



Frequently Asked Questions about the new City Sales Tax Exemption

(Note: the League will periodically update this document to reflect additional information received from the MN Department of Revenue) updated: 6/18/2013

What is the Sales Tax Exemption?

The 2013 Minnesota Legislature enacted a new sales tax exemption for local governments including cities, towns and counties under Minnesota Statutes, section 297A.70, subdivision 2. This exemption allows cities and counties to purchase taxable tangible personal property and services without paying the state 6.875 percent sales tax, with certain exceptions. Cities are already exempt from paying local general sales or use taxes to another Minnesota local unit of government. However, they must still pay other types of local taxes, such as restaurant, liquor, or lodging taxes.

Among other items provided below in the FAQ section, the sales tax exemption does not apply to the purchase of goods and services that are "inputs"-- used to provide other goods or services-- when:

- The goods and services being produced by the city are generally provided by a private business; and
- The inputs would be taxable if purchased by a private business engaged in the same activity as the city (See below for examples of such activities).

What is the effective date of the city and county sales tax exemption?

The sales tax exemption is effective for sales and purchases made on or after January 1, 2014. ***Please note that the omnibus tax bill extended the application of the sales tax to additional goods and service beginning on July 1, 2013 and these extensions will impact cities until the general exemption is effective. Please see notes on this transition period at the end of this document.***

How does a city claim the exemption?

A city must provide the vendor with a fully completed [Form ST3, Certificate of Exemption](#), available on the Minnesota Department of Revenue website. Select reason "B" for the exemption and write "city" in the space provided. Many cities may already have a completed Form ST3 for the limited exemptions that previously existed.

What should a city do if it provides Form ST3, but a vendor insists that sales tax must be paid?

Work with the vendor to determine what additional information is required to claim the exemption. The Minnesota Department of Revenue can't require a vendor to accept an exemption certificate. Out-of-state vendors may have to follow different guidelines when accepting an exemption certificate, depending on laws in their state(s).

If Minnesota sales tax was paid when it wasn't owed, the city may be able to request a sales tax refund from the Minnesota Department of Revenue (see next question).

What is the refund procedure if sales tax is paid but not owed?

If sales tax was paid in error, file [Form ST11PUR](#), Purchaser Sales Tax Refund Claim. The purchaser must have a valid Minnesota tax ID number and the claim must exceed \$500.

Can a city employee claim the exemption if they pay with a personal check or credit card and are later reimbursed by the city?

No. The purchase must be billed to and paid for directly by the city to qualify for the exemption.

Is the city entitled to a refund if a third party pays sales tax for an item purchased on behalf of the city?

No. The exemption does not apply to purchases by a third party. The purchases must be billed to and paid for directly by the city to qualify for the sales tax exemption.

How should sales tax be handled for out-of-state purchases?

Equipment and other goods that are ordered from another state and delivered to Minnesota are sourced to Minnesota for sales tax purposes and therefore, the city must provide a completed exemption certificate to purchase the equipment exempt from Minnesota sales tax.

If the city picks up equipment in another state, it may provide the vendor with a completed exemption certificate. The city may still be legally required to pay that state's sales tax.

Is there a list of specific items or services that the city can purchase exempt from sales tax?

No. The exemption lets cities purchase tangible personal property and services that are normally taxable without paying sales tax, but with certain exceptions. View [Minn. Stat. § 297A.70, subd. 2](#) for more details.

Cities must pay sales tax when purchasing inputs used to provide goods or services that are generally provided by a private business. This includes (but is not limited to):

- Liquor stores
- Gas and electric utilities
- Golf courses
- Marinas
- Health and fitness centers
- Campgrounds
- Cafes
- Laundromats

However, the law specifies that purchases of inputs used to provide the following services are eligible for the exemption:

- Housing services
- Sewer and water services
- Wastewater treatment services
- Ambulance services
- Public safety services
- Correctional services
- Road and lighting maintenance services
- Chore or homemaking services for the elderly or disabled

Does the city exemption apply to purchases of motor vehicles?

