

8130.0500 LICENSE TO USE.

Subpart 1. **General rule.** When a privilege to possess, use, and enjoy tangible personal property is granted by the owner for a determinate time and on a fixed rental fee basis, or on some other basis that includes a fixed rental fee, and the owner surrenders possession and control under the terms of the agreement to the other party, such arrangement represents a lease. However, where the arrangement contemplates that the owner, for a consideration, will permit the other party to use the property, without the owner divesting physical possession thereof, the arrangement is a "license to use" and is a sale under Minnesota Statutes, section 297A.61, subdivision 3, paragraph (b), clause (2).

Example. A lumber dealer sells lumber of only standard dimensions because the majority of customers are building contractors and generally only require lumber in standard sizes. Whenever large lumber orders of nonstandard dimensions are received, the dealer will either cut the lumber and make an additional charge, or allow the contractor to use the sawing equipment on the dealer's premises for \$15 per hour. The charges made by the dealer, for the use of sawing equipment by the contractor, represent the granting of "a license to use" and are taxable.

Subp. 2. **Computer time exception.** The making available of a computer on a time-sharing basis for use by customers securing access by remote facilities shall not be considered granting of a "license to use." It shall be considered to be the providing of a nontaxable service.

Statutory Authority: *MS s 14.388; 270C.06; 297A.29*

History: *17 SR 1279; L 2005 c 151 art 1 s 114; 31 SR 449*

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