



## **THE INCIDENTAL INSTALLATION RULE:**

### **SALES AND USE TAX CHANGES AFFECTING SELLERS OF WALL TO WALL CARPET, HOUSEHOLD APPLIANCES, AND OTHER HOUSEHOLD IMPROVEMENTS**

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Major tax legislation was enacted in 1989 affecting retail dealers of wall to wall carpet, household appliances, draperies, awnings and other home improvements. These changes are effective July 1, 1989. The purpose of this publication is to provide general information concerning these changes and is not a substitute for tax laws or regulations.

#### **SALES AND INSTALLATION OF WALL TO WALL CARPET AND CERTAIN HOUSEHOLD APPLIANCES SUBJECT TO SALES TAX**

The new law affects retailer/dealers who install wall to wall carpeting, certain household appliances, drapery rods, window shades, venetian blinds, canvas awnings and mobile homes which are sold from the inventory of the retailer and when the installation of the product is incidental to the sale of the product.

Prior to July 1, 1989, the sale and installation of these types of products were usually considered to be "contracting" activities and were exempt from the consumers sales and service tax and use tax. Effective July 1, 1989, these transactions will no longer be considered exempt "contracting" activities and will require the retailer of the product to collect the 6% sales tax or use tax from his customer on the sale of the product and any labor and material charges for the incidental installation of the product.

The new incidental installation rule applies to transactions which will meet ALL THREE of the following conditions:

- (1) The product is sold by a retail dealer who maintains an inventory of the product or similar products; **AND**
- (2) The product is installed by the retail dealer or his agent; **AND**
- (3) The installation is incidental to the sale of the product.

In determining whether the installation of the product is considered "incidental," a retail/dealer must first determine whether the product is one of the following types of items: wall to wall carpet, mobile homes, window air conditioning units, dishwashers, clothes washing machines or dryers, other household appliances, drapery rods, window shades, venetian blinds or canvas awnings. If the product is listed above, the installation of that product is deemed to be "incidental". If a product is not listed, determinations of whether installation of the product is "incidental" will for the time being be made on a case-by-case basis upon application to the Department of Tax and Revenue.

Effective March 1, 1989 persons engaged in "contracting" activities lost their exemption for purchases made for direct use or consumption in the fulfillment of a contract for the construction, alteration, decoration, repair or improvement to real property and retail sellers of home improvement type products who also installed the products were required to pay sales tax or use tax on any appliances, carpet and materials they purchased or removed from inventory for use in a "contracting" activity. Because of the law change effective July 1, 1989, the retailer who makes incidental installation of his products as discussed above will no longer be required to pay the sales or use tax on any product or materials which will be installed but must collect the sales tax from his customer on the product and any labor and material charges for the installation of the product. The retailer may issue a properly completed exemption certificate to the vendor from which he makes the purchase claiming the exemption for purchases made for resale.

An example of how these changes affect a particular business follows:

A retail dealer of floor covering products sells and installs wall to wall carpet. Under prior law the carpet dealer would have been considered a "contractor" and would not collect the consumers sales tax from his customer. Effective July 1, 1989 the carpet dealer will no longer be considered a "contractor" and will be required to collect the sales tax from his customer on the price of the carpet, materials and installation charges. He will not be required to pay the sales or use tax when he purchases the carpet or withdraws the carpet from his inventory if he claims the exemption for purchases for resale by providing his vendor with a properly completed exemption certificate.

This provision applies only to certain retail dealers who install the product that they sell and does not apply to contractors (who are not retail dealers and do not normally maintain an inventory of these types of products) who furnish carpet, appliances, materials or other products in fulfillment of a contract for construction, alteration, repairs, decorations or improvements which are capital improvements to the property. For information concerning the application of sales tax to contracting activities you may request publication TSD-310.

If you have questions concerning how this law change affects your particular business, contact:

Department of Tax and Revenue  
Taxpayer Services Division  
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