

8130.8800 COMMERCIAL ARTISTS AND PHOTOGRAPHERS.

Subpart 1. **General rule.** Commercial artists and photographers engaged in the creation or production of art work for sale to advertisers, printers, and others for reproduction, display, or use in the preparation or production of advertising or industrial materials, designs, etc., are regarded as retailers for sales and use tax purposes. Consequently, sales by them of drawings, sketches, paintings, illustrations, photographs, motion picture films, audio and video tapes, negatives, transparencies, mats, plates, engravings, designs, lettering, signs, show cards, posters, assemblies (key lining and paste-ups), and all other forms of tangible personal property are subject to the sales and use tax, whether or not the materials utilized are furnished by the customer. The tax applies to the total price charged, including amounts attributable to personal services of models, assistants, etc., and to preliminary art which becomes physically incorporated into finished art as for example, when the finished art is made by inking directly over a pencil sketch or drawing. Separately stated charges for preliminary art, in the form of roughs, visualizations, comprehensives, and layouts, when the preliminary art does not become physically incorporated into finished art shall be considered charges for services and not subject to tax.

Subp. 2. **Retouching.** Retouching constitutes a step in the process of preparing photographs or other art work for reproduction and is done to improve the quality of the reproductions. Tax applies to charges for photo retouching unless it can be clearly demonstrated that the retouching is done only for the purpose of repairing or restoring a photograph to its original condition.

Subp. 3. **Items consumed in production.** Since commercial artists and photographers are engaged in the production of tangible personal property intended to be sold ultimately at retail, purchases by them of items which are used or consumed in such production, whether or not the items so used become ingredients or constituent parts of the property produced, are exempt from the tax in accordance with the provisions of Minnesota Statutes, section 297A.25, subdivision 9. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture, and fixtures used in such production and fuel, electricity, gas, or steam used for space heating or lighting, are not included within this exemption.

Commercial artists and photographers are users or consumers of, and must pay tax on, materials utilized in the preparation or production of preliminary or creative art work used to display ideas to prospective customers where no contract is made for sales of finished art to the customer.

Subp. 4. [Repealed, L 2005 c 151 art 7 s 23]

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

History: *L 2005 c 151 art 1 s 114; art 7 s 23*

Published Electronically: *February 18, 2008*