

S&U-2, Sales Tax and Home Improvements

Introduction

When you have work done on your real property (building or land), this work can be either 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.

General Information

A *contractor* is an individual or business entity 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 (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). 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.

Examples of *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
Planting shrubbery, trees, etc.	Flagpole (in concrete)
New central air conditioner	New roof
Clearing land for construction	New gutters
Attic ventilation fan	Rewiring
New fence	New elevators
Electronic garage door opener	New hot water heater
Barbecue pit	Seeding new lawn
Laying new sod	New door locks
Solar energy window film	New bathroom fixtures
Hard wired security system	Fireplace
In-ground swimming pool	New tiled bath
New awnings	New deck
Wall-to-wall carpeting installed over subfloor	Initial painting of new construction

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 a capital improvement.

Examples of *maintenance services* include:

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

Paying Sales Tax on Improvements

Repair and Maintenance 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 repair or maintenance service. (There is no sales tax due on the charge for labor when the contractor’s work results in a capital improvement. See *Capital Improvement*, 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 repair or maintenance 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.

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.

Capital Improvement. When the work performed on your real property results in a 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 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 *labor charges* made by contractors.

Floor Covering

The retail sale of floor covering is always subject to sales tax. Anyone (contractor, developer, or property owner) purchasing floor covering 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, or whether the installation results in a capital improvement. 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 the dealer must collect sales tax on the sale price of the floor covering. *Floor covering* includes carpeting, linoleum, tile, and padding.

If the installation of floor covering results in a capital improvement (i.e., it is permanently installed over a subfloor), the installation charge will not be subject to sales tax provided that:

1. The installation charge is stated separately from the charge for the floor covering; and
2. The homeowner issues a Certificate of Capital Improvement (Form ST-8) to the installer.

When the installation of floor covering does not result in a capital improvement, there will be sales tax on the installation charge. For more information on floor covering, request publication ANJ-5, *Floor Covering Dealers & New Jersey Sales Tax*.

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 a capital improvement (e.g., clearing land for new construction, planting trees, terrac-

ing), there will be no sales tax. If the work performed by the landscaper is a repair or maintenance service (e.g., pruning, fertilizing, mowing), the landscaper does charge sales tax on the labor portion of the bill. For more information about landscapers, request publication ANJ-4, *Landscapers & New Jersey Sales Tax*.

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/
- E-mail: taxation@tax.state.nj.us

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/