

## **Introduction**

When you have work done on your real property (building or land), this work can be a capital improvement, a repair, or maintenance service. Sales tax rules differ for each type of work done to your real property. This bulletin explains the sales tax rules that apply in each case.

## **Important Note**

This publication reflects the changes that took effect October 1, 2006, under legislation (P.L. 2006, c.44) that expanded the sales and use tax base.

## **General Information**

A *contractor* is an individual or business entity engaged in the business of improving, altering, or repairing 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 which 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 of New Jersey for tax purposes and to collect New Jersey sales tax on charges for labor when required. For more information pertaining to contractors, request Tax Topic Bulletin S&U-3, *Contractors and New Jersey Taxes*.

**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, insurance) which has no physical substance.

**Construction materials** are items purchased by a contractor which will become part of the real property. For example, a 2x4 used as a stud will become part of the wall and is therefore considered construction material.

**Capital improvement** means an installation of tangible personal property which 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 the following, which became subject to tax as of October 1, 2006: certain landscaping services, carpet and other floor covering installations, and hard-wired alarm or security system installations.

Examples of *exempt capital improvements* include:

All new construction*	Porch enclosure
New siding	New heating system
New kitchen cabinets	New electrical outlets
New kitchen fixtures	Storm doors & windows
Paving driveway	New doors
New central air conditioner	Flagpole (in concrete)
Clearing land for construction	New roof
Attic ventilation fan	New gutters
New fence	Rewiring
Electronic garage door opener	New elevators
Barbecue pit	New hot water heater
Solar energy window film	New door locks

In-ground swimming pool	New bathroom fixtures
New awnings	New tiled bath
Fireplace	New deck
Underground water sprinkler system	Initial painting of new construction

\*Other than the exceptions listed below.

Examples of *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

**Repair** (to real property) means work which restores property to working condition; it does not add to the value or prolong the life of the property. **Maintenance services** preserve the existing condition of real property.

Examples of *repairs* include:

Fixing loose bath tiles	Repairing gutters
Fixing faulty plumbing	Pointing bricks
Patching driveway potholes	Replacing torn screen
Repairing cracked patio floor	Fixing leaks in cellar
Fixing faulty electrical outlets	Fixing 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.

Examples of *maintenance services* include:

Mowing lawns	Snow shoveling
Trimming trees	Powerwashing exterior
Painting interior or exterior	of house

## **Paying Sales Tax on Improvements**

**Taxable Services.** A contractor's bill should separately state the charges for materials and for labor. The contractor charges sales tax on the labor portion of the bill only when he performs a taxable capital improvement, repair, maintenance, or installation service. (There is no sales tax due on the charge for labor when the contractor's work results in an exempt capital improvement. See *Exempt Capital Improvement Services* below.) The contractor may not charge you sales tax on the cost of the materials and supplies used for the job. However, if the contractor charges you a lump sum for the taxable capital improvement, repair, maintenance, or installation service, without separating the charge for materials from the charge for labor, you are required to pay the sales tax on the total amount of the bill.

Effective on October 1, 2006, the following are treated as taxable services:

- Landscaping services
- Installation of carpet and other flooring
- Installation of hard-wired alarm or security system

Certain service providers that work on, but do not *alter*, real property (e.g., janitorial or cleaning services, pest control services) are not considered to be "contractors" for New Jersey sales tax purposes. These businesses must charge you sales tax on the total amount of your bill.

Repairs or services to tangible personal property (e.g., washing machines, television sets, automobiles) are **not repairs to real property**. A tradesman such as a TV repairman is not a "contractor" for New Jersey sales tax purposes because he is not working on the land or buildings of others. He is required to charge you sales tax on both his labor and the parts used for the repair.

**Exempt Capital Improvement Services.** When the work performed on your real property results in an exempt capital improvement, the contractor may not collect sales tax from you on any charges (materials or labor), provided you give the contractor a properly completed Certificate of Exempt Capital Improvement (Form ST-8). Your contractor may supply an ST-8 form, or you may obtain one from the Division of Taxation. For your convenience, Form ST-8 is included at the end of this booklet.

### **Residential Heating Systems**

The contractor may not charge you 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.

### **Do-It-Yourself Work**

When you work on real property yourself, you are required to pay sales tax on the materials and supplies that you purchase. *Anyone* purchasing construction materials from a supplier, whether a contractor or property owner, must pay sales tax, regardless of the nature of the job (repair or capital improvement). The capital improvement exemption applies only to the contractor's *labor charges* billed to the homeowner when the work results in an exempt capital improvement.

