

## **Department of Revenue**

### **Revenue Notice # 15-03: Sales and Use Tax – Multiple Points of Use – Limitation on Purchaser Refund Claims and Amended Returns**

#### **Introduction**

This Revenue Notice sets out the department's position that purchaser refund claims and amended returns are not valid when based on an apportionment of use tax among multiple jurisdictions.

#### **Background**

Enacted in 2013, *Minnesota Statutes*, section 297A.668, subdivision 6a, permits business purchasers of a service, digital good or computer software delivered electronically to apportion use tax among multiple taxing jurisdictions if:

1. the business purchaser knows at the time of purchase that the service, digital good or computer software delivered electronically will be concurrently available for use in multiple jurisdictions, and
2. the business purchaser delivers to the seller at the time of purchase a fully completed exemption certificate indicating multiple points of use.

Upon receipt of the fully completed exemption certificate, the seller is relieved of its obligation to collect, pay or remit the applicable tax and the business purchaser must apportion the tax in a reasonable, consistent, and uniform method that is supported by the purchaser's business records as they exist at the time the sale is consummated and report and pay the apportioned use tax to the department as required in *Minnesota Statutes*, sections 289A.11 and 289A.20, subdivision 4. When an exemption certificate provided and received on the date of sale is incomplete, sellers are afforded the good faith protections provided under *Minnesota Statutes*, section 297A.668, subdivision 6a(b).

#### **Purchaser Refund Claims**

If tax was paid on a transaction that is exempt from sales tax under chapter 297A, then the purchaser may file a refund claim under *Minnesota Statutes*, section 289A.50, subdivision 2a. The multiple points of use provision under *Minnesota Statutes*, section 297A.668, subdivision 6a, does not provide an exemption from sales and use tax; rather it only affords the business purchaser the option to apportion use tax to multiple taxing jurisdictions if all the requirements of the statute are met.

Because the option to apportion use tax indicating multiple points of use is only available at the time of purchase and is not an exemption from sales or use tax, a business purchaser cannot later — after the completion of the sale — apply for a purchaser refund claiming multiple points of use. Consequently, it is the department's position that purchaser refund claims under

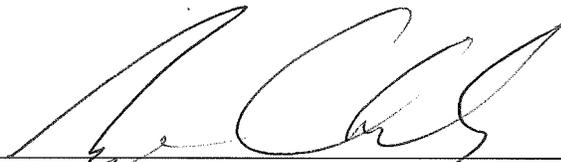
*Minnesota Statutes*, section 289A.50, subdivision 2a, asserting multiple points of use are not valid.

### **Amended Returns**

Similarly, if use tax was paid on a transaction in excess of the taxes lawfully due under chapter 297A, then a purchaser may file an amended use tax return under *Minnesota Statutes*, section 289A.50, subdivision 1(b).

A business purchaser that purchases a service, digital good, or computer software delivered electronically and self-assesses use tax at the time of purchase cannot later amend their return and attempt to reapportion use tax based on multiple points of use. This is because multiple points of use is not an exemption, rather it is only a provision that permits the purchaser to apportion use tax if at the time of purchase all the statutory requirements are met. Consequently, it is the department's position that amended use tax returns asserting multiple points of use are also not valid.

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Ryan Church, Deputy Commissioner