



NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER GUIDELINE - SALES TAX: SIGN COMPANIES

NATURE OF THE BUSINESS

Sign companies generally manufacture signs, erect signs, perform service work and maintenance on existing signs, and make retail sales or rentals of these products. This variety of activity involves different methods of computing sales or use tax.

ROADSIDE BILLBOARDS AND ADVERTISING SIGNS

Many sign companies construct and erect roadside and advertising signs. These billboards and signs are sometimes prefabricated in the sign company's workshop and then transported to the location where the sign or billboard is erected. The sign company generally affixes the signs to the ground by means of poles buried in the ground, generally reinforced by brackets or guy wires. In this instance, the billboard or roadside sign becomes a fixture into real property. Whenever this occurs, sales tax does not apply to the sale or rental of that sign, instead the sign company is responsible for paying sales or use tax on the materials used to construct and erect that sign. The fact that the sign or billboard has been affixed to the ground makes it real property rather than personal property and sales tax does not apply on the sale or rental of real property.

SIGNS AFFIXED TO A BUILDING

Advertising signs, including neon signs and other signs which are affixed to a building by means of nails, screws, brackets, or any other method of affixing the sign to the building, are also installations into real property. The fact that the sign company has affixed the sign to a building means that the company has installed that sign into real property. Since the sign is now regarded as "real property," the sign company is not required to charge sales or use tax on either the sale of that sign or any monthly rental charges which the company may make to the customer who orders the sign. Again, the sign company is responsible for sales or use tax on the cost of material used to manufacturer and affix that sign. This is true even though the sign may be readily removed from the building by simply pulling out the nails or removing the brackets which hold the sign.

FREE STANDING SIGNS AFFIXED TO THE GROUND

In the sign industry, a "freestanding sign" is not a portable sign, but rather one that is affixed to the ground and not affixed to a building. For sales tax purposes, these signs are taxed the same way as roadside billboards and signs or signs which are affixed to a building. Freestanding signs are generally affixed to the ground by means of a pole which is set into the ground and cemented. Since the sign has been affixed to the ground, it is an installation into real property, and no sales tax should be charged on the sale of that sign to a customer or the monthly rental of that sign to a customer. The sign company must instead pay sales or use tax on the cost of material used to manufacturer and erect that sign.

PORTABLE SIGNS AND POSTERS

Portable signs and posters, which are prepared by a sign company and simply sold or rented to a customer and which are not affixed to any building or to the land, are personal property and their sale or rental is subject to sales tax. In these instances, the sign company is manufacturing or producing a finished product, and the retail selling price of that product is subject to tax. If the sign company rents that sign to a customer, the rental charges

are subject to sales tax. Examples include posters which are prepared for store windows, a portable sign which may be moved from place to place and which is equipped with a stand or legs, and plastic advertising signs which adhere to the surface of a car. Small wooden or metal signs warning of “road construction” or “men working” are also considered to be portable even though they may be temporarily installed by means of poles or posts sunk into the ground. The evident temporary nature of these signs makes them personal property and, as such, the sale or rental of these signs is taxable. Since the finished product (that is, the portable sign or poster) is going to be subject to sales tax, the sign company does not pay sales or use tax on the material used to manufacture that sign.

LETTERING, SIGN PAINTING AND OTHER SERVICE WORK

Many sign companies are also in the business of lettering storefronts, truck doors and similar spaces for advertising or informational purposes. In addition, many sign companies will take material which has been provided by the customer and simply letter or paint a sign on the customer’s property. In both of these instances, the lettering or sign painting is a nontaxable service and the charges for that service are not subject to North Dakota sales or use tax. However, all of the materials which are used by the sign company to provide this service are subject to sales tax. For example, a sign company may employ someone who is skilled in lettering. If that employee is sent out to letter an advertising sign on the side of a truck, the charge which the sign company makes to the truck owner is not subject to sales tax; however, the brush which the employee used, as well as the paint, paint thinner, stencils or other materials used by the employee in rendering this service are subject to tax when the sign company purchases them.

MAINTENANCE AND REPAIR OF SIGNS

Maintenance and repair of signs which are either owned by the sign company or by a customer of the sign company are nontaxable services. The materials which the sign company uses in such work, however, are subject to sales or use tax. For example, if a sign company agrees to sell or rent a roadside sign to a customer and then agrees to maintain that sign for a monthly or annual fee, that fee is not subject to sales tax since it is a service fee. However, the cost of the paint, brushes, sandpaper and various other consumable items which the sign company uses to maintain that sign are subject to sales and use tax and the sign company is liable for that tax at the time it purchases those consumable items.

PURCHASES SUBJECT TO USE TAX

Whenever a sign company renders a nontaxable service, such as lettering or painting a sign on the customer’s property or maintenance of a sign which has been sold or rented to a customer, the sign company is responsible for sales tax on the cost of materials used in rendering that nontaxable service. Some of these materials include lumber, sand paper, paint, paint thinner, brushes, putty, and similar consumable items. In addition, any machinery, equipment, office equipment, office supplies, uniforms, gloves and similar items purchased by a sign company for use by its employees in the day-to-day operation of the business, are purchases for final use by the sign company and are subject to sales tax. Similarly, any items purchased by the sign company for advertising purposes such as give-away items, calendars and the like are also subject to tax since the sign company is the final user of these items, even though it chooses to give them away to its customers.

When taxable items are purchased from a supplier who holds a North Dakota sales and use tax permit, sales tax should be paid directly to that supplier. If these items are purchased from a supplier who fails to charge North Dakota sales or use tax, the purchaser should include the cost of the purchases on line three of the North Dakota sales and use tax return and remit the use tax on these items directly to the Office of State Tax Commissioner.