### **Floor Covering**

The retail sale of floor covering is always subject to sales tax. Anyone (contractor, developer, or property owner) purchasing floor covering (carpeting, linoleum, tile, hardwood, marble, and padding, etc.) from a dealer (retailer) pays sales tax on the purchase price of the floor covering. This is true whether or not the dealer does the installation. When a dealer sells *and* installs floor covering, the sale of the floor covering and the sale of the installation are always treated as two separate transactions, and tax is collected as follows:

- **Floor Covering.** Sales tax is collected on the sales price of the floor covering whether the dealer is doing the installation or not.
- **Installation.** Sales tax is collected on the installation charge (prior to October 1, 2006, the permanent installation of floor covering was an exempt capital improvement).

For more information on floor covering dealers and New Jersey sales tax, see publication ANJ-5, *Floor Covering Dealers & New Jersey Sales Tax* or view *Tax Notes – Floor Covering Installation*.

### **Landscaping**

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 the landscaper's work results in an exempt capital improvement (e.g., clearing land for new construction, installing decks, patios, fountains, low voltage lighting), there will be no sales tax. If the work is a taxable landscaping service (e.g., planting trees, shrubs, plants; laying sod; seeding a lawn) the landscaper charges sales tax on the labor portion of the bill. If the work performed by the landscaper is a repair or maintenance service (e.g., pruning, fertilizing, mowing), the landscaper charges sales tax on the labor portion of the bill.

For more information about landscapers, see publication ANJ-4, *Landscapers & New Jersey Sales Tax* or view *Tax Notes – Landscaping Services*.

ST-8 (3-07, R-11)

State of New Jersey  
DIVISION OF TAXATION

SALES TAX  
FORM ST-8

CERTIFICATE OF EXEMPT  
CAPITAL IMPROVEMENT

To be completed by both owner of real property and contractor, and retained by contractor. Read instructions on back of this certificate. Do not send this form to the Division of Taxation.

A registered New Jersey contractor must collect the tax on the amount charged for labor and services under the contract unless the owner gives him a properly completed Certificate of Exempt Capital Improvement.

**MAY BE ISSUED ONLY BY THE OWNER OF THE REAL PROPERTY**  
**MAY NOT BE ISSUED FOR THE PURCHASE OF MATERIALS**

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

\_\_\_\_\_  
(Contractor's New Jersey Certificate of Authority Number)

THE FOLLOWING INFORMATION MUST BE FURNISHED:

The nature of the contract is as follows (describe the exempt capital improvement to be made): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The address or location where work is to be performed: \_\_\_\_\_

TOTAL AMOUNT OF CONTRACT \$ \_\_\_\_\_

The undersigned hereby certifies that he is not required to pay sales and use tax with respect to charges for installation of tangible personal property, because the performance of the contract will result in an exempt capital improvement to real property. The undersigned purchaser hereby affirms (under the penalties for perjury and false swearing) that all of the information shown in this Certificate is true.

**CONTRACTOR'S CERTIFICATION**

I certify that all sales and use tax due has been or will be paid by the undersigned on purchases of materials incorporated or consumed in the performance of the contract described herein.

\_\_\_\_\_  
(Signature of Contractor)

\_\_\_\_\_  
(Date)

**PROPERTY OWNER'S SIGNATURE**

\_\_\_\_\_  
(Name of owner of real property)

\_\_\_\_\_  
(Address of owner of real property)

By \_\_\_\_\_

\_\_\_\_\_  
(Signature of owner, partner,  
officer of corporation, etc.)

\_\_\_\_\_  
(Date)

Any person making representations on this certificate which are willfully false may be subject to such penalties as may be provided for by law.

# INSTRUCTIONS

## TO THE PROPERTY OWNER:

In cases where the contractor performs work which results in an *exempt capital improvement* to your house or land (real property), he may NOT charge you any sales tax if you issue to him a properly completed Certificate of Exempt Capital Improvement (Form ST-8).

It is important to distinguish between an exempt capital improvement and a taxable capital improvement, repair or installation. If the fulfillment of a contract only maintains the existing value of the property, it is a repair and not a capital improvement. Where an improvement results in an increase in the capital value of the real property, it is generally considered that a capital improvement has been performed. (But see below list of taxable capital improvements.)

As an aid to determine whether a contract is for a repair to real property or a capital improvement to real property, the treatment of such transaction for income tax purposes under the Federal Internal Revenue Code may be used as a guide. If you have any doubt whether the work to be performed constitutes a repair or an exempt capital improvement, you should communicate with the Division of Taxation and describe in detail such work.

