

REG-1-053, Funeral Directors and Undertakers

053.01 Funeral directors and undertakers are considered to be in the dual capacity of rendering services and selling property. Sales tax attaches to such sales of property and shall apply as set out in this regulation.

053.02 Funeral directors or undertakers are considered to be purchasing for resale such items as caskets, vaults, and clothing, and accordingly should furnish their suppliers of such items with a resale certificate. However, funeral directors or undertakers are considered consumers of embalming fluid, cosmetics, chemicals, office equipment, funeral home furnishings, advertising calendars, booklets, motor vehicles, embalming instruments, grave equipment, stretchers, and baskets. The applicable tax must be collected by the supplier and remitted to the Department of Revenue.

053.02A When a funeral director or undertaker is employed to prepare the remains and place it in a casket for subsequent shipment outside of this state, sales of caskets, clothing, and similar items, are taxable as the delivery has taken place when the remains were placed in the casket.

053.02B When remains are shipped into this state for burial purposes and a vault is purchased from the Nebraska funeral director, sales tax applies on the charge for the vault.

053.03 No sales tax shall be charged on burials for which payment is made directly to the funeral director or undertaker by the State of Nebraska or any county.

053.04 If separate charges are made for the sale of property and for required services, sales tax shall be collected only on the sale of property. In such cases, tax would not apply to charges such as embalming and care of the remains, use of the hearse, limousine, grave opening, purchase of a lot, remuneration to the minister and musicians, use of the church, or press notices.

053.04A Where the funeral director or undertaker purchases flowers, sales tax must be paid by the funeral director or undertaker to the florist unless the funeral director or undertaker separately charges for the flowers. When the separate charge is made, the charge is taxable and the funeral director or undertaker can purchase the flowers for resale.

053.05 Where funeral directors and undertakers do not segregate the charges for the sale of property from the sale of required services, they shall collect and report the tax based on fifty percent (50%) of the total charges. The sale of outside vaults and clothing are not considered a part of required services and sales tax shall apply with respect to 100% of the total from such sales. Charges for all other nonrequired taxable services are excludable from the tax base prior to computation on the 50% basis. Charges for grave openings, purchases of a lot, payments to the minister and musicians, use of the church, and press notices are examples of charges for nonrequired services.

(Section 77-2703(1)(k), R.S. Supp., 1993. May 14, 1994.)