

CHAPTER 55. SERVICES

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§ 55.1. Automobile towing service.

The charge made by a garage for the towing of an automobile is a service charge not subject to tax under the TRC.

§ 55.2. [Reserved].**§ 55.3. [Reserved].****Source**

The provisions of this § 55.3 reserved March 19, 1993, effective March 20, 1993, 23 Pa.B. 1322. Immediately preceding text appears at serial page (105795).

§ 55.4. Taxidermy service.

(a) Persons engaged in the business of performing taxidermy services upon birds, animals, fish or other personal property are vendors of the service so rendered and shall collect sales tax upon the entire charge made for the work, including charges for time, labor, materials, service and the like. Effective March 4, 1971, separately stated charges for the delivery of the finished product to the customer are subject to tax. Prior to March 4, 1971, the separately stated delivery charges were not subject to tax.

(b) A taxidermist is liable for tax upon the purchase or use of tangible personal property, such as machinery, equipment, tools and supplies, which is used but does not physically transfer to the customer or to the customer's property. With respect to materials which are to be physically transferred to the customer's property, the taxidermist is entitled to give the supplier a proper Resale Exemption certificate.

§ 55.5. Cleaning of animals.

The cleaning of animals, pets, show animals, and the like, for a fee is a taxable service whether performed by a veterinarian or other person. Cleaning services performed by a veterinarian for the purpose of or incidental to medical treatment are not subject to tax. Cleaning includes, but is not limited to, activities such as washing the animal, cleaning the eyes and ears, and clipping or trimming the nails and coat.

§ 55.6. Lawn care services.

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Lawn—An area maintained with grass adjacent to a building. The term does not include athletic fields, cemeteries, golf courses, fields, parks and public utility or highway right-of-ways.

Lawn care service—Providing services for lawn upkeep including fertilizing, lawn mowing, shrubbery trimming or other lawn treatment services.

Shrubbery—A woody plant that produces branches or shoots from or near the base.

Tree—A woody plant with a main stem and usually having a distinct head.

(b) *Scope.* The sale at retail or use of lawn care services performed in this Commonwealth is subject to tax.

(c) *Examples of taxable services.* The following are examples of taxable lawn care services:

- (1) Fertilizing lawns.
- (2) Mowing, trimming, cutting or edging lawns.
- (3) Dethatching lawns.
- (4) Applying herbicides, insecticides or fungicides to lawns.
- (5) Raking grass on lawns.
- (6) Applying treatments for weed, pest, insect or disease control to lawns.
- (7) Watering lawns.
- (8) Applying lime to lawns.
- (9) Aerating lawns.
- (10) Providing lawn evaluation, consultation or soil testing services on lawns, if purchased in conjunction with other lawn care services, regardless of whether the costs of the lawn evaluation, consultation or soil testing services are separately stated on the invoice.
- (11) Overseeding, sodding or grass plugging of existing lawns.
- (12) Trimming or pruning shrubbery when performed in conjunction with other lawn care services.

(d) *Examples of nontaxable services.* The following are examples of services which are not taxable lawn care services:

- (1) Seeding, sodding or grass plugging to establish a new lawn. Seeding, sodding or grass plugging in conjunction with building construction will be presumed to be a new lawn.
- (2) Trimming, pruning or fertilizing trees.
- (3) Planting or removing shrubbery or trees.
- (4) Providing lawn evaluation, consultation or soil testing services, if not purchased in conjunction with other lawn care services.
- (5) Designing lawns or landscapes.

(6) Applying herbicides or fungicides to shrubbery, trees, flowers or vegetables.

(7) Maintaining shrubbery, flower or vegetable beds, such as by mulching, tilling, weeding or fertilizing.

(8) Separately stated charges for leaf raking.

(e) *Purchase price.* Tax shall be imposed on the total charge for lawn care services. The failure to separately state charges for lawn care services from other nontaxable charges on the same invoice requires the charging of tax on the total invoice amount.

(f) *Exemptions.*

(1) Lawn care services are not subject to tax if purchased by qualified institutions of purely public charity, charitable organizations, volunteer fire companies, religious organizations and nonprofit educational institutions, except if used in an unrelated trade or business; the Federal government or its instrumentalities; or the Commonwealth, its instrumentalities or subdivisions, including public school districts. The purchase of lawn care services is subject to tax if purchased by persons engaged in the business of manufacturing, mining, processing, public utility, farming, dairying, agriculture, horticulture or floriculture, as those terms are defined in section 201(k)(8) and (o)(4)(B) of the TRC (72 P. S. § 7201(k)(8) and (o)(4)(B)).

(2) The vendor of lawn care services may claim the resale exemption upon its purchase of tangible personal property that is transferred to the purchaser or a third party in the performance of the lawn care services. The vendor may also purchase lawn care services from another provider and subsequently resell the services to a purchaser. The vendor may not claim the resale exemption upon its purchase of administrative supplies or the purchase of other taxable services that it may use but not transfer in the performance of its lawn care services.

(i) The following are examples of property that may be purchased exempt for resale when transferred to the purchaser in the performance of lawn care services:

(A) Herbicides, insecticides, fungicides or other chemicals that are applied to lawns.

(B) Grass seed, sod, grass plugs, straw, fertilizers or lime applied to lawns.

(ii) The following are examples of taxable property when used in the performance of lawn care services:

(A) Mowers; edgers; or pruning, dethatching, aerating or mulching equipment, including motor oil and gasoline used in the equipment.

(B) Rakes, shovels or hoes.

(C) Spray applicators.

(D) Testing kits.

(E) Lawn sweepers.

(F) Other tangible personal property and services used in connection with the performance of lawn care services such as invoices, sales receipts, contracts, estimate sheets, confirmations and other similar items.

Authority

The provisions of this § 55.6 issued under section 270 of the Tax Reform Code of 1971 (72 P. S. § 7270).

Source

The provisions of this § 55.6 adopted August 4, 2000, effective August 5, 2000, 30 Pa.B. 3935.

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