

MINNESOTA DEPARTMENT OF REVENUE

Revenue Notice # 06-11: Sales and Use Tax – Sales Price – Labor Charges; Revocation of Revenue Notice # 91-20

The purpose of this Revenue Notice is to distinguish between charges for taxable installation and fabrication labor charges and nontaxable repair labor charges.

Background

Effective January 1, 2002, the definition of sales price in Minnesota Statutes, section 297A.61, subdivision 7, was amended to include installation labor when the labor is part of a taxable sale. Installation charges are part of the sales price, even if separately stated. If an item being sold is taxable, a charge by the seller to install the item is taxable. Repair labor is not subject to sales tax when separately stated.

Effective July 1, 2002, Minnesota Statutes, section 297A.61, subdivision 3(j), was added to tax installation charges by a third party. A third party installer is required to charge tax on the installation of an item if the seller of the item would have been required to charge tax on the installation.

Definitions

For purposes of imposing sales tax on labor charges, the following definitions will be used:

Fabrication labor means labor to make, create or assemble a new item or alter an existing item into a new or changed item. This includes charges to create or alter an item when the customer provides the materials. Fabrication labor is taxable when the item being modified or created is taxable.

Installation labor means labor to set an item into position or to connect, adjust or program it for use, or to add something new or different to an item. Installation labor is taxable whether provided by the seller of the item or by a third party, if the installation would be taxable if provided by the seller of the item. Installation labor includes replacement of a component part when the new part is an upgrade of the old part, or when the new part is significantly different from the original component part, regardless of whether the old part malfunctions or not. Installation labor does not include the removal or replacement of a defective part. Installation labor does not include labor resulting in an alteration, repair or improvement to real property.

Repair labor means labor to mend or restore an item that was broken, worn, damaged, defective, or malfunctioning, to working order or operating condition so that it can be used for its original purpose. Repair labor includes maintenance labor that sustains or supports safe, efficient, continuous operations; or to keep something in good working order by preventing decline, failure, lapse, or deterioration. Repair labor is exempt if the repair charges are separately stated from taxable repair parts or other taxable items on the bill to the customer.

A charge to replace a malfunctioning component part of an item with a comparable part is considered nontaxable repair labor. However, when the new part is significantly different from the original component part, or is an upgrade, the replacement labor is considered taxable installation labor.

Examples

The following are examples to illustrate the difference between taxable and exempt labor charges. For sales made after July 1, 2002, if the installation charges would be taxable by the seller, they are also taxable when performed by a third party.

1. A company sells computer equipment, including hook-up and installation charges. The company bills separately for computer set-up, hook-up to peripheral equipment, networking the computer with other computers in the office, and installing software that comes with the computer. In addition, the seller charges to install software that the customer owns and previously used on a different computer. All of the charges are taxable as part of the sales price of the computer equipment except the charge to reinstall the customer's own software. The charge to reinstall the customer's software is not taxable if the charge is clearly identified as a separate charge on the customer's bill.

2. A computer consulting business is hired to provide technical help such as setting up a computer, repairing office machines, installing or upgrading software, migrating information, running payroll, training, and overseeing the installation of new software by others. Since installation labor is labor to set an item into position, or to connect, adjust or program it for use and includes replacement of a component part with an upgrade, the charges for setting up a new computer and installing or upgrading new software are taxable as installation labor. Charges for repair, migration, payroll, training and supervision services are exempt if separately stated. If there is a single charge for all of the services then the entire charge is taxable.

3. As a promotion, a company gives away free prewritten computer software, but charges for installation. Installation charges are included in the definition of sales price so the charge is taxable. If the software is installed by a third party, the charge is also taxable since the seller would have been required to charge sales tax if they had installed the software.

4. A washing machine belt breaks and the service person replaces it with a new belt. The charge for the belt is taxable and the separately stated labor charge to install the belt is a nontaxable repair charge, since the washing machine is being restored to working order.

5. A malfunctioning washing machine is replaced with a new washing machine and the retailer installs it. The washing machine is taxable and the labor charge is taxable installation labor.

6. A business purchases an alarm security system and has it installed. In this situation, some components of the security system become real property while others remain taxable tangible personal property. If the items are attached to real property, the charges to install them are not taxable, since the installer is altering, repairing, or improving real property. However, the installer, or whoever paid for the materials, must pay tax on the cost of materials that become real property. Charges for items that are freestanding and the charges to install them are taxable. If the invoice breaks out charges for the various components of the system and the installation labor charges, only the charges for the freestanding items and the charges to install them are taxable. If there is a single charge for installing all of the equipment, the entire installation charge is taxable.

7. A customer purchases a freestanding dock in the spring and the seller installs it. The dock and initial installation charges are taxable. The customer pays to have the dock removed in the fall and installed again in the spring. Charges to remove the dock and to reinstall it are not taxable.

8. A business purchases freestanding modular workstations and contracts with the seller to install them. Charges for the workstations and for the installation are taxable. A few years later, the business moves to another location and pays to have the workstations disassembled and reinstalled at the new location. Charges to disassemble and reinstall the workstations are not taxable.

9. A car radio is broken. The repair consists of replacing comparable parts in the radio. The charges for materials and labor are separately stated. The charge for parts is taxable and the charge for repair labor is exempt.

10. A car radio is replaced with an upgraded radio/CD player. The labor to install a new radio/CD player is taxable since the radio is not being repaired. Tax is imposed on installation of upgrades and of new component parts that are significantly different from the original component parts.

11. An AM/FM car radio is broken and is replaced with a comparable AM/FM radio. The charge for the radio is taxable; a separately stated charge for labor to install the new radio is exempt as repair labor, since the new radio is not significantly different than the broken radio.

12. A company adds a sunroof, remote car starters, and seat warmers to a car. The total charges to the customer for materials and labor are taxable since charges for the parts are taxable and the labor to add these items is taxable fabrication labor.

13. A company adds a bed liner to a truck, either by installing an already made insert or by spraying a product on the truck bed. The total charges to the customer for materials and labor are taxable since charges for the parts and/or spray product are taxable, and the labor to add the items is taxable installation labor.

14. A customer contracts with a machine shop to gun-drill some steel rods that the customer provides. Even though the customer provided the materials, the labor is considered taxable fabrication labor.

Revenue Notice # 91-20: Sales and Use Tax – Vehicle Accessories – Tax Base – Fabrication of Tangible Personal Property and Installation Charges is hereby revoked.

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for Tax Policy and External Relations
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