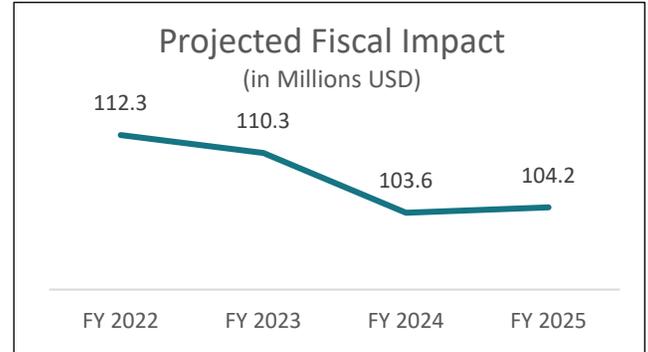


Data Center Equipment

Tax Expenditure Initial Review - TEB 4.72

Tax Expenditure Facts

Year Enacted	2011
Statute	Minn. Stat. § 297A.68, subd. 42
Tax Type	General Sales and Use Tax
Provision Type	Exemption
Latest Fiscal Impact Estimate	\$103.6 million – Fiscal Year 2024
Latest Claims Estimate	41 Qualified Data Centers as of January 2024
Expiration Date	July 1, 2042



Tax Expenditure Description

Enterprise information technology equipment and computer software for use in a qualified data center are exempt from the sales and use tax. Electricity used or consumed in the operation of a qualified data center is also exempt.

To qualify, a data center must:

- Be comprised of one or more buildings consisting of at least 25,000 square feet.
- Must have a total cost of construction or refurbishment, investment in enterprise information technology equipment, and computer software of at least \$30 million within a 48-month period. For a refurbished data center, the investment must be at least \$50 million within a 48-month period.
- The facility that houses the enterprise technology equipment must have uninterruptible power supplies, generator backup power, or both sophisticated fire suppression and prevention systems, and enhanced security, as specified.

The exemption applies to purchases made within twenty years of the first qualifying purchase. The exemption is administered as a refund.

This exemption was enacted in 2011, effective for sales and purchases made from July 1, 2012, through June 30, 2042. The requirements were modified in 2013.

Additional Background Information

A data center can generally be understood as a “facility that houses information technology infrastructure for building, running, and delivering applications and services, and for storing and managing the data associated with those applications and services.”ⁱ

Data center construction or refurbishment projects must be certified by the Minnesota Department of Employment and Economic Development (DEED) to qualify for the exemptions.ⁱⁱ Sales tax is paid on qualifying equipment and software at the time of purchase then refunded by the Department of Revenue (DOR) by

completing form ST11, Sales and Use Tax Refund Request.ⁱⁱⁱ Electricity used or consumed in the operation of a qualified facility is exempt upon submittal of a blanket exemption certificate (Form ST3) to the local utility provider. A qualified data center may include one or more businesses operating enterprise information technology equipment as co-owners or tenants of the building or buildings that constitute the facility.^{iv}

Beneficiaries of data center sales tax exemptions include owners and tenants of qualifying data center facilities. There are currently 15 qualified data centers certified as new construction projects and 26 qualified data centers certified as refurbishment projects.^v Thirty-five qualified data centers are located in the seven-county metropolitan area, and six qualified data centers are located in greater Minnesota.

Qualified data center exemptions reduce the amount of sales and use tax revenue that would otherwise be generated. State general sales and use tax collections are deposited in the state General Fund, except as provided by the Minnesota Constitution or Statutes 297A.94.

Proposed Tax Expenditure Objective for Consideration

The objective of qualified data center sales and use tax exemptions is to create jobs in the construction and data center industries.

Sources

The proposed objective is based the statement of purpose specified in [Minnesota Statutes 297A.68, subdivision 42\(g\)](#).

Potential Metrics and Performance Measures

A full review may use data collected by DEED during the certification process, sales tax refund data collected by DOR, or a survey of qualifying data centers to estimate:

- The number and value of exemptions claimed by type (equipment, software, or utility exemptions)
- The number of new or refurbished construction projects undertaken but for the exemptions
- The number of new jobs created but for the exemptions
- Direct, indirect, and induced economic impacts
- Cost to administer the program
- The longevity of qualified data centers

Other Considerations

Currently 32 states offer tax incentives to attract or expand data centers. Sales tax exemptions are the most common incentive type, but qualifications, thresholds, and exempt items or services vary by state.^{vi}

Contact Information and Disclaimer

This tax expenditure review was prepared by the Legislative Budget Office for the Tax Expenditure Review Commission pursuant to Minnesota Statutes 2023, section 3.8855, subdivision 4.

Notice: Proposed tax expenditure objective statements are not binding authority and should not be used as a legal interpretation of any tax expenditure statute.

For questions regarding this review, please contact the Legislative Budget Office at 651-297-7146 or lbo@lbo.mn.gov.

For more information, please visit the [Tax Expenditure Review Commission website](#).

ⁱ “What is a data center?” IBM website, accessed January 22, 2024, <https://www.ibm.com/topics/data-centers>.

ⁱⁱ “Data Center Sales Tax Incentives,” Minnesota Department of Employment and Economic Development website, accessed January 22, 2024, <https://mn.gov/deed/business/financing-business/tax-credits/data-center-credit/>. The DEED program guide and application can be found at https://mn.gov/deed/assets/data-center-application-master_tcm1045-309365.pdf.

ⁱⁱⁱ Page 3 of Instructions for Form ST11, Sales and Use Tax Refund Request, includes a description and example of documentation the purchaser must submit with their refund application. https://www.revenue.state.mn.us/sites/default/files/2021-03/st11_0.pdf.

^{iv} “Qualified Data Centers,” Minnesota Department of Revenue Website, last updated November 13, 2020, <https://www.revenue.state.mn.us/qualified-data-centers>; Minnesota Department of Revenue, “Revenue Notice #16-07: Sales and Use Tax Exemptions – Qualified Data Centers (October 10, 2016),” <https://www.revenue.state.mn.us/revenue-notice/16-07-sales-and-use-tax-exemptions-qualified-data-centers-revocation-revenue-notice>.

^v A list of data center projects can be found at https://mn.gov/deed/assets/data-center-project-list_tcm1045-531119.pdf.

^{vi} Scott Wright, Alla Raykin, and Laurin E. McDonald, “Tricks and Traps of Data Center State Tax Incentives,” *Tax Notes State* 111 (January 2024):17-38, <https://www.taxnotes.com/special-reports/tax-technology/tricks-and-traps-data-center-state-tax-incentives/2023/12/28/7hmb7>. The article includes a table listing data center incentives by state with legal references.