



Contractors and New Jersey Taxes

Bulletin S&U-3

Introduction

Contractors doing business in New Jersey have special responsibilities under New Jersey's sales and use tax laws. This bulletin explains the rules that apply to contractors for paying sales or use tax to suppliers and collecting sales tax from property owners.

The bulletin also discusses the procedures to be followed by fabricator/contractors and floor covering dealers when paying sales tax to suppliers and collecting sales tax from customers.

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General Information

A *contractor* is an individual or business entity engaged in the business of improving, altering, or repairing the 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 for tax purposes and to collect New Jersey sales tax on charges for labor when required.

Subcontractor means a contractor who agrees to perform specified operations for another contractor (i.e., a prime contractor).

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, good will, insurance) which has no physical substance.

Construction equipment means any vehicle, machine, tool, implement, etc., used by a contractor in performing work on real property which does not become a physical part of the property and which is not consumed in performing the work. Examples of construction equipment include portable compressors, scaffolds, ladders, power and hand tools, back hoes, and cranes.

Construction materials are items purchased by a contractor which will become part of the real property. For example, a 2×4 used as a stud will become part of the wall. Other examples of construction materials include pipes, valves, heating, cooling, and central air conditioning components.

Construction supplies are items that are used on the construction job which do not become part of the property being worked on. They include cleaning compounds, lubricants, grinding wheels, hacksaw blades, sandpaper, tarpaulins, and rope.

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
Underground water sprinkler system	

Repair (to real property) means work which maintains the existing value of the real property (land or buildings). Repairs restore property to working condition; they do not add to its value or prolong its life. 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.

NOTE: Repairs or services to tangible personal property (e.g., refrigerators, washing machines, window air conditioners, or TV sets) are *not* repairs to real property. A tradesman who does not work on the land or buildings of others is not a “contractor” for New Jersey sales tax purposes. Servicemen who are not “contractors” follow different rules for paying sales tax to suppliers and collecting sales tax from their customers. For example, a television repairman must collect sales tax from the customer on the charges for both labor and the parts used for the repair. (And, because the repairman is not a “contractor” for New Jersey sales tax purposes, he may issue a Resale Certificate (Form ST-3) to purchase repair parts without paying sales tax.) *This bulletin covers only the rules that apply to contractors who work on land or buildings.*

Maintenance services preserve the existing condition of property. Examples of *maintenance services* include:

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

NOTE: 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. Businesses that are not considered “contractors” follow different rules for paying sales tax to suppliers and collecting sales tax from their customers. They are required to charge the customers sales tax on the total amount of the bill

and are permitted to issue a Resale Certificate (Form ST-3) to purchase certain materials and supplies used on the job without paying sales tax. For more information contact our Customer Service Center at 609-292-6400.

Paying Sales Tax to Suppliers

Contractors are required to *pay sales or use tax* on the materials, supplies, equipment, and services they purchase, rent, or use when performing work on the real property of others, except as described below.

Purchases of Materials and Supplies

It is the general rule that the sale to the actual consumer is a “retail sale.” All retail sales of tangible personal property, unless specifically exempt under the New Jersey Sales and Use Tax Act, are taxable. Therefore, the actual consumer pays the sales tax on the tangible personal property at the time of purchase.

For New Jersey sales tax purposes, a contractor is considered the actual consumer of the materials and supplies used in construction or in improving, altering, or repairing the real property of others. Sales of materials and supplies to contractors are considered “retail sales” and, therefore, taxable. Likewise, subcontractors are required to pay sales tax on materials and supplies that they purchase for use in fulfilling contracts with prime contractors.

A contractor always *pays sales tax* on materials and supplies at the time of purchase unless (1) the materials and supplies are for the exclusive use in performing work on the real property of an exempt organization, a qualified business in an Urban Enterprise Zone (but not in a UEZ-

impacted business district), or a qualified housing sponsor; **or** (2) the contractor holds a valid direct payment permit. See *Exempt Organizations* on page 6, and *Exemption Certificates* on page 10.

Construction Equipment

The purchase or rental of construction equipment for an initial contract term of 28 days or less is subject to sales tax, whether or not the equipment is to be used in fulfilling a contract with an exempt organization. The sales tax charge that the contractor pays for the equipment's use may take several forms.

