

1 Department of Revenue

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3 Adopted Permanent Rules Relating to Florists and Nurseries

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5 Rules as Adopted

6 8130.8900 FLORISTS AND NURSERIES.

7 Subpart 1. Taxable transactions. The following
8 transactions are subject to sales or use tax:

9 A. Sales at retail by florists, nurseries, or other
10 producers or vendors of flowers, wreaths, bouquets, potted
11 plants, hospital baskets, funeral designs, seeds, nursery
12 seedling stock, trees, shrubs, plants, sod, soil, bulbs, sand,
13 rock, and all other floral or nursery products, whether grown by
14 such vendors or not, are taxable sales of tangible personal
15 property.

16 When a florist or nursery prepares a floral arrangement for
17 a customer, the entire transaction is taxable, including all
18 charges for labor and materials even if separately stated on the
19 bill.

20 When a florist or nursery prepares a floral arrangement for
21 a customer who has provided the flowers or other materials, the
22 labor charge by the florist or nursery constitutes fabrication
23 labor and is taxable.

24 B. Retailers of floral or nursery products who also
25 perform lawn, garden, arborist, tree, bush, and shrub services
26 must collect tax on those services. Lawn, garden, arborist,
27 tree, bush, and shrub services are taxable pursuant to Minnesota
28 Statutes, section 297A.01, subdivision 3, paragraph (j), clause
29 (vi). These services are taxable even though the services are
30 provided incident to the sale of tangible personal property.

31 C. Purchases of machinery, equipment, implements,
32 tools, accessories, appliances, contrivances, furniture and
33 fixtures, and fuel, electricity, gas, or steam used for space
34 heating or lighting are taxable unless purchased for resale.

35 D. When a Minnesota florist or nursery sells flowers

1 or other tangible personal property to an out-of-state customer
2 and delivers the items to the customer or a third person within
3 this state, that transaction is taxable. An out-of-state
4 customer is one who is not physically present in Minnesota when
5 placing the order. This item only applies to orders taken
6 directly from the customer by the Minnesota florist or nursery.
7 This item does not apply to telegraphic orders as described in
8 subpart 3.

9 E. When a Minnesota florist or nursery sells flowers
10 or other tangible personal property and delivers the items to
11 someone other than the person who made the purchase, the
12 transaction is taxable even if delivery is to a point outside of
13 Minnesota. The transaction is a sale at retail made in this
14 state and thus is subject to sales tax.

15 Subp. 2. Exempt transactions. The following transactions
16 are not subject to sales or use tax:

17 A. Sales of trees, plants, seeds, or similar items to
18 persons for use in agricultural production of tangible personal
19 property for resale are exempt (upon presentation of proper
20 exemption certificates to the vendors). For example, stock
21 purchased for the purpose of reforestation where forest products
22 will be later harvested in the form of Christmas trees, posts,
23 poles, pulpwood, etc., are exempt. See part 8130.5500.

24 B. Purchases by florists, nurseries, or other like
25 producers or vendors of plants and other tangible personal
26 property which are ultimately sold with the plants, including
27 nonreturnable containers, descriptive labels, stickers, and
28 cards affixed to such containers, peat moss, sand, gravel,
29 crushed rock, shavings, sticks, trellises, and plant ties, to be
30 placed in pots or cans with plants, are exempt as purchases for
31 resale. Purchases of nursery stock, seeds, plants, spray
32 materials, and fertilizers to grow nursery stock for resale are
33 exempt as items to be used or consumed in agricultural
34 production. Purchases of electricity and fuel used or consumed
35 in production are also exempt, except that the portion used for
36 space heating or lighting is taxable. See part 8130.5500.

1 C. When a Minnesota florist or nursery sells flowers
2 or other tangible personal property and delivers the items to
3 the customer outside the state by common carrier, parcel post,
4 United States mail, or the florist's or nursery's own delivery
5 vehicles, the transaction is exempt.

6 Subp. 3. **Telegraphic orders.** When florists or nurseries
7 conduct transactions through a florist telegraphic delivery
8 association, or otherwise by telephone, telegraph, or other
9 means of communication with other florists or nurseries, the
10 following rules apply in the application of the tax:

11 A. Where an order for flowers, wreaths, or other
12 tangible personal property is taken from a customer by a
13 Minnesota florist or nursery and transmitted to another florist
14 or nursery located within or outside of Minnesota for delivery,
15 the florist or nursery which initially takes the order from the
16 customer is required to collect the tax.

17 B. Minnesota florists or nurseries who receive orders
18 from other florists or nurseries, whether located within or
19 outside this state, for delivery of flowers, wreaths, or other
20 tangible personal property to locations either within or outside
21 of Minnesota, are not required to collect the tax.

22 C. The sales tax does not apply to telegraph or
23 telephone charges if such charges are separately stated from the
24 price of the flowers or other tangible personal property ordered
25 by the customer.

26 However, the tax does apply to relay or handling charges
27 paid to the florist or nursery which sends an order whether
28 these charges are separately stated or not.

29 The sales tax does not apply to transportation charges to
30 the extent they are separately stated and the transportation
31 occurs after the retail sale.

32 Subp. 4. [See repealer.]

33 REPEALER. Minnesota Rules, part 8130.8900, subpart 4, is
34 repealed.