

Department of Revenue

Revenue Notice # 03-12: Sales and Use Tax – Sales Price - Separately Stated Charges

Background

Minnesota Statutes, section 297A.61, subdivision 7, defines “sales price” and provides that certain items, which are identified in subdivision 7, can be deducted from the gross receipts received by the seller to arrive at the amount subject to the sales tax. Subdivision 7 provides that certain discounts allowed by the seller and taken by the purchaser, interest and carrying charges from credit extended to the purchaser, and taxes legally imposed directly on the purchaser can be deducted in arriving at the sales price.

Issue

What items can be separately stated by the seller on an invoice or billing to the purchaser and thereby not be subject to the sales tax? What methods or modes of separately stating items on an invoice or billing are acceptable?

Department Position

Sales tax should not be imposed upon separately stated charges for certain discounts, carrying charges and taxes as provided in Minnesota Statutes, section 297A.61, subdivision 7. In addition to separately stating the statutory deductions to the sales price, sellers may under certain circumstances separately state nontaxable goods or services that are being sold by the seller as part of the same transaction. When a bundled transaction includes both taxable and nontaxable goods or services being purchased together from the same retailer, the total amount of consideration received by the seller will be the sales price, unless the nontaxable goods or services are stated separately at the time of sale to the purchaser. Revenue Notice # 00-04 sets forth the department’s position as to when nontaxable goods or services can be separately stated.

To separately state an item in a bundled transaction, the seller must provide the purchaser with a copy of an invoice or billing which contains a separate line item identifying the non-taxable item or items and the amount of consideration attributable to that item or items. The amount of consideration attributable to each item must be consistent with economic reality and be based upon the fair market value of the good or service being transferred to the purchaser. All separately stated deductions to the sales price must be ascertainable at the time of sale and cannot be established by events occurring after the sale. Reducing the tax rate applied to the items being purchased is not allowed as a method of separately stating the statutory deductions allowed to the sales price under Minnesota Statutes, section 297A.61, subdivision 7. Providing information that allows the purchaser to calculate the statutory deductions, without separately stating the amount of the deductions, is not allowed as a method of separately stating the deductions.

Examples

A retailer sells a widget on credit for \$205, which includes \$200 for the widget and \$5 carrying charges. The retailer separately states the carrying charges if its invoice includes the following:

Widget	\$200
Carrying Charges	5
Sales Tax (6.5%)	13
Total	\$218

The retailer does not separately state the interest if its invoice includes the following:

Widget & Carrying Charges	\$205
Sales Tax (6.5%)	13
Total	\$218

Although the purchaser can calculate the amount of carrying charges from the information provided, it is not separately stated. Moreover, the tax is incorrectly stated to be \$13. The tax should be \$13.33 based upon a sales price of \$205 because the interest is not separately stated.

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Assistant Commissioner

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