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## Opinion of the Tax Commissioner

Date Issued: July 20, 2005

Opinion No: 05-0002

Tax: Sales

XXXX  
XXXX  
XXXX  
XXXX

Subject: Scaffolding

XXXX (“Taxpayer”) has requested an Opinion of the Tax Commissioner (“Opinion”) pursuant to Ohio Revised Code (“R.C.”) section 5703.53.

### FACTS

The Taxpayer is in the business of the sale and rental of scaffolding. It also offers services consisting of the installation and dismantling of its scaffolding. The taxpayer has asked for written confirmation that a prior determination by this Department regarding the dismantling of scaffolding was still valid.

### DISCUSSION AND OPINION

Under R.C. 5739.01(B)(3)(b) the installation of tangible personal property is considered to be a sale subject to tax. However, the dismantling of tangible personal property is a non-taxable service. The Taxpayer has not indicated whether or not it charges separately for these services. If Taxpayer charges a lump sum price for the installation and dismantling, the transaction would be subject to tax because the charge includes a taxable installation and no delineation has been made between the cost of the installation and the cost for the dismantling of the property. However, if Taxpayer separately states the taxable elements that are the sale, rental and/or installation from the non-taxable dismantling service, Taxpayer would only have to collect tax on the taxable elements.

This Department’s prior response included a determination on the tax status of freight charges. Although Taxpayer has not requested an opinion with regard to the freight charges in this current request for an opinion, because there has been a change in the law with regard to delivery, this Department wants to point out that the delivery charges are now also subject to tax. Pursuant to R.C. 5739.01(H)(1)(a)(iv), on or after August 1, 2003, delivery charges by a vendor for the preparation and delivery to a location designated by the consumer of personal property are part of the price of a sale subject to tax.

This Opinion is limited to the legal issue addressed in this Opinion. This Opinion only applies to the taxpayer and it may not be transferred or assigned. In addition, the tax consequences stated in this Opinion may be subject to change for any of the reasons stated in R.C. 5703.53(C). It is the duty of the taxpayer to be aware of such changes. See R.C. 5703.53(E).

Sincerely,

William W. Wilkins  
Tax Commissioner