Contractors and New Jersey Taxes

Tax Topic Bulletin S&U-3

Contents

Introduction 3

General Information 3

- Definitions 3
- Exempt Capital Improvements 4
- Taxable Capital Improvements 5
- Repairs 5
- Maintenance Services 6

Paying Sales Tax to Suppliers 6

- Purchases of Materials and Supplies 6
- Construction Equipment 6
- Rentals and Leases 7
- Purchases of Services 7
- Purchases Made Out of State 7
- Contracts Located Out of State 7
- Use Tax 7
- Subcontractors 8
- Exempt Organizations 8

Collecting Sales Tax From Property Owners 9

- Exceptions 10

Fabricator/Contractors 11

- Purchase of Materials 11
- Sale and Installation (Resale Certificate Issued for Materials) 11
- Sign Fabrication and Installation Services 12

Floor Covering Dealers 13

Landscapers 14

Exemption Certificates 14

- Resale Certificates 14
- Exempt Use Certificate (Form ST-4) 14

Exempt Organization Certificate (Form ST-5) 15
Direct Payment Permit (Forms ST-6A and ST-6X) 15
Farmer's Exemption Certificate (Form ST-7) 15
Certificate of Exempt Capital Improvement (Form ST-8) 16
Contractor's Exempt Purchase Certificate (Form ST-13) 16
Contractor's Exempt Purchase Certificate — Urban Enterprise Zone (Form UZ-4) 17
Registration 17
Tax Identification Number 18
Federal Identification Number 18
Sales Tax Returns and Payments 18
Employer Responsibilities 19
Withholding Requirement for Payments to Contractors 19
Connect With Us 19

Revision History

Date	Page Number	Topic	Revision
September 29, 2022	5, 10, & 12	Taxability of Sign Installation Services	This revision adds information about the taxability of sign installation services effective October 1, 2022.

Introduction

Contractors doing business in New Jersey have special responsibilities under New Jersey's Sales and Use Tax laws. This bulletin explains the rules that apply to contractors for paying Sales or Use Tax to suppliers and collecting Sales Tax from property owners.

The bulletin also discusses the procedures to be followed by fabricator/contractors and floor covering dealers when paying Sales Tax to suppliers and collecting Sales Tax from customers.

This document is designed to provide guidance to taxpayers and is accurate as of the date issued. Subsequent changes in tax law or its interpretation may affect the accuracy of this publication.

General Information

Definitions

A ***contractor*** is an individual or business entity engaged in the business of improving, altering, or repairing the land, buildings, or other real property of others. Sales of materials and supplies to contractors are taxable because the contractor is considered the final consumer (or end user) of these items. Some examples of persons who are considered contractors for New Jersey Sales Tax purposes are: builders, plumbers, electricians, carpenters, painters, paper hangers, roofers, masons, and landscapers.

The term *contractor* also includes those who manufacture, sell, and install items that become part of real property (e.g., manufacturers and sellers of kitchen cabinets and vanities who also install those items). Such contractors are known as *fabricator/contractors.*

The work performed by a contractor can be a capital improvement, a repair, or a maintenance service. Contractors working in New Jersey are required to be registered with the State for tax purposes and to collect New Jersey Sales Tax on charges for labor when required.

Subcontractor means a contractor who agrees to perform specified operations for another contractor (i.e., a prime contractor).

Real property means land and buildings and any property permanently attached to the land and/or buildings in such a way that its removal would result in substantial damage to the real property.

Tangible personal property is material property that is not classified as real property. It has physical mass and can be touched (e.g., furniture, automobiles, tools, appliances) and includes natural gas and electricity. Tangible personal property differs from "intangible personal property" (e.g., stocks, bonds, good will, insurance) that has no physical substance.

Construction equipment means any vehicle, machine, tool, implement, etc., used by a contractor in performing work on real property that does not become a physical part of the

property and that is not consumed in performing the work. Examples of construction equipment include: portable compressors, scaffolds, ladders, power and hand tools, back hoes, and cranes.

Construction materials are items purchased by a contractor that will become part of the real property. For example, a 2×4 used as a stud will become part of the wall. Other examples of construction materials include: pipes, valves, heating, cooling, and central air conditioning components.

Construction supplies are items used on the construction job that do not become part of the property being worked on. They include: cleaning compounds, lubricants, grinding wheels, hacksaw blades, sandpaper, tarpaulins, and rope.

Capital improvement means an installation of tangible personal property that increases the capital value or useful life of the real property (land or buildings). The item(s) installed must be permanently attached to the real property.

