

970336

SCORE Sales Tax Task Force

**Report on tax base principles and possible options
to use for the tax period from
January 1, 1990, to December 31, 1995**

**Prepared on behalf of the Task Force by the Minnesota Office of
Environmental Assistance**

November 27, 1997

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SUMMARY

In the 1996 session, the Minnesota Legislature established the SCORE sales tax task force to examine the issues surrounding the SCORE sales tax on solid waste management services and the solid waste generator assessment. The task force was created to advise the Legislature on how to address issues that have arisen in regard to these taxes, provide a forum to help make decisions about how to address the issues and assist the Department of Revenue (DOR) in the ongoing evaluation of the SCORE taxes paid by political subdivisions of the state. This paper describes the task force on progress to date under the first part of the charge, as required under Minn. Laws 1996, Chapter 471, Section 28.

Background

The SCORE sales tax was instituted in 1990 to fund the solid waste abatement activities required by the "SCORE" legislation passed by the Legislature in 1989. To fund the SCORE initiatives, the general sales and use tax was expanded to include waste collection and disposal services, effective January 1, 1990. The definition of what was subject to the sales tax was changed to MMSW management services in the 1995 session.

Issues

Complex Waste System. Since 1989, solid waste management has grown increasingly complex. As county programs matured, costs increased and counties used a wide variety of funding mechanisms to pay for their waste systems.

Payment of Cost in Excess of Price Charged for Solid Waste Management Services.

Application of the sales and use tax on solid waste services is unique because of specific statutory language requiring local governments to pay taxes on costs of MMSW services in excess of the price paid by the user of the services.

The DOR's interpretation considers all local government units incurring any cost associated with MMSW to be "providing MMSW service." The DOR does not distinguish between those activities that an LGU carries out in its role as a government entity (regulating, enforcing, planning) and those as a direct provider of services. Most involved in the waste industry interpret the statute to mean that the SCORE tax should be levied only on actual MMSW services.

DISCUSSIONS AND ACTIONS OF THE TASK FORCE TO DATE.

Legislative Charge: *Monitor the ongoing evaluation being conducted by the Minnesota Department of Revenue (DOR) to determine the SCORE taxes paid by all affected political subdivisions on solid waste management services.* **Action:** The task force received regular updates from the DOR on the progress of the ongoing evaluation.

Legislative Charge: *Provide input to the Commissioner of Revenue if questions of interpretation arise during the evaluation.* **Action:** The DOR has committed to complete

its evaluation based on its existing interpretation, citing the difficulty of completing their required report to the Legislature if guidance from the task force were incorporated.

Legislative Charge: *Discuss the tax base principles and possible options to use for the SCORE tax during the tax period from January 1, 1990, to December 31, 1995.* **Action:** Task force discussions focused in two directions; they are summarized below.

1. Revising the Definition of "MMSW management service and making a recommendation for clarification in statute: The task force members agreed that the term "MMSW management services" would include the continuum of tasks carried out by any market player in the waste-handling business, from collection of MMSW at the point of aggregation by a generator for collection by a hauler, through disposal. This definition would include collection of MMSW (at the point of aggregation by a generator for collection by a hauler), transportation costs, management at waste facilities and ancillary activities.

The definition would not include contract administration with a waste hauler for services, actions as a regulator or overseer and not as a market player (such as enforcement, ordinances or rule writing or overall planning for solid waste), closure, post-closure, and remedial action costs on the closed portion of a landfill when a LGU is forced to take over ownership of a facility.

There is disagreement about whether the following items should be includable costs in the definition of "providing the service." These items are debt service on facilities, financial assurance payments and costs incurred by local governments to oversee waste processing when the processing is a service provided by a private company under contract with the counties.

2. Permanent moratorium: The task force voted to recommend to the Legislature a permanent moratorium on collection, imposition, assessment or refund of the SCORE tax from January 1, 1990 to December 31, 1995. Currently, the Legislature has instituted a temporary moratorium effective until June 1, 1997.

Members discussed the complexity and cost of establishing who owed what SCORE sales tax and discussed the fact that most of the revenue collected under the SCORE tax is passed back to counties in the form of block grants to fund waste abatement activities for county residents and businesses. Some members questioned whether the level of effort necessary to resolve problems resulting from interpretations in the past were worth the cost to taxpayers and the potential damage to waste abatement programs in the state. Some members expressed concern over recommending a moratorium and establishing a precedent that would allow non-payment of tax. Members debated the revenue implications, administrative costs and efficiency of determining taxes owed, taxpayer equity issues, legal questions and the implications of establishing a precedent for extending the moratorium on collections and repayments of sales and use tax.

INTRODUCTION

In the 1996 session, the Minnesota Legislature established the SCORE sales tax task force to examine the issues surrounding the SCORE sales tax on solid waste management services and the solid waste generator assessment. The task force was created to advise the Legislature on how to address issues that have arisen in regard to these taxes, provide a forum to help make decisions about how to address the issues and assist the Department of Revenue (DOR) in the ongoing evaluation of the SCORE taxes paid by political subdivisions of the state.

Parties involved in solid waste programs and in collecting and remitting the SCORE sales tax have been working to resolve the issues regarding the tax for several years. The Legislature realized the complexity of the issue and created the task force to assist in reaching a resolution of the problems stemming from implementation of the SCORE sales tax.

The Legislative charge for the task force is broken into three parts. This paper describes the task force on progress to date under the first part of the charge. The task force will submit reports on the second and third parts of the charge in January and February, respectively, as required under statute.

This paper will provide:

1. The Legislative charge.
2. An overview of the SCORE program and the SCORE sales tax.
3. A summary of the issues regarding the SCORE sales tax.
4. Presentation of the Discussions and Actions of the task force to date.

LEGISLATIVE CHARGE

Minn. Laws 1996, Chapter 471 states that, "The task force shall make recommendations to the Sales Tax Advisory Council and to the chairs of the House and Senate Environment and Natural Resources Committees of the Legislature" on the following:

By November 30, 1996

- Monitor the ongoing evaluation being conducted by the Minnesota Department of Revenue (DOR) to determine the SCORE taxes paid by all affected political subdivisions on solid waste management services.
- Provide input to the Commissioner of Revenue if questions of interpretation arise during the evaluation.
- Discuss the tax base principles and possible options to use for the SCORE tax during the tax period from January 1, 1990, to December 31, 1995.

By January 15, 1997

- Discuss the base to which the SCORE tax applies beginning January 1, 1996.

- Examine the impact on total revenues from various funding sources including tipping fees, service charges, assessments, or subsidizing through the property tax system.
- identify ways to simplify or restructure the current tax system for ease of collection and administration.
- Discuss methods to ensure that the taxes due to the state are paid either by the haulers or the political subdivisions; recommend a procedure for keeping open communication between the various entities on any future issues relating to this tax.

By February 15, 1997. The third part focuses entirely on the Solid Waste Generator Assessment (SWGA).

- Discuss the distinction between “residential” and “nonresidential” for purposes of the SWGA.
- Examine ways to simplify or restructure the current assessment system for ease of collection and administration.

The task force consists of 14 voting members with expertise in the areas of taxation or waste management. The membership list is attached as appendix A.

SCORE -- OVERVIEW OF PROGRAM AND TAX

SCORE Program. The SCORE sales tax was instituted in 1990 to fund the solid waste abatement activities required by the “SCORE” legislation passed by the Legislature in 1989. The SCORE legislation enacted recommendations of the Governor’s Select Committee on Recycling and the Environment (SCORE). It required support for recycling programs, including support to businesses that use recycled material in their manufacturing process, promotion of waste reduction activities, and a widespread education campaign about waste reduction, reuse and recycling. It also established programs for market development for products using recycled materials.

Since the beginning of the SCORE program, statewide recycling rates have increased from about nine percent in 1989 (before SCORE) to about 45 percent in 1995:

SCORE Tax. To fund the SCORE initiatives, the general sales and use tax was expanded to include waste collection and disposal services, effective January 1, 1990. As a result of confusion over interpretation of statute, the definition of what was subject to the sales tax was changed to MMSW management services in the 1995 session. The Department of Revenue estimates that about \$25.5 million in revenues is collected through the SCORE tax annually. The \$25.5 million is an estimate; there is no specific accounting of SCORE revenues available at this time.

About \$19 million in state funds are spent on SCORE programs annually; \$14 million is paid directly to counties in the form of block grants, and \$1 million in competitive grants and loans. The remainder funds technical assistance, education, and other state recycling

and household hazardous waste programs. Counties spend an additional \$25 million on SCORE programs, over seven times the amount of matching funds they are required to provide under statute.

ISSUES REGARDING THE SCORE SALES TAX

Complex Waste System

In 1989 (pre-SCORE), the solid waste management system was relatively simple. Prior to the passage of the SCORE tax (which specifically included LGUs,) counties had been categorically exempt from sales and use tax requirements, so dealing with the tax was a new experience for them. At the time the tax was instituted most costs were incorporated on a waste hauler's bill so the designers of the tax envisioned a fairly simple application of the sales tax. However, as county programs matured, costs increased and counties used a wide variety of funding mechanisms to pay for their waste systems. This complexity, among other factors, created a complex system for calculating the sales and use tax due to the state.

In addition, challenges to county designation ordinances (that direct the flow of waste to specific facilities) meant that counties could not ensure a set amount of waste would be delivered to their facilities. Counties have had to lower tipping fees and find alternate sources of funding in order to continue to get waste to facilities so they could pay costs. As a result, more counties turned to funding sources that were not directly billed to the waste generator (such as using property taxes). These developments have further complicated application of the SCORE tax.

