

Minnesota Retail Delivery Fee

Frequently Asked Questions

Minnesota Statutes 168E.01, 168E.03, 168E.05, 168E.07, 168E.09

Q: What is the new delivery fee and how much is it?

A: The delivery fee is 50 cents on each transaction.

“A fee is imposed on each retailer equal to 50 cents on each transaction that equals or exceeds the threshold amount involving retail delivery in Minnesota.”

- Minnesota Laws 168E.03

Also written on page 5 of MDOR Legislative Bulletin¹

Q: When does the delivery fee law take effect?

A: The delivery fee goes into effect on July 1, 2024.

See Minnesota Laws, Chapter 68, Article 3, SS 8-12

Also on page 7 of MDOR Legislative Bulletin¹

Q: Does the delivery fee apply to aggregates and ready mixed concrete?

A: It is likely that the delivery fee does apply to most sales of ready mixed concrete and some sales of construction aggregates. However, there are several exemptions and qualifiers.

Statute 168E.01 indicates application of the fee to deliveries in Minnesota, but not to persons outside Minnesota.

“Retail Delivery” means a delivery to a person located in Minnesota of the following items as part of a retail sale.

Note that 168.01 also provides definitions, including reference to building materials.

The statute provides definition of “retail sale” as having the meaning given in section 297A.61 subd. 4, which includes the following.

“(d) A sale of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property is a retail sale in whatever quantity sold, whether the sale is for purposes of resale in the form of real property or otherwise.”

The threshold for the fee is established as \$100 or more before taxes.

The “*threshold amount*” referenced in establishment of the fee (168E.03) is defined in 168E.01 as:

“...\$100, before application of the tax imposed under section 297A.62, subdivisions 1 and 1a, and any applicable local sales and use taxes, and excluding items under section 168E.05.”

If the transaction is over \$100 and subject to sales tax, then it is subject to the delivery fee.

“The fee applies to each transaction in which charges for items of tangible personal property subject to sales tax, and clothing, meet or exceed the \$100 threshold. If the aggregate rock, ready-mix concrete, or concrete block being delivered is a type that is subject to sales tax, then the sale is subject to the retail delivery fee.”

Guidance from Minnesota Department of Revenue (MDOR) on June 11, 2024

Q: Is the delivery fee itself subject to sales tax?

A: No, as long as it is stated separately on the proper documentation.

Statute 168E.03 subd. 1(a) indicates that the retail delivery fee is excluded from sales tax, if it is separately stated on the invoice, bill of sale, or similar document.

Q: May the retailer charge the purchaser for the delivery fee?

A: Yes, the retailer may collect the delivery fee from the purchaser within requirements.

Subdivision 1(a) of 168E.03 includes the following.

“The retailer may, but is not required to, collect the fee from the purchaser. “

Subdivision 1(b) of 168E.03 includes stipulations for collecting the fee from the purchaser.

“(b) If the retailer collects the fee from the purchaser:

(1) the retail fee must be charged in addition to any other delivery fee; and

(2) the retailer must show the total of the retail delivery fee and other delivery fees as separate items and distinct from the sales price and any other taxes or fees imposed on the retail delivery on the purchaser’s receipt, invoice, or other bill of sale. The receipt, invoice, or other bill of sale must state the retail delivery fee as ‘road improvement and food delivery fee.’”

Q: If the concrete or aggregate is being purchased as part of a contract, is the delivery fee charged on every single delivery?

A: No, it is not necessarily charged on every single delivery.

The delivery fee is to be charged once per transaction (as opposed to once per delivery) according to the statute and guidance from the MN Department of Revenue.

168E.03 subd. 2 includes language that the fee is “...imposed once per transaction regardless of the number of shipments necessary to deliver the items...”

Page 6 of the MDOR Legislative Bulletin¹ includes the same language.

Guidance provided by the MDOR on June 20, 2024, indicates that, in the case of concrete and aggregates, the word “transaction” should be construed to mean “invoice”.

Q: Are small businesses exempt from the delivery fee?

A: Yes, small businesses, defined as having retail sales less than \$1,000,000, are exempt.

“A retailer with retail sales totaling less than \$1,000,000 in the previous calendar year” is exempt from the delivery fee according to 168E.05 subdivision 2(a)(1).

Page 6 of the MDOR Legislative Bulletin¹ includes the same language.

Q: Are there exemptions to the delivery fee?

A: There are several exemptions to the fee, including deliveries on trucks that are operating under permits issued by a road authority.

One such permit is the “Road Construction Materials Special Permit” (Section 169.869) that is commonly used by haulers of aggregates, cement, and other constituents of ready mixed concrete.

“If the delivery of ready-mixed concrete and/or aggregates is on a vehicle operating with/under a road construction materials permit (Minn. Stat. 169.869), and the record-keeping requirements are met, the language in Minn. Stat. 168E.05, subd. 1(2) provides an exemption from the delivery fee.”

Guidance from MnDOT on June 6, 2024

Q: What are the guidelines on how the fee is to be collected and submitted?

A: Collection, filing, and payment of the fees are stipulated in 168E.07.

Subdivision 1 includes the following and more.

A retailer must report the fee on a return prescribed by the commissioner and must remit the fee with the return. The return and fee must be filed and paid using the filing cycle and due dates provided for taxes imposed under chapter 297A.

Subdivision 2 includes the following and more.

A retailer that collects the fee from the purchaser must collect the fee in the same manner as the tax collected under chapter 297A.

Page 6 of the MDOR Legislative Bulletin¹ includes similar language.

¹2023 Sales and Use Taxes Legislative Bulletin, Minnesota Department of Revenue

<https://www.revenue.state.mn.us/sites/default/files/2023-06/2023-sut-legislative-bulletin.pdf>

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