Capital improvements are exempt from tax with the exception of those listed under *Taxable capital improvements*.

Exempt Capital Improvements

Exempt capital improvements include:

All new construction*
New siding
New kitchen cabinets
New kitchen fixtures
Paving driveway
New central air conditioner
Clearing land for construction
Attic ventilation fan
New fence
Electronic garage door opener
Barbecue pit
Solar energy window film
In-ground swimming pool
New awnings
Fireplace
Shed/gazebo (cement footings)
Underground water sprinkler system
Porch enclosure
New heating system
New electrical outlets
Storm doors and windows
New doors
Flagpole (in concrete)
New roof
New gutters
Rewiring
New elevators
New hot water heater
New door locks
New bathroom fixtures
New tiled bath
New deck
Initial painting of new construction system

*Other than the exceptions listed below.

Taxable Capital Improvements

Taxable capital improvements include:

Planting shrubbery, trees, hedges, plants, etc.

Seeding, sodding, grass plugging of new lawn

Clearing and filling land associated with seeding, sodding, etc. of new lawn or planting shrubbery, trees, etc., including tree and/or stump removal

Installing hard-wired security, burglar, or fire system

Installing carpeting and other flooring

Permanently affixed sign installation (effective October 1, 2022)

For additional information on taxable capital improvements, see *Landscapers & New Jersey Sales Tax*; *Floor Covering Dealers & New Jersey Sales Tax*; and *Investigation and Security Services & New Jersey Sales Tax*.

Repairs

Repair (to real property) means work that maintains the existing value of the real property (land or buildings). Repairs restore property to working condition; they do not add to its value or prolong its life. Examples of *repairs* include:

Fixing loose bath tiles
Fixing faulty plumbing
Patching driveway potholes
Repairing a cracked patio floor
Fixing faulty electrical outlets
Repairing gutters
Pointing bricks
Replacing torn screens
Fixing leaks in a cellar
Fixing a leaky roof

In some situations, the difference between a repair and a capital improvement is the extent of the work that is done. For example, replacing a few loose bath tiles or a portion of a leaky roof is a repair to the existing real property. However, replacing all of the tiles or the entire roof with upgraded or improved materials would be an exempt capital improvement.

NOTE: Repairs or services to tangible personal property (e.g., refrigerators, washing machines, window air conditioners, or TV sets) are *not* repairs to real property. A repair person or service provider who does not work on the land or buildings of others is not a *contractor* for New Jersey Sales Tax purposes. Repair persons or service providers who are not contractors follow different rules for paying Sales Tax to suppliers and collecting Sales Tax from their customers. For example, a television repair person must collect Sales Tax from the customer on the charges for both labor and the parts used for the repair. (And, the repair person, who is not a contractor for New Jersey Sales Tax purposes, may issue a resale certificate to purchase repair parts without paying Sales Tax.) *This bulletin covers only the rules that apply to contractors who work on land or buildings.*

Maintenance Services

Maintenance services preserve the existing condition of property. Examples of *maintenance services* include:

- Mowing lawns
- Trimming trees
- Repainting interior or exterior
- Snow shoveling
- Power washing exterior of house

NOTE: Certain service providers who work on, but do not *alter*, real property (e.g., janitorial or cleaning services, pest control services) are not considered contractors for New Jersey Sales Tax purposes. Businesses that are not considered contractors follow different rules for paying Sales Tax to suppliers and collecting Sales Tax from their customers. They are required to charge the customers Sales Tax on the total amount of the bill and are permitted to issue a resale certificate to purchase certain materials and supplies used on the job without paying Sales Tax.

Paying Sales Tax to Suppliers

Contractors are required to ***pay Sales or Use Tax*** on the materials, supplies, equipment, and services they purchase, rent, or use when performing work on the real property of others, except as described below.

Purchases of Materials and Supplies

It is the general rule that the sale to the actual consumer is a retail sale. All retail sales of tangible personal property, unless specifically exempt under the New Jersey Sales and Use Tax Act, are taxable. Therefore, the actual consumer (i.e., the final consumer or end user) pays the Sales Tax on the tangible personal property at the time of purchase.

For New Jersey Sales Tax purposes, a contractor is considered the actual consumer of the materials and supplies used in construction or in improving, altering, or repairing the real property of others. Sales of materials and supplies to contractors are considered retail sales and, therefore, taxable. Likewise, subcontractors are required to pay Sales Tax on materials and supplies that they purchase for use in fulfilling contracts with prime contractors.

