

# Minnesota Department of Revenue

## Revenue Notice # 24-01: Sales and Use Tax – Sale and Purchase – Third-Party Installation Services

### Introduction

This Revenue Notice states the department's position on the taxability of third-party installation services according to *Minnesota Statutes*, section 297A.61, subdivision 3, paragraph (j). This section states that "[a] sale and a purchase includes the furnishing for a consideration of installation if the installation charges would be subject to the sales tax if the installation were provided by the seller of the item being installed."

*Minnesota Statutes*, section 297A.61, subdivision 4, paragraph (a), clause (2), defines "retail sale" to include the services listed in *Minnesota Statutes*, section 297A.61, subdivision 3, for any purpose other than resale by the purchaser in the normal course of business. *Minnesota Statutes*, section 297A.61, subdivision 7, paragraph (a), clause (5), defines "sales price" to include installation charges.

### Department Position

Installation by a third-party is only taxable if the installation would have been taxable if the seller of the item had also provided the installation. If an installer did not sell the item that is being installed to the purchaser, the installer must determine if charges for installation would have been taxable if the seller that sold the item had also installed the item.

Generally, if the sale of an item is taxable, then charges for installation are also taxable. If charges for installation would have been taxable if the seller of the item had installed it, then a third-party installer must collect sales tax on the installation charges. If the sale of the item is not taxable, then charges for installation of the item are not taxable, regardless of who installs it.

#### Example: *Prewritten Computer Software*

Company A sells prewritten computer software to a customer. The customer does not purchase software installation services from Company A. The sale is sourced as required under *Minnesota Statutes*, section 297A.668, subdivision 2, and the appropriate sales tax is paid. Three months later, the customer hires Company B to install the software purchased from Company A. The sale of software installation services by the third-party, Company B, are taxable because the installation services would have been taxable if Company A had installed the software.

#### Example: *Isolated and Occasional Sales*

Person A sells their used car stereo to their sibling, Person B. No sales tax is due because the sale is exempt as an isolated and occasional sale. One month later,

Person B hires a company to install the car stereo in their car. The installation of the car stereo by the company is not taxable because, if Person A had installed the car stereo, charges for installation would not have been taxable. If Person A had installed the car stereo into Person B's car and charged for the installation, the installation charge would not have been taxable because the sale of the car stereo was exempt from sales tax.

Because Person B is not a business, Person B would likely not have an exemption certificate (Form ST3) to provide to the company. To establish that the charge for installation services was not taxable, the company would need to document in their records that Person B's purchase of the car stereo was not taxable.

However, in some situations, such as with improvements to real property, a sale of an item that is otherwise taxable is not taxable when sold with installation. If the sale of an item would not have been taxable if sold with installation, charges for installation of the item by a third-party installer are not taxable.

Example: *Contractor-Retailers*

Contractor A sells and installs carpeting. A customer purchases carpeting from Contractor A without installation. This is a retail sale of tangible personal property and subject to sales tax. One month later, the customer hires Contractor B to install the carpeting into their home. The installation of the carpeting by the third-party, Contractor B, is not taxable because, if Contractor A had installed the carpet, charges for installation would not have been taxable. If Contractor A had installed the carpeting, the installation charge would not have been taxable because the sale of carpeting, including installation, is an improvement of real property not subject to sales tax.

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