- 1. Bare rental**—refers to the rental of the equipment without an operator. The charge for bare rental is taxable.
- 2. Rental with an operator**—if the bill separately states the charge for the rental and the charge for the operator, only the charge for the rental is subject to sales tax. The operator's service is exempt from sales tax. However, if the bill is for a lump sum and does not separate the charge for the equipment and the charge for the operator, the entire bill is subject to sales tax.
- 3. Performing specific job under contract**—the equipment owner who agrees to complete a specific job (e.g., digging excavations) is considered to be a subcontractor. A subcontractor does not collect sales tax on taxable services performed for another contractor. See *Subcontractors*, page 5 and *Collecting Sales Tax From Property Owners*, page 6.

On leases of construction equipment (transactions with an initial contract term of more than 28 days), the lessor is liable for payment of the lessor's use tax. See *Rentals and Leases*, below.

Rentals and Leases

The New Jersey Sales and Use Tax Act distinguishes between leases and rentals. A rental is a short-term transaction with an initial term of 28 days or less. A rental is treated as a retail sale and the renter pays sales tax on the amount of the rental payment. A lease is a long-term transaction with an initial term of more than 28 days. The lessor (usually the owner of the property) is responsible for paying use tax on lease transactions.

When property is leased, the lessor issues a Lessor Certification (Form ST-40) to the lessee, certifying that the lessor will pay the tax on the leased property directly to the State of New Jersey, and the lessor will not charge the lessee sales tax on the lease payments. For more information request Tax Topic Bulletin S&U-12, *Leases and Rentals*.

NOTE: There are no sales tax exemptions for contractor rentals of machinery or equipment, even when such equipment is used in connection with a job for an exempt organization.

Purchases of Services

A contractor must *pay sales tax* on taxable services purchased by him for his own use unless these services are performed *exclusively* in the fulfillment of a contract with an exempt organization.

The following services performed for contractors are not directly related to capital improvements or repairs, but rather are merely related to the construction work in general. Thus, these services are subject to tax when purchased by contractors: (1) temporary lighting; (2) tempo-

rary fencing; (3) installation of scaffolding; and (4) construction site clean-up.

Out-of-State Purchases

If a contractor purchases materials out of State for use in New Jersey and pays no sales tax, or pays tax at a rate less than the current New Jersey sales tax rate, the contractor must **pay use tax** to New Jersey on the cost of the materials. See *Use Tax*, below.

Out-of-State Contracts

Materials, supplies, and equipment purchased in New Jersey are subject to sales tax when the contractor accepts delivery in New Jersey, even though the materials are intended for use on a job outside New Jersey. (Fabricator/contractors see *Sale and Installation (Form ST-3 Issued for Materials)*, page 8.) Such purchases are not subject to tax when delivered to the out-of-State job site by the supplier, a common carrier, or an unregulated carrier hired by the supplier. Publication ANJ-10, *Out-of-State Sales & New Jersey Sales Tax*, has more information on this subject.

Use Tax

Use tax is imposed on the purchase of goods and services on which sales tax was not collected, or was collected at a rate less than the New Jersey sales tax rate. The purchaser is liable for the payment of use tax at the rate in effect in New Jersey at the time the purchase was made, if no tax was paid. If tax was paid at a lesser rate, the purchaser is liable for the difference between the rate in the state where the purchase was made and the current New Jersey rate, provided that (a) the purchaser has no right to a refund of tax from the other state and (b) the other state allows a corresponding credit for sales or use taxes paid to New Jersey.

For example, a contractor purchases lumber in another state to use on a construction job in New Jersey and pays 4% sales tax to the other state. (The other state has sales tax reciprocity with New Jersey.) The contractor owes 2% use tax to New Jersey on the cost of the lumber — the difference between the 4% sales tax paid in the other state and New Jersey's 6% sales tax rate. For more information on use tax, request publication ANJ-7, *Use Tax in New Jersey*.

The contractor pays any use tax that he owes on his sales tax returns. For more information on filing procedures, order Tax Topic Bulletin S&U-7, *Filing Sales and Use Tax Returns*.

