

## WHAT IS AGGREGATE MATERIAL/WHAT IS NOT AGGREGATE MATERIAL

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.

### 2016 Minnesota Statutes

#### 298.75 AGGREGATE MATERIAL REMOVAL; PRODUCTION TAX.

##### Subdivision 1. Definitions.

Except as may otherwise be provided, the following words, when used in this section, shall have the meanings herein ascribed to them.

(a) "Aggregate material" means:

(1) nonmetallic natural mineral aggregate including, but not limited to sand, silica sand, gravel, crushed rock, limestone, granite, and borrow, but only if the borrow is transported on a public road, street, or highway, provided that nonmetallic aggregate material does not include dimension stone and dimension granite;

(g) "Borrow" means granular borrow, consisting of durable particles of gravel and sand, crushed quarry or mine rock, crushed gravel or stone, or any combination thereof, the ratio of the portion passing the (#200) sieve divided by the portion passing the (1 inch) sieve may not exceed 20 percent by mass.

#### Material Subject to Aggregate Tax

**Gravel**  
**All Sand**  
**Crushed Rock**  
**Limestone – all non- agricultural**  
**Crushed granite**  
**Borrow (see section (g) above)**

#### Materials Not Subject to Aggregate Tax

**Black dirt/clay**  
**Crushed concrete**  
**Crushed Asphalt**  
**Agricultural limestone**  
**Dimension granite**  
**Dimension stone**

This list was prepared by Don Walsh (DHW Consulting) and is based upon commonly accepted interpretations over the last 30 years of his involvement with the aggregate tax.

#### 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 produced from a county without the tax, or from out of Minnesota, the ready-mix or bituminous producer importing the aggregate into the county with the tax is

## AGGREGATE TAX REPORTING

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

#### AGGREGATE TAX COLLECTED BY

1982	236,093	2000	2,943,768
1983	1,503,599	2001	2,851,434
1984	1,731,600	2002	2,981,133
1985	1,783,910	2003	3,304,403
1986	1,938,702	2004	3,998,448
1987	2,115,649	2005	4,218,516
1988	1,830,535	2006	4,287,702
1989	2,003,391	2007	3,568,986
1990	1,939,276	2008	3,345,507
1991	1,783,301	2009	4,623,096
1992	1,895,260	2010	4,987,584
1993	2,045,794	2011	5,685,705
1994	2,272,000	2012	6,045,205
1995	2,115,500	2013	6,148,590
1996	2,332,000	2014	6,792,546
1997	2,656,000	2015	6,922,992
1998	2,881,000	2016	6,450,050
1999	2,887,000	2017	6,605,177

#### AGGREGATE TAX COLLECTED BY COUNTY - 2017

Becker	256,546	Nicollet	179,618
Benton	132,637	Norman	91,195
Big Stone	140,049	Pennington	59,989
Carver	140,896	Pipestone	21,985
Chisago	194,818	Polk	139,111
Clay	386,388	Ramsey	62,261
Cottonwood	106,456	Red Lake	4,508
Dakota	1,085,122	Rice	64,670
Freeborn	82,632	Rock	103,032
Goodhue	157,453	Scott	263,039
Hennepin	195,763	Sherburne	430,910
Kanabec	90,202	Sibley	117,902
Kandiyohi	142,838	Stearns	405,919
Kittson	42,760	Steele	103,260
Le Sueur	510,258	Washington	428,101
Marshall	20,776	Wilkin	6,206
Meeker	68,881	Wright	199,494
Mille Lacs	98,865		
Solvey Township (St. Louis)		70,639	
Grand Total		6,605,177	
Minnesota Department of Revenue		May 25, 2018	

# 2018 Aggregate Material Tax Information Brochure



This brochure is being published with assistance from Don Walsh, of DHW Consulting.

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#### AGGREGATE TAX IS NOT A 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, INCLUDING THE AGGREGATE TAX.

## INTRODUCTION

Aggregate Material is subject to two taxes: The Aggregate Material Production Tax (MS 298.75) below and the Sales and Use Tax (MS 297). Aggregate producers, contractors & importers in the counties-townships that impose the tax are subject to the aggregate material tax. All producers in Minnesota are subject to the Sales & Use Tax laws.

## AGGREGATE DEFINITIONS

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## 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 and audit 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 & Bridge Fund; 42.5% Township or City Road & 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.

Any legal questions regarding MS 298.75 definitions or interpretations should be referred to the County Attorney in your county of residence.

## 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 & Bridge Fund and 15% to the County Reserve for 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, effective January 1, 2009 counties are allowed to retain 5% of the tax collected for administration of the tax, either for internal expenses or work outsourced.

**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. 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 transports aggregate material they own, lease, have produced or purchased 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 unit's 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.