

Lawn and Garden Care, Tree and Bush Service, Landscaping

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Sales Tax
Fact Sheet

Taxable services

Lawn and garden care, indoor plant services

Taxable services include:

- aerating
- dethatching
- diagnosing lawn condition by physical exam (when it results in the sale of a taxable service)
- fertilizing, both lawn and garden
- garden maintenance, both vegetable and flower
- garden seed planting
- garden tilling and soil preparation
- indoor plant care
- killing weeds, insects, rodents, or fungi
- lawn mowing and trimming
- picking up pet droppings
- raking (including power raking)
- reseeding lawns, not including the initial seeding
- spraying, both lawn and garden
- watering, both lawn and garden

Lawn means a tended area of ground covered with grass or other ground cover, such as in yards, parks and golf courses. Ditches and medians along roads, freeways, and railroad right-of-ways are usually not considered to be lawns.

Nontaxable services include:

- landscaping (see *Landscaping* on page three)
- installing sod
- planting trees, bushes, or other types of plants
- planting flower or vegetable plants
- cleaning or maintenance of an outdoor pond
- snow shoveling or snow plowing
- applying ice-melt or sand to driveways, sidewalks, or parking lots
- services by a person who is not in the business of providing these services. Being “in the business” includes but is not limited to soliciting sales, advertising, and entering into written contracts to provide services. For example: A person mows the grass for a next door neighbor for pay. Unless the person is employed by a business to perform this service or has established his or her own business, the charge is not taxable.

Tree, bush, and shrub services

Taxable services include:

- sprigging
- stump grinding
- tree, bush, shrub and stump removal
- tree, bush, and shrub trimming, pruning, bracing, spraying, and surgery

These services are taxable even if they are necessary as part of storm or disaster cleanup.

Beginning October 28, 2002, these services are taxable even if sold to a contractor and used by the contractor to complete a construction contract involving new construction, reconstruction, or remodeling of a building or residence. Prior to that date, the department took the position that tree or stump removal or stump grinding provided in connection with new construction, reconstruction, or remodeling of improvements to real property were not taxable.

Nontaxable services include:

- moving trees, shrubs, etc., from one location to another
- tree, bush, and shrub planting

See *Landscaping* on page three.

Utility lines

Charges for tree, brush, and shrub trimming, cutting and spraying services performed under utility lines are taxable, including separately stated labor, equipment or chemical charges.

Mowing or spraying to control or kill weeds under utility lines, in ditches along roads, freeways, and railroad right-of-ways is not taxable, unless the area is a lawn or garden.

Cemetery maintenance

Since July 1, 2000, all of the taxable services described on this page are exempt from tax if they are for maintenance of cemetery grounds for human burial.

Purchases

Exempt purchases

Since July 1, 1999, you may buy certain materials you use or consume directly in providing taxable lawn and garden services, and tree, bush, and shrub services, exempt from sales tax. Give the seller a Certificate of Exemption, Form ST3, to claim exemption. Use Exemption Code I and write in, "Materials used to provide taxable services."

Examples of exempt purchases:

- chemicals used to treat waste generated as a result of providing the taxable service
- fertilizers
- flower or garden seeds
- grass seed for taxable reseeding
- fuels, lubricants, and antifreeze for equipment such as mowers, tillers, chainsaws and chippers
- pesticides, insecticides and weed killers
- pots (disposable), pot fillers and plants for indoor plant care

Note: If you buy materials exempt from tax but use them in providing *nontaxable* services, you must pay use tax on those materials. Also, this exemption applies only to businesses providing taxable services and does not extend to individuals or businesses purchasing materials for their own use.

Separate detachable units

There is also an exemption for separate detachable units used in providing taxable services. To qualify for exemption, the item must meet all **three** of the following requirements:

1. It must be used in providing a taxable service.
2. It must be an accessory tool, equipment, or other item that attaches to a machine while in use.
3. Its ordinary useful life must be less than twelve months when used in providing taxable services under the normal use of the taxable service provider.

