

Lawn and Garden Maintenance, Tree and Shrub Services

121A

Sales Tax Fact Sheet 121A

Fact Sheet

What's new in 2018

We clarified when sellers are required to collect local sales taxes. See Local Sales and Use Taxes on page 5.

Minnesota Sales Tax applies to lawn and garden maintenance, indoor plant care, tree and shrub services, and other taxable services discussed in this fact sheet. For more information, see:

- Fact Sheet 121B, *Landscaping Construction Contracts*
- Fact Sheet 121C, *Nursery and Greenhouse Production*

Lawn and Garden Maintenance, Other Services

Most lawn and gardening services are taxable, except when they are part of an initial landscaping project.

For this purpose, lawn means a tended area of ground covered with grass or other ground cover, including yards, parks, and golf courses. But ditches and medians along roads, freeways, and railroad right-of-ways are not considered lawns.

Taxable lawn care services include:

- aerating
- dethatching
- diagnosing lawn condition by physical exam (when it results in the sale of a taxable service)
- killing weeds, insects, rodents, or fungi
- lawn mowing and trimming
- picking up pet droppings
- raking (including power raking)
- spring and fall cleanup
- reseeding lawns (but not the initial seeding)
- fertilizing and watering
- spraying, for eradication of weeds, insects, rodents, or fungi

Taxable gardening services include:

- garden maintenance, including maintaining existing flower or vegetable gardens, such as dead-heading, weeding, cultivating, staking, harvesting, transplanting, thinning, and dividing
- seeding or planting flowers, seeds, bulbs, vegetables, annuals, and biennials that are not part of an initial landscaping construction contract
- garden tilling and soil preparation
- planting or providing container gardens and flower boxes
- seasonal switch-outs of container gardens with plants or flowers
- seasonal switch-outs of annuals in garden beds
- fertilizing and watering
- spraying, for eradication of weeds, insects, rodents, or fungi
- spreading mulch except when part of the initial landscape construction contract

Other taxable services include:

- cutting and/or arranging flowers

- indoor and outdoor decorating when the items are provided by the decorator (All charges to complete the sale are taxable.)
- holiday decorating, stringing lights, hanging wreaths or garlands, home staging
- setup of customer owned decorations is not taxable
- indoor plant care
- leasing/renting indoor plants
- selling firewood for recreational or commercial use

Note: These services are not taxable if you are not in the business of providing them. Being “in the business” includes selling items or services on a regular basis, soliciting sales, advertising, and entering into written contracts to provide services.

Example

You get paid for mowing your neighbor’s lawn while they are on vacation. If you are not employed by a business to perform this service, have not established your own business, or do not provide these services continuously; the charge is not taxable.

Nontaxable services include:

- initial landscaping provided under a construction contract (see Fact Sheet 121B, *Landscaping*)
- initial lawn seeding or sod installation
- installing, maintaining, and repairing underground sprinklers and irrigation systems
- planting trees, bushes, or other types of woody plants
- planting flower or vegetable plants that are part of an initial landscaping construction contract
- cleaning or maintenance of an outdoor pond
- snow shoveling or snow plowing
- applying ice-melt or sand to driveways, sidewalks, or parking lots (but the service provider must pay sales or use tax on the ice-melt and sand they use)

Note: Planting trees, shrubs, and perennials is always an improvement to real property, and therefore exempt from sales tax. But planting flower or vegetables (other than perennials) is only an improvement to real property for the initial landscaping construction contract. Seasonal switch-outs of plants are taxable gardening service.

Cemetery maintenance

All of the services described in this fact sheet are exempt from tax if they are for maintenance of cemetery grounds for human burial. For more information, see Fact Sheet 165, *Funeral Homes, Mortuaries, Crematories and Cemeteries*.