Payment of Cost in Excess of Price Charged for Solid Waste Management Services.

When the SCORE legislation extended the sales tax to solid waste collection and disposal services, a provision was inserted to account for the different ways that solid waste services could be paid for in different jurisdictions.

In some jurisdictions a resident may pay for all costs of solid waste service through a bill received directly from the hauler or other entity that provides waste services. The resident pays sales tax on the entire amount billed. In other jurisdictions, the bill the customer sees may not cover the entire cost of waste services. In these cases, the political subdivision may pay for a portion of the costs through fees that are not billed directly for service. Examples of such fees are property taxes or county solid waste service fees. The original legislation included a provision to ensure that taxes are paid on the full cost of service, regardless of how the services were billed.

Minn. Stat. §297A.45, subd. 2, states:

If a political subdivision provides a waste management service to its residents at a cost in excess of the total direct charge to the residents for the service, the political subdivision shall pay the taxes based on its cost of providing the service in excess of the direct charges.

In testimony to the task force, the DOR pointed out that no other retailer pays tax on costs in excess of sales price. In all other retailing situations, the tax is paid on the price charged to the customer. The situations with LGUs as MMSW service providers is unique because of Minn. Stat. §297A.45, subd. 2.

What is "Providing MMSW Service"

Different Interpretations. As the Department of Revenue began to audit several counties regarding their payment of the SCORE sales tax, it became clear that the interpretation of statute used by the DOR to calculate the amount of sales tax owed by government entities differed from the interpretation of most in the waste community.

Statute requires that the tax be paid on MMSW management services, which is defined as "services relating to the management of MMSW from collection to disposal, including transportation and management at waste facilities." (Minn. Stat. §297A.01, subd. 21).

The DOR's interpretation of statute considers all local government units (LGU) incurring any cost associated with MMSW to be "providing MMSW service." Under this interpretation, any cost associated with MMSW is included as a cost of service in the calculation of use tax owed on MMSW services. The DOR does not make a distinction between those activities that an LGU carries out in its role as a government entity (regulating, enforcing, planning) and those it carries out as a direct provider of waste management services.

Most involved in the waste industry, including counties, cities and those in the hauling community, interpret the statute to mean that the SCORE tax should be levied only on actual services related to handling of MMSW. Under this interpretation, activities that LGUs would otherwise carry out in their role as governments should not be subject to sales or use tax.

DISCUSSIONS AND ACTIONS OF THE TASK FORCE TO DATE

This section summarizes the discussions and actions of the task force to date with regard to the different components of Part I of the Legislative Charge.

Legislative Charge: *Monitor the ongoing evaluation being conducted by the Minnesota Department of Revenue (DOR) to determine the SCORE taxes paid by all affected political subdivisions on solid waste management services.*

Action: As a result of the confusion and disagreement over interpretation of current statute, in 1995 the Legislature required the Department of Revenue to conduct an evaluation to determine the accuracy of SCORE taxes paid by counties during the 1990 to 1995 period. In addition, a moratorium was placed on the collection of any

underpayment or reimbursement of any overpayment of SCORE taxes by counties until June 1, 1996. In the 1996 session, the Legislature extended the moratorium until June 1, 1997, and required the DOR to continue its evaluation and expand it to include cities and townships.

The current DOR evaluation is due to the Legislature on January 15, 1997. As a result, the DOR evaluation was proceeding as the task force met over the summer and fall. The task force received regular updates from the DOR on the progress of the ongoing evaluation.

Legislative Charge: *Provide input to the Commissioner of Revenue if questions of interpretation arise during the evaluation.*

Action: At the August 1, 1996, task force meeting, some members suggested that the task force provide clarification to the DOR on what would be considered "taxable costs" -- costs included in the calculation of use tax owed on "providing MMSW service." These members asked the DOR to use the recommended clarification as they move forward with their current evaluation of the taxes paid by LGUs. Similar suggestions were raised at the next task force meeting.

The task force discussed the relationship between the DOR's statutory mandate to conduct the expanded evaluation and the task force's mandate to provide input to the DOR if questions of interpretation arose during the evaluation.

The DOR Assistant Commissioner, Don Trimble, responded in a memorandum to task force members dated September 6, 1996. The memorandum reiterated the purpose and benefit of the DOR's statutory mandate to conduct the evaluation, and the DOR's intent to continue the ongoing evaluation without using new interpretations or basing the evaluation on input from the task force. In the memorandum, the DOR agreed that the statute is ambiguous and subject to interpretation but stated that any changes should be made legislatively. The DOR committed to working with the task force to enact its recommendations during the next legislative session.

Also, the task force discussed the resistance by some cities to complete the survey for the evaluation and encouraged the DOR to move forward with the information received to date. Task force members strongly urged the DOR to avoid spending a great deal of effort getting additional information, since it is unlikely that the results of the evaluation would change significantly based on information from the relatively small number of cities that have not yet completed the surveys.

Legislative Charge: *Discuss the tax base principles and possible options to use for the SCORE tax during the tax period from January 1, 1990, to December 31, 1995.*

Action: Task force discussions on this part of the charge focused in two directions: revising the definition of MMSW management service and making a recommendation for

clarification in statute; or making the current moratorium on collections and reimbursements permanent. Their discussions are summarized below.

1. Revised definition of MMSW management service

The task force members spent considerable time discussing what should be included in the tax base for the SCORE sales tax. At the heart of the issue is the definition of MMSW service. The services included in this definition determine the total cost of the service in any jurisdiction. This total cost is then used as the basis for calculation of the "costs in excess of service" to determine what use tax is owed by the LGU.

Definition:

The task force members agreed that the term "MMSW management services" would include the continuum of tasks carried out by any market player in the waste-handling business, from collection of MMSW at the point of aggregation by a generator for collection by a hauler, through disposal.

The following activities and costs would be included under this alternative:

- Collection of MMSW (at the point of aggregation by a generator for collection by a hauler).
- Transportation costs.
- Management at waste facilities.
Ancillary activities which may occur prior to actual collection (e.g., employing drivers, acquiring trucks, or applying for and receiving an operating permit).
- Activities and costs incurred by a LGU for the actual handling of MMSW to move it through the MMSW management system.

This alternative would not include LGU activities, such as:

- Contract administration with a waste hauler for waste services.
- LGU actions as a regulator or overseer and not as a market player (such as regulatory enforcement activities, ordinance or rule writing, legislative or intergovernmental organization activity, collecting and reporting data to the state, or overall planning for the solid waste system.)
- Closure, post-closure, and remedial action costs on the closed portion of a landfill, when a LGU is forced to take over ownership of a facility.

There is disagreement among task force members about whether the following items should be included in the definition of "providing MMSW service." These items are:

- Debt service on facilities;
- Financial assurance payments; and
- Costs incurred by local governments to oversee waste processing when the processing is a service provided by a private company under contract with the counties.

Appendix B describes in greater detail the revised definition of MMSW management service and the outstanding issues.

2. "Permanent" moratorium

Action

At the meeting September 12, 1996, the task force voted to recommend to the Legislature a permanent moratorium on collection, imposition, assessment or refund of the SCORE tax from January 1, 1990 to December 31, 1995. Currently, the Legislature has instituted a temporary moratorium effective until June 1, 1997.

Discussion

Members discussed the complexity and cost of establishing who owed what amount of SCORE sales tax from 1990 through 1995. Several members questioned whether the cost involved in straightening out the confusion of the last several years would be greater than any additional revenue to the state or whether the efforts would end up costing all taxpayers in the state more money.

The members discussed the fact that most of the revenue collected through the SCORE tax is passed back to counties in the form of SCORE block grants to fund solid waste abatement activities for county residents and businesses. Some members questioned whether the state should spend taxpayer money to collect back taxes from county taxpayers when that revenue is then used to support county activities. Some task force members pointed out that any additional tax liability may be paid to the state out of the SCORE funds the counties receive from the state. This result would, in effect, penalize the waste abatement programs that the state has worked to establish and promote under the SCORE program.

Members stated that the original goal of SCORE was to establish a simple and efficient way to fund solid waste abatement activities in the state. The members questioned whether the level of effort necessary to straighten out the problems resulting from interpretations in the past were worth the cost to the taxpayers and the potential damage to waste abatement programs in the state.

Some members expressed concern over recommending a moratorium and expressed concern over establishing a precedent that would allow non-payment of tax. There was discussion about how the moratorium would affect those that had made no effort to pay the SCORE tax. There is no information currently available that would indicate whether there are any LGUs that have made no efforts to pay the tax.

Some members urged the task force to postpone further discussion of the permanent moratorium until the information from DOR's current evaluation is available. These members believed that the results of the current evaluation would provide information regarding the magnitude of the problem and the impact of a permanent moratorium. Other

members pointed out, however, that the DOR is basing the evaluation on an interpretation of statute that members of the task force have agreed is too broad.

When asked when their newest data would be available and whether the projections would change significantly from the 1995 county data, the DOR stated that their deadline for completion of the evaluation does not coincide with the task force's deadline of November 30, 1996. The DOR agreed to provide the task force with as much information as possible ahead of the deadline. In order to provide information that would meet the task force's deadline, the DOR noted that the information may be somewhat incomplete and unverified. To date the task force has not received updated information but expects to receive information soon.

