

This notice was revoked and replaced on May 30, 2000 by Revenue Notice # 00-06. Please see Revenue Notice # 00-06.

Minnesota revenue notice number 98-16

Sales and Use Tax & Solid Waste Management Tax - Charges for Using Waste Compactors and Containers

Pursuant to Minnesota Statutes, Chapter 297H, a solid waste management tax is imposed on waste management services. "Waste management services" means waste collection, transportation, processing, and disposal. "Waste management service provider" means any party that directly bills the waste generator for waste management services. This includes waste haulers, waste management facilities, utility services, and political subdivisions of the state. "Mixed municipal solid waste" means garbage, refuse, and other solid waste from residential, commercial, and community activities that the waste generator aggregates for collection.

Compactors or Waste Collection Containers Used for Mixed Municipal Solid Waste

In general, when waste management service providers provide compactors or waste collection containers to generators in connection with mixed municipal solid waste management services, the compactors or containers are considered part of the waste management services. Consequently, the total charge for the services provided including any charges for compactors or containers is subject to the solid waste management tax.

Separately stated charges on bills to generators for compactors or containers used for mixed municipal solid waste are not subject to sales or use tax but are subject to the solid waste management tax. In addition, the waste management service provider must pay sales or use tax on their purchase of compactors or containers, even if there is a separate agreement for the lease or rental of the compactor or container between the waste management service provider and the generator.

Compactors or Waste Collection Containers Used for Non-Mixed-Municipal Solid Waste

"Non-mixed-municipal solid waste" means construction and demolition waste, infectious and pathological waste, and industrial waste that is collected, transported, processed and disposed of separately from mixed municipal solid waste. Separately stated charges on bills to generators for compactors or containers used for non-mixed-municipal solid waste are not subject to the solid waste management tax. The charge to the generator for the compactor or container is also not subject to the sales or use tax. However, the waste management service provider must pay sales or use tax on their purchase of compactors or containers used for non-mixed-municipal solid waste.

Compactors or Waste Collection Containers Used Alternately for Either Mixed Municipal Solid Waste or Non-Mixed-Municipal Solid Waste

If a compactor or container is used alternately for either mixed municipal solid waste or non-mixed-municipal solid waste, the provider of the waste management service must pay sales or use tax on their purchase of compactors or containers and charge the solid waste management tax rate when it is used for mixed municipal solid waste.

Compactors or Waste Collection Containers Used for Recycling

Since a separately stated charge for recycling is exempt from the solid waste management tax, if the recycling service includes the use of a compactor or container, a separately stated charge for the compactor or container used for recycling is also exempt from the solid waste management tax. The charge to the generator for the compactor or container is also not subject to the sales or use tax. However, the provider of the recycling service must pay sales or use tax on their purchase of compactors or containers used for recycling.

Exception # 1: Separate Legal Entity

If a generator receives a bill from a separate legal entity other than the waste management service provider for the rental or lease of a compactor or container for any use, the compactor or container charges are not subject to the solid waste management tax. However, the charges are subject to the sales and use tax as the rental of tangible personal property. The container provider may purchase the compactors or containers exempt from sales and use tax for the purpose of resale.

Exception # 2: Sales of Compactors or Containers

If a waste management services provider sells a compactor or container to a waste generator for any use by the generator and bills the generator a separately stated charge for the compactor or container, the provider may purchase the compactor or container from their supplier exempt for the purpose of resale. While the charge is not subject to the solid waste management tax, the provider must charge sales tax on the sale of the compactor or container to the generator.

Exception # 3: Conditional Sales of Compactors or Containers

If a contract designated as a lease of a compactor or container exists between the waste management services provider (lessor) and waste generator (lessee) and (1) the contract binds the lessee for a fixed term, and (2) the lessee is to obtain title at the end of the term of the agreement, or (3) has the option at that time to purchase the compactor or container for a nominal amount, the contract is regarded as a sale and not as a lease. Nominal amount means one percent or less of the value of the full contract amount for the compactor or container at the time the contract is signed.

Consequently, the lessor may purchase the compactor or container from their supplier exempt for the purpose of resale and the charge will not be subject to the solid waste management tax, provided the lessor charges sales tax on the entire contract amount for the compactor or container at the time the contract is signed.

Dated: 24 August 1998

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