

Business tax tip #12

Fabrication Labor is Subject to Tax

The sales and use tax applies to charges for the fabrication or assembly of tangible personal property by special order. For this reason, the charges for bringing a new item to its finished state are taxable. On the other hand, charges for repairing or restoring an existing item of tangible personal property to its original condition are not subject to tax.

Does the tax apply to fabrication or assembly labor charges if no sale of materials is involved?

Yes. Fabrication or assembly labor charges are taxable even if the customer provides the materials.

What is a "new item"?

A "new item" means new insofar as the ultimate consumer is concerned. The creation of a new item includes the assembly of a piece of property for the first time but does not include charges for the reassembly of an item disassembled for shipping purposes.

Is work performed on property already in use subject to tax?

Generally not. The tax does not apply to charges for repairing tangible personal property or restoring it to its original condition. A charge for reconfiguring or enhancing existing tangible personal property, unless it results in the creation of a new and different item of tangible personal property, is also not taxable.

Is installation labor taxable?

No. A separately stated installation charge, made known to the customer at the time of sale, is not subject to tax. A charge to place a complete, separable and functioning unit at the job site is an installation charge. However, a charge for assembling raw materials, components, sub-assemblies or parts into a functioning industrial unit or the creation of support systems, such as piping and electrical systems, is subject to tax.

Does the tax apply to out-of-state fabrication?

The tax applies to fabrication labor purchased from out-of-state sources if the property is delivered or brought into Maryland. The value of your own labor applied to your own property, however, is not taxable.

Is a Maryland vendor required to collect the tax on charges for fabricating property which is delivered outside the state?

No. So long as the vendor delivers the fabricated property outside the state, the Maryland tax is not applicable. If the vendor is engaged in business in the state of destination, however, an obligation to collect that state's tax may exist.

What specific types of labor charges are taxable?

The tax applies to any charge for services to bring the subject of a sale to its finished state and in the condition specified by the buyer. These include charges for alteration, lubrication, engraving, monogramming, cleaning, customizing, or dealer preparation.

Does the tax apply to work performed at a job site or on a customer's premises?

Yes. Fabrication or assembly labor is taxable even when performed at a job site or on a customer's premises.

Does this mean that charges for assembling computer workstations and modular office furniture on a customer's premises are subject to tax?

Yes. The tax must be collected on charges for assembling pre-manufactured computer workstations and modular office furniture on a customer's premises for the first time. However, the tax does not apply to a charge for setting completed pieces of office furniture in place. In addition, the tax does not apply to charges for re-arranging existing furniture, adding accessories to existing furniture or reconfiguring existing modular furniture to create additional or fewer units.

What are some illustrations of how the tax applies to fabrication and assembly labor charges?

One of the most familiar areas is the work performed by a tailor. The money a tailor charges for fashioning a piece of cloth into a suit is subject to tax whether the cloth is sold by the tailor or provided by the customer. The money a clothier charges for the alteration of a new suit to meet the requirements of a customer is subject to tax. The tax is also applicable if the customer chooses to have these alterations performed by his own tailor. However, the charge which a tailor makes for altering or repairing a used suit to restore it to its original condition is not subject to tax.