Members debated whether the data from DOR's 1995 report on counties would be sufficient to provide guidance on the impact of the moratorium since counties are the biggest LGU operators in MMSW management. That report shows that the four year compliance gap is \$3.8 million. This compliance gap is a high estimate because it is based on the interpretation of statute that includes any solid waste management activity as costs that would be included in the calculation of use tax owed on providing service. If the governmental activities are excluded from this evaluation calculation -- as the task force has agreed in discussions of the definition of "providing the service" -- the gap would be slightly smaller. If certain items about which there is still no agreement (e.g., debt service) are excluded from the calculations, the compliance gap could be reduced further.

There is no data available at this time to indicate the extent of the impact of removing some of these disputed costs. Because the counties and the DOR would have to recalculate the use tax owed for each county based on a different set of costs, it is impossible to make a blanket statement about the effect of removing these costs at this time. In addition, the \$3.8 compliance gap does not include county-calculated overpayments in which counties report that they included some costs that the DOR states would not be included in the calculation of use tax owed over the 1990-1995 period. Anoka and Hennepin counties each calculate overpayments of about \$1 million. Again, with the data currently available, it is impossible to determine conclusively what the effect of these recalculations would be on the total revenues collected or the DOR-calculated "compliance gap."

Remaining issues for moratorium

The idea of establishing a permanent moratorium on the DOR's efforts to initiate or continue any actions to collect underpayments, or reimburse overpayments, of the SCORE tax by political subdivisions raises important considerations on both sides of the issue. At the August 1, 1996, task force meeting, OEA staff were asked to identify the implications of a permanent moratorium. At the next task force meeting, on August 12, 1996, members discussed the implications, which are detailed below.

Revenue implications. Based on information from the DOR's 1995 evaluation of SCORE sales tax paid, a permanent moratorium would prevent the DOR from collecting \$3.8 million from counties for the 1990-1995 period, although that amount could be less, as noted above. This figure assumes that the DOR would collect back taxes based on their current, disputed interpretation of statute. Because general fund revenues are expected to be over \$10 billion in 1997, the moratorium would have no significant impact on the General Fund.

Administrative costs and efficiency of determining taxes owed. There is no simple or efficient way to determine which individual taxpayers overpaid or underpaid, nor to accurately determine the actual amounts they would be due or owe. The DOR would have to conduct audits -- a costly and administratively difficult activity -- to determine the amounts. There was discussion of whether the cost to taxpayers would merit the results. In addition, because waste generators are the taxpayers and not the counties, there is a question regarding how refunds would get back to the individual generators.

Equity issues. Some taxpayers may have paid more than their fair share and some may have paid less depending on how different counties calculated the use tax owed. A permanent moratorium would not address any such inequities between SCORE tax payers in different counties.

In addition, there may be some situations where a LGU should have paid the tax but did not and the nonpayment was not because of a different interpretation of statute but because of a "willful" nonpayment. A blanket moratorium would mean that the DOR could not collect payment from these parties who "willfully underpaid." Task force members discussed the fact that a moratorium should not provide relief to those that made no effort to pay the tax. To date, the task force has no information to indicate if this "willful" nonpayment has occurred in any LGUs.

Since application of Minn. Stat. §297.45, subd. 2 has become increasingly complicated and because the DOR's interpretation of statute has been broad and questioned, the ability to achieve equity and fairness through collections and repayments of the tax may be impossible, even with retroactive clarification of terms and reassignment of tax liability.

Legal questions. Members asked whether there would be a potential for lawsuits from those that may have overpaid (e.g., local governmental units or private citizens) if the moratorium is extended.

Precedent. If a moratorium is made permanent, it is possible that other persons may solicit similar treatment in the future. While this situation has unique characteristics, this action may create an opportunity for others to seek amnesty for different reasons. To date, no total amnesty has been granted.

NEXT STEPS

This report summarizes task force discussions on the retroactive portion of the SCORE tax, to date. Nothing in this report is intended to preclude the task force from revisiting the retroactive issue and providing the Legislature with additional information or recommendations at a later date or limit or prejudice the task force's consideration of options for the future of SCORE.

This report complies with the first of the three parts of the task force charge. Two parts remain for task force consideration:

The second part is due to the Legislature by January 15, 1997. The task force is to discuss the base to which the SCORE tax applies beginning January 1, 1996; examine the impact on total revenues from various funding sources; identify ways to simplify or restructure the current system for ease of collection and administration; discuss methods to ensure that taxes due to the state are paid either by haulers or political subdivisions; and recommend a procedure for keeping open communication between the various entities on future issues relating to this tax.

The third part focuses entirely on the Solid Waste Generator Assessment (SWGA). By February 15, 1997, the task force is to discuss the distinction between "residential" and "nonresidential" for purposes of the SWGA and examine ways to simplify or restructure the current assessment system for ease of collection and administration.

If any additional information or discussion of the 1990 through 1995 tax period arises in task force meetings, the information will be included in one of the future reports to the Legislature.

APPENDICES

A. List of Task Force members

B. Revised definition of MMSW management service and outstanding issues

C. Relevant Statutes

MN Laws, 1996, Chapter 471, Article 2, Section 28

Minn. Stat. 297A.01

Minn. Stat. 297A.45

D. Department of Revenue Guidance (Sales Tax Fact Sheet #127, 5/96)

E. Letter from Assistant Commissioner of Revenue, Donald Trimble, to the SCORE Tax Task Force, dated September 6, 1996.

APPENDIX A

SCORE Tax Task Force Members

LEGISLATIVE MEMBERS	STATE AGENCY MEMBERS	WASTE COLLECTION INDUSTRY MEMBERS	POLITICAL SUBDIVISION MEMBERS
Representative Jean Wagenius *493 State Office Building St. Paul, MN 55155 (612) 296-4200 (O) (612) 822-3347 (H) (612) 296-4165 FAX 4804 11th Ave South Minneapolis, MN 55417	Larry Wilkie Dir., Sales & Use Tax Div MN Dept of Revenue 10 River Park Plaza Fifth Floor St. Paul, MN 55146 (612) 296-1708 (612) 296-1938 FAX	Mary Ayde Minnesota Waste Association 1030 Evergreen Trail Lino Lakes, MN 55014 (612)785-8807 Phone& FAX	Comm. Paul McCarron Anoka County Commissioner P.O. Box 32610 Fridley, MN 55432 (612) 323-5680 (612) 784-2095 FAX
Representative Virgil Johnson 207 State Office Building St. Paul, MN 55155 (612) 296-1069 (O) (507) 896-3858 (-H) Call at Home (507) 896-2597 FAX *Route 2, Box 88 Medford, MN 55921 vjohnson@ptel.net	George Hoyum Director, Special Taxes MN Dept of Revenue 10 River Park Plaza Seventh Floor St. Paul, MN 55146 (612) 297-2151 (612) 297-1939 FAX	Chuck Wegner Browning-Ferris Industries 8500 Normandale Lake Blvd Suite 850 Bloomington, MN 55437 (612) 921-8505 (612) 921-8558 FAX	Comm. Ken Albrecht Nicollet County Commissioner Route 2, Box 161 North Mankato, MN 56003 (507) 625-8428 (507) 625-6233 FAX
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APPENDIX B

WHAT DOES IT MEAN TO “PROVIDE MIXED MUNICIPAL SOLID WASTE MANAGEMENT SERVICE?”

The following represents one option for the SCORE Tax Task Force to consider if it wishes to develop a recommendation for clarification of the definition of “providing mixed municipal solid waste (MMSW) management service” to determine what solid waste activities could be subject to the SCORE sales tax. It was developed with input from the SCORE tax task force staff team.

Begin with the definition in 297A.01, subd. 21: MMSW management services "means services relating to the management of mixed municipal solid waste from collection to disposal, including transportation, and management at waste facilities."

MMSW MANAGEMENT SERVICES:

Describes a continuum of tasks carried out by a market player in the waste-handling business.

MMSW management activities are those activities necessary to make MMSW move along from the generator's MMSW trash container and see it through until safe disposition, while complying with applicable laws and regulations.

Therefore MMSW management is a sequence of events stretching from the activities required to collect MMSW and continuing until a facility's obligations for the deposited waste are met. This definition includes ancillary activities that are necessary to handle MMSW but may occur before any MMSW is actually picked up, such as employing drivers, acquiring trucks, or applying for and receiving an operating permit.

Includes activities taken by a local government unit (LGU) in order to “move the waste along” through the MMSW system.

MMSW management includes those activities where the LGU is actually carrying some of the costs for “moving the waste along.”

By incurring costs associated with moving the MMSW along through the system, the county is participating in the actual handling of MMSW and any of these costs would be considered a cost of providing service. These could be activities where the LGU is actually handling the MMSW (by operating a disposal facility, for example) or where the LGU is taking on some of

the costs of moving MMSW along for the contractor who is providing the MMSW service. Examples of these activities would be: providing billing services that the contractor would have to hire staff to do otherwise, allocating LGU staff to jobs that contribute to the actual handling of waste (such as routing trucks), or providing a tip fee at a county-owned facility to a contract hauler that is lower than the cost of operating the facility.

MMSW management does not include the LGU activities to simply administer a contract with a waste hauler for waste services (examples include arranging for waste hauling for residents or for picking up trash at city parks). Other contract management issues arise in several counties where counties manage contracts for privately operated facilities. These contract costs will be discussed in the outstanding issues section.

Does not include activities in which a government is acting as a regulator or overseer and not as a market player.

MMSW management does not include those activities in which a LGU is acting in its role as a government agency rather than as a player moving waste along through the system. Examples of these activities would include regulatory enforcement activities, ordinance or rule writing, legislative or intergovernmental organization activity, collecting and reporting data to the state, or overall planning for the solid waste system by local governments (as opposed to site-specific planning for facility operations).