Subcontractors

A contractor who agrees to perform specified tasks for a second contractor (the prime contractor) is acting as a *subcontractor*. The purchases of a subcontractor are treated in the same manner as the purchases of a prime contractor. Subcontractors are the retail purchasers of the materials and supplies that they purchase for use in performing work for the prime contractor. They must **pay sales tax** to the supplier at the time of purchase, unless the materials are for exclusive use on a job for a prime contractor who is performing work on the real property of an exempt organization, a qualified business in an urban enterprise zone, or a qualified housing sponsor. The subcontractor must obtain from the prime contractor the documentation needed to make such exempt purchases of materials and supplies. See *Exemption Certificates*, page 10.

A subcontractor who performs taxable services for a prime contractor does not bill the prime contractor for sales tax on the labor portion of his bill. The prime contractor is responsible for

collecting sales tax from the property owner on the work done by the subcontractor. See *Collecting Sales Tax From Property Owners*, below.

The subcontractor should keep records to document that sales tax was not collected because the services were performed for a prime contractor. There is an exception to this treatment when a subcontractor provides services that are merely related to the construction work in general, as discussed on page 4 under *Purchases of Services*.

Exempt Organizations

In New Jersey, certain organizations may purchase goods and services for the exclusive use of the organization without paying sales tax. The term “exempt organization” includes:

1. The State of New Jersey or any of its agencies or political subdivisions (states other than New Jersey do not qualify for exemption);
2. The United States of America or any of its agencies;
3. The United Nations or any international organization of which the United States is a member; or
4. Certain nonprofit organizations which have been granted exempt status by the Division of Taxation (e.g., churches, charitable organizations, rescue squads, volunteer fire and ambulance companies).

Contractors (or subcontractors) who perform work on the real property of an exempt organization as defined above, or the real property of a qualified business in an Urban Enterprise Zone, or a qualified housing sponsor, may purchase materials and supplies for the job without paying sales tax. The contractor provides the supplier with a properly completed exemption certificate

(Form ST-13, Contractor’s Exempt Purchase Certificate, or Form UZ-4, Contractor’s Exempt Purchase Certificate — Urban Enterprise Zone) to document the exemption. For more information, see *Exemption Certificates*, page 10.

Collecting Sales Tax From Property Owners

Contractors are responsible for *collecting sales tax* from property owners for certain work they perform on real property. Sales tax must be remitted to the State either monthly or quarterly, depending on the amount of sales tax due each month. See *Sales Tax Returns and Payments*, page 14. The accrual method of accounting must be used when reporting gross receipts and sales tax. Under this method, all receipts are reported in the period in which the sale took place, no matter when or if payment is actually received from the customer.

The contractor pays the sales tax on the cost of materials and supplies at the time of purchase. Under the law, a contractor is not granted resale treatment for materials and supplies purchased for improving, altering, or repairing real property. Whether or not sales tax is charged on the customer’s bill depends upon whether the work is a capital improvement or a repair or maintenance service.

Repair and Maintenance Services. A contractor is treated as the retail purchaser of materials and supplies used on, or incorporated into, real property, rather than as a reseller of such materials and supplies. If the contractor chooses to separately itemize materials and labor on the customer’s bill and the bill is for a taxable repair or maintenance service, the only amount deduct-

ible from the receipt for sales tax purposes is the separately stated pass-through of the actual cost of materials. The cost of materials may include the sales tax paid by the contractor when the materials and supplies were purchased. The remainder of the customer's bill is for labor and is subject to sales tax. If the contractor does not itemize the materials and the labor for a taxable job, the entire receipt is subject to tax.

Capital Improvement. If the work results in a capital improvement to real property, the contractor does not charge sales tax on the bill, regardless of whether the materials and the labor are separately itemized or billed as one amount. The property owner must issue the contractor a Certificate of Capital Improvement (Form ST-8). The contractor keeps the ST-8 on file to document that the labor portion of the bill was exempt from tax.

Exceptions

Exempt Organizations. Repair and maintenance services (to real property) and the materials and supplies purchased for either "repair" or "capital improvement" jobs are exempt from tax when the contractor is performing work on the property of: (1) an exempt organization; (2) a New Jersey or Federal governmental agency; (3) a qualified business in an urban enterprise zone; or (4) a qualified housing sponsor.

