



NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER

GUIDELINE - SALES TAX: ADVERTISING AGENCIES

Advertising Agencies Subject to Use Tax

Advertising agencies render service to their clients. Businesses rendering service are consumers, not retailers, of the tangible personal property they use in rendering the service. When ad agencies purchase or acquire tangible personal property which they deliver or cause to be delivered to a client, the ad agencies are the final users of the goods and are subject to sales tax.

The purchase of tangible personal property by an advertising agency is subject to sales or use tax regardless of whether the advertising agency purchases such property as a service for persons or organizations exempt from sales and use tax. The exemptions granted under sales and use tax law are personal and these exemptions cannot be utilized by a person or organization (such as an advertising agency) in purchasing tangible personal property for use in rendering service to its clients.

Sales of Services are Exempt

Sales and use tax does not apply to charges by advertising agencies for services rendered. Examples of these nontaxable services include: writing original manuscripts and news releases; writing copy for use in newspapers, magazines, or other advertising, or to be broadcast on television or radio; compiling statistical data and other information; placing or arranging for the placing of advertising in media such as television, radio, newspapers, magazines, or other publications; organizing billboards and other forms of outdoor advertising; placing cards in cars, buses, and other facilities used in public transportation; and delivering or causing the delivery of brochures, pamphlets, cards, etc. Charges for items such as supervision, consultation, research, postage, express mail, telephone, transportation, and travel expenses, if involved in the rendering of services, are not subject to sales or use tax.

Related Industries

Commercial artists or other persons engaged in the creation or production of drawings, paintings, designs, or other commercial artwork also render service. Businesses rendering services are consumers, not retailers, of the tangible personal property they utilize in providing their services; they are subject to sales tax on all such purchases. Sales by commercial artists of any form of tangible personal property including, but not limited to, drawings, sketches, paintings, illustrations, and other items for use in the preparation or production of advertising are not subject to sales tax.

Layouts consisting of rough working sketches and plans which serve merely as a preliminary guide to the production of commercial advertisements are also regarded as services and are, therefore, not subject to sales tax. Any charges made to the advertising agency for layouts or for finished artwork used in rendering service are exempt from sales tax.

Sales of “commercials” or similar material in the form of discs, records, or tapes by a producer or studio to an advertising agency are exempt from sales tax. Since the majority of the charges for these discs, records, or tapes consist of talent fees, recording costs, and other nontaxable services essential to the production of the finished product, sales of such discs, records, or tapes are sales of professional service and are exempt from sales tax. However, additional “copies” of these products are subject to sales tax.