A contractor always ***pays Sales Tax*** on materials and supplies at the time of purchase unless: (1) the materials and supplies are for the exclusive use in performing work on the real property of an exempt organization, a qualified business in an Urban Enterprise Zone (but not in a UEZ-impacted business district), or a qualified housing sponsor; **or** (2) the contractor holds a valid direct payment permit. (See *Exempt Organizations* and *Exemption Certificates*.)

Construction Equipment

The purchase, lease, or rental of equipment to a contractor is subject to tax regardless of whether the equipment is used in the fulfillment of a contract with an exempt organization.

For information concerning the tax treatment of equipment rented with an operator, see Notice: Rental of Equipment With an Operator (10/18/05).

Rentals and Leases

For leases or rentals with a term of six months or less, the lessor must collect Sales Tax with each periodic payment. For leases or rentals of more than six months, the full amount of tax is due up front in the period in which the lessee takes delivery of the property.

For transactions with a term of more than six months, the tax must be calculated using either the original purchase price of the property, or the total of the periodic payments required under the agreement, including interest charges directly paid by the lessee. When Sales Tax is paid on the purchase price, it does not have to be paid again if the lease is renewed or if the same property is subsequently leased to another party.

For additional information, including information on which state's tax applies to a transaction, see Notice: Leases and Rentals of Tangible Personal Property (9/20/05) and *Leases and Rentals*.

Purchases of Services

Contractors must ***pay Sales Tax*** on taxable services they purchase for their own use unless these services are performed ***exclusively*** in the fulfillment of a contract with an exempt organization.

The following services performed for contractors are not directly related to capital improvements or repairs but, rather, are merely related to the construction work in general. Thus, these services are subject to tax when purchased by contractors: (1) temporary lighting; (2) temporary fencing; (3) installation of scaffolding; and (4) construction site cleanup.

Purchases Made Out of State

If a contractor purchases materials out of state for use in New Jersey and pays no Sales Tax, or pays tax at a rate less than the current New Jersey Sales Tax rate, the contractor must ***pay Use Tax*** to New Jersey on the cost of the materials (see *Use Tax* below).

Contracts Located Out of State

Materials, supplies, and equipment purchased in New Jersey are subject to Sales Tax when the contractor accepts delivery in New Jersey, even though the materials are intended for use on a job outside New Jersey. Fabricator/contractors, see *Sale and Installation (Resale Certificate Issued for Materials)*. Such purchases are not subject to tax when delivered out of state by the supplier, a common carrier, or an unregulated carrier hired by the supplier. See *Out-of-State Sales & New Jersey Sales Tax* for more information on this subject.

Use Tax

Use tax is imposed on the purchase of property and services on which Sales Tax was not collected, or was collected at a rate less than the New Jersey Sales Tax rate. The purchaser is

liable for the payment of Use Tax at the rate in effect in New Jersey at the time the purchase was made, if no tax was paid. If tax was paid at a lesser rate, the purchaser is liable for the difference between the rate in the state where the purchase was made and the current New Jersey rate, provided that (a) the purchaser has no right to a refund of tax from the other state and (b) the other state allows a corresponding credit for Sales or Use Taxes paid to New Jersey.

For example, a contractor purchases lumber in another state to use on a construction job in New Jersey and pays 4% sales tax to the other state. (The other state has sales tax reciprocity with New Jersey.) The contractor owes 2.625% Use Tax to New Jersey on the cost of the lumber — the difference between the 4% sales tax paid in the other state and New Jersey's 6.625% Sales Tax rate. For more information on Use Tax, see *Use Tax in New Jersey*.

Subcontractors

A contractor who agrees to perform specified tasks for a second contractor (the prime contractor) is acting as a *subcontractor*. The purchases of a subcontractor are treated in the same manner as the purchases of a prime contractor. Subcontractors are the retail purchasers of the materials and supplies that they purchase for use in performing work for the prime contractor. They must ***pay Sales Tax*** to the supplier at the time of purchase, unless the materials are for exclusive use on a job for a prime contractor who is performing work on the real property of an exempt organization, a qualified business in an Urban Enterprise Zone, or a qualified housing sponsor. The subcontractor must obtain from the prime contractor the documentation needed to make such exempt purchases of materials and supplies. (See *Exemption Certificates*.)

A subcontractor who performs taxable services for a prime contractor does not bill the prime contractor for Sales Tax on the labor portion of the bill. The prime contractor is responsible for collecting Sales Tax from the property owner on the work done by the subcontractor. (See *Collecting Sales Tax From Property Owners*). The subcontractor should keep records to document that Sales Tax was not collected because the services were performed for a prime contractor. There is an exception to this treatment when a subcontractor provides services that are merely related to the construction work in general, as discussed under *Purchases of Services*. There is also an exception when a subcontractor provides services that result in a taxable capital improvement, as discussed under Taxable Services.

