/polic.html#analyses>