

STATE OF MINNESOTA  
DEPARTMENT OF REVENUE

In the Matter of the Proposed  
Amendment of Permanent Sales  
and Use Tax Rules: Airflight  
Equipment

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 amendments. It is submitted pursuant to Minn. Stat., sec. 14.23, and Minn. Rules Part 1400.0500 requiring a Statement of Need and Reasonableness.

A Notice of Intent to Solicit Outside Opinion regarding Sales and Use Tax Rules Governing Airflight Equipment was published in the State Register on May 18, 1992. The notice specifically mentioned this rule and invited interested persons to submit comments or suggestions orally or in writing to the Department by June 15, 1992. No one has commented either in writing or orally.

This rule sets forth the application of sales and use tax to airflight equipment as required by Minn. Stat., sec. 297A.25, subd. 14. The amendments define terms used in the statute which were not previously defined. The rule and amendments also set forth exemptions specific to the airflight equipment.

**IMPACT ON SMALL BUSINESS.**

The impact of this rule on small business has been considered. The proposed rule does not impose any additional record keeping or filing

requirements, so there should not be any additional administrative burden on small business.

#### IMPACT ON LOCAL PUBLIC BODIES AND AGRICULTURAL LAND

The impact of this rule on local public bodies and agricultural land has been considered. The proposed rule governs sales and use taxation of airflight equipment. It applies to airline companies, as discussed more fully in the definitions section. The proposed rule is not expected to apply to any local public bodies, or have any impact on local public bodies or agricultural land.

#### AUTHORITY TO ADOPT RULES.

Minn. Stat., sec. 270.06, clause 13 grants the commissioner of revenue statutory authority to promulgate rules concerning sales and use tax laws.

#### ANALYSIS OF PROPOSED RULE.

The following is an analysis of each proposed amendment to a subpart of the rule:

##### Rule 8130.6000, subpart 1

This subpart is necessary because it references the statutory provisions of Minn. Stat. secs. 270.071 to 270.079 (hereinafter referred to as the airflight property tax) which are incorporated by reference into the exemption section to the statute. It is reasonable because it sets forth the application of the special rules contained in the airflight property tax in conjunction with other applicable provisions of the sales and use tax statutes. It is further reasonable and necessary because it explains the interrelated nature of the airflight

property tax imposed by Minn. Stat. ch. 270 and the sales and use tax exemption set forth in Minn. Stat. sec. 297A.25, subd. 14.

Rule 8130.6000. subpart 2

A. This item is reasonable because it follows the definition of the term "aircraft" used by Federal Aviation Administration (49 U.S.C. sec. 1301) and the airflight property tax (Minn. Stat. sec. 270.071, subd. 3). The sales tax exemption, which is the subject of this rule, is only available for airflight property which is taxed under the airflight property tax, so the definition must follow the airflight property tax definition. It is necessary to define terms used in the statute.

B. This item is necessary because the sales and use tax statutes contain only a broad definition of the term airflight equipment. The proposed amendment illustrates what airflight equipment parts are necessary for repair and maintenance. There is a definition of flight property in the airflight property tax statute. The term airflight equipment does not normally include flight simulators, which are specifically included as airflight equipment in the sales and use tax exemption contained in Minn. Stat. sec. 297A.14. The definition in item B is reasonable because it contains the statutory requirements from the sales and use tax and airflight equipment tax statutes.

C. This item is necessary because the taxpayer must qualify as an airline company for the company to be taxed under the airflight property tax. The definition used is reasonable because it is derived from the airflight property tax statutes definitions, Minn. Stat. sec. 270.071, subds. 2 and 4.


D. It is necessary to define the term "indirectly" because that term is used in the defined term "airline company" in the airflight property tax (Minn. Stat. sec. 270.071, subd. 4). The definition itself is reasonable because it follows the definition of "indirectly" commonly used

preceding the enactment of Minn. Stat. sec. 297A.25, subd. 14. The term "indirect" was used in the Federal Aviation Act in the regulation of airline companies. (49 U.S.C. section 1301 et seq.). The definition used in this subdivision follows cases decided under that act determining the meaning of indirect air carrier. (See, e.g., Arkin v. Trans Intern. Airlines Inc., 568 F. Supp. 11 (1982), Railway Exp. Agency, Inc. v. C. A. B., 345 F. Supp. 445 (1965), and Airborne Freight Corp. v. C. A. B., 1958, 257 F. 2d 210 (1958))

Rule 8130.6000 subpart 3.

A. This item is reasonable and necessary because it makes clear that no exemption from sales and use taxation can be claimed by an airline company which is not subject to the airflight property tax. The exemption contained in the sales and use tax statute requires that the property be taxed under the provisions of Minn. Stat. sec. 270.071 to 270.079 to qualify for the exemption. The proposed amendment clarifies that the two statutory provisions, exemption from the sales and use tax statutes and subjection to the airflight property tax, are applied simultaneously and not separately. An airline company cannot claim to be exempt from both tax statutes.

B. This item is reasonable and necessary because there may be other applicable exemptions and exceptions contained in the sales and use tax statutes generally which are available for specific purchases of property by airline companies. Although the language of Minn. Stat. sec. 297A.25, subd. 14 may not exempt certain purchases or use made of such property, the specific airflight property exemption and this rule do preclude the use of any other exemption contained in the statute.

  
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Morris J. Anderson

Dated July 15, 1993 Commissioner of Revenue