

Technical corrections were made to this notice on December 2, 2002 by Revenue Notice # 02-20. Please see Revenue Notice # 02-20 for the corrected language.

Minnesota revenue notice number 00-04

Sales and Use Tax – Sales Price – Mixed Transactions

The Minnesota Tax Court issued orders in the case of *Southern Exposure of Eagan, Inc. vs. Commissioner of Revenue*, T.C. #7046, dated October 20, 1999 and December 2, 1999. The court found that based upon the evidence, the taxpayer had charged different fees for membership and for weight lifting training and therefore had made two separate sales. One sale involved the sale of taxable memberships and the other involved the sale of nontaxable weight-training services. The court found that the taxpayer had sold and marketed weight-training services separate and apart from membership dues. It is the department's position that the case was decided based upon the unique facts presented to the court and therefore the holding would only apply to taxpayers with the identical situation.

In response to this case, this revenue notice is being issued to set forth the department's position on mixed transactions that involve a combination of taxable and nontaxable goods or services.

Statutory Authority

Minnesota Statutes, section 297A.02, subdivision 2 provides that the sales tax is imposed upon the gross receipts from sales at retail. *Minnesota Statutes*, section 297A.01, subdivision 9 provides that gross receipts means the total amount of consideration received for sales at retail as measured by the sales price. *Minnesota Statutes*, section 297A.01, subdivision 8, which defines "sales price", provides that the amount of consideration received by the retailer may be reduced by separately stating certain charges including carrying or finance charges, installation labor or services, transportation charges incurred after the sale, or discounts allowed at the time of sale. Subdivision 8 further provides that no deduction can be made for certain other charges including cost of property sold and labor or service costs and that no deduction shall be allowed for services that are part of the sale.

Department Position

Minnesota Statutes, section 297A.01, subdivision 8 provides that when both taxable and nontaxable goods or services are purchased for a lump-sum price, only the deductions allowed under subdivision 8 may be used to reduce the sales price. When a mixed transaction includes both taxable and nontaxable goods or services being purchased together from the same retailer, the total amount of consideration received by the retailer will be the sales price, unless the nontaxable goods or services are stated separately at the time of the sale to the purchaser as provided below.

Nontaxable goods or services may only be separately stated if all of the following apply:

- 1) The retailer actually transfers title to or possession of the goods to the purchaser or furnishes or provides access to the services to the purchaser;
- 2) The contract, bill or invoice reflects a reasonable charge for furnishing or providing of the nontaxable goods or services;
- 3) The purchaser has the option of not purchasing the nontaxable goods or services while purchasing the taxable goods or services from the retailer or could have avoided or declined the purchase of the nontaxable goods or services; and
- 4) The sale of the nontaxable goods or services is not integral to the sale of the taxable goods or services and therefore the sales can be segregated.

In determining whether the sale of a good or service can be segregated from the sale of another good or service, the department will look to see if they are distinctly priced, invoiced, warranted and provided independently of each other.

If a transaction involves the purchase of both a taxable and a nontaxable item and the value of the

taxable item is insignificant as compared to the total consideration, a taxable sale has not occurred provided there is no separate charge for the taxable item. For example, a jeweler who uses a spring in performing a watch repair service is not considered to have made a sale of the spring, unless the jeweler bills separately for the spring.

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