

SALES TAX ON AGGREGATE MATERIAL

SALES TAX IS NOT THE AGGREGATE TAX

Aggregate material is gravel, sand, silica sand, stone, boulders, crushed and uncrushed rock, including landscape rock, crushed limestone, crushed granite and borrow, but only if transported on a public road, street or highway.

◇ All aggregate producers, contractors and retailers anywhere in Minnesota are subject to the sales and use tax.

SALES TO CONTRACTORS

Taxable: Generally, purchases by a contractor of aggregate are taxable (sales tax) since it will be used as an improvement to real property. This requires that the contractor deliver and spread the aggregate in such a way that no further leveling is required by the purchaser. This includes situations where it is leveled while being unloaded from the back of a moving truck without the use of any other equipment.

Nontaxable: The purchase by a contractor of aggregate from a pit owner for resale is exempt from sales tax if the contractor provides the pit owner with a completed ST-3*. A retail sale by a contractor involves only the dumping of aggregate; no leveling, spreading, or further action by the contractor is provided. The contractor must charge the end user of the aggregate the sales tax. Effective January 1, 2002 delivery charges are subject to sales tax.

SALES TO TOWNSHIPS

Taxable: Sales tax must be paid on the purchase of aggregate by a township for any use other than road and bridge maintenance. This includes aggregate purchased for the township's parking lots, playgrounds, snowmobile trails, etc..

SALES TO CITIES, COUNTIES OR SPECIAL TAXING DISTRICTS

Taxable: Sales Tax must be paid on all sales of aggregate to cities, counties or special taxing districts not for resale. No exemption is provided for purchases used for road and bridge maintenance, except for townships as listed above.

AGGREGATE PIT OWNED BY GOVERNMENTAL UNIT

Sales Tax must be charged on all sales from a pit owned or leased by a governmental unit, unless it is purchased for resale. There is no sales tax if the aggregate is removed for the governmental units own use.

AGGREGATE CRUSHING

Taxable: Sales Tax must be charged on aggregate crushing and/or screening since it is considered fabrication labor and is subject to sales tax. Fabrication labor is defined as the making or creating of a product or the altering of an existing product into a new or changed product. Fabrication labor is taxable even when the customer provides the materials for the products that will be created or altered.

SALES TAX ON READY-MIX AND BITUMINOUS PRODUCERS

READY-MIX PRODUCER (SALES TAX ONLY)

Ready-Mix producers ARE NOT classified as contractors. Purchases of aggregate by a ready-mix concrete producers to be used in making ready-mix is exempt from sales tax only (NOT THE AGGREGATE TAX) if the producer provides to the seller a completed Form ST-3, (Certificate of Exemption) with Agricultural or Industrial production as the exemption type. This exemption anticipates that the producer will collect the sales tax on the new product when it is sold.

A purchaser of ready-mix or concrete blocks can also purchase them from the seller exempt from sales tax with a completed Form ST-3 if the purchase will be resold or used in industrial production.

BITUMINOUS PRODUCER (SALES TAX ONLY)

A BITUMINOUS producer can purchase aggregate—and other bituminous ingredients—exempt from sales tax only (NOT THE AGGREGATE TAX) only if more than 50% of his gross sales are for resale.

If this is not the case, the producer is a contractor and he must pay sales tax on ALL aggregate – and other ingredients – that go into the finished bituminous. The reason for this is that the finished product of the contractor, in this case the bituminous producer is REAL PROPERTY. See Sales to Contractors above. To obtain a Form ST-3 to be used in claiming exemption from the sales tax when making purchases, go to: www.taxes.state.mn.us -- sales and use tax Form ST-3 or call (651) 296-6181.

Purchases by a contractor while acting as a purchasing agent for exempt entities may be purchased without paying sales tax only if the contractor has a written agreement with the exempt entity. This written agreement must contain certain criteria. For more information regarding the purchase agreements, contact the Minnesota Department of Revenue at (651) 296-6181.

AGGREGATE TAX REPORTING REQUIREMENTS

Operators or importers must file a quarterly report with the County Auditor. The report and payment are due the 14th of April, July, October and January.