OUTSTANDING ISSUES

The task force and the staff identified the following issues as needing further discussion about how they would be handled in any recommendation for statutory change.

As stated above, MMSW management activities are those activities necessary to make waste move along from the generator's MMSW trash container and see it through to safe disposition, while complying with applicable laws and regulations. Management of MMSW includes the operating costs during the life cycle of a MMSW management facility.

Financial Assurance

Financial assurance is currently considered part of the operating cost of a facility by the Department of Revenue and may or may not be included in the total cost of providing service DEPENDING on how the LGU collects the money it deposits into its financial assurance fund. Financial assurance is considered a key part of the waste management system, yet the inconsistent way it is funded and thus treated for tax purposes can create inequity.

LGUs can use a number of sources of payment for financial assurance -- some of these sources are subject to sales tax if costs exceed revenues in the counties and others are not. Under the current statute, payments made to a financial assurance fund from tax-exempt fees are not included in the cost of providing the service. Those revenue streams that are tax exempt are:

- the Greater Minnesota Landfill Cleanup Fee (§115A.923)
- the state-authorized county or city fee (§115A.919 for counties; §115A.921 for cities)
- the Metropolitan Landfill Abatement Fee (§473.843)

Under current interpretation of statute, payments made into a financial assurance fund that relate to a facility that stopped accepting waste before April 9, 1994 to participate in the state's closed landfill cleanup program also are not subject to sales tax.

Payments made to financial assurance funds from any other revenue source, such as property tax revenues or revenues from a local service fee, would be included in the total costs of service and could be subject to tax. So, while the activities funded are identical, the way in which an LGU funds could mean one county could be required to pay sales tax on an activity that another would not have to pay on.

Costs that exceed financial assurance.

Any costs of closure or post-closure care at a facility that are paid from a financial assurance fund are not considered part of the cost of providing service and would not be subject to tax. In some instances, the costs of closure or post-closure care may exceed the amount in the financial assurance fund. This difference would be considered a cost of providing service and could be subject to tax. There is concern that the State will not be able to determine the amount spent in excess of financial assurance funds in the future.

Debt Service

Payment of debt service on bonds that were used to construct an MMSW facility is currently considered a cost of providing service at a facility. In the case of a private facility operator, the operator would presumably recapture these costs through charges to the customer and this charge to the customer would be subject to sales tax. LGUs would have to include these costs in the calculation of what is spent to "provide MMSW service." There are several issues involving the inclusion of debt service in the total operating costs:

- Including debt service in total costs places environmentally preferred facilities at a disadvantage. Those facilities that are higher on the preferred waste management hierarchy in the Waste Management Act generally have higher debt service than those lower on the hierarchy. Thus, state statute regarding SCORE sales tax runs counter to other state statutes that establish a preferred waste management hierarchy.
- Facilities in Minnesota used a variety of funding mechanisms to pay for construction. As a result, it is possible for one facility to have the cost of debt service included in total costs, while another facility that used state bonding (via a capital assistance grant from the State) to construct a similar facility would not have to carry these costs as part of providing service.
- Taxing debt service could represent a "double taxation" if taxes also were paid on the purchase of materials and services for which the debt was incurred as the facility was constructed.

Contract Management Costs when processing waste is a service provided by a private company under contract with the counties.

In the Metropolitan Area, there are service agreements under which the private owner/operator of a facility agrees that in return for a fee for service, it will process waste in accordance with certain performance standards relating to weight reduction, throughput or tonnage processed and so on. The facilities are owned, operated and managed by private companies and the fee for service is billed and collected by the operator through the tipping fee. Any excess amount due (because of a shortfall in the amount of waste promised to the facility by the county) is paid by the county (Hennepin county is an exception: the county bills and collects all fees for the private facility). The counties have the obligation to determine whether the facility owner/operator is meeting its obligation for process waste and whether charges are appropriate. County staff time is required to review invoices and data relating to performance standards. Hennepin county staff prepare billing statements, collect fees from haulers and pay the private owner/operator directly. The issue is whether these costs incurred in the oversight of the processing waste contracts are subject to sales tax as costs associated with providing the service.

APPENDIX C

MN LAWS, 1996, Chapter 471, Article 2 (HF 2102, Rest)

Sec. 28. SOLID WASTE MANAGEMENT TAXES.

Subdivision 1. Moratorium extended. The commissioner of revenue shall not initiate or continue any action to collect any underpayment from political subdivisions, or to reimburse any overpayment to any political subdivisions of taxes on solid waste management services under Minnesota Statutes, section 297A.45, until June 1, 1997. The statute of limitations for assessing, collecting, or refunding taxes subject to the provisions of this subdivision and Laws 1995, chapter 264, article 2, section 40, is tolled from the date of enactment of this law, if enacted, until June 1, 1997.

Subd. 2. Continue evaluation; report. (a) The commissioner of revenue shall continue the evaluation to determine the taxes paid by all affected political subdivisions on solid waste management services as required by Minnesota Statutes, section 297A.45. This is a continuation of the evaluation provided for under Laws 1995, chapter 264, article 2, section 40, except that the evaluation under this subdivision includes all political subdivisions subject to the tax under Minnesota Statutes, section 297A.45. The political subdivisions shall cooperate fully and shall supply the commissioner of revenue with whatever information the commissioner of revenue deems necessary for compliance under the law.

(b) By May 1, 1996, the commissioner of revenue shall notify all counties of the opportunity to correct the information provided under Laws 1995, chapter 264, article 2, section 40. A county must submit their corrections in writing to the department of revenue by July 1, 1996.

(c) The commissioner of revenue shall report by January 15, 1997, the results of the evaluation under this subdivision to the chairs of the house committee on taxes and the senate committee on taxes and tax laws. The final results of the evaluation are classified as public data.

Subd. 3. Task force; scope. (a) The director of the office of environmental assistance shall establish and staff a task force to study implementation of the sales and use taxes on solid waste management services under Minnesota Statutes, section 297A.45, and the solid waste generator assessment under Minnesota Statutes, section 116.07, subdivision 10. The task force shall make recommendations to the sales tax advisory council and to the chairs of the house environment and natural resources committee, and the senate environment and natural resources committee of the legislature:

- (1) by November 30, 1996, for the goals itemized in paragraph (c), clauses (1)(i) and (ii);
- (2) by January 15, 1997, for the goals itemized in paragraph (c), clauses (1)(iii) to (vii); and
- (3) by February 15, 1997, for the goal itemized in paragraph (c), clause (2).

(b) The task force shall consist of 14 voting members with expertise in the areas of taxation or waste management, as provided in this subdivision:

(1) four legislators, or their designees, including two members of the senate, one from the minority party and one from the majority party, appointed by the subcommittee on committees of the committee on rules and administration and two members of the house of representatives, one from the minority party and one from the majority party, appointed by the speaker;

(2) two representatives from the department of revenue, appointed by the commissioner of revenue;

(3) one representative from the office of environmental assistance, appointed by the director of the office;

(4) one representative from the pollution control agency, appointed by the commissioner of the agency;

(5) three persons representing political subdivisions, at least one of which must represent county government, appointed by the director of the office of environmental assistance; and

(6) three persons representing the private waste collection industry, appointed by the director of the office of environmental assistance, at least one of which is knowledgeable on how taxing and pricing of waste collection services interact.

(c) The goals of the task force are:

(1) relating to solid waste management taxes:

(i) to monitor the evaluation conducted under subdivision 2 and to provide input to the commissioner of revenue if questions of interpretations arise during the evaluation;

(ii) to discuss the tax base principles and possible options to use for the tax period from January 1, 1990, to December 31, 1995;

(iii) to discuss the base to which the tax applies beginning January 1, 1996, taking into consideration the impact on political subdivisions and private haulers, resulting from recent court decisions regarding government control over the flow of waste and the effect of these decisions on waste management fee structures;

(iv) to examine the impact on total revenues from various funding sources including tipping fees, service charges, assessments, or subsidizing through the property tax system;

(v) to identify ways to simplify or restructure the current tax system for ease of collection and administration;

(vi) to discuss methods to ensure that the taxes due to the state are paid either by the haulers or the political subdivisions; and

(vii) to recommend a procedure for keeping open communication between the various entities on any future issues relating to this tax; and

(2) relating to the solid waste generator assessment:

(i) to discuss the distinction between "residential" and "nonresidential" for purposes of the solid waste generator assessment under Minnesota Statutes, section 116.07, subdivision 10; and

(ii) to examine ways to simplify or restructure the current assessment system for ease of collection and administration.

Subd. 4. Use of tax proceeds. It is the legislature's intent that the total amount of tax proceeds collected under Minnesota Statutes, section 297A.45, less the department of revenue's costs of administering the program including the cost of conducting the evaluation under subdivision 2, be used for administration of programs and functions related to reducing the quantity and toxicity of solid waste, recycling, household hazardous waste management, and other similarly related programs. Appropriations may be made in block grants or competitive grants to political subdivisions. Money may also be used by the office of environmental assistance and the pollution control agency in helping to administer and enforce the programs and functions identified in this subdivision. Appropriations may also be made to the state attorney general's office for providing legal assistance to political subdivisions relating to solid waste management.

