

Aitkin County Board of Commissioners  
Request for County Board Action/Agenda Item Cover Sheet



To: Chairperson, Aitkin County Board of Commissioners      Date: August 21, 2013  
Via: Patrick Wussow, County Administrator  
From: Kirk Peysar, County Auditor

Title of Item:  
Sales Tax Exemption

Requested Meeting Date: Aug 27th Estimated Presentation Time: 15 mins

Presenter: Kirk Peysar

**Type of Action Requested** (check all that apply)

- For info only, no action requested
- For discussion only with possible future action
- Let/Award Bid or Quote (attach copy of basic bid/quote specs or summary of complex specs, each bid/quote received & bid/quote comparison)
- Approve/adopt proposal by motion
- Authorize filling vacant staff position
- Request to schedule public hearing or sale
- Request by member of the public to be heard
- Item should be addressed in closed session under MN Statute \_\_\_\_\_
- Approve under Consent Agenda
- Adopt Ordinance Revision
- Approve/adopt proposal by resolution (attach draft resolution)
- Other (please list) \_\_\_\_\_

**Fiscal Impact** (check all that apply)

- Is this item in the current approved budget?  Yes  No (attach explanation)
- What type of expenditure is this?  Operating  Other (attach explanation)
- Revenue line account # that funds this item is: \_\_\_\_\_
- Expenditure line account # for this item is: \_\_\_\_\_

**Staffing Impact** (Any yes answer requires a review by Human Resources Manager before going to the board)

- Duties of a department employee(s) may be materially affected.  Yes  No
- Applicable job description(s) may require revision.  Yes  No
- Item may impact a bargaining unit agreement or county work policy.  Yes  No
- Item may change the department's authorized staffing level.  Yes  No



**Supporting Attachment(s)**

- Memorandum Summary of Item
- Copy of applicable county policy and/or ordinance (excerpts acceptable)
- Copy of applicable state/federal statute/regulation (excerpts acceptable)
- Copy of applicable contract and/or agreement
- Original bid spec or quote request (excluding complex construction projects)
- Bids/quotes received (excluding complex construction projects, provide comparison worksheet)
- Bid/quote comparison worksheet
- Draft County Board resolution
- Plat approval check-list and supporting documents
- Copy of previous minutes related to this issue
- Other supporting document(s) (please list) Fact Sheet 176 and Q & A Information

**Provide eleven (11) copies of supporting documentation NO LATER THAN Wednesday at 8:00am to make the Board's agenda for the following Tuesday. Items WILL NOT be placed on the Board agenda unless complete documentation is provided for mailing in the Board packets. (see reverse side for details)**

**Kirk Peysar**  
**Aitkin County Auditor**  
209 Second Street Northwest Room 202  
Aitkin, Minnesota 56431  
218.927.7354

August 21, 2013

To: Board of Commissioners

From: Kirk Peysar, County Auditor

Re: Sales Tax Exemption Legislation

The 2013 Legislative session passed an expanded exemption for sales and use tax to include local government units. The exemption is effective January 1, 2014 for purchases used in providing certain government services pursuant to M.S. 297A. The exemption does not apply to purchases under M.S. 297B (motor vehicles) unless those purchases are otherwise exempt. Further exclusions include those services that are generally provided by a private business; lodging; meals; materials included in a lump-sum or similar contract.

At this time it is believed that purchases by a joint powers agency and similar agencies will continue to be subject to sales and use tax.

Further analysis of the intent of the legislation is pending at this time by the Minnesota Department of Revenue.

Attached are Fact Sheet 176 and Q & A information on the topic.

# Local Governments – Cities, Counties, and Townships

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## Sales Tax Fact Sheet 176

This fact sheet explains sales tax exemptions that apply to local governments.

### What's New in 2013

Starting January 1, 2014, cities and counties are exempt from sales and use tax on purchases used to provide certain government services. Townships have had this exemption since October 1, 2011.

Cities and counties must pay sales tax on most taxable purchases made through December 31, 2013.

Minnesota Statutes, section 297A.70, subdivision 2, allows local governments to buy some goods and services without paying sales and use tax.

For purposes of this exemption, “local governments” means only cities, counties, and townships. It does **not** apply to special taxing districts, joint powers agreements, or joint powers entities such as Counties Transit Improvement Board or Metropolitan Council.

To qualify, purchases must meet the following requirements:

- The purchases are “inputs,” used to provide government services (see Nontaxable Purchases, below, and Other Taxable Purchases, next page).
- The purchases are not used as inputs to services that are generally provided by a private business (see Taxable Purchases, on next page).
- The purchases are billed to, and paid directly by, the local government. (Employee purchases that are reimbursed are taxable.)

For each eligible purchase, local government must give the seller a completed exemption certificate (Form ST3). Select “B” as the reason for exemption.

### Nontaxable Purchases

Purchases of items or services are exempt if they’re used to provide local government services that are not generally provided by a private business.

