

Floor Covering Dealers & New Jersey Sales Tax

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Introduction

The sale of floor covering is a retail sale and is subject to New Jersey sales tax. Installation of floor covering is a transaction separate from the sale and is always taxable unless it results in a capital improvement. This bulletin explains the New Jersey sales tax rules for sales and installations of floor coverings by floor covering dealers.

Floor Covering Sales

Under the New Jersey sales tax law, floor covering includes carpeting, linoleum, tile and padding. It does **not** include supplies used in performing the installation. Installation supplies are taxable to the person or business making the purchase.

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. A customer is defined as **anyone** purchasing the floor covering, including a contractor or developer.

If the sale **includes** installation, the installation must be treated as a transaction separate from the sale of the floor covering itself. See *Installation* below.

Installation

The installation of floor covering is **always** taxable unless the installation results in a capital improvement. Generally, the installation of floor covering will result in a capital improvement when it is permanently installed over a **subfloor**. 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 does result in a capital improvement to real property, the installer (who may be the floor covering dealer or another person) may not collect sales tax from the real property owner on the charges for labor and services, provided:

- These 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 would be 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 has not been permanently installed over a subfloor. *Permanent installation* means installation of a kind which cannot be removed without substantial damage to the subfloor, or the covering, or both. Floor covering installers should make a determination as to whether floor covering installed by any method can be removed without substantial damage to the covering or the subfloor. 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 installation charges.

Purchases

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

However, any person who installs floor covering (including a floor covering dealer) is a contractor and is required to pay sales tax on the supplies used in the installation. Supplies include, but are not limited to, underlayment, nails, staples, plywood strips, adhesive tape and cement.

When a dealer **installs** floor covering, sales tax may either be paid at the time of purchasing supplies for use in the installation, or may be remitted as **use tax** based on the cost of supplies withdrawn from the sales inventory. When a dealer **sells and installs** floor covering, he pays sales or use tax on the supplies used in the installation. The customer purchasing the floor covering pays sales tax on the price of the floor covering, even if the purchaser is a contractor.

If the floor covering dealer purchases supplies from outside the State and pays sales tax less than 6% 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 paid 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 6% 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 two other exemption certificates that floor covering dealers may accept for both floor covering sales and floor covering installations.

Exempt Organization Certificate (Form ST-5)—When you sell to an exempt organization, or do work for one, you should obtain a photocopy of their Exempt Organization Certificate instead of collecting sales tax. Keep this photocopy of the certificate for your records.

Contractor's Exempt Purchase Certificate (Form ST-13)—When contractors purchase materials or services from you for exclusive use in fulfilling a contract with an exempt organization, they will issue you a Contractor's Exempt Purchase Certificate instead of paying sales tax. You should retain the certificate for your files.

Registration

New Jersey law requires all businesses to register with the State at least 15 business days before starting business. To register, a **Business Registration Application (Form NJ-REG)** must be filed. You will receive a **New Jersey Certificate of Authority** for sales tax if you have indicated on your application that you will collect sales tax or purchase materials for resale. This certificate is your authorization from the State of New Jersey to collect sales tax and issue or accept exemption certificates. In most cases, both the seller and the buyer must be registered with the State to issue and/or accept exemption certificates. A Public Records Filing may also be required depending upon the type of business ownership. For more information on Public Records Filing call 609-292-9292.

For More Information

For more information on floor covering dealers and New Jersey sales tax, contact the Division's Customer Service Center at 609-292-6400, e-mail us at taxation@tax.state.nj.us, or write to:

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