Subd. 5. Department of revenue guidelines. The commissioner of revenue shall prepare a single set of guidelines for complying with Minnesota Statutes, section 297A.45, including all existing rules, and shall send a copy of these guidelines on or before May 1, 1996, to all known political subdivisions subject to the tax under Minnesota Statutes, section 297A.45. Notwithstanding taxes collected prior to January 1, 1996, political subdivisions and persons responsible for collecting the tax under Minnesota Statutes, section 297A.45, must follow these guidelines for all taxes collected on solid waste management services beginning January 1, 1996. The commissioner shall send a copy of the guidelines to the chairs of the house committee on taxes and the senate committee on taxes and tax laws by April 22, 1996, for their review and comment.

Subd. 6. Separate reporting; additional penalty. (a) In order to determine the total amount of sales and use taxes collected under Minnesota Statutes, section 297A.45, the department of revenue shall reexamine the present method of having this tax reported on the sales tax return. The department must also consider other options including requiring the sales and use tax amounts to be reported on a separate form.

(b) In addition to the penalties and interest that apply to taxes under Minnesota Statutes, section 297A.45, a penalty equal to the specified penalty of the taxpayer's tax liability is imposed on any person or political subdivision who fails to separately report the amount of the taxes due under Minnesota Statutes, section 297A.45. The specified penalties are:

First violation	ten percent
Second and subsequent violations	20 percent

The additional penalties apply only to that portion of the sales and use tax which should have been reported on the separate line for taxes under Minnesota Statutes, section 297A.45, and that was included on other lines of the sales tax return.

Subd. 7. Appropriation. The amount necessary to conduct the evaluation under subdivision 2, but not to exceed \$250,000, is appropriated for fiscal years 1996 and 1997, to the commissioner of revenue from money deposited in the general fund from the solid waste collection and disposal tax under Minnesota Statutes, section 297A.45.

Subd. 8. Effective date. Subdivisions 1 to 3, 6, paragraph (a), and 7, are effective the day following final enactment. Subdivisions 4 and 5 are effective for taxes collected January 1, 1996, and thereafter. Subdivision 6, paragraph (b), is effective for returns filed after September 1, 1996.

MINN. STAT. 297A.01

DEFINITIONS.

Subd. 3. A "sale" and a "purchase" includes, but is not limited to, each of the following transactions:

- (i) The furnishing for a consideration of services listed in this paragraph;
- (vii) mixed municipal solid waste management services as described in section 297A.45;

Subd. 21. Mixed municipal solid waste management services. "Mixed municipal solid waste management services" or "waste management services" means services relating to the management of mixed municipal solid waste from collection to disposal, including transportation and management at waste facilities. The definitions in section 115A.03 apply to this subdivision.

HIST: *1Sp1989 c 1 art 12 s 2; art 19 s 3; 1990 c 480 art 4 s 3,4; 1990 c 604 art 6 s 1,2; 1991 c 291 art 8 s 7-10; 1991 c 309 s 14; 1993 c 137 s 10; 1993 c 375 art 1 s 4; 1993 c 375 art 9 s 22-25; 1995 c 264 art 2 s 22,23*

MINN. STAT. 297A.45

MIXED MUNICIPAL SOLID WASTE MANAGEMENT SERVICES.

Subdivision 1. Definitions. The definitions in sections 115A.03 and 297A.01 apply to this section.

Subd. 2. Application. The tax imposed by section 297A.02 applies to all public and private mixed municipal solid waste management services.

Notwithstanding section 297A.25, subdivision 11, a political subdivision that purchases waste management services on behalf of its citizens shall pay the taxes.

If a political subdivision provides a waste management service to its residents at a cost in excess of the total direct charge to the residents for the service, the political subdivision shall pay the taxes based on its cost of providing the service in excess of the direct charges.

A person who transports mixed municipal solid waste generated by that person or by another person without compensation shall pay the taxes at the waste facility based on the disposal charge or tipping fee.

A person who segregates mixed municipal waste from recyclable materials as described in subdivision 3, paragraph (a), clause (2), shall pay the taxes by purchasing specific collection bags or stickers. The collection service and taxes must be included in the price of the bag or sticker.

Subd. 3. Exemptions. (a) The cost of a service or the portion of a service to collect and manage recyclable materials is exempt from the tax imposed in section 297A.02 if:

- (1) the recyclable materials are separated from mixed municipal solid waste by the waste generator; or
- (2) the recyclable materials are separated from mixed municipal solid waste by the generator, collected and delivered to a waste facility that recycles at least 85 percent of its waste, and are collected with mixed municipal solid waste that is segregated in leakproof bags, provided that the mixed municipal solid waste does not exceed five percent of the total weight of the materials delivered to the facility and is ultimately delivered to a facility designated under sections 115A.80 to 115A.893.

(b) The amount of a surcharge or fee imposed under section 115A.919, 115A.921, 115A.923, or 473.843 is exempt from the tax imposed in section 297A.02.

(c) Waste from a recycling facility that separates or processes recyclable materials and that reduces the volume of the waste by at least 85 percent is exempt from the tax imposed in section 297A.02. To qualify for the exemption under this paragraph, the waste exempted must be managed separately from other solid waste.

(d) The following costs are exempt from the tax imposed in section 297A.02:

(1) costs of providing educational materials and other information to residents;

(2) costs of managing solid waste other than mixed municipal solid waste, including household hazardous waste; and

(3) costs of court litigation and associated damages.

(e) The cost of a waste management service is exempt from the tax imposed in section 297A.02 to the extent that the cost was previously subject to the tax.

(f) Through December 31, 2002, the gross receipts from the sales of source-separated compostable waste management services are exempt from the tax imposed in section 297A.02 if the waste is delivered to a facility exempted as described in this paragraph. To initially qualify for an exemption, a facility must apply for an exemption in its application for a new or amended solid waste permit to the pollution control agency. The first time a facility applies to the agency, it must certify in its application that it will comply with the criteria in clauses (1) to (5), and the commissioner of the agency shall so certify to the commissioner of revenue who must grant the exemption. For each subsequent calendar year, by October 1 of the preceding year, the facility must apply to the agency for certification to renew its exemption for the following year. The application must be filed according to the procedures and contain the information required by the agency. The commissioner of revenue shall grant the exemption if the commissioner of the agency finds and certifies to the commissioner of revenue that based on an evaluation of the composition of incoming waste and residuals and the quality and use of the product:

(1) generators separate materials at the source;

(2) the separation is performed in a manner appropriate to the technology specific to the facility that:

(i) maximizes the quality of the product;

(ii) minimizes the toxicity and quantity of residuals; and

(iii) provides an opportunity for significant improvement in the environmental efficiency of the operation;

(3) the operator of the facility educates generators, in coordination with each county using the facility, about separating the waste to maximize the quality of the waste stream for the technology specific to the facility;

(4) process residuals do not exceed 15 percent of the weight of the total material delivered to the facility; and

(5) the final product is accepted for use.

Subd. 4. City sales tax may not be imposed. Notwithstanding any other law or charter provision to the contrary, a home rule charter or statutory city that imposes a general sales tax may not impose the sales tax on solid waste management services that are subject to the tax under this section.

Subd. 5. Separate accounting. The commissioner shall account for revenue collected from public and private mixed municipal solid waste management services under this section separately from other tax revenue collected under this chapter.

HIST: 1Sp1989 c 1 art 19 s 7; 1991 c 291 art 2 s 13; 1993 c 172 s 80; 1995 c 264 art 2 s 33; 1996 c 470 s 20,21; 1996 c 471 art 9 s 11-13

APPENDIX D

Mixed Municipal Solid Waste Management Services

General Information

This fact sheet is divided into two sections. The first section contains general information that applies to all providers of mixed municipal solid waste (MMSW) management services. The second section provides additional information to local governments.

Various revenues and costs related to MMSW management services are discussed in this fact sheet.

Contact the Department of Revenue with questions or to discuss situations not addressed in this fact sheet.

What's taxable?

Charges for mixed municipal solid waste management services are subject to the 6.5 percent Minnesota sales or use tax. These services are not subject to city sales taxes. However, Cook County has a one percent sales tax that also applies.

"Mixed municipal solid waste management services" or "waste management services," as defined in M.S. 295.01, Subd. 21, means services relating to the management of mixed municipal solid waste from collection to disposal, including transportation and management at waste facilities.

"Mixed municipal solid waste" is defined in M.S. 115A.03, Subd. 21, as garbage, refuse, and other solid waste from residential, commercial, industrial and community activities that the generator of the waste aggregates for collection.

MMSW management services are taxable whether charged directly to waste generators (customers) by private or public haulers or paid for through government imposed service fees or tax assessments. Revenues from this tax are intended to be used to fund solid waste reduction and recycling programs.

What's not taxable?

Charges for managing certain types of waste are not taxable. This includes charges for managing separate waste streams, waste other than MMSW, recyclables, source-separated compostables, and waste from qualifying recycling facilities. In addition, certain statutory surcharges and fees are not taxable. To be exempt, charges for nontaxable items must be itemized separately on the customer's billing. If they are

not, the entire charge to the customer is taxable. Each of the nontaxable items is discussed below:

Separate waste streams

MMSW does not include the following items when they are collected, processed, and disposed of separately from other MMSW:

- ash
- auto hulks
- construction debris
- lead acid batteries
- mining waste
- motor vehicle fluids and filters
- sludges
- street sweepings
- tires
- tree and agricultural wastes
- other waste collected, processed and disposed of separately from MMSW

Waste other than MMSW

Charges for managing wastes other than MMSW, such as demolition waste, household hazardous waste, infectious medical waste, major appliances and yard waste, are not taxable.

