

## CHAPTER 12 – SALES TAX CODE

Sec. R12-460.4 Retail sales: professional services.

(a) "Professional Services" refer to services rendered by such persons as doctors, lawyers, accountants, architects, etc. for their customers or clients where the services meet particular needs of a specific client and only apply in the factual context of the client and the final product has no retail value in itself. For example, opinion letters, workpapers, reports, etc. are not in a form which would be subject to retail sales to customers. However, transfer of items in a form which would be subject to retail sales (e.g., artwork, forms, manuals, etc.) would not be considered professional services. The issue is one of fact which must be resolved in each situation.

(b) Creative ("idea") labor and design labor that do not result in tangible personal property that will be or can be sold are deemed professional services and, if charged separately and maintained separately in the taxpayer's books and records, are not includable in gross income.

(c) "Professional services" shall be deemed to include those items of tangible personal property which are incidental to the services rendered, provided such tangible personal property is "inconsequential."

(1) Incidental transfers of tangible personal property shall be regarded as "inconsequential" if,

(A) the purchase price of the tangible personal property to the person rendering the professional services represents less than fifteen percent (15%) of the charge, billing, or statement rendered to the purchaser in connection with the transaction, and

(B) the tangible personal property transferred is not itself in a form which is subject to retail sale.

(2) In cases where the tangible personal property transferred is deemed inconsequential, the provider of the tangible personal property so transferred is deemed the ultimate consumer of such tangible personal property, and subject to all applicable taxes imposed by this Chapter upon such transfer.

(d) Examples:

(1) The transfer of paper embodying the result or work product of the services rendered by an attorney or certified public accountant is regarded as inconsequential to the charges for professional services.

(2) An appraisal report issued by an appraiser, reflecting such appraiser's efforts to appraise real estate, is regarded inconsequential.

(3) Use of a hair care product on a client's hair by a barber or beautician in connection with performing professional services is usually inconsequential. On

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the other hand, if the barber or beautician supplies the customer with a bottle of the product for the client's use thereafter and without the professional's assistance, the transfer of the bottle of hair care product is deemed not inconsequential.

(4) If a mortician properly segregates his professional services from other taxable activities on his bill (invoice, contract), his gross income would include only the income derived from the sale of tangible personal property (casket, cards, flowers, etc.) and rental, leasing, or licensing of real and tangible personal property. His charges for professional services (embalming, cosmetic work, etc.) would not be includable in gross income.

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