

Aboveground Swimming Pools

This memorandum expresses the policy of the Department of Taxation and Finance on the taxable status of sales and installations of aboveground swimming pools, in accordance with sections 1105(a) and 1105(c)(3) of the Sales and Use Tax Law and section 527.7(b)(4) of the corresponding regulation.

The sale of an aboveground pool is the sale of tangible personal property and the receipts from such sale are subject to tax (section 1105(a)). The installation of an aboveground pool is the installation of tangible personal property which remains tangible personal property after installation, and the receipts from the sale of the installation service are also subject to tax (section 1105 (c) (3)).

The following is a general description of a typical above, round pool installation. Aboveground swimming pools, frames and deck areas are usually assembled with nuts and bolts, take only a short period of time to dismantle, and can be removed without damage to the land. There is no permanent plumbing or other service connection attached to an aboveground pool, although there may be a permanent connection attached such as an electrical hookup (no fault outlet) in order to prevent accidents. The ground may need leveling, soil may be removed to provide for a deep end, or the pool may be installed with a portion underground, depending on the level of the ground, but it is still an installation of tangible personal property. The entire pool is freestanding. The pool's stability depends on the weight of the water it contains and the framework resting on the ground. It does not become a part of the land.

Furthermore, standard retail installment contracts used when financing takes place specify that the buyer, at the time of purchase, agrees that the aboveground pool is and remains tangible personal property for all purposes. Accordingly, an intent to permanently affix the pool to the land does not exist.

Based on the above, vendors of aboveground swimming pools should collect sales tax on the price of the pool at the rate in effect in the locality of delivery; and vendor-installers should collect the applicable sales tax on both the pool and the total installation charge at the rate in effect where the pool is installed.