Exempt Organizations

In New Jersey, certain organizations may purchase property and services for the exclusive use of the organization without paying Sales Tax. The term "exempt organization" includes:

1. The State of New Jersey or any of its agencies or political subdivisions (states other than New Jersey do not qualify for exemption);

2. The United States of America or any of its agencies;
3. The United Nations or any international organization of which the United States is a member; or
4. Certain nonprofit organizations that have been granted exempt status by the Division of Taxation (e.g., churches, charitable organizations, rescue squads and volunteer fire and ambulance companies).

Contractors (or subcontractors) who perform work on the real property of an exempt organization as defined above, or the real property of a qualified business in an Urban Enterprise Zone, or a qualified housing sponsor, may purchase materials and supplies for the job without paying Sales Tax. The contractor provides the supplier with a fully completed exemption certificate (Form ST-13, Contractor's Exempt Purchase Certificate, or Form UZ-4, Contractor's Exempt Purchase Certificate — Urban Enterprise Zone) to document the exemption. For more information, see *Exemption Certificates*.

Collecting Sales Tax From Property Owners

Contractors are responsible for ***collecting Sales Tax*** from property owners for certain work they perform on real property. Sales Tax must be remitted to the State either monthly or quarterly, depending on the amount of Sales Tax due each month. (See *Sales Tax Returns and Payments*.) The accrual method of accounting must be used when reporting gross receipts and Sales Tax. Under this method, all receipts are reported in the period in which the sale took place, no matter when or if payment is actually received from the customer.

The contractor pays the Sales Tax on the cost of materials and supplies at the time of purchase. Under the law, a contractor is not granted resale treatment for materials and supplies purchased for improving, altering, or repairing real property. Whether or not Sales Tax is charged on the customer's bill depends on whether the work is an *exempt* capital improvement or a *taxable* capital improvement, repair, maintenance, or installation service.

Taxable Services. A contractor is treated as the retail purchaser of materials and supplies used on, or incorporated into, real property, rather than as a reseller of such materials and supplies. If the contractor chooses to separately itemize materials and labor on the customer's bill and the bill is for a *taxable* capital improvement, repair, maintenance, or installation service, the only amount deductible from the receipt for Sales Tax purposes is the separately stated pass-through of the actual cost of materials. The cost of materials may include the Sales Tax paid by the contractor when the materials and supplies were purchased. The remainder of the customer's bill is for labor and is subject to Sales Tax. If the contractor does not itemize the materials and the labor for a taxable job, the entire receipt is subject to tax.

Charges for the following are treated as taxable services, regardless of whether they result in a capital improvement:

- Landscaping services;
- Installation of carpet and other flooring;
- Installation of an alarm or security system; and/or
- Installation of permanently affixed signs (effective October 1, 2022).

Any contractor or subcontractor performing a taxable capital improvement is required to collect Sales Tax from the person for whom the service is being performed, regardless of whether such person is another contractor or the property owner. (See Notice to Construction Industry: Obligation of Subcontractor to Collect Sales Tax for Taxable Capital Improvements in the Performance of Multi-Trade Construction Contracts for additional information.)

Exempt Capital Improvement Services. If the work results in an exempt capital improvement to real property, the contractor does not charge Sales Tax on the bill, regardless of whether the materials and the labor are separately itemized or billed as one amount. The property owner must issue the contractor a fully completed Certificate of Exempt Capital Improvement (Form ST-8). The contractor keeps the ST-8 on file to document that the labor portion of the bill was exempt from tax.

Exceptions

Exempt Organizations. Charges for labor and materials are exempt from tax when the contractor is performing work on the property of: (1) an exempt organization; (2) a New Jersey or federal governmental agency; (3) a qualified business in an Urban Enterprise Zone; or (4) a qualified housing sponsor. This rule applies regardless of whether the work is a capital improvement, repair, maintenance, or installation service.

The contractor does not pay Sales Tax on materials and does not charge Sales Tax on the labor portion of the bill, provided the contractor receives a fully completed exemption certificate (purchase order or official contract in the case of a governmental organization) and provides the supplier with the appropriate exemption certificate when purchasing materials. (See *Exemption Certificates*.)