The contractor does not pay sales tax on materials and does not charge sales tax on the labor portion of the bill, provided the contractor receives a properly completed exemption certificate (purchase order or official contract in the case of a governmental organization) and provides the supplier with the appropriate exemption certificate when purchasing materials. See *Exemption Certificates*, page 10.

Residential Heating Systems. A contractor may not charge the property owner 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. For more information about air conditioning and heating, request publication ANJ-8, *Air Conditioning, Heating, Refrigeration & New Jersey Sales Tax*.

Garbage Removal and Sewer Services.

Removal of garbage that has been placed in a container, and sewer services, such as removing waste from a septic tank, are exempt from sales tax if performed on a regular contractual basis for a period of not less than thirty (30) days. If the service is not performed at least once a month for consecutive months, the contractor must collect sales tax from the property owner for the service.

Fabricator/Contractors

A fabricator/contractor is a contractor who wears two hats. He is both a *fabricator* (one who builds or assembles items to be installed as component parts of real property, e.g., kitchen cabinets, heating ducts) and a *contractor* (one who works on the real property of others because he also installs the items he makes).

Fabricator/contractors follow special rules for paying sales or use tax on materials, and collecting sales tax on the sale and/or installation of the product.

Purchase of Materials

A fabricator/contractor may treat the purchase of materials used to make the product as a pur-

chase for resale. That is, a Resale Certificate (Form ST-3) may be issued to the supplier and no sales tax is paid at the time of purchase. Issuing a Resale Certificate is beneficial if a fabricator/contractor generally sells the product but does not do the installation himself. See *Sale and Installation (Form ST-3 Issued for Materials)*, below. On the other hand, if a fabricator/contractor generally sells *and* installs the product, and such installation results in a capital improvement, it would be beneficial for the fabricator/contractor to simply pay tax on the purchase of materials, rather than issue a Resale Certificate. A fabricator/contractor's payment of tax on materials does not relieve him of the obligation to collect tax when either the product is sold at retail without installation, or when the product is installed and the installation does not result in a capital improvement.

NOTE: Only fabricator/contractors may issue Form ST-3 when they purchase materials. All other contractors are required to pay sales tax on materials at the time of purchase.

Sale and Installation (Form ST-3 Issued for Materials)

If a fabricator/contractor issues a Resale Certificate (Form ST-3) to the supplier when purchasing materials, the fabricator/contractor must collect sales tax from the property owner when he sells and/or installs his product as follows:

- **Sale without installation.** Where the fabricator/contractor sells his completed product, but does not do the installation himself, he must *collect sales tax* from the customer on the retail sales price of the fabricated product.

- **Sale and installation in New Jersey (capital improvement).** Where the fabricator/contractor sells his product and installs it in New Jersey, and the installation results in a capital improvement, the fabricator/contractor *does not collect sales tax* from the property owner on the installation charge.

The fabricator/contractor must *pay use tax* directly to the State on the value of the fabricated product being installed. (Remember, the fabricator/contractor did not pay sales tax on the materials used to make the product.)

The fabricator/contractor's use tax is based on:

1. The price at which items of the same kind are offered for retail sale by him; or
2. If the fabricator/contractor makes no sales of items of the same kind, the tax is based on the cost of materials used in making the product.

Example: A cabinetmaker builds kitchen cabinets, sells them at his retail location, and also installs them. The cabinetmaker does not pay sales tax when purchasing lumber and other materials to build the cabinets. He issues the supplier a Resale Certificate (Form ST-3) at the time of purchase. When the cabinetmaker installs a new set of kitchen cabinets (a capital improvement) for a homeowner, he *does not collect sales tax* from the homeowner on either the cost of the cabinets or the installation charge. The homeowner issues the contractor a Certificate of Capital Improvement (Form ST-8) to document why no sales tax was collected on the installation charge, and the cabinetmaker *pays use tax* to the State based on the retail price of the cabinets.

