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# NEWS BULLETIN

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September 2006

## - - - REMINDER - - -

### TELECOMMUNICATIONS CAPITAL EQUIPMENT REFUND OF MINNESOTA SALES TAX

**Telecommunications Services** - Telephone service, cable television, private communications, and direct satellite services.

**Information Services** - Internet service

**Telecommunications Machinery and Equipment** - As of August 1, 2001 machinery and equipment used directly by a telecommunications service provider primarily to provide retail telecommunications services became exempt from Minnesota sales tax when purchased/leased. This included machinery, equipment, fixtures, and attachments and repair and replacement parts for qualifying equipment. The exemption does not include wire, cable, fiber, poles, or conduit used in transporting telecommunications services.

*Telecommunications machinery and equipment includes, but is not limited to:*

1. machinery, equipment, and fixtures utilized in receiving, initiating, amplifying, processing, transmitting, retransmitting, recording, switching, or monitoring telecommunications services, such as computers, transformers, amplifiers, routers, bridges, repeaters, multiplexers, and other items performing similar functions;
2. machinery, equipment, and fixtures used in transportation of telecommunications services, radio transmitters and receivers, satellite equipment, microwave equipment, and other transporting media, but not wire, cable, fiber, poles, or conduit;
3. ancillary machinery, equipment, and fixtures that regulate, control, protect, or enable the items in #1 and #2 to accomplish its intended functions, such as auxiliary power supply, test equipment, towers, heaters, ventilating, and air conditioning equipment necessary to the operation of the telecommunications equipment; and software necessary to the operation of the telecommunications equipment; and

4. repair and replacement parts, including accessories, whether purchased as spare parts, repair parts or as upgrades or modifications to qualified machinery or equipment.

Internet service providers (ISP) generally do not qualify because they are providing "information services".

If the ISP provides both telecommunications services and information services, the equipment and machinery qualifies for the exemption if it is used 50% or more of its operating time to provide telecommunications services and this percentage can be documented.

**Capital Equipment Refund Claim:**

Telecommunications equipment purchased prior to August 1, 2001 was subject to Minnesota sales tax and the State did not consider it eligible for the capital equipment refund. The telecommunications industry fought the State's interpretation and on April 1, 2004 the Minnesota Supreme Court decided that telecommunications equipment qualified for the capital equipment exemption.

Many telecommunications providers quickly filed refund claims for part of 2000; for 2001 up to August 1st on all their equipment purchases/leases; and for August 1, 2001 into 2004 on the wire, cable, fiber, poles, and conduit. (As of 8/1/2001 the other equipment was exempt at time of purchase and no tax should have been paid.)

Minnesota legislative action in 2005 changed the law and purchases of wire, cable, fiber, poles and conduit made after July 31, 2005 are no longer eligible for the capital equipment refund. Telecommunications service providers are strongly encouraged to file a Capital Equipment Refund Claim, Form ST-11, to obtain a refund on wire, cable, fiber, poles and conduit purchased up through July 31, 2005. Capital equipment refund claims can be filed for a period going back 3.5 years.

**Certificate of Exemption, Form ST3:**

Telecommunications service providers need to give this form to their vendor when purchasing/leasing telecommunications equipment that became exempt as of August 1, 2001. Use Code I, with "Telecommunications Equipment" as the description.

Purchases of equipment that will be sold/leased to customers are also exempt and Form ST3, Code G is used. The retail customer pays sales tax on tangible personal property and most telecommunications services.

Contact Cheryl Ellefson at (651) 486-4576 for filing assistance or more information.

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