

Minnesota Department of Revenue

Revenue Notice # 18-05: Sales and Use Tax – Lease or Rental of Tangible Personal Property—Portable Toilets

Introduction

This revenue notice explains the sales tax treatment of the lease or rental of portable toilets when the transaction also requires the lessor to service the toilet by providing services such as cleaning and removal of human waste.

Background

Minnesota Statutes section 297A.61, subdivision 7 defines “sales price” as “the measure subject to sales tax, and means the total amount of consideration, . . . for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for . . . (3) charges by the seller for any services necessary to complete the sale.”

A lease or rental of a portable toilet is a retail sale within the meaning of *Minnesota Statutes* section 297A.61, subdivision 4. Sellers ordinarily require not only the lease or rental of the portable toilet but also the periodic cleaning of the toilet and the removal of the waste. The portable toilets cannot be leased or rented without also purchasing the services. This is consistent with *Minnesota Rules* part 7080.2450, which requires waste from portable toilets (i.e., toilet waste treatment devices, as defined at *Minnesota Rules* part 7080.1100, subpart 86) to generally be disposed of by a licensed maintenance business.

Department position

The lease or rental of portable toilets with related maintenance, waste removal and cleaning services constitutes the sale or lease of tangible personal property. When *Minnesota Rules* part 7080.2450, subpart 6, requires waste from a portable toilet to be disposed of by a licensed maintenance business, such that the lessee or renter must purchase the maintenance, waste removal and cleaning services, these services are necessary to complete the sale (the lease or rental) of the portable toilet. Regardless of whether the price for the lease or rental of the property and the price for services are separately stated, the entire contract price of those sales is subject to sales tax because they are necessary to complete the sale.

This revenue notice is effective for sales and purchases made after 60 days of the publication date of this notice.

Publication Date: December 24, 2018


Lee Ho, Deputy Commissioner