- **Sale and installation in New Jersey (no capital improvement).** Where the fabricator/contractor sells his product and installs it in New Jersey, and the installation does not result in a capital improvement, the fabricator/contractor must *collect sales tax* from the property owner on the installation charge and *pay use tax* on the fabricated product or materials, as described above.
- **Sale and installation out of State.** Where the fabricator/contractor sells the fabricated product and as part of that sale agrees to install the product at a location outside New Jersey, the fabricator/contractor *does not collect New Jersey sales tax* on the installation charges and *does not pay use tax to New Jersey* on the fabricated product or materials.

Example: A structural steel fabricator purchases steel which is delivered to his facility in New Jersey. The steel is fabricated as provided in shop drawing specifications for onsite installation. The fabricated structural steel is then shipped to a job site located outside this State. No New Jersey sales or use tax is due on this transaction.

NOTE: No use tax is due if the fabricator/contractor pays sales tax to the supplier when the materials are purchased.

Floor Covering Dealers

Floor covering dealers are those who make retail sales (sales to the ultimate consumer or end user) of floor coverings (carpeting, linoleum, tile, hardwood, marble, and padding, etc.). Floor covering dealers also follow special rules for paying sales tax on materials and supplies, as well as for collecting sales tax on the sale and/or installation of the product.

NOTE: The contractor rules apply to those who sell and install floor covering but are not dealers. See *Paying Sales Tax to Suppliers*, page 3, and *Collecting Sales Tax From Property Owners*, page 6.

The sale of floor covering by a dealer and the charge for installing floor covering are always treated as two separate transactions. The dealer who sells and/or installs floor covering must:

- **Collect sales tax** on the sales price of the floor covering whether the dealer is doing the installation or not; and
- **Collect sales tax** on the installation charge, unless the work results in a capital improvement.

Materials. Since the dealer is a retailer, he treats purchases of floor covering materials (carpeting, tile, linoleum, etc.) as purchases for resale. The dealer issues a Resale Certificate (Form ST-3) to the supplier and does not pay sales tax on the cost of the floor covering at the time of purchase. The dealer then *collects sales tax* from the customer (property owner, contractor, or dealer) on the sales price of the floor covering, unless the customer furnishes a properly completed exemption certificate (ST-3, ST-3NR, ST-5, ST-6A, ST-6X, ST-13, or UZ-4, as appropriate), or unless the dealer delivers the floor covering to the customer outside New Jersey. See *Exemption Certificates*, page 10, for more information on the proper use of New Jersey exemption certificates.

Supplies. When a dealer uses supplies to install floor covering, he is required to either pay sales tax when purchasing the supplies, or to remit use tax on the cost of supplies if they are withdrawn from his sales inventory. Supplies include, but

are not limited to, underlayment, nails, staples, plywood strips, adhesive tape, and cement. The dealer *does not collect sales tax* from the customer on the cost of supplies used for the installation.

Installation. The installation of floor covering results in a capital improvement only where the floor covering is permanently affixed to a subfloor. A subfloor may be composed of any material (boards, plywood, underlayment, cement) which is not normally considered to be a finished floor. A finished floor can be considered a subfloor if it has deteriorated through damage or age to the extent that it has no greater value than a conventional subfloor.

Where the installation of floor covering results in a capital improvement, the property owner issues a Certificate of Capital Improvement (Form ST-8) and the floor covering dealer *does not collect sales tax* on the installation charges. Where the installation of the floor covering does not result in a capital improvement, the floor covering dealer must *collect sales tax* on the installation charges.

For more information on floor covering dealers and New Jersey sales tax, request publication ANJ-5, *Floor Covering Dealers & New Jersey Sales Tax*.

Landscapers

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 a landscaper's work results in a capital improvement (e.g., clearing land for new construction, planting trees, terracing), the property owner issues a Certificate of Capital Improvement (Form ST-8) and the landscaper

does not charge sales tax on the labor portion of his bill. If the work performed by the landscaper is a repair or maintenance (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*.

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. The exemption certificates most frequently used in the construction industry are described below.

Resale Certificate (Form ST-3)

Resale Certificates (Form ST-3) may *not* be issued by contractors on any purchase of construction materials, supplies, equipment, or services to be incorporated into real property.