For example, purchases used to provide the following services would be exempt:

- Housing services
- Sewer and water services
- Wastewater treatment services
- Ambulance services
- Public safety services
- Correctional services
- Chore or homemaking services for residents who are elderly or disabled
- Road and street maintenance
- Lighting

### Examples of what local governments can buy exempt:

- Gravel, sand, salt, and salt/sand mixtures
- Lawn care, tree, bush, shrub, and stump removal services
- Office supplies, office equipment, and telephone service
- Machinery and equipment (other than motor vehicles), accessories for public safety, and road and bridge maintenance
- Fuel and construction materials (see below)

**Fuel.** Local governments are exempt only from sales and use tax on fuel when used to provide exempt services. They still must pay the state road tax on gasoline or undyed diesel.

**Construction materials.** Local governments are exempt from sales tax on purchases of construction materials for their own use, such as materials to upgrade their correctional facility. (For more information, see Contracts to Improve Real Property, next page.)

Purchases of culverts the government will install into real property are exempt from sales tax. But if they sell culverts at retail to landowners – without installation – the sale is taxable. (They may purchase the culverts exempt for resale by selecting “H” as the reason for exemption on Form ST3.)

### **Taxable Purchases**

The exemption does **not** apply to purchases used to provide services that are generally provided by a private business. Examples include:

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

Local governments must pay tax on purchases used to provide these services or others that are generally provided by a private business.

### **Other Taxable Purchases**

The local government exemption does not apply to:

- Purchases of lodging, prepared food, candy, soft drinks, and alcoholic beverages.
- Certain purchases by a city, county or town cemetery, such as equipment, furniture, office supplies and computers.

However, lawn maintenance services for the cemetery’s burial grounds are exempt – such as mowing, raking, and tree and bush trimming. (For more information, see Fact Sheet 121, Lawn and Garden Care, Tree and Bush Service, Landscaping.)

- Solid Waste Management Tax
- Purchases of repair labor that is taxable starting July 1, 2013, for certain equipment and machinery. (For more information, see Fact Sheet 152B, Labor – Repair for Businesses.)

### **Motor Vehicles**

Local governments can buy certain motor vehicles exempt from the state’s motor vehicle sales tax. These include:

- Municipal fire trucks, marked police patrol vehicles, and ambulances that do not have to be registered.
- Road maintenance vehicles (for townships only). This includes snowplows, dump trucks, and others used exclusively for road maintenance – except for automobiles, vans or pickup trucks.
- Transit vehicles used by public or private transit operators, such as city or town buses and vehicles used to provide special transportation services for elderly or disabled residents. To qualify for this exemption, the transit operator must:
  - receive financial assistance or reimbursement under Minnesota Statutes, sections 174.24 or 473.384; or
  - operate under Minnesota Statutes, sections 174.29, 473.388, or 473.405.

### **Contracts to Improve Real Property**

This exemption does not apply to material purchases when a local government hires a contractor under a lump-sum contract that includes both labor and materials.

Contractors do not charge sales tax to their customers on construction contracts. A contractor must pay sales or use tax on the cost of all materials, supplies, and equipment to complete the construction contract unless authorized to act as the local government’s purchasing agent.

For more information on construction contracts and how to appoint a contractor as a purchasing agent, see Fact Sheet 128, Contractors, and Revenue Notice 95-05, Construction Contracts—Purchasing Agent Exemption.

**Local Taxes**

Local governments are exempt from local general sales or use taxes. However, they must pay other types of local taxes, such as restaurant, liquor, or lodging taxes.

**References**

- M. S. 297A.67, subd. 25, Maintenance of cemetery grounds
- M. S. 297A.68, subd. 19, Petroleum products
- M. S. 297A.70, subd. 2, Sales to government
- M. S. 297A.70, subd. 3, Sales of certain goods and services to governments
- M. S. 297B.03, Exemptions
- Revenue Notice 95-05, Construction Contracts – Purchasing Agent Exemption
- Revenue Notice 12-08, Exemption for Towns

**Other Fact Sheets You May Need**

- No. 121, Lawn and Garden Care, Tree and Bush Service, Landscaping
- No. 123, Athletic Facilities, Recreational Areas, Resorts, and Campgrounds
- No. 128, Contractors
- No. 142, Sales to Governments
- No. 152B, Labor – Repair for Businesses

## **What is the local government exemption for Sales Tax?**

This exemption lets local governments buy taxable goods and services without paying sales tax, with certain exceptions. (The law that applies is Minnesota Statutes, section 297A.70, subdivision 2.)

Townships already receive this exemption. Cities and counties will qualify starting Jan. 1, 2014.

The exemption applies to purchases of goods and services that are “inputs” – used to provide local government services. However, a local government must pay tax on purchases used to provide services that are generally provided by a private business, such as a municipal liquor store or golf course.

**Note:** The exemption applies only to sales and purchases made by cities, counties, and townships; it does not apply to other local government agencies. Therefore, in this document, “local government” refers to townships, cities, and counties.