Residential Heating Systems. A contractor may not charge the property owner Sales Tax for either parts or labor when maintaining, servicing, or repairing a residential heating system unit, provided the heating system serves no more than three families who live independently of each other and do their own cooking on the premises. For more information about air conditioning and heating, see *Air Conditioning, Heating, Refrigeration & New Jersey Sales Tax*.

Garbage Removal and Sewer Services. Removal of garbage that has been placed in a container, and sewer services, such as removing waste from a septic tank, are exempt from Sales Tax if performed on a regular contractual basis for a period of not less than 30 days. If the service is not performed at least once a month for consecutive months, the contractor must collect Sales Tax from the property owner for the service.

Fabricator/Contractors

Fabricator/contractors are contractors who wear two hats. They are both *fabricators* (those who build or assemble items to be installed as component parts of real property, e.g., kitchen cabinets, heating ducts) and *contractors* (those who work on the real property of others because they also install the items they make).

Fabricator/contractors follow special rules for paying Sales or Use Tax on materials, and collecting Sales Tax on the sale and/or installation of the product.

Purchase of Materials

A fabricator/contractor may treat the purchase of materials used to make the product as a purchase for resale. That is, a fully completed resale certificate may be issued to the supplier and no Sales Tax is paid at the time of purchase. Issuing a resale certificate is beneficial if a fabricator/contractor generally sells the product but does not do the installation. See *Sale and Installation (Resale Certificate Issued for Materials)*. On the other hand, if a fabricator/contractor generally sells *and* installs the product, and such installation results in an exempt capital improvement, it would be beneficial for the fabricator/contractor to simply pay tax on the purchase of materials, rather than issue a resale certificate. Payment of tax on materials does not relieve a fabricator/contractor of the obligation to collect tax when either the product is sold at retail without installation, or when the product is installed and the installation does not result in an exempt capital improvement.

NOTE: Fabricator/contractors may issue resale certificates when they purchase materials. All other contractors are required to pay Sales Tax on materials at the time of purchase.

Sale and Installation (Resale Certificate Issued for Materials)

If a fabricator/contractor issues a resale certificate to the supplier when purchasing materials, the fabricator/contractor must collect Sales Tax from the property owner when the product is sold and/or installed as follows:

- **Sale without installation.** When the fabricator/contractor sells the completed product but does not do the installation, the fabricator/contractor must *collect Sales Tax* from the customer on the retail sales price of the fabricated product.

- **Sale and installation in New Jersey (exempt capital improvement).** When the fabricator/contractor sells the product and installs it in New Jersey, and the installation results in an exempt capital improvement, the fabricator/contractor *does not collect Sales Tax* from the property owner on the installation charge.

  The fabricator/contractor must *pay Use Tax* directly to the State on the value of the fabricated product being installed. (Remember, the fabricator/contractor did not pay Sales Tax on the materials used to make the product.) The fabricator/contractor's Use Tax is based on:

1. The price at which the fabricator/contractor offers items of the same kind for retail sale; or

2. If the fabricator/contractor makes no sales of items of the same kind, the tax is based on the cost of materials used in making the product.

Example: Bob, a cabinetmaker, builds kitchen cabinets, sells them at his retail location, and also installs them. Bob does not pay Sales Tax when purchasing lumber and other materials to build the cabinets. He issues the supplier a fully completed resale certificate at the time of purchase. When Bob installs a new set of kitchen cabinets (an exempt capital improvement) for a homeowner, he *does not collect Sales Tax* from the homeowner on either the cost of the cabinets or the installation charge. The homeowner issues Bob a fully completed Certificate of Exempt Capital Improvement (Form ST-8) to document why no Sales Tax was collected on the installation charge, and Bob *pays Use Tax* to the State based on the retail price of the cabinets.

- **Sale and installation in New Jersey (not exempt capital improvement).** When the fabricator/contractor sells the fabricated product and installs it in New Jersey, and the installation does not result in an exempt capital improvement, the fabricator/contractor must *collect Sales Tax* from the property owner on the installation charge and *pay Use Tax* on the fabricated product or materials, as described above.

- **Sale and installation out of state.** When the fabricator/contractor sells the fabricated product and as part of that sale agrees to install the product at a location outside New Jersey, the fabricator/contractor (including sign installers) *does not collect New Jersey Sales Tax* on the installation charges and *does not pay Use Tax to New Jersey* on the fabricated product or materials.

  Example: Bob, a structural steel fabricator, purchases steel that is delivered to his facility in New Jersey. The steel is fabricated as provided in shop drawing specifications for onsite installation. The fabricated structural steel is then shipped to a job site located outside this state. No New Jersey Sales or Use Tax is due on this transaction.