No. Motor vehicles are subject to the motor vehicle sales tax and the new law only applies to the general state sales tax.

Does the city sales tax exemption apply to leases of motor vehicles?

No. Although motor vehicle leases are subject to the general state sales tax, motor vehicle leases will continue to be subject to the general state sales tax.

Do cities still qualify for a sales tax exemption for purchases by a political subdivision of repair and replacement parts for emergency rescue vehicles, fire trucks, fire apparatus, firefighter personal protective equipment, and bullet-resistant body armor?

Yes, the list of limited, current law exemptions was not affected by the new, broader city sales tax exemption.

Does the new city exemption apply to purchases of gravel, sand, salt and salt/sand mixtures?

Yes.

Does the city exemption apply to purchases for construction purposes?

In some cases. Cities are exempt from sales tax on purchases of construction materials, such as materials to upgrade their city hall. The construction materials must be billed to and paid for directly by the city in order to qualify for the exemption. Purchases made by contractors and subcontractors on behalf of the city are not eligible. Furthermore, the exemption does not include construction materials purchased that will not be used principally by the local government.

Does the city exemption apply to phone services and electricity that are used to provide city services?

Yes.

Does city exemption apply to lodging, prepared food, candy and beverages?

No. Cities must pay sales tax on purchases of lodging, prepared food, candy and beverages (including alcoholic beverages).

If the city owns and operates the only liquor store, is it considered to be in competition with private business? Does it have to pay sales tax on goods or services used to operate the liquor store?

It doesn't matter if a city's liquor store is "in competition" with private business or not. The city must pay sales tax on any goods and services that would be taxable to any other liquor store. Examples include fixtures, cash registers, office supplies, and building cleaning services.

Are cities exempt from Solid Waste Management Tax?

No. The city exemption applies only to the state sales tax under Minn. Stat § 297A.

Are purchases municipally-owned utilities such as electric utilities generally exempt or are some of their purchases exempt?

There is not a general exemption for municipally-owned utilities however, certain capital equipment purchased by a municipal utility would continue to be eligible for a sales tax refund until August 31, 2014. After that date, the exemption simply becomes an upfront exemption for

qualifying capital equipment purchases. To determine if the equipment would be eligible for a refund, please see [Minn. Stat. § 297A.68, subd. 5](#) for business exemptions.

Are purchases by HRAs, EDAs, and port authorities exempt?

Awaiting response from MDOR.

Are purchases by a municipally -owned recreational water park exempt?

Awaiting response from MDOR.

Are purchases by a municipal airport exempt?

Awaiting response from MDOR.

Are purchases by a joint powers entity exempt?

Awaiting response from MDOR.

Transitional Issues (July 1, 2013 through December 31, 2013)

The sales tax exemption for cities and counties is effective January 1, 2014, however, the omnibus tax bill included a number of sales tax base expansions that will be effective on July 1, 2013. These newly taxable goods and services that may be consumed by cities include digital audio works, digital audiovisual works, digital books, repair and maintenance of electronic and precision equipment, repair and maintenance of commercial and industrial machinery and equipment, telecommunications, cable television, and direct satellite machinery and equipment purchased or leased for use by the service provider and motor vehicle repair paint and materials.

Cities should be aware that these sales tax base expansions may cover some goods and services the city may be purchasing during that six-month window before most city purchases become exempt. As a result, a city may want to accelerate the purchase of the good or service to occur prior to July 1, 2013 or delay the purchase until after December 31, 2013. Below are several questions that have been raised about the six-month period prior to the effective date of the new city sales tax exemption.

Are cities required to pay the state sales tax on repair and maintenance of commercial and industrial machinery and equipment?