Recyclables

Charges for collecting and managing recyclable materials that are separated from MMSW by the customer are exempt. "Recyclable materials" means materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material. If the customer does not separate recyclable materials from MMSW, charges associated with recyclables are taxable.

Also, effective retroactively to August 1, 1995, charges for collecting and managing recyclable materials that are commingled with MMSW are exempt if:

- the recyclables are separated by the waste generator;
- the MMSW is segregated in leakproof bags;

- the recyclable materials are delivered to a recycling facility that recycles at least 85 percent of its waste; and
- the MMSW does not exceed five percent of the total weight of the materials delivered to the facility.

For recyclable materials commingled with MMSW, the collection service and taxes for the MMSW portion must be included in the price of specific collection bags or stickers purchased by the waste generator.

Source-separated compostables

Effective July 1, 1996, compostable waste management services are exempt if the materials are:

- food wastes, fish and animal waste, plant materials, diapers, sanitary products, or paper that is not recyclable;
- separated by the generator to prepare it for use as compost;
- collected separately from other MMSW; and
- delivered to a facility approved by the Minnesota Pollution Control Agency (MPCA) for composting.

Statutory surcharges or fees

Surcharges or fees imposed under sections 115A.919, 115A.921, 115A.923, or 473.843 are exempt. (These are surcharges or fees charged to operators of MMSW facilities by a county, city or town, and the Metropolitan Landfill Abatement Fee and the Greater Minnesota Landfill Cleanup Fees.)

This exemption does not include surcharges or service fees assessed by local governments to offset reductions in the tipping fee.

Recycling facilities

Waste from a recycling facility that separates or processes recyclable materials is exempt from sales tax, if the volume of the waste has been reduced by at least 85 percent. To qualify, the waste exempted must be managed separately from other solid waste.

“Recycling facility” means a facility at which materials are prepared for reuse in their original form or for use in manufacturing processes that do not cause the destruction of the materials in a manner that precludes further use. An example of a qualified recycling facility is a facility that produces insulation from used glass.

Who is required to pay sales tax?

Almost all customers, including state and local government agencies, nonprofit organizations such as churches and nursing homes who are otherwise exempt from paying sales tax, and Direct Pay Permit

holders must pay sales tax on MMSW management services. Only the Federal Government and its agencies and Indian Tribal Governments, are exempt from sales tax when they are billed directly and pay directly for the service.

Who collects the sales tax?

Commercial haulers who bill their customers for waste collection must collect and remit the sales tax to the State of Minnesota.

Local governments that provide MMSW management services with their own vehicles (or subcontract for the services through a hauler) and bill their residents must collect and remit the sales tax. Local governments that purchase these services on behalf of its residents, but do not bill them specifically for the waste collection services, must pay sales tax on the purchase. For more information on local governments, please see page three.

Landfill and transfer station operators, and operators of other disposal facilities, are required to collect and remit sales tax on charges for disposing of MMSW. This applies to all customers, including self-haulers, commercial and industrial customers. However, customers who provide a properly completed Commercial Hauler’s Exemption Certificate, Form ST-10, are exempt from paying sales tax on tipping fees, since their customers were already billed sales tax on the MMSW management services. A copy of the attached ST-10 may be reproduced as needed.

Also, operators of disposal facilities should not charge sales tax to customers who dispose of MMSW in collection bags that include the cost of providing MMSW management services, since sales tax should have been charged on the sale of the collection bag to the customer.

Other MMSW management sales

Some haulers provide waste containers to their customers as part of their service. If the hauler does not separately charge for the container, the hauler must pay tax on the hauler’s purchase of these containers. If the hauler is not charged sales tax on its purchase of the containers, the hauler is responsible for paying use tax on the purchase. The cost of the containers should be reported on Line 105, Waste collection services, of the sales and use tax return.

If the hauler separately states a charge for the use of the container on the customer’s bill, they must charge sales tax. This amount should also be reported on Line 105, Waste collection services, of the sales and use tax return. In this situation, the hauler may purchase the containers exempt from sales tax by giving the vendor a Resale Exemption Certificate, Form ST-5.

collection bags, stickers, or punch cards, that the cost of providing MMSW management services are taxable. Bags and stickers indicate that solid waste service has been pre-paid. Punch cards are usually used by self-haulers when they dispose of waste at a waste facility. These sales should be reported on Line 105, Waste collection services, of the sales and use tax return.

How is sales tax reported?

Generally, sales of taxable items and services are reported on Line 100, General rate sales, of the sales and use tax return. However, the tax collected on MMSW management services **must** be reported on Line 105, Waste collection services. A penalty may be imposed on taxpayers who do not report the tax on MMSW management services on the proper line of their return. The penalty is 10 percent for the first violation and 20 percent for any additional violations of the tax amount reported on the incorrect line. This penalty is effective for returns filed after September 1, 1996.

It is important to report sales and use tax related to MMSW management services on the proper line because these revenues are intended to be used to fund solid waste reduction and recycling programs.

Contact our office if you need Line 105, Waste collection services, added to your sales and use tax return.

Billing options

Below are examples of billings showing how the sales tax applies. If all charges are lumped together, the entire amount is taxable. The nontaxable portion is exempt only if these charges are stated separately on the billing.

Lump sum bill:

Garbage collection/disposal fee	\$35.00
Minnesota sales tax (6.5%)	<u>2.28</u>
Total amount due	<u>\$37.28</u>

Itemized bill:

Garbage collection/disposal fee	\$29.00
Minnesota sales tax (6.5%)	1.89
Surcharges and abatement fees	2.00
Recycling services	<u>4.00</u>
Total amount due	<u>\$36.89</u>

-or-

Garbage collection/disposal fee	\$29.00
Minnesota sales tax (6.5%)	1.89
Non-taxable fees and services	<u>6.00</u>
Total amount due	<u>\$36.89</u>

Local Governments

In addition to the previous information, the following also applies to local governments that provide solid waste management services.

The law states, "If a political subdivision provides a waste management service to its residents at a cost in excess of the total direct charge to the residents for the service, the political subdivision shall pay the taxes based on its cost of providing the service in excess of the direct charges." In other words, a local government owes use tax on its direct and indirect costs for providing MMSW management services only if, and to the extent that, the taxable charges to its residents for these services do not cover the costs.

Local governments that incur a cost associated with MMSW are considered to be providing MMSW management services. Examples of local governments providing MMSW management services include, but are not limited to, the following:

- directly providing waste management services with their own vehicles or waste facilities;
- contracting with a private hauler to provide MMSW management services to residents;

- overseeing or managing contracts of private waste haulers who provide the service for residents;
- making financial assurance payments, as discussed on page four.

To determine if a local government owes use tax on its costs for providing MMSW management services, compare the total taxable revenues to the total cost for providing the service. If the cost of providing the service is higher than the amount billed to residents for the services, the difference is subject to use tax.

Taxable revenues include all revenues (service fees, surcharges, etc.) on which sales tax was collected, either by the local government or a private hauler or waste facility acting on behalf of the local government. Taxable revenues also include MMSW service fees charged on property tax statements only if the charge is identified as being for MMSW management service and sales tax is collected on the charge.

The following examples may be helpful in determining what taxable revenues a local government should

compare to MMSW related costs to determine if the local government owes use tax:

Example 1: A local government contracts with a private hauler to provide various waste management services to its residents. The local government lump-sum bills the residents for the services. If these services were itemized, some would have been taxable, and some would have been exempt. However, the local government correctly collects and remits sales tax on the entire lump sum amounts billed to the residents (please refer to the "Billing options" box). The amount of taxable revenues for comparison here is the total lump sum amounts.

Example 2: A local government contracts with a private hauler to provide MMSW management services to its residents. The hauler bills the local government for these services. In turn, the local government bills the residents. Half of the service charge to the residents is billed separately on the residents' quarterly water bills and the other half is included as part of their property taxes, but is not stated separately on the property tax statements. The local government collects and remits sales tax only on the MMSW management service charge on the quarterly water bills.

In this situation, compare the taxable amount charged for MMSW management services on the water bills to the total cost of providing the service. The difference must be reported on Line 105, Waste collection services, of the sales and use tax return.

Determining the total cost of providing the service

A local government must include all direct and indirect costs related to MMSW management services in determining the total cost of providing the service. If any cost contains amounts related to MMSW and unrelated to MMSW, only the portion related to MMSW should be included in the total cost of providing the service. For example, wages for employees who also perform other activities need to be prorated so only that portion of their wages related to MMSW is included.

Examples of costs that may relate to MMSW management services include, but are not limited to, the following:

Auto expenses.

Building acquisition and construction/site improvements.

Building and road maintenance. Costs related to construction and maintenance of site roads leading directly to an MMSW facility are included. Costs related to construction and maintenance of county

roads, state highways and other roads are not included.

Financial assurance. In order to obtain a permit for operation, the state requires all owners or operators of a MMSW facility to prove they are capable of providing reasonable and necessary response during the operating life of the facility and for a minimum of 20 years after closure. In the case of a local government that owns or operates a facility, the local government is required to set aside funds in a trust fund to cover a portion of the potential contingency action costs at the facility.

Some local governments make payments into the funds from tax-exempt fees (such as the Greater Minnesota Landfill Cleanup Fee), some use property tax revenues and others use a portion of the solid waste service fee.

All payments made into a financial assurance fund using tax-exempt fees are not included in the total cost of providing the service. In addition, any payment made into a financial assurance fund that relates to an MMSW facility that stopped accepting solid waste before April 9, 1994, is not included. However, other than payments made using tax-exempt fees, payments made into a financial assurance fund that relate to an MMSW facility that accepted waste on or after April 9, 1994, are included in the total cost of providing the service (such facility is not a qualified facility under the state's new closed landfill cleanup program).