Exception: Since fabricator/contractors are engaged in manufacturing or assembling, they may issue Resale Certificates to suppliers on purchases of materials that become component parts of the items they fabricate. Since floor covering dealers are engaged in retail sales, they may also issue Resale Certificates to suppliers on purchases of floor covering materials.

Exempt Use Certificate (Form ST-4)

Under New Jersey law, certain items are exempt from sales tax if they are purchased for a particular *use*. A contractor may issue Form ST-4 only when purchasing certain "exempt use" items or the materials to be used for their installation which are purchased to be incorporated into real property. When used for such a purchase, the

ST-4 must show the names and sales tax registration numbers of the contractor and any other party to the contract. The certificate must also state the nature of the job and the date the work will start. A common use of Form ST-4 is by a contractor under contract with a utility company to purchase machinery for use in the production, generation, transmission, or distribution of gas, electricity, refrigeration, steam, or water for sale.

Exempt Organization Certificate (Form ST-5)

A contractor does not issue Form ST-5 when making purchases. A contractor who is performing work on the property of an organization which has been granted “exempt status” by the Division of Taxation obtains a copy of the exempt organization’s Form ST-5 to document that the purchases of materials for the job are tax exempt. See *Contractor’s Exempt Purchase Certificate (Form ST-13)*, page 12.

For more information on the Exempt Organization Certificate (Form ST-5), request brochure M-5014, *Exempt Organization Certificate*.

Direct Payment Permit (Forms ST-6A and ST-6X)

The holder of a valid Regular Direct Payment Permit may issue Form ST-6A at the time of purchase in those cases where the taxable status of the transaction is not known at the time of the purchase. When the taxable status of the purchased property or service does become known, the purchaser will pay use tax directly to the State. (The holder of a valid Audit Direct Payment Permit may issue Form ST-6X at the time of purchase, according to the terms of the taxpayer’s audit agreement governing use of the certificate.)

Most holders of Regular Direct Payment Permits are nationwide organizations that purchase materials in quantity and store them in warehouses around the country until needed. When these materials and supplies are sent to New Jersey for use, use tax is paid directly to New Jersey. To apply for a Regular Direct Payment Permit, complete an Application for Direct Payment Permit (Form ST-6B) and mail to:

NEW JERSEY DIVISION OF TAXATION
PO Box 264
TRENTON NJ 08695-0264

NOTE: The holder of a valid Regular Direct Payment Permit may *not* use Form ST-6A to purchase goods that are clearly taxable at the time of purchase, such as office equipment and supplies, etc.

A list of Direct Payment Permit Holders is available at: www.state.nj.us/treasury/taxation/taxinfo.shtml

Farmer’s Exemption Certificate (Form ST-7)

Farmers use this exemption certificate to cover purchases of goods and certain services to be used directly and primarily in the production, handling, and preservation of farm commodities. Materials which will be incorporated into a building or structure are *not* exempt from sales tax.

Exception: Farmers may issue Form ST-7 to purchase materials which will be used in constructing a silo, greenhouse, grain bin, or manure handling equipment. **This exception applies only to farmers and is not available to contractors performing work on farm property. A contractor may not issue Form ST-7.**

A *contractor* may accept Form ST-7 only when performing exempt production and conservation services for a farming enterprise. Examples of exempt conservation services include:

- Applying mulch to growing crops during a drought to prevent moisture loss.
- Aerial sowing of fall cover crop in a field of growing summer crops for purposes of soil nutrient management.

Examples of exempt production services include:

- Plowing a field in preparation for planting.
- Spraying pesticide on a sod field.
- Shearing sheep raised for their wool.
- Picking and packing berries grown for sale.

A *fabricator/contractor* may accept Form ST-7 for the purchase of items of tangible personal property used directly and primarily in the production, handling, and preservation of farm commodities, provided the items do *not* become part of a building or structure other than a silo, greenhouse, grain bin, or manure handling equipment. However, if the fabricator/contractor installs the items, Form ST-7 cannot be accepted, even if the items become part of a silo, greenhouse, grain bin, or manure handling equipment, and the fabricator/contractor must pay use tax on the value of the fabricated product being installed (unless the fabricator/contractor paid sales tax on the materials used to make the fabricated items at the time of purchase). The installation charges are taxable to the farmer unless the installation results in a capital improvement. See *Purchase of Materials*, page 7, and *Sale and Installation (Form ST-3 Issued for Materials)*, page 8.