Yes, they will have to pay tax on repairs and maintenance for commercial and industrial machinery and equipment, with the exception of motor vehicles, furniture and fixtures, ships, railroad stock, and aircraft, for the period of July 1, 2013 until December 31, 2013. This generally includes any machines and/or equipment that would be considered commercial and industrial (construction, landscaping, etc.) that is repaired and/or maintained.

League staff participated in a Department of Revenue (MDOR) teleconference where it was stated that repair or maintenance of such equipment as drill presses, lathes, bearing presses, asphalt milling machines, concrete and asphalt pavers, road graders, front end loaders and truck scales owned by cities or counties are taxable beginning July 1, 2013. Cities would pay the state sales tax on these items until the new exemption is applicable beginning on January 1, 2014.

During the MDOR teleconference, staff indicated that repair and maintenance of commercial and industrial machinery and equipment did not include fixtures attached to real property. Therefore, repairs and maintenance on city or county HVAC systems attached to real property would not be taxable.

Are cities required to pay the state sales tax on motor vehicle repair paint and materials?

Yes. Under the new law, motor vehicle repair paint and material are taxable beginning on July 1, 2013. Cities would pay the state sales tax on these items until the new exemption is applicable beginning on January 1, 2014.

Are cities required to pay the state sales tax on repairs and maintenance of electronic devices?

Generally no. The new law extends the sales tax to repair and maintenance of computers and computer peripherals, monitors, computer terminals, storage devices, and CD-ROM drives, other office equipment such as photocopying machines, printers, and facsimile machines, televisions, stereos, sound systems, video or digital recorders and players, two-way radios and other communications equipment, radar and sonar equipment, scientific instruments, microscopes, and medical equipment. However, the application of the sales tax is limited to entities using those services where the repair and maintenance costs can be expensed under the Internal Revenue Code. As a result, city and county purchases of those repair and maintenance services would not be taxable unless local entity is structured in a way that the repair for these services would normally be deducted under Internal Revenue Code, which would make the repair and maintenance services taxable for that entity for the period of July 1, 2013 until December 31, 2013.

Will cities have to pay sales tax on digital audio works, digital audiovisual works, digital books, etc.?

Yes, cities will have to pay sales tax on taxable digital products for the period of July 1, 2013 until December 31, 2013.

Our city operates a cable television system. Will we have to pay sales tax on telecommunications, cable television, and direct satellite machinery and equipment purchased or leased for use by the service provider?

It depends on how those items are invoiced by the seller. Prior to July 1, 2013, machinery and equipment was exempt if it was purchased or leased for use directly by a telecommunications, cable television, or direct satellite services provider primarily in providing telecommunications, cable television, or direct satellite services that are sold at retail. The exemption applied to qualified purchases by the owner, a contractor, or a subcontractor. If the seller separately states those items on your invoice or bill, then those items will be taxable. If they do not pass the tax on to the city, then they likely are paying the tax on those items and you will not be changed for them.

In addition, purchases of telecommunications, cable television, and direct satellite machinery and equipment will continue to be taxed after January 1, 2014 due to the limit on the city sales tax exemption that excludes goods and services being produced by the city are generally provided by a private business.

For more information on newly taxed items, please refer to the related MDOR fact sheets:

- Digital audio works, digital audiovisual works, digital books, etc.:
<http://www.revenue.state.mn.us/businesses/sut/factsheets/FS177.pdf>

- Repair and maintenance of electronic and precision equipment:
<http://www.revenue.state.mn.us/businesses/sut/factsheets/FS152B.pdf>
- Repair and maintenance of commercial and industrial machinery and equipment:
<http://www.revenue.state.mn.us/businesses/sut/factsheets/FS152B.pdf>
- Telecommunications, cable television, and direct satellite machinery and equipment purchased or leased for use by the service provider:
<http://www.revenue.state.mn.us/businesses/sut/factsheets/FS119.pdf>
- Motor vehicle repair paint and materials:
<http://www.revenue.state.mn.us/businesses/sut/factsheets/FS131.pdf>