

Department of Revenue

Revenue Notice # 12-09: Sales and Use Tax – Government Exemptions – Water Used Directly in Providing Fire Protection

A new sales tax exemption was enacted during the 2011 Special Session. Under the amendment to *Minnesota Statutes*, § 297A.70, subdivision 3, there is a new exemption for “purchases of water used directly in providing public safety services by an organized fire department, fire protection district, or fire company regularly charged with the responsibility of providing fire protection to the state or a political subdivision.” This amendment is effective retroactively for sales and purchases made after June 30, 2007, but the law prohibits refunds for amounts already paid on water purchased between June 30, 2007, and January 30, 2010.

Department Position

For purposes of this exemption, the term “used directly” means that at the point of first use of the water there must be a clear connection between the water and the public safety services, and that there is neither an intervening use of the water nor water usage that only indirectly has an effect on the public safety services. Furthermore, the water used in providing the public safety services must be used for extinguishing, suppressing, containing, controlling or preventing a fire, and may be used to provide these services for any property.

The practice of using water hoses, opening fire hydrants, and finding and using water supplies, when done to extinguish, contain, control, or prevent the spread of the fire from a practice burn is a direct use of water.

Examples of indirect use of water (therefore, the water is subject to sales or use tax):

- Flushing the fire hydrants from time to time. While the water that later will be used directly in providing the public safety services will flow through the fire hydrant, the water that is flushed from the hydrants is not used directly in providing the public safety services.
- Water fights by firefighters, either as practice for using the water hoses or as competition, when not done in conjunction with a practice burn. While it is beneficial for firefighters to practice using the water hoses, the water used for the practice is not used directly in extinguishing, suppressing, containing, controlling or preventing a fire.
- Any other practice in using the water, opening a fire hydrant, finding and using water supplies, not used in conjunction with a practice burn. This use of water is useful for practice, but is not directly used in providing the public safety services.
- Water that is purchased to be stored in a reservoir to be abstracted for use in providing the public safety services described above, but after the purchase and before the abstraction for this use the water is used to produce energy for the public utility. The intervening use of the water to produce energy means that the water purchased is not used directly in providing the public safety services. However, if the water that is to be stored in and abstracted from the reservoir to provide the public safety services is purchased after it is already used to produce the energy, it would be exempt, assuming it is otherwise used directly in providing the public safety services.
- Use by firefighters while they are in the firehouse waiting for a possible fire, such as water used for bathing, grooming, cooking, and cleaning.

The department will accept a reasonable estimate by the government or fire company to determine the amount of water that was used directly in providing the public safety services of extinguishing, suppressing, containing, controlling or preventing a fire, and that therefore is exempt from sales tax. The methodology for determining the amount of water used directly must be documented and available to the department upon request, such as upon audit.

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