AGGREGATE TAX COLLECTED BY YEAR

1982	\$ 236,093	1997	\$2,658,567
1983	1,503,599	1998	2,881,418
1984	1,731,600	1999	2,737,397
1985	1,783,940	2000	2,943,768
1986	1,938,702	2001	2,851,434
1987	2,115,649	2002	2,981,133
1988	1,830,535	2003	3,378,599
1989	2,003,391	2004	3,998,448
1990	1,939,276	2005	4,218,516
1991	1,783,301	2006	4,158,376
1992	1,895,260	2007	3,568,986
1993	2,045,794	2008	3,345,507
1994	2,272,272	2009	4,623,096
1995	2,114,823	2010	4,987,584
1996	2,330,664	2011	5,677,055

AGGREGATE TAX COLLECTED BY COUNTY - 2011

1. Becker	\$207,722	18. Mille Lacs	53,121
2. Benton	54,978	19. Norman	21,426
3. Big Stone	133,123	20. Pennington	84,165
4. Carver	99,178	21. Polk	165,102
5. Chisago	101,347	22. Ramsey	54,942
6. Clay	491,913	23. Red Lake	1,038
7. Cottonwood*	74,574	24. Rice	80,132
8. Dakota	821,425	25. Rock	45,641
9. Freeborn	103,849	26. Scott	311,601
10. Goodhue	141,071	27. Sherburne	310,271
11. Hennepin	132,127	28. Sibley	81,559
12. Kandiyohi	111,475	29. Stearns	398,908
13. Kittson	50,456	30. Steele	174,895
14. LeSueur	626,481	31. Washington	375,570
15. Mahnomenn**	0	32. Wilkin	13,613
16. Marshall	32,753	33. Wright	169,932
17. Meeker	68,973		
* 1/1/11—tax			
**1/1/11—no tax		Scambler Twp	464
Midway Twp	1,361	Solway Twp.	81,869

Grand Total \$5,677,055

2012 Aggregate Material Tax Informational Brochure

May, 2012

DHW Consulting
1704 Fairview Ave.
Cloquet, MN 55720

Since 2004

For all of your aggregate tax needs

SERVICES PROVIDED:

- ◆ Work with County Auditors to audit aggregate producers, aggregate importers, ready mix and bituminous producers.
- ◆ Over 8 years as an independent aggregate tax auditor and consultant
- ◆ Work with County Boards considering passing the aggregate tax.
- ◆ 20 years aggregate tax experience with the Minnesota Department of Revenue.

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INTRODUCTION

Aggregate Material is subject to two taxes: The **Aggregate Material Production Tax (MS 298.75)** below. The Sales and Use Tax (MS 297A) on the reverse side of this brochure.

Aggregate producers, contractors & retailers in the counties-townships that impose the tax are subject to the aggregate material tax.

The aggregate material tax is a production tax on the removal of aggregate material. The tax is imposed on importers and operators at 21.5 cents per cubic yard or fifteen cents per short ton. *Aggregate material must be measured or weighed after it is extracted.*

The most recent county to impose the tax, effective January 1, 2011, is Cottonwood County.

2012 Aggregate Tax Happenings - No changes from 2011. If you know of counties that have imposed this tax—or have discontinued collecting this tax as of 1-1-2012, please contact DHW Consulting.

2011 Aggregate Tax Happenings

Mahnomen County discontinued imposing the aggregate tax effective December 31, 2010. Cottonwood County began imposing the aggregate tax effective January 1, 2011.

Rock County received legislative approval to impose the tax at the previous rate from 2009 – 2014.

Mille Lacs County again began imposing the tax as of January 1, 2010.

As 3/24/2009 – 31 counties and 3 townships impose the aggregate tax.

As of 1/1/2010 – 32 counties and 3 townships impose the aggregate tax. See Aggregate Tax collected by county.

As of 1/1/2011 and 1/1/2012 -- 32 counties and 3 townships impose the aggregate tax.

AGGREGATE DEFINITIONS

In order to provide assistance to producers, importers, consumers and county officials administering this tax, the following definitions are offered to help answer questions about **what is and what is not aggregate material** for purposes of the tax.

Aggregate material is nonmetallic natural mineral aggregate including, but not limited to sand, silica sand, gravel, stone, boulders, crushed and uncrushed rock, including landscape rock, rip-rap, crushed granite, crushed limestone and borrow, but only if transported on a public street or highway.

Aggregate material is **not** dimension stone, dimension granite, agricultural lime and limestone used in taconite production.

TAX ADMINISTRATION

Collection of the aggregate material tax is the responsibility of the county auditor in each county that imposes the tax on its aggregate operations. The county auditor is required to develop tax reports, correspond with aggregate operators or importers and collect the tax. The county auditor has the authority to audit all books and records of any aggregate material operator or importer. The 2009 tax law change permitted the county auditor to retain 5% of the total aggregate tax collected for administrative expenses.

