



Sales and Use Tax--Taxability of Service or Maintenance Agreements Covering Live Plants. AN AGREEMENT WHICH PROVIDES FOR THE CARE OR UPKEEP OF LIVE PLANTS NOT INCORPORATED INTO REAL PROPERTY IS A TAXABLE SERVICE OR MAINTENANCE AGREEMENT.

Advice has been requested as to whether an agreement which provides for the continuing care or upkeep of live plants not incorporated into real property is a taxable service or maintenance agreement.

When the owner of live plants not incorporated into real property purchases an agreement which provides for the continuing care or upkeep of the plants, the sale of the agreement is taxable as a service or maintenance agreement. It is irrelevant that the agreement does not provide for the replacement of the plants (i.e., a labor only agreement).

APPROVED:

A handwritten signature in cursive script, appearing to read 'M. Berri Balka', written over a horizontal line.

M. Berri Balka
State Tax Commissioner

October 16th, 1991