Tree and Shrub Services

Taxable services include:

- sprigging
- stump grinding
- tree, bush, shrub and stump removal, unless part of land clearing. See Land-clearing contracts.
- tree, bush, and shrub trimming, pruning, bracing, spraying, and surgery

These services are taxable even if they are a necessary part of storm or disaster cleanup.

Nontaxable services include:

- moving trees, shrubs, etc., from one location to another
- optional disposal of brush
- tree, bush, and shrub planting

- tree, bush, shrub, and stump removal services purchased by a Minnesota governmental agency or political subdivision for construction or maintenance of roads, trails, or firebreaks

Utility lines

Tree, brush, and shrub trimming, cutting, and spraying services performed under utility lines are taxable. This includes all separately stated charges for labor, equipment, or chemicals.

Mowing or spraying to control or kill weeds under utility lines, in ditches along roads, freeways, and railroad right-of-ways is exempt.

Land-clearing contracts

A land-clearing contract is for the initial removal of trees, stumps, bushes, and shrubs to develop a site. These services are exempt when sold to contractors or subcontractors as part of a land-clearing contract.

Note: If the trees, stumps, bushes, and shrubs are being removed for remodeling, improvement, or expansion of an existing structure, rather than to develop the entire site, this exemption does not apply.

Examples

- A developer is excavating a vacant site for a new housing development. The developer contracts with a landscaper to remove trees and stumps on the site. These services are exempt from sales tax because it is a new site being developed.
- A homeowner has a large area of land between his or her maintained lawn and a nearby river. The homeowner decides to clear the land and install a garden and dock. In this case, the land-clearing services are taxable because it is a pre-existing site that is being expanded.

Purchases

Purchases of certain items used to provide these services are exempt. To purchase exempt, give the seller a completed Form ST3, *Certificate of Exemption*.

Examples of exempt purchases

- chemicals used to treat waste generated as a result of providing the taxable service
- fertilizers
- flower, garden seeds, or plants
- grass seed for taxable reseeding
- fuels, lubricants, and antifreeze for equipment such as mowers, tillers, chainsaws, and chippers
- pesticides, insecticides, and weed killers
- pots (disposable) and potting soil
- plants for indoor plant care

Note: If you buy materials exempt from tax but use them to provide nontaxable services, you owe use tax on those materials.

Separate detachable units

Separate detachable units are accessories, tools, equipment, or other items that are attached to a machine to be used.

Purchases of these items are exempt if they meet all of the following requirements:

1. They are used to provide a taxable service.
2. They are attached to a machine while in use.
3. Their ordinary useful life is less than 12 months when used in providing taxable services.

Examples of separate detachable units:

- lawn mower blades
- chain saw blades
- trimmer wire or line

Note: This exemption does not apply to the basic machine or any components included in the original purchase price.

Hand tools such as hammers, trowels, shovels, screwdrivers, knives, and power hand tools are not separate detachable units and are taxable.

Vehicles

Purchases of lubricants and antifreeze for vehicles are exempt when 50 percent or more of the mileage is used to directly provide a taxable service.

Example

A vehicle is used to spray lawns. If less than 50 percent of the mileage is for providing this service, only the portion of lubricants and antifreeze used while providing the service can be purchased exempt.

Minnesota Motor Fuel Refund

Certain fuels qualify for a sales tax exemption when they are used in equipment to directly provide a taxable service.

When you buy gasoline from a pump at a gas station, the price already includes petroleum tax (both state and federal). You can request a refund of state petroleum tax paid on fuel used in lawn mowers, chain saws, or other off-road items that are used to provide taxable services.

To request a refund, complete Form PDR-1, *Minnesota Motor Fuel Claim for Refund*. If you have questions about the Motor Fuel Refund, call the Petroleum Division at 651-296-0889.