Examples of separate detachable units:

- lawn mower blades
- chain saw blades
- trimmer wire or line

Separate detachable units do not include the basic machine or any components included in the original purchase price. *Hand tools* such as hammers, screwdrivers, knives, and power hand tools are not separate detachable units and are taxable. *Repair parts* are also taxable.

Taxable purchases

Examples of taxable purchases:

- administrative supplies and materials
- building cleaning and maintenance services
- chemicals, cleaning agents, and water used to clean buildings, equipment and vehicles
- equipment, machinery, accessories and tools
- fuel, electricity and gas for space heating or lighting
- furniture and fixtures
- hand tools
- linen supply or other laundry services
- lubricants and antifreeze for vehicles used to haul equipment or employees to job sites
- office supplies
- repair parts
- security services
- specialty advertising materials
- telephone service
- training materials and supplies

Pay sales tax to the seller when you buy these items or report use tax on your cost of the items. See **Use tax** on page four.

Vehicles

Lubricants and antifreeze may be purchased exempt for vehicles if 50 percent or more of the mileage is accumulated in *directly* providing a taxable service. Examples of vehicles that *directly* provide taxable services are trucks used to haul away tree trimmings or vehicles used to spray lawns. If less than 50 percent of the mileage is for providing a taxable service, only the portion of the lubricants and antifreeze actually used while directly providing the service is exempt.

Minnesota motor fuel refund

An exemption applies to certain fuels for equipment used directly in providing taxable services. When you buy gasoline from a pump at a gas station, the price already includes the petroleum tax (both state and federal). You may request a refund of the *state* petroleum tax paid on fuel you use in lawn mowers, chain saws, or other *off-road* items that are used in providing taxable services. You do not owe use tax on fuels used in directly providing taxable services.

To request a refund of state petroleum tax paid, call the Petroleum Division at 651-296-1961 and ask for Form PDR-1, Minnesota Motor Fuel Claim for Refund, or download the form from our website.

Landscaping

Contracts to improve real property

Landscaping contracts are improvements to real property and are treated as construction contracts. As a contractor, the landscaper must pay sales or use tax on the cost of all plants, trees, bushes, shrubs, sod, and other materials, supplies, and equipment used to complete the contract. The sales tax should be included as a part of the material costs to the customer, but should not be separately stated on the invoice. Generally, sales tax is paid to the seller at the time materials are purchased. However, if the seller does not charge Minnesota sales tax, the contractor owes use tax to Minnesota on the cost of the materials.

The following are construction contracts:

- building a deck
- grading an area with a bobcat or adding soil
- installing a brick or sand walkway
- installing edging, poly and rock in landscape beds
- installing nightscape lighting
- installing or moving shrubs, plants, sod, trees, bushes
- installing a timber or boulder retaining wall
- installing underground irrigation and sprinkler systems
- topdressing an area with soil, which includes re-seeding or resodding damaged or altered surfaces

Miscellaneous

Growing your own nursery stock

Landscaping contractors who grow their own nursery stock for use in landscaping contracts must pay sales or use tax on the cost of all taxable items used to produce the plants. This includes seed, seedlings, fertilizers, chemicals, water, fuels, and other items. If you sell any of this nursery stock at retail, charge sales tax on the total selling price. Since you already paid tax on your cost of materials, report only the difference between the sales price and your cost of materials to grow them when you electronically file your sales and use tax return.

If you grow nursery stock to sell at retail, items used or consumed in production, such as seeds, seedlings, fertilizers, chemicals, water, or fuels may be purchased without tax by giving the seller a Certificate of Exemption, Form ST3, claiming the agricultural production exemption. *Machinery used directly and principally in production of trees and shrubs for sale at retail qualifies for the farm machinery exemption as of July 1, 2000.* If any of the nursery stock is later used on a landscaping contract or in some other taxable manner, report the cost of the

Retail sales

If you sell shrubbery, plants, sod, trees, bushes, etc., *without installation*, you must collect sales tax. Sales of garden materials and supplies are also taxable. The sale or lease of indoor plants is taxable. You may purchase these items exempt for resale by giving the seller a Certificate of Exemption, Form ST3.

