

Sec. 12-407(2)(i)(F)-1. Photographic studio services

(a) **Definition.** The term “photographic studio services” means such activities as taking, restoring or retouching photographs and portraits, recording or restoring videotapes or other motion pictures, or converting one medium to another, such as converting a movie film to a videotape. Photographic studio services may be performed for the general public or for commercial customers, and may be performed in the studio or on location, such as at a wedding.

(b) Charges made by service providers.

(1) (A) When a photographic studio sells photographs, videotapes or movie films, it is generally deemed to be selling tangible personal property, and charges for any services performed in connection with the production of such property are includible in the measure of tax for its sale. Separate charges for services of a photographic studio that do not culminate in, or that are in addition to, the sale of tangible personal property (such as sitting fees charged when the customer does not choose to purchase the photograph, videotape or movie film, or fees for the restoration or retouching of a photograph, videotape or movie film supplied by the customer) are taxable as photographic studio services.

(B) Example: A photographer takes a number of photographs of a customer’s family members in various poses and combinations both in the studio and at the family’s home. Any photographs purchased by the customer are taxable as tangible personal property. If the photographer charges a fee for any photographs not selected by the customer, or if the customer selects no photographs at all, such fee is taxable as the sale of photographic studio services.

(2) (A) If the true object of a transaction involving a photographic studio is not to obtain outright ownership of the photograph, videotape or movie which was created, restored or retouched for a particular customer, but to obtain only certain of the intangible incidents of ownership thereto, such as the right to reproduce, change or market the photograph, videotape or movie, the charge for such transaction shall be considered a charge for photographic studio services and the transfer of intangible personal property. The charge for the transfer of the intangible incidents of ownership may be only excluded from tax to the extent that it is separately stated from the charge for the photographic studio services on the bill to the customer and the service provider can demonstrate to the satisfaction of the commissioner that such charge is reasonable. If, however, the charges for the sale of the intangible incidents of ownership are not so separately stated, the entire charge shall be taxable as the sale of photographic studio services.

(B) Example: A department store submits to a photographic studio a sketch of how it would like an advertising circular laid out. The studio selects the background, set, props and models for the circular and photographs them, producing a color film negative which it furnishes to the department store. Unless the department store purchases the negatives outright, and the studio retains no ownership rights whatsoever, the true object of the department store is to obtain the services of the photographic studio and the right to reproduce the photographs in its advertising circular, as opposed to obtaining the photographs themselves as tangible personal property. To the extent that the photographic studio separately states the charge for the sale of the right to reproduce the photographs from the charge for its services on the bill to the customer, the charge for the right to

reproduce may be excluded from tax. The charge for the services of the studio is taxable as photographic studio services.

(c) **Purchases by service providers.** Photographic studios may purchase tangible personal property, such as mounts, frames, sensitized paper used in finished photographs, videotapes and films, that is transferred to the customer as an ingredient or component part of the finished product being sold on a resale basis when the true object of the transaction is the sale of tangible personal property. When the true object of a sale by a photographic studio is to render services or convey an intangible right, as opposed to selling tangible personal property as discussed above, then the tangible personal property purchased by the photographic studio in connection with rendering such services or such conveyance is considered to be consumed by the studio and is taxable. Providers of photographic studio services are the consumers of supplies that are used by them, such as chemicals, trays, film (other than film incorporated into the tangible personal property sold to the customer), plates, proof paper, cameras and video equipment, and their purchases of supplies are taxable.

(d) **Where sales by photographic studios are deemed to be made.**

(1) Sales of tangible personal property by a photographic studio are taxable if the location where title to such property is passed is within Connecticut.

(2) Photographic studio services shall be subject to tax if the photographs, videotapes or movie films are taken in Connecticut. If the photographs, videotapes or movie films are taken in Connecticut, the sale of photographic studio services shall be taxable, notwithstanding the fact that the materials consumed in rendering such services were purchased outside Connecticut, the contract for services was negotiated or executed outside Connecticut, the bill or invoice for such services is mailed to or from an address outside Connecticut, or the purchaser of such services is a nonresident.

(Adopted effective April 7, 1999)