NOTE: No Use Tax is due if the fabricator/contractor pays Sales Tax to the supplier when the materials are purchased.

Sign Fabrication and Installation Services

Effective October 1, 2022, all sign fabrication and installation services rendered are taxable. For more information, see our web notice.

Floor Covering Dealers

Floor covering dealers are those who make retail sales (sales to the ultimate consumer or end user) of floor coverings (carpeting, linoleum, tile, hardwood, marble, and padding, etc.). Floor covering dealers also follow special rules for paying Sales Tax on materials and supplies, as well as for collecting Sales Tax on the sale and/or installation of the product.

NOTE: Any contractor or subcontractor performing a taxable capital improvement is required to collect Sales Tax from the person for whom the service is being performed, regardless of whether such person is another contractor or the property owner. (See Notice to Construction Industry: Obligation of Subcontractor to Collect Sales Tax for Taxable Capital Improvements in the Performance of Multi-Trade Construction Contracts for additional information.)

The sale of floor covering by a dealer and the charge for installing floor covering are always treated as two separate transactions. The dealer who sells and/or installs floor covering must:

- **Collect Sales Tax** on the sales price of the floor covering whether the dealer is doing the installation or not; and
- **Collect Sales Tax** on the installation charge.

Materials. Because dealers are retailers, they treat purchases of floor covering materials (carpeting, tile, linoleum, etc.) as purchases for resale. The dealer issues a fully completed resale certificate to the supplier and does not pay Sales Tax on the cost of the floor covering at the time of purchase. The dealer then *collects Sales Tax* from the customer (property owner, contractor, or dealer) on the sales price of the floor covering, unless the customer furnishes a fully completed exemption certificate (ST-3, ST-3NR, ST-5, ST-6A, ST-6X, ST-13, ST-SST, or UZ-4, as appropriate), or unless the dealer delivers the floor covering to the customer outside New Jersey. See Exemption Certificates below for more information on the proper use of New Jersey exemption certificates.

Supplies. When dealers use supplies to install floor covering, they are required to either pay Sales Tax when purchasing the supplies, or to remit Use Tax on the cost of supplies they withdraw from their sales inventory. Supplies include, but are not limited to, underlayment, nails, staples, plywood strips, adhesive tape, and cement. The dealer *does not collect Sales Tax* from the customer on the cost of supplies used for the installation.

Installation. Charges for the installation of floor covering are taxable.

For more information on floor covering dealers and New Jersey Sales Tax, see *Floor Covering Dealers & New Jersey Sales Tax*.

Landscapers

Landscapers are considered contractors because they work on the land or buildings of others. They follow the same New Jersey Sales Tax rules as other contractors. If a landscaper's work results in an exempt capital improvement (e.g., clearing land for new construction; installing decks, patios, fountains, low voltage lighting), the property owner issues a fully completed Certificate of Exempt Capital Improvement (Form ST-8) and the landscaper *does not charge Sales Tax* on the labor portion of the bill. If the work performed by the landscaper is a repair or maintenance (e.g., pruning, fertilizing, mowing), the landscaper *does charge Sales Tax* on the labor portion of the bill. If the work is a taxable landscaping service (e.g., planting trees, shrubs, plants; laying sod; seeding a lawn), the landscaper *does charge Sales Tax* on the labor portion of the bill.

For more information about landscapers, see *Landscapers & New Jersey Sales Tax*.

Exemption Certificates

A fully completed New Jersey exemption certificate allows a qualified individual or business to purchase certain property and/or services without paying Sales Tax. The exemption certificates most frequently used in the construction industry are described below.

For more information on the use of exemption certificates, see *Sales Tax Exemption Administration*.

Resale Certificates

Resale certificates may **not** be issued by contractors on any purchase of construction materials, supplies, or equipment to be incorporated into real property.

Exceptions: Because fabricator/contractors are engaged in manufacturing or assembling, they may issue resale certificates to suppliers on purchases of materials that become component parts of the items they fabricate. Because floor covering dealers are engaged in retail sales, they may also issue resale certificates to suppliers on purchases of floor covering materials.

Exempt Use Certificate (Form ST-4)

Under New Jersey law, certain items are exempt from Sales Tax if they are purchased for a particular *use*. A contractor may issue Form ST-4 only when purchasing certain exempt-use items. When used for such a purchase, Form ST-4 must show the names and Sales Tax registration numbers of the contractor and any other party to the contract. The certificate must also state the nature of the job and the date the work will start. A common use of Form ST-4 is by a contractor under contract with a utility company to purchase machinery for use in the production, generation, transmission, or distribution of gas, electricity, refrigeration, steam, or water for sale.

