

MINNESOTA • REVENUE

BULLETIN

Date: August 20, 2015
To: All Assessors
From: Jon Klockziem, Assistant Director
Assessment and Classification, Property Tax Division
Subject: **Agricultural Chemical Containment Facilities**

As previously noted to all assessors, agricultural chemical containment facilities that are exempt by statute must be exempted for the January 1, 2016 assessment.

Please share this bulletin with all members of your staff. You may also refer to the appendix of the bulletin for pictures of agricultural chemical containment facilities and descriptions of what is taxable or exempt.

What qualifies for the exemption?

The statute covering exemption for agricultural chemical containment facilities (M.S. 272.02, subd. 23) states:

“Containment tanks, cache basins, and that portion of the structure needed for the containment facility used to confine agricultural chemicals as defined in section 18D.01, subdivision 3, as required by the commissioner of agriculture under chapter 18B or 18C, are exempt.”

Any facility storing an agricultural chemical which does not have a containment system as required by the Commissioner of Agriculture is fully taxable.

What kinds of physical items are included in the exemption?

Containment tanks, cache bins, and any portion of the structure needed for containment is exempt.

What kinds of agricultural chemicals are included?

Both pesticides and fertilizers are included. Additionally, both wet and dry fertilizers are included in the definition of agricultural chemicals (see Minnesota Statutes, section 18D.01, subd. 3).

What about the parts of the structure not used to provide chemical containment?

Any part of the structure that is used for purposes other than containment is not exempt. For example, other uses such as office space, storage facilities, garages, or any other use not specific to the containment facility are taxable unless some other provision applies.

If a concrete dike forms the foundation for the containment structure, the dike/foundation part of the structure should be considered exempt before any apportionment between taxable and exempt is made. In addition, if there is a loading area and the loading area is inside the structure, within the diked area, and is not used for storage or other (non-containment) purposes, it should be considered exempt.

Does the exemption include roofs?

If a containment facility includes a confinement structure, and that structure has a roof, then the roof sheltering the chemicals is included in the exemption.

A building's design may include a roof for any number of containment-related functional and economic reasons. For example, a roof may:

- allow the cache basin to be smaller (Minnesota Rules, part 1505.3080)
- be employed primarily to decrease corrosion and weathering of primary containers, or fixtures and equipment necessary to manage spills and prevent releases (MR 1505.3090)
- eliminate the need for a security fence around the facility (MR1505.3060, subd. 5; 1505.3080)

Does the exemption include walls?

A wall (or portion of a wall) of a storage area or loading area may be exempt, even if the wall (or portion of the wall) is not part of a dike or cache basin.

The phrase in the exemption statute referring to the “portion of the structure needed for the containment facility...” encompasses both portions of the structure that are absolutely necessary to the facility, and those portions reasonably necessary for the facility.

However, as with most exemptions, if wall(s) surround portions of the structure primarily devoted to another non-exempt use such as office space, storage facilities, garage space, or any other use not specific to the containment facility, those portions are taxable unless some other provision applies.

Does the exemption include the land?

No; for purposes of this subdivision the exemption does not apply to any portion of the land.

What happens if the law changes?

If there are law changes for assessment year 2016, the Department will work with the assessment community to consistently implement those changes.

Is this a change in current practice?

Although there has been no change in Minnesota Statute since 1992, there has been inconsistency in the way this statute is administered across counties.

Some counties may not be exempting these facilities, particularly those that are larger and for dry fertilizer containment. In other counties, the current assessment practice taxes most of the structure and exempts only those portions of the facility that would contain liquid chemicals in the event of a spill. Most dry chemical structures have been fully taxed. Some exempt only a secondary wall on the containment tanks, believing that the law intended only secondary containment to be exempted.

The department reviewed assessment practices, the law, memos issued to assessors on the topic, and modern containment practices to provide this guidance to address the inconsistencies.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Appendix: Examples



Example 1

The actual containment tanks are exempt, as is the concrete knee wall surrounding the tanks. The knee wall is necessary to containment.



Example 2

This building is taxable. It does not provide containment for agricultural chemicals.



Example 3

The office building to the left and the blending tower in the middle are both taxable. Neither provides the necessary containment functions for exemption. The building to the right is shown in Example 6.



Example 4

While it is difficult to see in this photograph, all or portions of this building that serve the necessary containment function are exempt. For example, if the floor is sloped (raised towards the exit), then the floor serves the necessary containment function and is exempt.



Example 5

While it is difficult to see in this photograph, all or portions of this building that serve the necessary containment function are exempt. For example, if the floor is sloped (raised towards the exterior walls) and/or the walls are made of concrete for the lowest several feet, then the floor and/or walls serve the necessary containment function and are exempt. The liquid chemical tanks, if real property, are exempt.



Example 6

If portions of this building are used to confine dry agricultural chemicals, then those portions of the building are exempt. This could include portions of the roof and walls as outlined in the memo above.