



# Cemeteries, Funerals & New Jersey Taxes

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## Introduction

The New Jersey Cemetery Act, 2003 (N.J.S.A. 45:27-1 et seq.) accords a broad range of tax exemptions in recognition of the vital public health and welfare benefits cemeteries provide. This bulletin explains the sales tax treatment of sales and purchases by cemetery companies; sellers/installers of gravestones, tombstones, markers, and mausoleums; and funeral directors.

## Registration

All businesses are required to register with the State of New Jersey for tax purposes at least 15 business days before starting business. To register, a **Business Registration Application (Form NJ-REG)** must be filed. A **New Jersey Certificate of Authority (Form CA-1)** for sales tax will be issued if the application indicates that the business will collect sales tax or purchase materials for resale. A Public Records Filing may also be required depending upon the type of business ownership. More information on Public Records Filing is available in the New Jersey Registration Package (NJ REG) or by calling 609-292-9292.

## Cemetery Companies

“Cemetery company” means any individual, corporation, partnership, association, or other public or private entity which owns, operates, controls, or manages land or places used or dedicated for use for burial of human remains or disposition of cremated human remains, including a crematory located on dedicated cemetery property. Cemetery companies are prohibited from engaging in any of the following activities:

- Manufacture or sale of vaults, private mausoleums, monuments, markers, or bronze memorials
- Conduct of any funeral home or the business or profession of mortuary science

### EXEMPTIONS

The Act relieves cemetery companies from the payment of:

- Real property taxes on lands dedicated to cemetery purposes
- Income taxes
- Sales and use taxes
- Business taxes
- Inheritance taxes

Cemetery property is exempt from sale for collection of judgments. Cemetery trust funds and trust income are exempt from tax and exempt from sale or seizure for collection of judgments against the cemetery company.

### PURCHASES

**For Cemetery Use.** Tangible personal property and services purchased by a cemetery company for cemetery use are exempt from New Jersey sales and use tax. For the exemption to be valid, the cemetery company must take title to the property and must issue the supplier an **Exempt Use Certificate (Form ST-4)** to substantiate the exempt character of the purchase.

**For Resale.** When the item(s) purchased are intended for resale, the cemetery company issues a valid **Resale Certificate (Form ST-3)** to the supplier in lieu of paying sales tax.

**NOTE:** Cemetery companies do not use the **Exempt Organization Certificate (Form ST-5)** for making tax-exempt purchases, except when the cemetery is part of a religious or charitable organization that has been approved for an ST-5 exempt organization certificate.

### SALES

**Taxable Sales.** Charges for wreaths, evergreen blankets, flowers, and other similar items are taxable. Cemetery companies issue a **Resale Certificate (Form ST-3)** to their supplier when buying such items and then collect tax when selling the items to customers.

**Exempt Sales.** Charges by a cemetery company to an interment space owner for perpetual care, annual care, and/or special care of cemetery graves or plots, or for other services related to the maintenance and care of cemeteries, graves, and interment spaces are exempt from sales tax. These services are also exempt from sales tax when performed by an outside contractor rather than a cemetery company.

Charges for services which result in an exempt capital improvement to cemetery property are exempt from sales tax. The installation and inscription of monuments, markers, mausoleums, and memorials and the provision of railings, curbing, walks, corner posts, and irrigation systems for lots and graves are exempt from sales tax. Charges for conducting interments, entombments, inurnments, and disinterments are also exempt from sales tax.

## **Sellers/ Installers of Gravestones, Tombstones, Markers, and Mausoleums**

Sales of gravestones, tombstones, markers, and other memorials, the foundations upon which they are built, and the materials used to set them in the cemetery are subject to New Jersey sales and use tax. The point at which tax is collected is determined by whether the item(s) are sold by a retailer or by a contractor.

- **Retailers.** Retail sales are transactions in which the gravestone or other marker is sold *without* installation. The retailer who makes the sale must collect sales tax from the purchaser. The retailer issues a **Resale Certificate (Form ST-3)** to the supplier and pays no sales tax on the purchase.
- **Contractors.** Gravestones and other markers sold *with* installation constitute a capital improvement to real property. The seller/installer is a contractor for New Jersey sales tax purposes. Contractors are considered to be the final consumers of all materials which become part of the real property and must therefore pay sales tax to their supplier(s) when purchasing gravestones, tombstones, markers, and mausoleum materials. A contractor should not collect tax on charges to the customer for the gravestone, tombstone, marker, or materials or for labor charges when the work results in capital improvement, such as installation or reinstallation.
- **Fabricator/contractors** are contractors who build or assemble as well as sell and install items, such as tombstones or monuments, which become a component part of real property. It is often difficult for a fabricator/contractor to determine in advance whether a finished product will be sold with or without installation. Consequently, a fabricator/contractor of gravestones may issue a resale certificate to the supplier and not pay sales tax when purchasing the material needed to construct the marker. The fabricator/contractor then either charges sales tax to the customer on the selling price of the item if sold without installation, or, if installed, remits use tax to the State based on the price at which items of the same kind are offered by the fabricator/contractor for retail sale or on the cost of the materials used to make the marker (if the fabricator/contractor does not make retail sales of items of the same kind). For more information, see the Tax Topic Bulletin S&U-3, *Contractors and New Jersey Taxes*.

## **Funeral Directors**

A funeral director's charges for funeral services or caskets and other funeral items are not subject to sales tax. However, the funeral director is required to pay tax to the supplier when purchasing the items. If the supplier does not charge sales tax, the funeral director must remit use tax directly to the State. The funeral director must also pay sales and use tax on the supplies and equipment purchased to perform funeral services, unless the purchase qualifies for a generally available exemption, such as for clothing or protective equipment.

## **For More Information**

For more information on cemeteries, call the Division's Customer Service Center at 609-292-6400, e-mail us at [nj.taxation@treas.state.nj.us](mailto:nj.taxation@treas.state.nj.us), or write to:

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Many State tax forms and publications are available by fax and on our Web site. Call NJ TaxFax at 609-826-4500 from your fax machine's phone, or access the Division's home page at: [www.state.nj.us/treasury/taxation/](http://www.state.nj.us/treasury/taxation/)