

ORDER ADOPTING AMENDMENT OF RULES

Adoption of Permanent Exempt Rule Governing Sales and Use Tax on Property Brought into Minnesota: Amending Minnesota Rules, part 8130.4300, subpart 1.

WHEREAS:

1. The rulemaking provisions of Minnesota Statutes, Chapter 14, are unnecessary when, as in this case, amendments are made to a rule that: a) incorporate specific changes set forth in applicable statutes when no interpretation of law is required; or b) make changes that do not alter the sense, meaning or effect of a rule. Minnesota Statutes, section 14.388.
2. The attached Findings & Statement of Supporting Reasons justifies the good cause exemption from rulemaking provided by Minnesota Statutes, section 14.388, and is hereby incorporated by reference.
3. The Office of Administrative Hearings received no written comment on the rules.
4. This rulemaking complies with all applicable law, including the procedural requirements in Minnesota Statutes, section 14.388 and Minnesota Rules, part 1400.2400.
5. The attached certified copy of the rule demonstrates that the Office of the Revisor has approved its form, as required by Minnesota Statutes, section 14.386, paragraph (a)(1), and Minnesota Rules, part 1400.2400.

IT IS ORDERED that the above-captioned rule, in the form certified as approved by the Office of the Revisor, is adopted pursuant to authority vested in me by Minnesota Statutes, SECTION 270C.06, WHICH PROVIDES THAT the Commissioner of Revenue shall “make, publish, and distribute rules for the administration and enforcement of...state tax laws.” Under this statute, the Commissioner of Revenue has authority to amend this rule.

February 16, 2024

Date



Paul Marquart, Commissioner
Department of Revenue

FINDINGS & STATEMENT OF SUPPORTING REASONS

Adoption of Permanent Exempt Rule Governing Sales and Use Tax on Property Brought into Minnesota: Amending Minnesota Rules, part 8130.4300, subpart 1.

FINDINGS

The term “sales and use tax” describes two kinds of taxes. The first kind of tax, commonly referred to as “sales tax,” is the most common form of sales and use tax and is owed on gross receipts from retail sales made in this state or to a destination in this state. Minnesota Statutes, section 297A.62, subdivision 1. The other complimentary tax, which is the less common “use tax,” is owed when a person purchases tangible personal property or taxable services for use, storage, distribution, or consumption in Minnesota and Minnesota sales tax was not paid on the purchase. Minnesota Statutes, section 297A.63, subdivision 1. A common example of its application is when a person purchases tangible personal property in a neighboring state for use in Minnesota. If the neighboring state has a lower sales and use tax rate than Minnesota, the person owes Minnesota use tax equal to the difference between the amount owed under the higher Minnesota rate and amount already paid to the neighboring, lower-rate state. Minnesota Statutes, section 297A.80.

The sales and use tax rule at issue, found at [Minnesota Rules, Part 8130.4300](#) (the “Rule”), does two things. First, it describes various statutory provisions regarding the application of Minnesota’s use tax, including statutes governing whether property purchased in a lower-rate state, and then brought into Minnesota, will be subject to Minnesota use tax. Second, the Rule makes two closely related clarifications: 1) whether property has been purchased for use in Minnesota “usually will be determinable at or near the time of its purchase”; and 2) if a nonresident purchaser can show property was purchased and used in another state for a reasonable period of time before being brought into Minnesota for use, the property will usually not be subject to use tax.

STATEMENT OF SUPPORTING REASONS

The proposed Rule updates are necessary because of three changes to statutes. First, the current Rule’s first sentence references an outdated exemption to use tax. The legislature repealed this exemption in 2008, and reference to it should be removed. Second, the current Rule’s two references to Minnesota Statutes, section 297A.665(c), are outdated because this paragraph was re-lettered to Minnesota Statutes, section 297A.665(f). Finally, the proposed Rule updates will add language to the rule from the same statute (*i.e.*, Minnesota Statutes, section 297A.665(f)) so the substance of the statute and rule are appropriately aligned.