

Flowers By Wire - Regulation Section 526.7

Effective October 29, 1982, Regulation section 526.7 states Department policy on the application of sales tax to sales of flowers delivered inside or outside New York State, when the transactions are conducted through florists who are members of a telegraphic or telephonic delivery association. This memorandum sets forth and illustrates the policy expressed in the regulation when delivery is made by member florists.

Policy:

New York State and local sales tax is imposed at the rate in effect at the point where the customer places the order with the member florist. Accordingly, such orders being sent into New York State from outside the State by a member florist are not subject to sales or the compensating use tax.

Illustration:

#1. If the member florist, located in New York State, receives an order for flowers and in turn gives telegraphic or telephonic instructions to a second member florist for delivery of the flowers, the New York State florist is liable for collection of the tax at the prevailing rate in the jurisdiction where the order is taken. It is immaterial whether the second florist is located inside or outside the State. Any service, telephone, relay or other charge incurred in connection with the order, is considered to be part of the selling price.

Example:

A member florist located in Albany, New York receives an "over the counter" order to have flowers delivered to Hartford, Connecticut. The Albany florist in turn calls a member florist located in Hartford, for delivery of flowers to a Hartford address. The Albany florist must collect the New York State and Albany County sales taxes based on the total charge to his customer, including the cost of the flowers and any telephone charges passed on to his customer.

#2. Where a New York State member florist receives telegraphic or telephonic instructions from other member florists (either inside or outside the State) for delivery of flowers, the receiving florist is not liable for tax with respect to any receipt which he may realize from the transaction.

Example:

A member florist located in Albany, New York receives a telephonic order from a member florist located in Connecticut for delivery of flowers to Albany Medical Center. No tax is to be collected by the Albany florist on this transaction.

However, sales made by florists which are not made through a florists' telegraphic or telephonic delivery association are subject to sales tax at the rate in effect in the delivery area.