## **What is the effective date of the local government exemption?**

The local government exemption is expanded to include cities and counties effective for sales and purchases made beginning Jan. 1, 2014. The exemption already applies to townships.

## **Does the local government exemption apply to special taxing districts?**

No, it applies only applies to cities, counties, and townships. To determine how sales tax applies to purchases by special taxing districts, see Fact Sheet 142, Sales to Governments.

## **Is Form ST3, Certificate of Exemption, the only way to claim the exemption?**

Yes. A local government must provide the vendor with a fully completed Form ST3 for eligible purchases. Select reason “B” for the exemption and write “local governments” in the space provided.

## **What if a local government 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.

If Minnesota sales tax was paid when it wasn’t owed, the local government may be able to request a sales tax refund from the department (see next question).

## **How does a local government request a refund 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 local government official or employee claim the exemption if they pay with a personal check or credit card and are later reimbursed?**

No. To qualify for the exemption, the purchase must be billed to and paid for directly by the local government.

**Is the local government entitled to a refund if a third party pays sales tax for an item purchased on its behalf?**

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

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

Goods that are ordered from another state and delivered to Minnesota are taxable in (“sourced to”) Minnesota. The local government must provide a completed Form ST3 to purchase the goods exempt from Minnesota sales tax.

If the local government picks up goods in another state, it may provide the vendor with a completed exemption certificate. But the local government may still be legally required to pay that state’s sales tax.

**Is there a list of items or services that local governments can purchase exempt from sales tax?**

Purchases of items or services are exempt if they’re used to provide local government services that are not generally provided by a private business. For example, purchases used to provide the following services would be exempt:

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

**Does the local government exemption apply to purchases of motor vehicles?**

Not in most cases. However, the exemption does apply to snowplows and dump trucks used for road maintenance (for townships only).

**Does the local government exemption apply to leases of motor vehicles?**

No.

**Do local governments still qualify for a sales tax exemption for purchases of repair and replacement parts for emergency rescue vehicles, fire trucks, fire apparatus, firefighter personal protective equipment, or bullet-resistant body armor?**

Yes.

**Do local governments still qualify for the bridge and road maintenance exemption?**

Yes. Gravel, machinery, equipment and accessories purchased by a local government and used exclusively for road and bridge maintenance are exempt from sales tax.

**Does the local government exemption apply to purchases of gravel, sand, salt and salt/sand mixtures?**

Yes.

**Does the local government exemption apply to purchases for construction purposes?**

In some cases. Local governments are exempt from sales tax on purchases of construction materials, such as materials to upgrade a town hall or county jail. To qualify for the exemption, the construction materials must be billed to and paid for directly by the local government. Purchases made by contractors and subcontractors on behalf of the local government are not eligible for the exemption unless there is a valid purchasing agent agreement in place.

**Does the local government exemption apply to phone services that are used to provide local government services?**

Yes, as long as the phone service is not an input to a good or service that is generally provided by a private business, as explained above. For example, phone services purchased by a city fitness center would not be exempt.

**Does the local government exemption apply to purchases of tree, bush, shrub and stump removal services?**

Yes, as long as these services are not inputs to a good or service that is generally provided by a private business, as explained above. For example, tree removal services purchased by a municipal golf course would not be exempt.

**Does the local government exemption apply to lodging, prepared food and beverages?**

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

**What kind of goods or services can a local government purchase exempt from sales tax?**

The exemption applies to a range of goods and services that are normally taxable, as long as the local government provides a completed exemption certificate to the vendor and meets the other requirements,



as explained above. Examples include office supplies, office equipment, telephone service, or other goods and services used in the local government's administrative offices.

**If the local government owns and operates the only liquor store in the locality does it have to pay sales tax on goods or services used to operate the liquor store?**

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

**Are culverts exempt from sales tax when purchased by the local government?**

It depends. If the local government will install the culverts into real property (and not sell them at retail), the culverts are exempt from sales tax. The local government should give the vendor a completed exemption certificate, claiming the local government exemption.

If the local government will be selling the culverts at retail (but not install them), the culverts are taxable at the time of the retail sale. The local government should give the vendor a completed exemption certificate, claiming the resale exemption. Then the local government should collect and remit sales tax when it sells the culverts at retail.

**Are local governments exempt from Solid Waste Management Tax?**

No. The local government exemption applies only to sales taxes.

**Should local governments collect sales tax on the sales of surplus materials?**

Yes. The sale of surplus materials is taxable.

**Does the local government exemption include joint powers agreements or joint powers entities?**

No. To receive the exemption, the purchase must be made directly by the respective city, county, or township.

**Do cities and counties have to pay sales tax on repairs and maintenance of their electronic and precision equipment for the rest of 2013?**

Yes. Until Jan. 1, 2014, cities and counties must pay sales tax on any repair or maintenance that can be deducted on their federal tax return. Townships are already exempt.