Firewood for recreational or commercial use is taxable. Firewood for residential use is not taxable. See Fact Sheet 157, Residential Utilities, for more information.

Contractor/retailers

Contractors sell and install plants, trees, etc. Retailers sell these items without installation. *Contractor/retailers do both.* The guidelines for when and how you pay tax on the materials purchased are based on whether you are *primarily a contractor or primarily a retailer*. These guidelines are discussed in detail in Fact Sheet 128, Contractors. Call our office, or see our web site for a copy.

Note: *Contractor/retailers:* to determine whether you are primarily a contractor or primarily a retailer, be sure to include the materials purchased to provide taxable services as part of your retail sales.

items or materials subject to use tax when you electronically file your sales and use tax return.

Sales to nonprofit organizations

Qualifying nonprofit organizations must give you a Certificate of Exemption, Form ST3, to claim exemption on purchases of goods or services.

If you have a landscaping contract with an exempt organization, you must pay sales tax on all trees, plants, or other materials used in the landscaping contract. The organization's exempt status does not usually apply to construction contracts unless there is a purchasing agent agreement between the contractor and the exempt entity. For additional information on construction contracts with exempt entities, see Fact Sheet 128, Contractors, and Revenue Notice #95-05: Sales and Use Tax - Construction Contracts - Purchasing Agent Exemption.

Direct pay

Taxable services provided to businesses that have a direct pay number are taxable. Direct pay numbers cannot be used to buy services exempt from tax.

Equipment sales

If you sell equipment or other items that were used in your business, the sale may be subject to sales tax. See Fact Sheet 132, Occasional Sales of Business Equipment and Goods, for more information.

Use tax

Sales tax should generally be charged by the seller at the time of sale. However, if the seller does not charge Minnesota sales tax on equipment, supplies, or other taxable items you purchase for use in your business, you must pay **use tax**. Use tax is due on your cost of the item. Report state and local use when you electronically file your sales and use tax return. See Fact Sheet 146, Use Tax for Businesses, for more information.

You must pay use tax when you:

- buy equipment or taxable supplies directly or by mail, internet, or phone order from a seller outside Minnesota for use in Minnesota when sales tax is not charged by the seller.
- buy equipment or taxable supplies in another state for use in Minnesota and pay tax at a rate lower than the Minnesota rate. Credit is allowed for tax paid to the other state.
- buy items exempt for use in a taxable service, but take the items out of inventory for other business or personal use.
- buy equipment or taxable supplies from a Minnesota seller who does not collect the sales tax, if you put the items to a taxable use.
- buy items for use in an area with a local use tax but only Minnesota state tax was paid—local use tax is due.
- purchased taxable services in Minnesota (such as laundry or linen service, building cleaning, lawn and garden, or security services) but were not charged sales tax.

Local sales and use taxes

If you are located or working in an area with a local tax, local sales or use tax may also be due. Local taxes are listed and explained in detail in Fact Sheet 164, Local Sales and Use Taxes.

Duluth administers its own sales and use tax. For more information, contact Duluth Sales Tax, 105 City Hall, Duluth, MN 55802, phone 218-723-3271.

References

M.S. 297A.61, Subd. 3(g) (5) (vi), Definitions
M.S. 297A.68, Subd. 3, Materials used in providing certain taxable services

Revenue Notice 91-02, Application of Sales and Use Tax to Lawn, Garden, and Arborist Services and Landscaping Contracts

Revenue Notice 94-04, Lawn Care Issues

Revenue Notice 95-05, Construction Contracts - Purchasing Agent Exemption

Revenue Notice 00-03, Exemptions: Materials Used or Consumed in Providing Taxable Services

Revenue Notice 02-18, Taxable services – Tree, Bush, Shrub and Stump Removal; Revocation of Revenue Notice 92-12

Revenue Notice 02-20, Technical Corrections of Prior Revenue Notices

Petroleum Tax Reference: M. S. 296A.16

Other fact sheets you may need:

Farm Machinery, #106

Sales to Government, #142

Use Tax for Businesses, #146

Local Sales and Use Taxes, #164

Guide to Filing and Paying Sales and Use Tax Electronically, #170