Exempt Organization Certificate (Form ST-5)

A contractor does not issue Form ST-5 when making purchases. A contractor who is performing work on the property of an organization that has been granted exempt status by the Division of Taxation obtains a copy of the exempt organization's Form ST-5 to document that the purchases of materials for the job are tax-exempt. See *Contractor's Exempt Purchase Certificate (Form ST-13).*

For more information on the Exempt Organization Certificate (Form ST-5), see *Tax Treatment of Nonprofit Organizations and Government Entities*.

Direct Payment Permit (Forms ST-6A and ST-6X)

An application for a Direct Payment Permit may be filed only by registered businesses that acquire tangible personal property or services under circumstances that make it impossible at the time of purchase to determine the taxable status of the property or services.

To obtain a Direct Payment Permit, an Application for Direct Payment Permit (Form ST-6B) must be completed and mailed to:

New Jersey Division of Taxation
PO Box 287
Trenton NJ 08695-0287

NOTE: The holder of a Regular Direct Payment Permit may not use Form ST-6A to purchase property or services that are clearly taxable at the time of purchase, such as office equipment and supplies, repair services, etc.

The holder of a valid Audit Direct Payment Permit may issue Form ST-6X at the time of purchase according to the terms of the taxpayer's audit agreement governing use of the Certificate.

A list of Direct Payment Permit Holders is available online.

Farmer's Exemption Certificate (Form ST-7)

Farmers issue this exemption certificate to cover purchases of property and certain services to be used directly and primarily in the production, handling, and preservation of farm commodities. Materials that will be incorporated into a building or structure are *not* exempt from Sales Tax.

Exception: Farmers may issue Form ST-7 to purchase materials that will be used in constructing a silo, greenhouse, grain bin, or manure handling equipment. **This exception applies only to farmers and is not available to contractors performing work on farm property. A contractor may not issue Form ST-7.**

A *contractor* may accept Form ST-7 only when performing exempt production and conservation services for a farming enterprise. Examples of exempt conservation services include:

- Applying mulch to growing crops during a drought to prevent moisture loss;
- Aerial sowing of fall cover crop in a field of growing summer crops for purposes of soil nutrient management.

Examples of exempt production services include:

- Plowing a field in preparation for planting;
- Spraying pesticide on a sod field;
- Shearing sheep raised for their wool;
- Picking and packing berries grown for sale.

A *fabricator/contractor* may accept Form ST-7 for the purchase of items of tangible personal property used directly and primarily in the production, handling, and preservation of farm commodities, provided the items do *not* become part of a building or structure other than a silo, greenhouse, grain bin, or manure handling equipment. However, if the fabricator/contractor installs the items, they cannot accept Form ST-7, even if the items become part of a silo, greenhouse, grain bin, or manure handling equipment, and the fabricator/contractor must pay Use Tax on the value of the fabricated product being installed (unless the fabricator/contractor paid Sales Tax on the materials used to make the fabricated items at the time of purchase). The installation charges are taxable to the farmer unless the installation results in an exempt capital improvement. See *Purchase of Materials and Sale and Installation (Resale Certificate Issued for Materials)*.

Certificate of Exempt Capital Improvement (Form ST-8)

A Form ST-8 is issued to a contractor by the property owner when the contractor's work results in an exempt capital improvement. The certificate serves as a basis for the exemption from Sales Tax on the labor portion of the contractor's bill. The property owner does not have to be registered with the State to issue Form ST-8. The contractor may supply the property owner with a Form ST-8, or the property owner may obtain one online. Form ST-8 may not be issued when the work results in a taxable capital improvement.

Contractor's Exempt Purchase Certificate (Form ST-13)

A contractor issues Form ST-13 to the supplier when making purchases of materials, supplies, or services for use in performing work on the real property of an exempt organization, a New Jersey or federal governmental entity, or a qualified housing sponsor. To document the Sales Tax exemption, a qualified exempt organization provides a copy of its Exempt Organization Certificate (Form ST-5) to the contractor. New Jersey or federal governmental entities must

give the contractor a signed purchase order or contract, and a qualified housing sponsor will issue a Housing Sponsor Letter of Exemption.