The following are examples of *exempt* capital improvements:

New construction (other than taxable capital improvements listed below)	Porch enclosure, construction of	Paneling, installation of
In-ground swim pool, installation of	New roof, installation of	New heating system installation
New central air conditioner installation	Tiled bath, installation of	Rewiring
Painting a newly constructed house	New bath fixtures, installation of	New electrical outlets installed
New hot water heater installation	New kitchen cabinets, installation of	New siding, installation of
Patio, construction of	New kitchen fixtures, installation of	Garage, construction of
	Paving of driveway	Storm doors and windows, original or initial installation of

The following are examples of *taxable* capital improvements. This form cannot be issued for these services, which are subject to sales tax on and after October 1, 2006:

- Seeding, sodding, grass plugging of new lawns, planting trees, shrubs, hedges, plants, etc.
- Clearing and filling land associated with seeding, sodding, grass plugging of new lawns, or planting trees, shrubs, hedges, plants, etc., including tree/stump removal
- Installing carpeting and other flooring
- Installing a hard-wired security, burglar or fire alarm system

## TO THE CONTRACTOR:

If you enter into a contract to add to or improve real property by an exempt capital improvement (see examples above) and the property owner issues to you a properly completed Certificate of Exempt Capital Improvement, which you must retain, you should not collect sales tax from the property owner. (You are required to pay sales tax to your supplier on the purchase of the tangible personal property you purchase for use in performing the contract irrespective of whether the work constitutes a repair or a capital improvement.)

However, if you enter into a contract to repair, maintain, or service real or tangible personal property, or to install a taxable capital improvement, you must collect tax on the charge for labor or services performed in accordance with the contract.

## GOOD FAITH:

In general, a contractor who accepts a Certificate of Exempt Capital Improvement in “good faith” is relieved of liability for collection or payment of tax upon transactions covered by the certificate.

In order for “good faith” to be established, the following conditions must be met:

- (a) The certificate must contain no statement or entry which the contractor knows is false or misleading.
- (b) The certificate must be an officially promulgated certificate or a proper reproduction thereof.
- (c) The certificate must be dated and executed in accordance with the published instructions, and must be complete and regular in every respect.

The contractor may, therefore, under the circumstances, accept this “good faith” Certificate of Exempt Capital Improvement as a basis for not collecting sales tax with respect to service or labor charges.

Sales transactions which are not supported by properly executed certificates shall be deemed to be taxable sales and the contractor must collect the proper tax. In the case of an improper certificate or the absence of a certificate, the burden of proof that the tax was not required to be collected is upon the contractor. If the above listed good faith requirements are met, a contractor is relieved of liability if the purchaser was not entitled to the exemption.

## CORRECTION OF CERTIFICATE:

In general, contractors have 90 days after performance of the contract to obtain a corrected certificate where the original certificate lacked material information required to be set forth in said certificate or where such information is incorrectly stated.

## RETENTION OF CERTIFICATES:

Certificates must be retained by the contractor for a period of not less than four years from the date of performance of the contract covered by the certificate. Certificates must be in the physical possession of the contractor and available for inspection on or before the 90th day following the date of the transaction to which the certificate relates.

## FOR MORE INFORMATION:

Call the Customer Service Center (609) 292-6400. Send an e-mail to [nj.taxation@treas.state.nj.us](mailto:nj.taxation@treas.state.nj.us). Write to: New Jersey Division of Taxation, Information and Publications Branch, PO Box 281, Trenton, NJ 08695-0281.

## For More Information

### By Phone

- Call the Division of Taxation's Customer Service Center at **609-292-6400**
- TTY equipment users call **1-800-286-6613** (within NJ, NY, PA, DE, and MD) or **609-984-7300** (anywhere)

### Online

- Division of Taxation Web site: [www.state.nj.us/treasury/taxation/](http://www.state.nj.us/treasury/taxation/)
- E-mail: [nj.taxation@treas.state.nj.us](mailto:nj.taxation@treas.state.nj.us)
- Subscribe to *NJ Tax E-News*, the Division of Taxation's online information service, at: [www.state.nj.us/treasury/taxation/listservservice.shtml](http://www.state.nj.us/treasury/taxation/listservservice.shtml)

### In Writing

New Jersey Division of Taxation  
Information and Publications Branch  
PO Box 281  
Trenton, NJ 08695-0281

## Order Forms and Publications

- Call the Forms Request System at **1-800-323-4400** (Touch-tone phones within NJ, NY, PA, DE, and MD) or **609-826-4400** (Touch-tone phones anywhere)
- Call NJ TaxFax at **609-826-4500** from your fax machine's phone
- Visit the Division of Taxation's Web site: [www.state.nj.us/treasury/taxation/](http://www.state.nj.us/treasury/taxation/)