Examples of taxable purchases

- administrative supplies and materials
- building cleaning and maintenance services
- chemicals, cleaning agents, and water used to clean buildings, equipment, and vehicles
- equipment, machinery, accessories, and tools
- fuel, electricity, and gas for space heating or lighting
- furniture and fixtures
- hand tools
- linen supply or other laundry services
- lubricants and antifreeze for vehicles used to haul equipment or employees to job sites
- office supplies
- repair parts for machines and equipment
- salt and de-icing products
- security services
- specialty advertising materials
- telephone service
- training materials and supplies

Pay sales tax to the seller when you buy these items or report use tax on your cost of the items. See Use tax on page 4.

Note: If you provide nontaxable services, you must pay sales or use tax on all material, supplies, and equipment used to provide those services.

Miscellaneous

Delivery charges

If a seller charges the buyer for delivery of taxable items, the delivery charges are also taxable. (Delivery charges are considered part of the sales price, even if they are listed separately on a bill or invoice.)

Delivery charges include any charges by the seller for preparation and delivery to a location specified by the buyer. Examples include transportation, shipping, postage, handling, crating, and packing.

When a third party furnishes and bills for delivery, the charges are not taxable, except for deliveries of aggregate materials or concrete block.

For more information, see Fact Sheet 155, *Delivery Charges*.

Sales to exempt organizations

Certain organizations qualify for a sales tax exemption, such as nonprofits and federal or local governments. These organizations must give the seller a completed Form ST3, *Certificate of Exemption*, to purchase goods or services without paying sales tax.

If you have a landscaping construction contract with an exempt organization, you must pay sales tax on all trees, plants, or other materials used unless you have a purchasing agent agreement with the organization.

For more information, see:

- Fact Sheet 128, *Contractors*
- Revenue Notice 95-05: Sales and Use Tax – Construction Contracts – Purchasing Agent Exemption

Direct Pay authorization

Businesses that have Direct Pay authorization cannot buy services exempt from tax.

Equipment sales

If you sell equipment or other items that were used in your business, the sale may be subject to sales tax. For more information, see Fact Sheet 132, *Isolated and Occasional Sales*.

Use Tax

Generally you pay sales tax at the time of purchase. But if the seller does not charge Minnesota sales tax on equipment, supplies, or other taxable items for your business, you owe use tax on the purchase price.

Report state and local use tax when you electronically file your sales and use tax return. For more information, see Fact Sheet 146, *Use Tax for Businesses*.

Note: For companies who do both taxable landscape maintenance and nontaxable landscape installation; if you purchase materials exempt from sales tax but use them in providing nontaxable services, you must pay use tax on those materials.

Local Sales and Use Taxes

If you are located in or make sales into an area with a local tax, you may owe local sales or use tax. For more information, see Fact Sheet 164, *Local Sales and Use Taxes*.

Reporting Sales and Use Taxes

When reporting sales and use tax, you will be asked to provide your gross sales. This is all sales; including snow-plowing, landscaping, and lawn care. Taxable sales are what you have collected (or should have collected) sales tax on.

Use tax includes items you purchased for your own use or for installation to real property that you have not paid sales tax on.

Keep a record of your filings.

Legal References

Minnesota Statutes 297A.61, subd. 3(g) (6) (vi), Definitions

Minnesota Statutes 297A.67, subd. 25, Maintenance of cemetery grounds

Minnesota Statutes 297A.68

subd. 3, Materials used in providing certain taxable services

subd. 40, Land clearing

Minnesota Statutes 297A.70, subd. 3(a)(9) , Sales of certain goods and services to government

Minnesota Statutes 296A.16, subd 2, Petroleum fuel used in other vehicle; claim for refund

Revenue Notices

95-05, Construction Contracts - Purchasing Agent Exemption

00-03, Exemptions: Materials Used or Consumed in Providing Taxable Services

08-07, Lawn and Tree Services

Other Fact Sheets

106, *Farm Machinery*

121B, *Landscape Installation and Construction*

121C, *Nursery and Greenhouse Production*

128, *Contractors*

132, *Isolated and Occasional Sales*

164, *Local Sales and Use Taxes*