Contractor's Exempt Purchase Certificate — Urban Enterprise Zone (Form UZ-4)

A contractor issues a fully completed Form UZ-4 to suppliers when purchasing materials that will be incorporated into real property, supplies that will be entirely used or consumed on the job, or services for use in performing work for a qualified business at the business's real property in an Urban Enterprise Zone. The contractor must contract directly with the qualified business in order for the exemption to apply. The exemption does not apply to equipment that the contractor rents or leases to perform work for a qualified business. The contractor can only obtain Form UZ-4 from a qualified business.

The contractor also issues copies of Form UZ-4 to subcontractors for their use in making exempt purchases for the job. Subcontractors must attach their name, address, and Sales Tax Certificate of Authority number (in addition to the name, address, and number of the contractor) and then give the UZ-4 and attachments to their sellers. This Certificate is not available to businesses located within Urban Enterprise Zone-impacted business districts.

Beginning January 1, 2022, only the first $100,000 in taxable purchases of construction materials, supplies, and services made by all contractors hired to work on a qualified business's property in a calendar year are exempt from Sales and Use Tax. Once all contractors' annual taxable purchases on behalf of a qualified business total $100,000, that qualified business may no longer give the UZ-4 to contractors or subcontractors for the remainder of that calendar year. At that point, a qualified business should advise contractors and subcontractors that it may no longer use a UZ-4 to make exempt purchases for the remainder of that calendar year. More information on Urban Enterprise Zones is available online.

Registration

Every seller of taxable property or services maintaining a place of business in New Jersey, employing workers in this state, owning any business property here, or otherwise conducting business or soliciting business in this state must register with New Jersey for tax purposes at least 15 business days before starting business. "Seller" includes anyone who purchases tangible personal property for lease or rent, whether in this state or elsewhere. Having a place of business in this state includes having leased tangible personal property in New Jersey. Accordingly, businesses located out of state that own leased property located in New Jersey must register and remit tax.

For more information on soliciting business in New Jersey, see Notice – Sales and Use Tax Requirement for Out-of-State Sellers to Collect Sales Tax if Soliciting Business in New Jersey.

To register, sellers may file Form NJ-REG online through the Division of Revenue and Enterprise Services' NJ Business Gateway Services website. A public records filing may also be required depending on the type of business ownership. More information on public records filing is available in the New Jersey Complete Business Registration Package (NJ REG) or by calling 609-292-9292. (There is a fee associated with the public records filing.)

Tax Identification Number

Once you register your business, you will be assigned an identification number, which is usually based on your federal identification number or your Social Security number. This identification number will appear on all preprinted forms the business receives. Be sure to include this New Jersey tax identification number on all checks and correspondence you send to the State of New Jersey.

Federal Identification Number

The federal government requires some businesses to have a nine-digit federal employer identification number (FEIN). New Jersey requires all corporations, partnerships, and employers to obtain a federal employer identification number. To apply for an FEIN, contact the Internal Revenue Service by phone at 1-800-829-4933 or online. For other federal tax questions, call the IRS at 1-800-829-1040.

Sales Tax Returns and Payments

All businesses registered to collect Sales Tax and remit Use Tax are required to report the total amount of receipts and tax due on a quarterly return (ST-50) every three months, regardless of whether or not any sales were made or any Sales or Use Tax is due for that particular quarter. In addition, businesses that collected more than $30,000 in New Jersey Sales and Use Tax during the preceding calendar year must file a monthly remittance statement (ST-51) for the first and/or second month of each calendar quarter (January, February, April, May, July, August, October, and November) and make the required payment if the amount of tax due for that month exceeds $500. If $30,000 or less in New Jersey Sales and Use Tax was collected during the preceding calendar year, a monthly remittance statement is not required regardless of the amount of tax due for that particular month.

Monthly remittance statements and quarterly returns are due by the 20th day of the month following the period covered by the filing. All taxpayers must file electronically, either online or by phone through the New Jersey Sales and Use Tax EZ File Systems. Payments also must be made electronically by electronic check (e-check), credit card, or electronic funds transfer (EFT).

Employer Responsibilities

For more information on a business's responsibilities as an employer, refer to the *New Jersey Income Tax Withholding Instructions* (NJ-WT).

Withholding Requirement for Payments to Contractors

Any person (other than a governmental entity, a homeowner, or a tenant) who maintains an office or transacts business in New Jersey is required to withhold New Jersey Gross Income Tax at the rate of 7% from payments made to unregistered, unincorporated contractors for services performed in this state. For more information, see the NJ-WT instruction booklet and the related notice Withholding Requirements for Construction Contractor Services.

Connect With Us

Email your State tax questions;

Visit a Regional Information Center;

Call (609) 292-6400;

Subscribe to our NJ Tax Alert E-News;

Follow us on: