



Legislation Text

File #: Ord 23-64, **Version:** 1

Amending Title IV of the Legislative Code to add Chapter 22, titled Local Sales and Use Tax.

SECTION 1

WHEREAS, Minnesota Statutes § 297A.99 authorizes the imposition of a general sales and use tax if permitted by special law of the Minnesota Legislature and approved by the voters of the political subdivision; and

WHEREAS, Section 11.02 of the Saint Paul City Charter requires that the council impose a sales tax by ordinance; and

WHEREAS, Minnesota Special Laws 2023, Chapter 64, Article 10, Sections 2, 3, 4, and 5, (the "Special Law") authorized the City of Saint Paul to impose by ordinance a sales and use tax of one percent (1.0%) (the "Sales and Use Tax") to pay the costs of collecting and administering the tax and to finance all or part of the following projects in the city: streets, bridges, and capital improvements to parks and recreation facilities, plus an amount needed for securing and paying debt services on bonds issued to finance the project; and

WHEREAS, the Special Law also authorized the City to issue up to \$984,000,000 of sales tax revenue bonds, plus an amount to be applied to pay the costs of issuance of such bonds (the "Sales Tax Bonds") payable from the Sales and Use Tax; and

WHEREAS, the Council of the City of Saint Paul approved the Special law through RES 23-926; and

WHEREAS, in compliance with the requirements of the Special Law, the City of Saint Paul presented a ballot question on the November 7, 2023 election asking whether the City should establish a one percent (1.0%) sales and use tax over the next 20 years to generate \$738,000,000 to repair and improve streets and bridges, \$246,000,000 to improve parks and recreation facilities, and associated bonding costs; and

WHEREAS, the majority of residents of Saint Paul voted YES on the ballot question, approving the new Sales and Use Tax; and

WHEREAS, the Saint Paul City Council wishes to adopt an ordinance to impose the approved new Sales and Use Tax and to outline all applicable rules and procedures for the collection and enforcement of the tax; now, therefore be it

RESOLVED, that the Council of the City of Saint Paul does hereby ordain:

SECTION 2

Title IV, TAXES is hereby amended to add Chapter 22, titled Local Sales and Use Tax as follows:

Sec. 22.01. - Authority.

Pursuant to Minnesota Session Laws 2023, Chapter 64, Article 10, Section 2, Section 3, Section 4, and Section 5 (the "Special Law"), the Minnesota Legislature has authorized the City of Saint Paul, Minnesota (the "City"), to impose by ordinance a new local sales and use tax of one percent (1.0%) to pay the costs of

collecting and administering the tax and to finance all or part of the *Approved Projects*, as defined below, and the costs of securing and paying debt service on bonds under Minnesota Statutes, Chapter 475 and the Special Law to finance all or a portion of the approved projects. In compliance with the Special Law, voters approved this Sales and Use Tax at a general election held on November 7, 2023. This Chapter imposes the Sales and Use Tax and only applies to the new one percent (1.0%) Sales and Use Tax authorized under the Special Law.

Sec. 22.02. - Definitions.

The following definitions, as well as the definitions found in Minnesota Statutes, Section 297A.61, as amended from time to time, shall apply to this chapter:

Approved Projects means improvements to streets, bridges, capital improvements to parks and recreation facilities, and associated bonding costs.

City means the City of Saint Paul

Commissioner means the Commissioner of Revenue of the State of Minnesota or a person to whom the Commissioner of Revenue has delegated functions, or any successor thereto.

Retailer shall mean any retailer having or maintaining within this city, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any agent operating within this city under the authority of the retailer or its subsidiary, whether such place of business or agent is located in the city permanently or temporarily.

Sales and Use Tax means the local sales and use tax imposed by Sec. 22.03 of this Chapter.

Sales Tax Bonds means the up to \$984,000,000 plus costs of issuance of bonds authorized to be issued by the City under the provisions of the Special Law.

Special Law means Minnesota Session Laws 2023, Chapter 64, Article 10, Section 2, Section 3, Section 4, and Section 5, as amended or supplemented from time to time.

State Sales and Use Tax Laws and Rules means those provisions of the State of Minnesota revenue laws applicable to sales and use tax imposition, administration, collection, and enforcement, including Minnesota Statutes, Chapters 270C, 289A, 297A, and Minnesota Rules, Chapter 8130, as amended or supplemented from time to time.

Sec. 22.03. - Tax imposed.

A local sales and use tax in the amount of one percent (1.0%) is hereby imposed on the gross receipts from sales at retail sources within City limits which are taxable under the State Sales and Use Tax Laws and Rules and on the consumption, storage, use, or distribution of goods or services within the City limits which are taxable under the State Sales and Use Tax Laws and Rules. All of the provisions of the State Sales and Use Tax Laws and Rules apply to the Sales and Use Tax imposed by this section. The Sales and Use Tax shall be collected and remitted to the Commissioner on any sale or purchase when the state sales tax must be collected and remitted to the Commissioner under the State Sales and Use Tax Laws and Rules.

Section 22.04. - Effective date of tax; transitional sales.

Except as otherwise provided herein, the Sales and Use Tax shall apply to sales and purchases made on or after April 1, 2024. The Sales and Use Tax shall not apply to:

- (A) The gross receipts from the sale of tangible personal property made pursuant to a bona fide written contract, which unconditionally vests the rights and obligations of the parties thereto, provided that such contract was enforceable prior to April 1, 2024, and that the delivery of the tangible personal property subject thereto is made on or before April 1, 2024.
- (B) The gross receipts from retail sales made pursuant to a bona fide lump sum or fixed price construction contract, which unconditionally vests the rights and obligations of the parties thereto and which does not make provision or allocation of future taxes, provided that such contract was enforceable prior to April 1, 2024, and that the delivery of the tangible personal property used in performing such construction contract is made before July 1, 2024.
- (C) The purchase of taxable services, including utility services, if the billing period includes charges for services furnished before and after April 1, 2024, but the Sales and Use Tax shall apply on the first billing period not including charges for services furnished before April 1, 2024.
- (D) Lease payments for tangible personal property and motor vehicles that include a period before and after April 1, 2024, but the Sales and Use Tax imposed by this Chapter shall apply on a prorated basis to lease payment amounts attributable to that portion of the lease payment period on or after April 1, 2024, and on the entire lease payment for all lease payment periods thereafter.

Sec. 22.05 -Tax Clearance; Issuance of Licenses.

- (A) The City may not issue or renew a license for the conduct of trade or business in the City if the Commissioner notifies the City that the applicant for such license owes delinquent Sales and Use Tax, or penalties or interest due on such taxes.
 - (1) Sales and use taxes includes the Sales and Use Tax imposed in Section 22.03 of this Chapter, including all penalties and interest due on said Sales and Use Tax.
- (B) Delinquent taxes do not include a tax liability if:
 - (1) an administrative or court action which contests the amount or validity of the liability has been filed or served;
 - (2) the appeal period to contest the tax liability has not expired; or
 - (3) the applicant has entered into a payment agreement and is current with the payments.
- (C) Applicant means an individual if the license is issued to or in the name of an individual or the corporation, partnership or other entity if the license is issued to or in the name of a corporation, partnership or other entity.
 - (1) A copy of the notice of delinquent taxes given to the City shall also be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests a hearing in writing, within thirty (30) days of the receipt of the notice of delinquent taxes, then a contested-case hearing shall be held by the Commissioner under the same procedures as provided in Minnesota Statutes, Section 270C. 72 for the State sales and use tax imposed under Minnesota Statutes, Chapter 297A, provided that if a hearing must be held on the State sales and use tax, the hearings may be combined.

Sec. 22.06. - Separate Statement; Collection from Purchaser; Advertising No Tax;
Minimum Uniform Tax Collection Methods.

The Sales and Use Tax imposed under Section 22.03 shall be stated and charged separately from the sales price or charge-for-service insofar as practical and should be a debt from the purchaser to the seller recoverable at law in the same manner as other debts.

In computing the tax to be collected as a result of any transaction, any amount of tax less than one-half of one cent may be disregarded and amounts of tax one-half cent or more may be considered an additional cent. If the sales price of any sale at retail is ninety-nine cents or less, no tax shall be collected.

Sec. 22.07. - Collection of use tax at time of sale.

- (A) Any retailer regularly making deliveries within the city, any retailer maintaining a place of business in the city, or any other retailer otherwise doing business within the city, upon making any sales of any items enumerated in Section 22.03-which are not exempted from the use tax imposed under that section and which are to be delivered within the city to the purchaser or are to the knowledge of the retailer for use in the city-shall at the time of making such sales collect the use tax from the purchaser. The tax collected by such retailer shall be remitted to the Commissioner.
- (B) Any retailer required to collect the Sales and Use Tax and remit such tax to the Commissioner pursuant to this section shall register with the Commissioner and provide such other information as the Commissioner may require.
- (C) The collection-obligations of this section shall apply to remote sellers and marketplace providers subject to the requirements of Minnesota Statutes, Chapter 297A.

Sec. 22.08 - Agent of Retailer.

