

Application of Sales and Use Tax to the Sale of Interior Decorating and Design Services Used by Licensed Architects or Engineers

Introduction

This memorandum is intended to answer questions that have been raised about the application of New York State and local sales and use taxes (sales tax) to the sale of interior decorating and design services used by licensed architects or engineers. Specifically, this memorandum addresses the application of sales tax to the sale of interior decorating and design services to:

- a licensed architect or engineer, when the results of the interior decorating and design services are incorporated into the architect's or engineer's signed and sealed documents; and
- a building owner, when the results of the interior decorating and design services are incorporated into the signed and sealed documents of a licensed architect or engineer who has been hired by the building owner.

Taxation of interior decorating and design services

Section 1105(c)(7) of the Tax Law imposes sales tax on receipts from the sale, except for resale, of interior decorating and design services (whether or not in conjunction with the sale of tangible personal property), by whomever performed, including interior decorators and designers, architects, or engineers. However, the Tax Law further provides that interior decorating and design services subject to sales tax **do not include** services that consist of the practice of architecture, as defined in section 7301 of the Education Law, or the practice of engineering, as defined in section 7201 of the Education Law, if the services are performed by an architect or engineer having a license or permit under the Education Law. Therefore, as a general rule, and with certain exceptions not relevant here, the receipts from the sale, except for resale, of interior decorating and design services delivered or used in New York State are subject to sales tax.

Sales of interior decorating and design services used by licensed architects or engineers

The following sets forth the application of sales tax when interior decorating and design services are used by a licensed architect or engineer.

- **Sales of interior decorating and design services to a licensed architect or engineer, when the results of the interior decorating and design services are incorporated into the architect's or engineer's signed and sealed documents, are subject to sales tax.**

The fact that the sale of these services is made to a licensed architect or engineer does not make the sale exempt from sales tax as a service that consists of the practice of architecture or engineering. Also, the resale exclusion does not apply in this situation because the interior decorating and design service is not being resold by the architect or engineer as an interior decorating and design service.

- **Sales of interior decorating and design services to a building owner, when the results of the interior decorating and design services are incorporated into the signed and sealed documents of a licensed architect or engineer who has been hired by the building owner, are subject to sales tax.**

The fact that the work product of the services is incorporated into the final work product of a licensed architect or engineer does not make the sale exempt from sales tax as the sale of a service that consists of the practice of architecture or engineering.

Local sales tax imposed by New York City not applicable to interior decorating and design services

The local sales tax imposed by New York City does not apply to interior decorating and design services. Accordingly, charges for interior decorating and design services delivered in New York City are subject to New York State sales tax (including the tax imposed on behalf of the Metropolitan Commuter Transportation District), but are not subject to the local sales tax imposed by New York City. (See section 1210(a)(4)(iv) of the Tax Law and TSB-M-95(13)S, *Repeal of New York City's Sales Tax on Interior Decorating and Design Services.*)

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.