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STATE OF MINNESOTA
DEPARTMENT OF REVENUE

In the matter of the proposed
permanent sales and use tax rules:
governing taxation of special tooling

STATEMENT OF NEED
AND REASONABLENESS

This document has been prepared as a verbatim affirmative presentation of the facts necessary to establish the statutory authority, need for and reasonableness of the proposed rule. It is submitted pursuant to Minnesota Statutes, section 14.23, and Minnesota Rule part 1400.0500 requiring a Statement of Need and Reasonableness.

A notice of Intent to Solicit Outside Opinion regarding proposed permanent rules governing the sales and use taxation of special tooling was published in the State Register on December 28, 1992. The notice specifically mentioned this rule and invited interested persons to submit comments or suggestions orally or in writing to the Department by February 1, 1993. Comment has been received .

This rule sets forth the qualifications of special tooling as defined in Minnesota statutes, section 297A.01, subdivision 17. The statute describes special tooling and lists tools and dies, jigs, patterns, and gauges as special tooling. The statute requires that the items neither be stocked nor listed in a catalogue or sales literature. These special tools are typically made by tool and die makers or pattern makers. The sales tax on special tooling is imposed at a separate rate, set forth in Minnesota Statutes, section 297A.02, subdivision 2.

— IMPACT ON SMALL BUSINESS.

The impact of the proposed rule on small business has been considered. The proposed rule does not impose any additional record keeping requirements, so there should not be any additional administrative burden on small business. There are no additional filing or similar requirements imposed by the proposed rule on small business.

IMPACT ON LOCAL PUBLIC BODIES AND AGRICULTURAL LAND

The impact of this proposed rule on local public bodies and agricultural land has been considered. The proposed rule sets forth the definition for sales and use tax of special tooling. Although the rule has general application, it does not impose any new tax, record keeping or reporting requirement. Its scope is

limited to the definition of special tooling, so it is not expected to adversely affect local public bodies or agricultural land. This rule applies equally to special tooling purchased any person.

AUTHORITY TO ADOPT RULES

Minnesota Statutes, section 270.06, clause 13 grants the commissioner of revenue the authority to promulgate rules concerning sales and use tax laws.

ANALYSIS OF THE PROPOSED RULE

Rule 8130.5500, Subpart 1

This subpart is necessary because it refers the reader to the provision for the separate rate of tax imposed on special tooling. The subpart reiterates the statutory requirement that special tooling must be made for the buyer, and must have a special use for the buyer. The special use must be either for producing a part to specifications or the gauging required to test a part. The rule also exempts special tooling which can produce more than one product in a limited circumstance. The circumstance is that the use must be known at the time the special tooling is made. Therefore, the special tooling usually has use producing a related line of products. This follows the statutory requirements set forth in Minn. Stat., sec. 297A.01, subd. 17, that the tools, "must have use or value only to the buyer and only for the use for which it is made." Further, the rule makes it clear that the tool must be unique, not simply custom made. The test of whether special tooling is a standard tool is not whether the tooling is produced for the customer, but whether the tooling is available from a non-custom source.

The second paragraph of the subpart is necessary because it distinguishes between the term special tooling, as used in M.S. 297A.01, subd.17 and the similar term, tool, as used in M.S. sec. 297A.25, subd. 9. It is reasonable to distinguish between these two terms since they come from different statutory provisions and have different definitional requirements. It is necessary to distinguish the two terms because they are similar, and lead to taxpayer confusion. The terms are not mutually exclusive, but they are also not synonymous.

Rule 8130.5500, Subpart 2

This subpart is reasonable because it follows the statutory language that requires the finished special tooling to be unique, not that component parts must be unique at each step from raw materials to finished special tooling. It is necessary to clarify that all raw materials and components of special tooling need not be unique prior to their incorporation or transformation into special tooling for the reduced rate to apply.

Components of special tooling which are made expressly for a single special tool and cannot be reused have use and value only for the buyer and are subject to the reduced rate of tax. There is no statutory requirement that each component part of special tooling itself be of value only to the buyer of the special tooling. However, if a component part of the special tooling is reused then it does not have use and value only for the buyer and for the use for which it is made. Failing to meet the statutory requirements for special tooling, the reusable components are not subject to the lower tax rate.


Rule 8130.5500, Subpart 3,
Item A

This item is necessary because it distinguishes between machine tools and machinery which may be purchased for a specific purpose, on the one hand, and special tooling, on the other hand. Machine tools and machinery are sometimes purchased with the purpose of producing a single part or line of parts for a specific purchaser. This does not mean that they have value and use only for that buyer, for they can be used to produce a variety of products for many buyers. The determining factor is not whether the purchased equipment is purchased for use and value of a single buyer, but whether it can be used or have value to more than one buyer. Regardless of the dedication of the machine tools or machinery to a single buyer, they have potential value and use by more than one buyer. This limitation on the availability of the reduced rate is reasonable because it follows the statutory language.

Item B

This item is necessary because it distinguishes between accessory tools and special tooling. The use of similar terms for tangible personal property which is treated in a dissimilar fashion by the statute required clarification in this rule. The rule sets forth the statutory requirements for accessory tooling. These distinctions are reasonable because they follow the language of a rule promulgated on accessory tools, amongst other subjects.

Dated: July 6, 1993


Deputy Commissioner of Revenue

