

Issue

Interior design or decorating services may be made up by numerous different components. These components include items such as initial consultation, design or space plan, CAD design, sale of furniture and accessories, and construction and installation services. Interior designers or decorators may work for an hourly fee, percentage of the cost of furniture and other design elements, or for a flat fee for an entire project. The income received from interior design or decorating services may be subject to sales tax depending upon what types of services are performed for the client.

Analysis and Determination

Miss. Code Ann. Section 27-65-3 (h) defines gross proceeds of sales to include the “value proceeding or accruing from the full sale price of tangible personal property, including installation charges, carrying charges or any other addition to the selling price on account of deferred payments by the purchaser, without any deduction for delivery charges, cost of property sold, or other expenses or losses, or taxes of any kind except those expressly exempt by this chapter.”

Additionally, Miss. Code Ann. Section 27-65-3 (i) defines gross income as “the total charges for service or the total receipts (actual or accrual) derived from trades, business or commerce by reason of the investment of capital in the business engaged in, including the sale or rental of tangible personal property, compensation for labor and services performed, and including the receipts from the sales of property retained as toll, without any deduction for rebates, cost of property sold, cost of materials used, labor costs, interest paid, losses or any expense whatever.”

Interior design or decorating services are taxable if they result in the sale of taxable goods or services from the same business that provides the interior design or decorating services, even if the design service fee is separately stated from the sale of the good or service. When a business provides a client with a design service and as a part of such service or subsequent to such service, the business sells any tangible personal property or taxable service to such client, the business must charge sales tax on the entire sales price of the item or on the gross income received from such service if the interior design or decorating service is clearly tied to the sale of the property or service. Interior design or decorating services are clearly tied to the sale of the property or taxable service if one of the following conditions is met:

- 1) The client orders the tangible personal property or taxable service within six months of receiving the related design services; or
- 2) The client orders the tangible personal property or taxable service more than six months after the initial design service if the client and the designer are working on a continual basis on the same project; or

- 3) The client receives a credit against the purchase of tangible personal property or taxable service for the design services that are paid for separately.

### Examples

1. A designer charges a client an hourly fee for services to select furniture and accessories for a new home. The designer also purchases the selected furnishings and bills the client with a 20% markup. The designer bills the client for the hourly design fee separately from the furnishings.

The charge for the design fee and the furnishings are taxable.

2. A furniture store provides design services to its customers at no charge when the client purchases furniture. If the customer does not purchase the selected furniture, the store charges the client for the consultation.

Charges for the consultation only are not taxable.

3. A designer is contracted to design window coverings for its client's new office building. The designer charges the client a flat fee for the design. Three months later, the client contacts the designer and asks the designer to sew the draperies. The designer completes the draperies and sells and installs them in the client's building.

The total amount received by the designer for the design fee and the sale and installation of the draperies is taxable because the initial fee is tied to the sale of the draperies. The designer should also charge tax on the initial design fee when billing the client for the draperies since at the time the design fee was charged; the designer did not know that the fee would be taxable.

4. A designer is contracted to do a CAD for space layout of a new restaurant. The designer completes the space layout and provides specifications for all of the furnishings and appliances for the restaurant. The restaurant purchases the items directly from the restaurant supply store.

The design fee is not subject to tax because the designer is not selling any tangible personal property or providing any taxable services. The restaurant supply store will owe tax on the sale of the furnishing and appliances.

5. A designer is contacted by a client to design a new conference room. The contract calls for a design fee of \$500 for the design service and designer agrees to reduce the total cost of any furnishings purchased by the \$500 design fee. The designer selects furniture costing \$5,000. The client orders the furniture from the designer four months later. The designer bills the client for \$4,500 which represents the \$5,000 cost of the furniture less the \$500 design fee previously paid by the client.

Tax is due on the full sales price of the furniture before any deduction is made for the credit on the interior design fee previously paid by the client since the client received a credit against the purchase of the tangible personal property.

6. A designer is contracted to select all flooring for all the new homes being constructed by a residential home builder in a new subdivision. The designer selects the floor covering and contracts directly with the floor covering store to install the flooring. The designer then bills and receives payment from the home builder for the floor coverings, the related installation charges and the design fee.

The total amount received by the designer from the residential home builder is taxable. The designer will purchase the floor coverings and installation for resale from the floor covering store.

7. A designer is selected to provide design services to a client. The client and the designer select the furnishings from a local showroom. The showroom opens an account in the name of the client. The showroom bills the client directly and the client pays the showroom directly. The designer bills the client an hourly fee for the design services.

The design fee charged by the designer is not subject to sales tax since the client purchases the furnishings directly from a separate entity. The showroom will owe tax on the sale of the furnishings.

8. A designer begins working with a client on January 1, 2007 to select an antique oriental rug for the client's new home. The designer and the client meet once a month for 8 months to look for a rug before the client finally selects a rug. The designer charges the client for the cost of the rug plus 20% for the design service.

The entire charge is subject to tax because the designer and client were working continuously on the project of selecting a rug. If the designer billed the client for the design fee on a periodic basis before the rug was purchased, the designer should bill the tax for the design fee with the charge for the rug since the design fee did not become taxable until the rug was purchased.

Statutes and Rules: Miss. Code Ann. Sections 27-65-3 and 27-65-23

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