Any operator/importer has 30 days *after* the tax has been paid to object to the amount of tax determined to be due.

The law effective 1/1/2009 **requires** the county to distribute the tax (after the county has retained 5%) as follows: **42.5%** County Road and Bridge Fund; **42.5%** Township or City Road and Bridge Fund where the mine is located; and **15%** Reserve Fund for Pit Restoration of abandoned pits or quarries in the county.

The tax is first collected by the county where the aggregate is produced. If two counties impose the tax, the county into which the aggregate is imported cannot collect the tax. The only exception is: If the aggregate material is transported directly from the extraction site by a waterway or railway, the tax shall be apportioned equally to the county of extraction and the county of destination.

AGGREGATE TAX QUESTIONS & EXAMPLES

Q: If aggregate is shipped by rail directly from the pit out of MN, does any of the distribution go to the township of origin?

A: YES. Effective January 1, 2009 the township of origin is entitled to 42.5% of the tax on the aggregate shipped, with 42.5% to the County Road and Bridge Fund and 15% to the County Reserve Fund for pit restoration.

Q: If a county hires a part-time person specifically to administer the aggregate tax, can the county subtract this cost from the tax collections prior to distributing the tax? **A: YES,** 5% of the tax collected can be used for administration. See the tax changes effective January 1, 2009.

Q: Does the selling price include the aggregate tax? **A: YES,** the selling price should include all costs of producing the goods sold, including taxes and profit. The aggregate tax should not be shown separately on the sales invoice. This is a cost paid to the County. **IF THE AGGREGATE TAX IS SHOWN SEPARATELY, SALES TAX MUST BE CHARGED ON THE TOTAL INVOICE AMOUNT, including THE AGGREGATE TAX.**

Q: Is it correct for a producer to show the sales tax separately on the sales invoice? **A: YES.** The sales tax must be shown separately on retail sales. **Sales Tax MUST be CHARGED on TOTAL SALES PRICE, INCLUDING AGGREGATE TAX.**

Q: Is crushed limestone used for driveways and landscaping aggregate material subject to the aggregate tax? **A: YES,** crushed limestone used for driveways and landscaping is considered "aggregate material" and is subject to the aggregate production tax. Agricultural limestone is NOT considered aggregate material. However, limestone processed into agricultural lime is not considered "aggregate material" and is NOT subject to aggregate tax.

Q: Who must pay the tax on aggregate imported into a county imposing the tax? **A: The person importing the aggregate.** "Importer" shall mean any person who **BUYS** aggregate material produced from a county not imposing the tax or from any state outside of Minnesota.

Q. Is a government entity required to pay the tax on aggregate removed from a pit they own? **A. MAYBE.** The tax is imposed on every operator in the business of removing or producing aggregate for sale. No tax is required when a governmental unit removes aggregate for its own use, or hires a contractor to remove and crush aggregate for the governmental units own use. There is no operator within the statutory definition, **thus no tax is due.** If the government entity sells the aggregate, it is subject to the aggregate tax. *If a farmer removes aggregate for personal use from a pit located on his property, no tax is due. Attorney General's Opinion to Kanabec County Attorney, May 13, 1983*

Q. Is aggregate sold from a privately-owned aggregate pit to a township, city, county or the State of Minnesota subject to the aggregate tax? **A. YES.** The aggregate tax is imposed on the pit operator.

Q. Is aggregate sold from a government owned or privately owned aggregate pit to an individual or contractor who picks up the aggregate at the pit subject to the aggregate tax. **A: YES.** The aggregate tax is imposed on the pit operator.

Q. Same as above, but the government or private operator delivers the aggregate, either dumping or leveling the aggregate. **A: YES.** The aggregate tax is imposed on the pit operator.

AGGREGATE TAX IS NOT SALES TAX

The aggregate material tax is **NOT** a sales tax, but a production tax on aggregate produced in a county or imported into any county with the tax.

Sales Tax MUST be charged on the entire sale.

AGGREGATE TAX ON READY-MIX AND BITUMINOUS PRODUCERS

The Aggregate Tax **MUST BE PAID ON ALL AGGREGATE** used by ready-mix and bituminous producers in counties that impose the tax!

If the aggregate is purchased from a county **WITH** the tax, the tax is the responsibility of the aggregate producer. If the aggregate is purchased from a county without the tax, or from out of Minnesota, the ready-mix or bituminous producer importing the aggregate is responsible for paying the aggregate tax to the county.