2006 Special Session I

Budget Bill - HB5002 (Chapter 3)

Department of Taxation

Item 268

On and after July 1, 2006, the Department of Taxation shall cease its current interpretive application of the "true object" test to contractors who provide services to the United States, the Commonwealth, or any political subdivision or instrumentality thereof. Effective for “work orders”, “statements of work” and “task orders,” entered into on and after July 1, 2006, the Department of Taxation shall make a taxability determination regarding the true object of the transaction entered into with the government entity based upon the true object of each separate “work order”, “statement of work” and “task order,” rather than the true object of the underlying contract between the government entity and such contractor. Nothing in this paragraph shall be construed to extend an exemption to materials, equipment, or other tangible personal property purchased by a contractor for use in real estate construction contracts with a governmental entity. The Tax Commissioner shall work with the government contracting industry to promulgate an emergency regulation on or before June 30, 2007, to implement the provisions of this paragraph. Such emergency regulation shall specifically include examples to illustrate when a contractor is deemed to have exercised taxable interim use of tangible personal property purchased pursuant to a government contract, as well as examples where exempt interim use is made incidental to a resale to the government.