

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
COMMISSIONER OF TAXATION AND FINANCE
ALBANY, NEW YORK

Pursuant to the authority contained in subdivision First of section 171, subdivisions (1) and (8) of section 1142, and section 1250 (not subdivided) of the Tax Law, the Commissioner of Taxation and Finance, at an open meeting held on even date with the signing of this proposal, hereby proposes to make and adopt the following amendments to the Sales and Use Tax Regulations, as published in Subchapter A of Chapter IV of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York, such amendments to read as follows:

Section 1. Subdivision (b) of section 527.4 of the regulations is amended to read as follows:

(b) “Producing.” Producing means the manufacture of a product from one or more raw materials and any process in which a raw [materials] material loses its identity when the production process is completed.

“Example 1:” An individual purchases tweed cloth from a retail textile store [for] and has a tailor [to] make a suit for [him] the individual to wear. The tailor’s charge for the service of making the suit is taxable.

“Example 2:” [An individual] A corporation purchases lumber from a mill and has the lumber taken to a cabinetmaker [construct] who uses the lumber to build a bookcase for [him] use in its corporate offices.

The [construction of] cabinetmaker’s charge to build the bookcase is taxable.

Section 2. Example 1 in subdivision (c) of section 527.4 of the regulations is REPEALED, and subdivision (c) is further amended to read as follows:

(c) “Fabricating.” Fabricating is the alteration or modification of tangible personal property to the specifications

of the [owner] purchaser of the service, without changing the identity of the property. However, alterations to clothing do not constitute fabricating; rather they constitute tailoring services and are excluded from tax. (See section 527.5(b)(3) of this Part.)

“Example 1:” An individual purchases sheet metal from a supplier and takes the sheet metal to a metal shop to be cut, perforated, and bent to the individual’s specifications, for the individual’s own use. The metal shop’s charge for these services is taxable.

“Example 2:” A lumber yard charges a [customer] corporation for cutting 4 foot by 8 foot [plywood] sheets of plywood into 2 foot by 2 foot [plywood] squares. The plywood had been purchased for the purchaser’s own use. The lumber yard’s charge for the cutting services [are] is taxable. (If the lumber yard sold the plywood to the corporation and cut it into squares at the time of sale, then its charge to cut the plywood is taxable as part of the sale of tangible personal property, pursuant to paragraph (4) of subdivision (a) of this section.)

Section 3. Paragraph (3) of subdivision (b) of section 527.5 of the regulations is amended to read as follows:

(3) Tax is not imposed on the services of laundering, dry-cleaning, tailoring, weaving, pressing, shoe repairing, and shoe shining. [See section 527.4(b)-(c) of this Part for the application of tax on new clothing.] For example, alterations to clothing, although considered to be maintaining, servicing, or repairing property, are excluded from tax because they are tailoring. This would include tailoring performed either by an independent tailor or seamstress, or by a tailor or seamstress employed by the vendor of the clothing so long as the vendor’s charge for the tailoring is reasonable and separately stated from the charge for the clothing itself, and regardless of whether the clothing qualifies for the exemption from tax under section 1115(a)(30) of the Tax Law. However, when a person provides raw materials to a tailor or seamstress and the tailor or seamstress produces an article of clothing for the person, the tailor’s or seamstress’ work constitutes the production

of clothing (which is not tailoring); and the charge for such service would be subject to State and local sales and use tax (see section 527.4(b) of this Part).

Section 4. This rule will take effect on the first day of the first quarterly sales tax reporting period commencing after the date that the Notice of Adoption is published in the *State Register*.

Arthur J. Roth
Commissioner of Taxation and Finance

Dated: Albany, New York
March 12, 2002

