

Floor Covering Dealers & New Jersey Sales Tax

Publication ANJ-5

Introduction

This bulletin explains the New Jersey sales and use tax rules for sales and installations of floor covering by **floor covering dealers**. A “floor covering dealer” is someone who makes retail sales of floor coverings. When a dealer installs the floor covering he sells, the dealer is both a retail vendor (i.e., seller of floor covering) and a contractor (i.e., installer of floor covering). Accordingly, a floor covering dealer must always treat the sale of floor covering and the service of installing the floor covering as **two separate transactions**. A contractor that is not a retail floor covering dealer, but rather purchases floor covering on a per job basis and installs it for customers, operates under the general rules for contractors, not the rules for floor covering dealers. For information concerning contractors see Tax Topic Bulletin S&U-3, *Contractors and New Jersey Taxes*.

Sales of Floor Covering

The retail sale of floor covering is the sale of tangible personal property and is **always** taxable. Examples of floor covering include, but are not limited to: laminate, carpeting, linoleum, tile, hardwood, marble, and padding. When a dealer sells floor covering to a customer, with or without an agreement to install the floor covering, the dealer **must collect sales tax from the customer** on the sales price of the floor covering unless the customer issues a valid exemption certificate, or the floor covering is delivered outside the State by the vendor. A customer is defined as **anyone** purchasing the floor covering, including a contractor or developer. (**NOTE:** A floor covering dealer may accept a **Resale Certificate (Form ST-3)** only when the customer is a retail floor covering dealer.)

If the sale includes installation, the installation must be treated as a transaction separate from the sale of the floor covering itself. See *Installation of Floor Covering* below. The installer (floor covering dealer, other person or business, or do-it-yourselfer) must pay sales tax on the supplies used in performing the installation. See *Purchases* below.

Installation of Floor Covering

The installation of floor covering is a taxable service unless it results in a capital improvement. Generally, the installation of floor covering will result in a capital improvement when the floor covering is permanently installed **and** installed over a subfloor.

Permanently installed means the floor covering is intended to permanently cover the subfloor. Examples of installation methods which qualify as capital improvements include, but are not limited to: wall-to-wall carpeting glued down or attached with tackless strips; laminate floors installed as floating floors with planks which lock or glue together but are not physically attached to the subfloor by nails, screws, or pegs; vinyl or linoleum sheets installed with adhesives; vinyl or linoleum tiles installed with peel-and-stick backing.

A *subfloor* may be composed of any material, such as board, plywood, underlayment, or cement, which is not a material that usually or normally serves as a finished floor. For sales tax purposes, a subfloor is also a finished floor that has deteriorated through damage or age to the point where its value is no more than that of a typical subfloor.

When the installation results in a capital improvement to real property, the installer (who may be the floor covering dealer or another person or business) may not collect sales tax from the real property owner on the charges for labor and services, provided:

- The installation charges are stated separately from the charges for the floor covering; and
- The property owner issues a **Certificate of Capital Improvement (Form ST-8)** to the installer.

NOTE: If the charges for floor covering and installation have not been treated as separate transactions, sales tax must be collected on the entire invoice. For example, a floor covering dealer advertises its wall-to-wall carpet price as costing “\$12.00 per square yard, installed.” If the dealer does not separately state a reasonable installation charge on the bill to the customer, the entire amount is subject to tax as the sale of floor covering.

A floor covering installation in New Jersey does **not** result in a capital improvement if the floor covering is not installed with the intention of permanently covering a subfloor. Floor covering installers should make a determination as to whether floor covering installed by any method qualifies as a capital improvement. In cases where the installation does not result in a capital improvement, the person who installs the floor covering must collect the sales tax from the customer on the installation charges.

Purchases

For Resale. As a retailer, a floor covering dealer may purchase floor coverings and installation supplies for resale and not pay sales tax on these items by issuing a **Resale Certificate (Form ST-3)** to the supplier.

Installation Supplies. Anyone (floor covering dealer, other person or business, do-it-yourselfer) who installs floor covering is required to pay tax on the purchase price of the supplies used in the installation. Examples of supplies include, but are not limited to: underlayment, nails, staples, plywood strips, adhesive tape, and cement.

When a floor covering dealer installs floor covering, sales tax on the installation supplies may either be paid at the time of purchase, or may be remitted as **use tax** based on the cost of supplies withdrawn from the dealer's sales inventory. When a dealer **sells and installs** floor covering, he pays sales or use tax on the supplies used in the installation.

If the floor covering dealer purchases installation supplies from outside the State and pays sales tax at a rate less than New Jersey's 7% rate, and the other state has sales tax reciprocity with New Jersey, **use tax** must be paid to New Jersey on the cost of the supplies for the difference between the rate in the State where the purchase was made and New Jersey's rate. If no sales tax was paid to the other state or the other state does not have reciprocity with New Jersey, the full 7% New Jersey use tax is due.

Supplies sold in New Jersey for use outside the State and delivered by the vendor to the out-of-State job site are not subject to New Jersey sales or use tax.

Exemption Certificates

A valid New Jersey exemption certificate allows a qualified individual or business to purchase certain goods and/or services without paying sales tax. In addition to the exemption certificates previously mentioned there are four other exemption certificates that may be used for exempt purchases of floor covering and floor covering installation services.

Exempt Organization Certificate (Form ST-5) — When an exempt organization purchases materials or services, they will provide a copy of their Exempt Organization Certificate instead of paying sales tax.

Contractor's Exempt Purchase Certificate (Form ST-13) — When contractors purchase materials or services for exclusive use in fulfilling a contract with an exempt organization or a Federal or New Jersey government agency, they will issue a Contractor's Exempt Purchase Certificate instead of paying sales tax.

Contractor's Exempt Purchase Certificate Urban Enterprise Zone (Form UZ-4) — When contractors purchase materials or services for exclusive use in fulfilling a contract with a qualified business within an Urban Enterprise Zone, they will issue a Contractor's Exempt Purchase Certificate instead of paying sales tax.

Urban Enterprise Zone Exempt Purchase Certificate (Form UZ-5) — When a qualified business from an Urban Enterprise Zone purchases materials or services, they will provide a copy of their Urban Enterprise Zone Exempt Purchase Certificate instead of paying sales tax.

Record Keeping

A floor covering dealer in New Jersey is required to register with the State as a vendor and must collect and remit sales and use tax accordingly. If sales tax was not collected from the customer, copies of the properly completed exemption certificates or proof that delivery occurred outside of New Jersey must be kept with the permanent records. Floor covering installers are required to keep records of floor covering installations that resulted in capital improvements. The records should contain sufficient information for the Division of Taxation to make a determination that the work performed resulted in a capital improvement.

For More Information

For more information on floor covering dealers and New Jersey sales and use tax, contact our Customer Service Center at 609-292-6400, e-mail us at nj.taxation@treas.state.nj.us, or write to: New Jersey Division of Taxation, Information and Publications Branch, PO Box 281, Trenton, NJ 08695-0281. 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 our home page at: www.state.nj.us/treasury/taxation/