All payments made from a financial assurance fund to cover closure, post-closure and other costs are not included in the total cost of providing the service.

Closure, post-closure and contingency action costs. Some local governments make payments to cover closure and post-closure care, as well as other costs. Such payments, which are not made to a financial assurance fund, relate to MMSW facilities that are not part of the state's new closed landfill cleanup program. These payments must be included in the total cost of providing the service.

Contract management costs. Local governments often enter into contracts with haulers to have the hauler provide MMSW management services on behalf of their residents. Payments made by local governments to haulers on these contracts are included in the total cost of providing the service.

Costs associated with processing MMSW. Costs associated with combustion at a mass burn facility, conversion into refuse derived fuel (RDF) at an RDF facility, or processing MMSW into compost are included.

ot service. If a local government issues bonds to
for the construction and capital cost of an
SW facility, the initial outlay of bond funds to
his expense is not included. Rather, the debt
service (principal, interest and bond issuance costs) is
considered a cost in the periods the debt service pay-
ments are made. This cost should be included in the
total cost for providing the service, regardless of
whether a local government paid sales tax on materi-
als and equipment purchased with the bond funds.

Equipment costs, rentals, and service agreements.
The cost for equipment is incurred at the time of pur-
chase and the sales or use tax is due at that time.
(Although the initial purchase of certain equipment
and machinery used in the collection and disposal of
MMSW at a waste facility may be exempt from the
sales tax, the cost of such machinery must still be
included in determining the total cost.)

General and administrative costs.

Landfill establishment. These expenses are included
in the total cost of providing the service, whether they
are paid out-of-pocket or through debt service. If paid
through debt service, expenses are included in the
total cost of MMSW management services when
payments (both principal and interest) are made.

**For repairs and maintenance at MMSW facili-
t.**

Planning costs. These can include costs incurred in
preparing master plans, gathering waste management
data, preparing reports required by law to be submit-
ted to the state, etc. Only the portion of planning
costs that are directly or indirectly related to MMSW
should be included in the total cost of providing the
service. Planning costs that would be incurred regard-
less of whether a local government provided MMSW
management services are not included. However,
costs incurred because a local government is provid-
ing MMSW management services are included. For
example, planning costs associated with new landfill
construction are included in the total costs, while
planning costs related to the construction of a yard
waste composting facility or a recycling facility are
not included.

**Property taxes, payments in lieu of taxes, and
other fees and payments to host communities.**

Regulatory, licensing and enforcement costs. Some
local governments are required by law to ensure that
waste facilities and haulers operate in conformance
with local government ordinances and state law.
These local governments license and inspect landfills,
processing facilities, transfer stations and haulers to
ensure that operations are conducted in a manner that

protects public health, safety and the environment.
Such costs include staff and attorney time in develop-
ing ordinances, processing license applications,
monitoring operations to determine conformance with
law, and bringing actions to bring violators into
compliance.

Regulatory, licensing and enforcement costs that
would be incurred regardless of whether a local gov-
ernment provided MMSW management services are
not included in the cost of providing the service.
Some examples of costs that must be included are
costs to license haulers and to inspect their trucks,
and costs associated with preparing waste reports for
the MPCA.

Salaries, wages, other employment costs.

Transportation related costs. Although most local
governments provide MMSW management services
entirely within Minnesota, some dispose of MMSW
at facilities located outside Minnesota. Transportation
of MMSW to out-of-state disposal facilities and dis-
posal charges at those facilities are part of the
county's taxable cost. All costs for transporting
MMSW between waste facilities in Minnesota are
also part of the cost for providing the service.

Utilities at MMSW facilities.

Costs excluded

Costs that should not be included in determining the
total cost of providing MMSW management services
include the following:

Costs of managing solid waste other than MMSW,
including incinerator ash, household hazardous waste,
recycling, composting yard waste, etc., are not in-
cluded in the cost of providing the service.

Combustion of RDF is not included in the cost of
providing the service; however, conversion of
MMSW into RDF is included.

A 1993 law change, effective retroactively for pur-
chases made after May 31, 1992, exempted machin-
ery and equipment, except motor vehicles, used di-
rectly for MMSW management services at a solid
waste disposal facility. M.S. 297A.25, Subd. 11,
provides an exemption from sales tax on initial pur-
chases of equipment by local governments, since the
equipment cost is included in the total cost for provid-
ing MMSW management services.

Effective July 1, 1995, the following costs were ex-
empted from the sales tax on MMSW management
service:

- Costs of providing educational materials and
other information to residents.

- Costs of managing solid waste other than MMSW, including household hazardous waste.
- Costs of court litigation and associated damages.

Examples

Local governments who provide MMSW collection services with their own vehicles, or subcontract for the services through a hauler, and bill its residents must collect and remit the sales tax.

In addition, local governments that purchase these services on behalf of its residents, but do not bill them specifically for the waste collection services, must pay sales tax on the purchase.

The following are examples of local government billing situations and how the sales or use tax applies:

Example 1: A local government contracts with a hauler to provide MMSW collection services. The hauler bills the local government for these services. The local government includes these charges in the general levy on the residents' property tax statement. In this situation, the local government, because they are purchasing the services, must pay sales tax to the hauler on the charges for providing the MMSW collection services.

Example 2: A local government hires a hauler to provide MMSW collection services. Half of the cost for providing that service is billed as waste collection services on the residents' quarterly water bills and the other half is included as a part of their property taxes, but is not stated separately on the property tax statements.

In this situation, the local government must charge sales tax on the charge for MMSW management services on the residents' quarterly water bill, and must also pay use tax on the other half of the cost of providing that service. The total must be reported on Line 105, Waste collection services, of the sales and use tax return.

Example 3: A local government owns its own landfill. Self-haulers are permitted to dispose of their MMSW at the landfill for a reduced tipping fee that does not cover the local government's costs of operating the landfill. However, the difference is included in property taxes the self-haulers pay.

The local government must charge and collect sales tax on the tipping fee paid by the self-hauler. In addition, the local government must pay use tax on the difference between the tipping fee and all direct and indirect costs of operating the landfill. Both the sales and use tax must be reported on Line 105, Waste collection services, of the sales and use tax return.

Example 4: A local government contracts with a private hauler to provide MMSW management service to its residents. The private hauler bills the residents for the service. In addition, the local government incurs various MMSW related costs such as contract management costs in connection with the private hauler contract. The local government is not reimbursed by the private hauler for these costs.

In this example, the residents pay sales tax to the private hauler on the charge for the service. In addition, the local government owes use tax based on the total amount of their MMSW related costs. This use tax must be reported on Line 105, Waste collection services, of the sales and use tax return.

Example 5: Same situation as *Example 4* except the local government's MMSW related costs are included in the fees charged to the residents by the hauler.

In this example, the residents pay sales tax to the private hauler as in *Example 4*. However, no use tax is owed on the local government's MMSW related costs, since they are a part of the total taxable amount billed to the residents.

References:

M.S. 297A.45	M.S. 115A.921
M.S. 297A.01, Subd. 21	M.S. 115A.923
M.S. 297A.25, Subd. 11	M.S. 473.843
MS. 115A.03	Rule 8130.2100
M.S. 115A.919	

Minnesota Department of Revenue is on the Internet!

If you can access the Internet, many of your tax forms and sales tax fact sheets are available electronically!

Internet address:

<http://www.state.mn.us/ebranch/mdor>

This information can be viewed and printed in PDF formats. Acrobat Reader is included FREE. Internet links to federal forms are also available.

This fact sheet is a tax information bulletin intended to help you become more familiar with Minnesota tax laws and your rights and responsibilities under the tax laws. Nothing contained in this fact sheet supersedes, alters, or otherwise changes any provisions of the Minnesota tax law, administrative rules, court decisions, or revenue notices.

Mixed Municipal Solid Waste Management Services

General Information

This fact sheet is divided into two sections. The first section contains general information that applies to all providers of mixed municipal solid waste (MMSW) management services. The second section provides additional information to local governments.

Various revenues and costs related to MMSW management services are discussed in this fact sheet.

Contact the Department of Revenue with questions or to discuss situations not addressed in this fact sheet.

What's taxable?

Charges for mixed municipal solid waste management services are subject to the 6.5 percent Minnesota sales or use tax. These services are not subject to city sales taxes. However, Cook County has a one percent sales tax that also applies.

"Mixed municipal solid waste management services" or "waste management services," as defined in M.S. 29 01, Subd. 21, means services relating to the management of mixed municipal solid waste from collection to disposal, including transportation and management at waste facilities.

"Mixed municipal solid waste" is defined in M.S. 115A.03, Subd. 21, as garbage, refuse, and other solid waste from residential, commercial, industrial and community activities that the generator of the waste aggregates for collection.

MMSW management services are taxable whether charged directly to waste generators (customers) by private or public haulers or paid for through government imposed service fees or tax assessments. Revenues from this tax are intended to be used to fund solid waste reduction and recycling programs.

What's not taxable?

Charges for managing certain types of waste are not taxable. This includes charges for managing separate waste streams, waste other than MMSW, recyclables, source-separated compostables, and waste from qualifying recycling facilities. In addition, certain statutory surcharges and fees are not taxable. To be exempt, charges for nontaxable items must be itemized separately on the customer's billing. If they are

not, the entire charge to the customer is taxable. Each of the nontaxable items is discussed below:

Separate waste streams

MMSW does not include the following items when they are collected, processed, and disposed of separately from other MMSW:

- ash
- auto hulks
- construction debris
- lead acid batteries
- mining waste
- motor vehicle fluids and filters
- sludges
- street sweepings
- tires
- tree and agricultural wastes
- other waste collected, processed and disposed of separately from MMSW

Waste other than MMSW

Charges for managing wastes other than MMSW, such as demolition waste, household hazardous waste, infectious medical waste, major appliances and yard waste, are not taxable.

Recyclables

Charges for collecting and managing recyclable materials that are separated from MMSW by the customer are exempt. "Recyclable materials" means materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material. If the customer does not separate recyclable materials from MMSW, charges associated with recyclables are taxable.

Also, effective retroactively to August 1, 1995, charges for collecting and managing recyclable materials that are commingled with MMSW are exempt if:

- the recyclables are separated by the waste generator;
- the MMSW is segregated in leakproof bags;

- the recyclable materials are delivered to a recycling facility that recycles at least 85 percent of its waste; and
- the MMSW does not exceed five percent of the total weight of the materials delivered to the facility.

For recyclable materials commingled with MMSW, the collection service and taxes for the MMSW portion must be included in the price of specific collection bags or stickers purchased by the waste generator.

Source-separated compostables

Effective July 1, 1996, compostable waste management services are exempt if the materials are:

- food wastes, fish and animal waste, plant materials, diapers, sanitary products, or paper that is not recyclable;
- separated by the generator to prepare it for use as compost;
- collected separately from other MMSW; and
- delivered to a facility approved by the Minnesota Pollution Control Agency (MPCA) for composting.

Statutory surcharges or fees

Surcharges or fees imposed under sections 115A.919, 115A.921, 115A.923, or 473.843 are exempt. (These are surcharges or fees charged to operators of MMSW facilities by a county, city or town, and the Metropolitan Landfill Abatement Fee and the Greater Minnesota Landfill Cleanup Fees.)

This exemption does not include surcharges or service fees assessed by local governments to offset reductions in the tipping fee.

Recycling facilities

Waste from a recycling facility that separates or processes recyclable materials is exempt from sales tax, if the volume of the waste has been reduced by at least 85 percent. To qualify, the waste exempted must be managed separately from other solid waste.

“Recycling facility” means a facility at which materials are prepared for reuse in their original form or for use in manufacturing processes that do not cause the destruction of the materials in a manner that precludes further use. An example of a qualified recycling facility is a facility that produces insulation from used glass.

Who is required to pay sales tax?

Almost all customers, including state and local government agencies, nonprofit organizations such as churches and nursing homes who are otherwise exempt from paying sales tax, and Direct Pay Permit

holders must pay sales tax on MMSW management services. Only the Federal Government and its agencies and Indian Tribal Governments, are exempt from sales tax when they are billed directly and pay directly for the service.

Who collects the sales tax?

Commercial haulers who bill their customers for waste collection must collect and remit the sales tax to the State of Minnesota.

Local governments that provide MMSW management services with their own vehicles (or subcontract for the services through a hauler) and bill their residents must collect and remit the sales tax. Local governments that purchase these services on behalf of its residents, but do not bill them specifically for the waste collection services, must pay sales tax on the purchase. For more information on local governments, please see page three.

Landfill and transfer station operators, and operators of other disposal facilities, are required to collect and remit sales tax on charges for disposing of MMSW. This applies to all customers, including self-haulers, commercial and industrial customers. However, customers who provide a properly completed Commercial Hauler’s Exemption Certificate, Form ST-10, are exempt from paying sales tax on tipping fees, since their customers were already billed sales tax on the MMSW management services. A copy of the attached ST-10 may be reproduced as needed.

Also, operators of disposal facilities should not charge sales tax to customers who dispose of MMSW in collection bags that include the cost of providing MMSW management services, since sales tax should have been charged on the sale of the collection bag to the customer.

Other MMSW management sales

Some haulers provide waste containers to their customers as part of their service. If the hauler does not separately charge for the container, the hauler must pay tax on the hauler’s purchase of these containers. If the hauler is not charged sales tax on its purchase of the containers, the hauler is responsible for paying use tax on the purchase. The cost of the containers should be reported on Line 105, Waste collection services, of the sales and use tax return.

If the hauler separately states a charge for the use of the container on the customer’s bill, they must charge sales tax. This amount should also be reported on Line 105, Waste collection services, of the sales and use tax return. In this situation, the hauler may purchase the containers exempt from sales tax by giving the vendor a Resale Exemption Certificate, Form ST-5.

Waste Hauler's Exemption Certificate

ST-10

Purchaser: Complete this certificate and give it to the seller. Seller: Keep this certificate as a part of your records. Incomplete certificates cannot be accepted in good faith.

Name of authorized purchaser

Minnesota tax ID number (if no number, state reason)

Name of purchaser's business

Check one:

Business address City State Zip code

Single purchase certificate

Name of disposal site

Blanket certificate*

*If blanket certificate is checked, this certificate continues in force until cancelled by the purchaser.

Address City State Zip code

To qualify for exemption, you must be in the business of providing waste management services for compensation.

Sales tax exemption—Check one:

- I collect and remit sales tax to the state of Minnesota on charges to my customers for waste management services.
- I provide waste management services to a city or municipality that collects sales tax from its citizens on charges for these services.

Solid waste assessment—Check all that apply:

- I collect and remit solid waste assessments to the state of Minnesota.
- I provide waste management services to a city or municipality that collects solid waste assessments from its citizens.
- This waste was generated outside Minnesota and not subject to solid waste assessments.

I declare that the information on this certificate is correct and complete to the best of my knowledge and belief. (PENALTY—If you try to evade paying sales tax by using an exemption certificate for merchandise that will be used for purposes other than those being claimed, you may be fined \$100 under Minnesota law for each transaction for which the certificate is used.)

Signature of authorized purchaser

Title

Date

Daytime phone

{ }

If you have any questions, call the MN Department of Revenue at (612) 296-6181 or 1-800-657-3777.

Hearing, speech or visually impaired: TDD users, contact the department through the Minnesota Relay Service at (612) 297-5353 or 1-800-627-3529; ask for (612) 296-6181. We will provide this information in an alternative format upon request.

Print or type

son for exemption

sign here

APPENDIX E

MINNESOTA Department of Revenue

Assistant Commissioner
Sales, Special & Minnesota Care Taxes

Mail Station 7100
Phone (612) 297-2165

St. Paul, MN 55146-6510
Fax (612) 297-5309

Post-it brand fax transmittal memo 7671 # of pages 2

To	John (John)	From	Don Trimble
Co.	OEA	Co.	Revenue
Dept.		Phone #	297-2165
Fax #	215-0246	Fax #	297-5309

September 6, 1996

To: SCORE Tax Task Force Members:
Don Trimble
From: Don Trimble
Assistant Commissioner

At its last meeting, on August 21, 1996, the SCORE Tax Task Force requested that the Department of Revenue (DOR) discuss with the Task Force the relationship between the DOR's continuing evaluation of the SCORE tax and the Task Force's statutory charge to monitor that evaluation and to provide clarification on questions of interpretation. This letter is intended to address the Task Force's request.

I recently met with Edward Garvey, Director of the Minnesota Office of Environmental Assistance (OEA), to discuss how to best contribute to the Task Force's progress. We agreed that the most important part of the Task Force's charge is to determine the appropriate future financing structure of the SCORE program. The DOR is committed to working with the Task Force to achieve this important goal and resolve the issues associated with the SCORE tax.

I hope the following comments, on which both Mr. Garvey and I agree, are helpful as you continue in your important work.

- The DOR understands that tax law, like most other laws, is subject to differences in interpretation. We try to take into consideration how our interpretations affect similarly situated taxpayers. There is no doubt the statute in question is ambiguous and subject to much interpretation. The best vehicle for any clarifications or changes is legislation during the 1997 Session. It is important that all the differences, issues and legislative intent be identified by the Task Force so appropriate proposals can be made to the Legislature. The DOR is committed to work with the Task Force to enact its recommendations during the next session.
- The DOR has been charged by the legislature to carry out the current evaluation and survey. This survey will serve a beneficial and broad purpose. The main benefits of the survey are for good baseline information, issue identification and the ability to understand the impact of various approaches.

It is not intended for use as a compliance tool. If the moratorium were to expire without amnesty for potential tax liabilities, any collections or reimbursements would be based on actual audits and not on the information in this survey. Further, any actions would be based on any clarifications or changes that the Legislature may make during the next session.

- We feel it is best to continue the ongoing survey. Since most local governments have already completed and returned the survey, the DOR would not be able to complete its report to the Legislature in a timely manner if the survey had to be conducted again with new interpretations. The completed survey, with the DOR's current interpretation, will be one necessary component for the Legislature as it considers this issue. While the survey and evaluation are being conducted under the current interpretation of the statute, the resulting information will be helpful in developing a secure future for SCORE program funding.
- As the Task Force considers questions surrounding the 1990 through 1995 tax periods, the DOR will ensure that the best available data is used to examine the impacts of possible Task Force recommendations. If the Task Force recommends clarifying or changing the current interpretation, or considers recommending amnesty for any tax liabilities associated with the sales and use tax on solid waste services during that time period, the DOR will work to identify the fiscal and other tax policy impacts of such recommendations.

The Legislature requires, and is relying on, input from both the DOR and the Task Force. Together, the survey results and the Task Force recommendations will provide the Legislature with the complete picture needed to understand and resolve the problems we identify.