

Air Conditioning, Heating, Refrigeration & New Jersey Sales Tax

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Contractor

A contractor is defined as anyone in the business of erecting structures, building on, or otherwise improving, altering or repairing real property (land and buildings) of others. Under this definition, a person who installs, repairs or maintains central air conditioning, heating or refrigeration systems or units is considered a contractor. The New Jersey Sales and Use Tax Act provides that sales of building materials and supplies to contractors are retail sales and are taxable to the contractor. Charges for installing tangible personal property are taxable unless the installation results in a capital improvement.

A retailer who sells tangible personal property such as air conditioning units is considered a contractor if the retailer also installs the units in such a way that they are permanently attached to and become a component part of real property.

This bulletin explains the responsibilities of air conditioning, heating and refrigeration contractors for the payment and collection of sales and use tax. For more information, request Tax Topic Bulletin S&U-3, *Contractors and New Jersey Taxes*.

Purchases

Contractors are required to pay sales tax on all purchases of materials and supplies, including air conditioning, heating and refrigeration units. When materials are purchased in New Jersey, the contractor is required to pay the tax to the supplier. When materials are purchased in another state and brought into New Jersey for use in New Jersey, the contractor is required to pay **use tax** based on the cost of the materials. For more information on use tax, see Publication ANJ-7, *Use Tax in New Jersey*.

Materials purchased from a New Jersey supplier for use outside New Jersey and delivered by the supplier to the out-of-State job site are not taxable. However, if the contractor accepts delivery of the materials in this State, sales tax is due whether or not the materials are used for a job outside New Jersey.

Installation

Installations of central heating, air conditioning and refrigeration systems that are permanently attached to and become component parts of real property are considered capital improvements. Charges for installation are not taxable to the property owner provided the installer receives a **New Jersey Certificate of Capital Improvement (Form ST-8)** from the property owner.

The installation, as well as the purchase of an air conditioner, is taxable when the unit is placed into an existing space or metal casing that is part of a structure. An air conditioner that can be removed from its casing by the owner remains tangible personal property. The purchase and installation of tangible personal property are taxable to the purchaser.

Movable or removable air conditioning or refrigeration units such as window air conditioners and refrigerated show cases remain personal property after installation. The installation of such a unit does not result in a capital improvement. Both the cost of the equipment and the installation are taxable to the property owner.

Duct Work Installation

A person who fabricates and installs duct work is considered to be a fabricator/contractor. A fabricator/contractor registered with the New Jersey Division of Taxation may purchase materials for resale without paying sales tax by issuing a **New Jersey Resale Certificate (Form ST-3)** to the supplier.

When a fabricator/contractor sells his fabricated product and does not install the item, he should charge the purchaser 6% sales tax based on the selling price of the fabricated product.

Duct Work Installation (continued)

When fabricated items are installed and the installation results in a capital improvement, the fabricator/contractor must remit use tax to the Division based on:

- The value at which items of the same kind are offered for sale by him; or
- If the fabricator/contractor makes no sales of items of the same kind, the cost of all materials used in the fabrication.

If the installation does not result in a capital improvement, the fabricator/contractor must remit use tax on the fabricated item as indicated above **and** collect sales tax from the property owner on the installation charges.

Maintenance, Service and Repair

Heating Units: The sales tax law specifically exempts from tax the charges for maintaining or repairing residential heating system units serving no more than three families, providing the families live independently of each other and do their own cooking on the premises. Included under the exemption are cleaning and servicing of residential gas, oil, coal or wood burning stoves, furnaces or fireplaces and their chimneys. A contractor is **not** required to obtain a New Jersey exemption certificate for services performed on an exempt residential heating system.

The labor charges for maintaining, servicing or repairing a central heating system in any other kind of structure are taxable to the property owner. When a contractor supplies parts for servicing any central heating system, the contractor is required to pay tax on the parts. A customer may never be charged sales tax on parts for a central heating system. Labor charges are exempt only when work is performed on an exempt residential heating system.

Air Conditioning and Refrigeration Units: Although the installation may result in a capital improvement, labor charges for repairing, maintaining or servicing air conditioning and refrigeration units are taxable to the property owner. A contractor supplying parts for these services is required to pay sales tax on the cost of the parts.

Charges for maintaining, servicing or repairing tangible personal property such as window air conditioners and movable refrigerators are taxable to the customer, as are the charges for any repair or replacement parts.

Maintenance Contracts: Contracts purchased for maintaining qualified residential heating systems are also exempt from tax. All other maintenance contracts are taxable to the purchaser.

Registration

New Jersey law requires all businesses to register with the Division of Taxation at least 15 business days before starting business. To register, an **Application for Registration (Form REG-1)** must be filed with the Taxpayer Registration section of this Division. You will receive a **New Jersey Certificate of Authority (Form CA-1)** 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 Division to issue and/or accept exemption certificates.

For More Information

For more information on air conditioning, heating, refrigeration and New Jersey Sales Tax, call the Division's Tax Hotline at (609) 588-2200, or write to New Jersey Division of Taxation, Taxpayer Services Branch, Office of Communication, CN 281, Trenton, New Jersey 08646-0281. To listen to recorded tax topics, call New Jersey Tax Talk at 800-323-4400 (Touch-tone phones within New Jersey only). Many New Jersey tax forms and publications are available through NJ TaxFax by dialing (609) 588-4500 from your fax machine's phone.