When in the opinion of the Commissioner it is necessary for the efficient administration of the tax, the Commissioner may regard any salesman, representative, trucker, peddler or canvasser as the agent of the dealer, distributor, supervisor, employer or other person under whom such salesman, representative, trucker, peddler or canvasser operated or from whom the tangible property is being sold is obtained, and may regard the dealer, distributor, supervisor, employer or other person as a retailer for the purposes of this Article.

Sec. 22.09. - Exemption Certificates.

A fully completed exemption certificate taken from a purchaser to the effect that the property purchased is for resale or that the sale is otherwise exempt from the application of the Sales and Use Tax will conclusively relieve the retailer from collecting and remitting the tax to the extent the seller is also relieved of liability for the Sales and Use Tax under Minnesota Statutes, Chapter 297A. A person who has obtained from the

Commissioner an exemption certificate pursuant to Minnesota Statutes, Chapter 297A may use such exemption certificate for the purposes of the Sales and Use Tax.

Sec. 22.10. - Presumption of Purpose of Sale.

For the purpose of the proper administration and enforcement of this Chapter, it shall be presumed that all retail sales, including online sales, for delivery in the city are for storage, use or other consumption in the city until the contrary is established.

Sec. 22.11. - Collection and Enforcement.

The Sales and Use Tax shall be subject to the same interests, penalties, and other rules as are applicable to the State general sales tax imposed by Minnesota Statutes, Chapters 270C, 289A and 297A. The Sales and Use Tax may be collected by the State on behalf of the City as provided by an appropriate agreement with the Commissioner.

Sec. 22.12. - Agreement with the Commissioner.

The City may enter into an agreement with the Commissioner regarding each party's respective roles and responsibilities related to the imposition, administration, collection, enforcement, and termination of the local sales and use tax imposed by this Chapter. Any such agreement shall not abrogate, alter, or otherwise conflict with the State Sales and Use Tax Laws and Rules, this ordinance, or the Special Law.

Sec. 22.13. Deposit of Revenues; Cost of Administration.

All the Sales and Use Tax revenues remitted to the City, net of fees, interest as a result of tax audits, and penalties collected by the Commissioner to collect the Sales and Use Tax, shall be deposited by the Director of the Office of Financial Services (or any successor thereto) or any person to whom the Director of the Office of Financial Services has delegated functions, into the City treasury and shall be credited to the funds established to pay the costs of collecting and administering the Sales and Use Tax and to finance the Approved Projects including associated bonding costs.

Sec. 22.14. - Sales Tax Bonds.

The City is authorized to take all necessary actions to issue any required Sales Tax Bonds. As security for the prompt and faithful payment of both principal and interest of said Sales Tax Bonds, the City is hereby authorized to pledge the Sales and Use Tax and any other security determined necessary by the Council as authorized by the Special Law and Minnesota Statutes, Chapter 475, as amended and supplemented from time to time. The City is authorized and directed by future resolution or trust indenture or similar documentation to establish the date, denomination, place of payment, form, and required details of any Sales Tax Bonds, provided that: the Sales Tax Bonds may be issued and sold by the City as tax-exempt and/or taxable obligations, in one or more series, in the manner provided and allowed by law; the Sales Tax Bonds shall be subject to redemption, mature in the years, and bear interest at the rate or rates per annum established by the offer to purchase the series of the Sales Tax Bonds then being issued which is determined to be the most favorable in a future resolution or trust indenture.

Sec. 22.15. - Expiration.

In compliance with the Special Law, the Sales and Use Tax shall expire at the earlier of:

- (A) 20 years after the tax is first imposed;
- (B) When the Saint Paul City Council determines that the amount of revenues received from the Sales and Use Tax is sufficient to pay for the project costs for the Approved Projects authorized under subdivision 2b of the Special Law and Section 22.03 of this Chapter, including interest on the Sales Tax Bonds and associated costs of issuance; or
- (C) The Sales and Use Tax may expire at any time if the City so determines by Ordinance; provided, however, that the Sales and Use Tax may not be terminated by Ordinance prior to the repayment in full of any Sales Tax Bonds if such termination would require a payment default on such Sales Tax Bonds.

Except as otherwise provided in Minnesota Statutes, section 297A.99, subdivision 3(f) (2022), any funds remaining after payment of the allowed costs due to the timing of the termination of the tax under Minnesota Statutes, section 297A.99, subdivision 12 (2022), shall be placed in the general fund of the city.

SECTION 3

This ordinance shall become effective 30 days after publication, provided that, except as otherwise provided herein, the Sales and Use Tax imposed under Section 22.03 of this Chapter shall apply to sales made on or after April 1, 2024, and shall be in addition to all other taxes now in effect.