Certificate of Capital Improvement (Form ST-8)

A Certificate of Capital Improvement is given to a contractor by the property owner when the contractor's work results in a capital improvement. The certificate serves as a basis for the exemption from sales tax on the labor portion of the contractor's bill. The property owner does not have to be registered with the State to issue Form ST-8. The contractor may supply the property owner with an ST-8 Form, or the property owner may obtain one from the Division of Taxation. See page 15 for information on how to obtain forms.

Contractor's Exempt Purchase Certificate (Form ST-13)

A contractor issues Form ST-13 to the supplier when making purchases of materials, supplies, or services for use in performing work on the real property of an exempt organization, a New Jersey or Federal governmental entity, or a qualified housing sponsor.

To document the sales tax exemption, a qualified exempt organization provides a copy of their Exempt Organization Certificate (Form ST-5) to the contractor. New Jersey or Federal governmental entities must give the contractor a signed purchase order or contract, and a qualified housing sponsor will issue a Housing Sponsor Letter of Exemption.

Contractor's Exempt Purchase Certificate — Urban Enterprise Zone (Form UZ-4)

A contractor issues a properly completed Form UZ-4 to suppliers when purchasing materials, supplies, or services for use in performing work for a qualified business at the business's real

property in an Urban Enterprise Zone. The exemption does not apply to equipment that the contractor rents or leases to perform work for a qualified business. The contractor can only obtain Form UZ-4 from a qualified business.

The contractor also issues copies of Form UZ-4 to subcontractors for their use in making exempt purchases for the job. Because the UZ-4 shows the name, address, and New Jersey certificate of authority number of the prime contractor, a subcontractor must attach its own name, address, and New Jersey certificate of authority number to the UZ-4 it gives to vendors.

NOTE: The exemption is not available when purchasing materials, supplies, or services for use in performing work on the real property of a business located in a UEZ-impacted business district. For more information on Urban Enterprise Zones and UEZ-impacted business districts, see *Urban Enterprise Zone Tax Questions and Answers*, available at: www.state.nj.us/commerce/pdf/taxqu.pdf

For more information on the use of exemption certificates, request Tax Topic Bulletin S&U-6, *Sales Tax Exemption Certificates*.

Registration

Any person or organization engaged in a business, trade, profession, or occupation in New Jersey must register with the State for tax purposes by filing a Business Registration Application, Form NJ-REG, at least fifteen (15) business days before starting business or opening an additional place of business in this State. There is no registration fee. Registration ensures that

the business will receive all the forms and information it needs to comply with New Jersey tax laws. The appropriate tax forms and filing instructions will be mailed after the application is received and processed. A Public Records Filing may also be required depending upon the type of business ownership. For information on Public Records Filing call 609-292-9292.

Form NJ-REG may be filed online from the Division of Revenue's New Jersey Business Gateway Services Web site at: www.state.nj.us/njbgs/. The public records filing required for corporations, limited liability companies, limited partnerships, and limited liability partnerships may also be completed online from this Web site. (There is a fee associated with the Public Records filing.)

Tax Identification Number

Once you register your business, you will be assigned an identification number which is usually based on your Federal identification number or your social security number. This identification number will appear on all preprinted forms the business receives. Be sure to include this New Jersey tax identification number on all checks and correspondence you send to the State of New Jersey.

Federal Identification Number

The Federal government requires some businesses to have a nine-digit Federal employer identification number (FEIN). New Jersey requires all corporations, partnerships, and employers to obtain a Federal employer identification number. To apply for an FEIN, contact the Internal Revenue Service by phone at 1-800-829-4933 or visit www.irs.gov/. For other Federal tax questions call the IRS at 1-800-829-1040.

Sales Tax Returns and Payments

All businesses registered to collect sales tax and remit use tax must file a New Jersey Sales and Use Tax Quarterly Return (Form ST-50) every three months, regardless of whether or not any sales were made or any sales or use tax is due for that particular quarter. In addition, businesses that have a sales and use tax liability of more than \$500 during the first or second month of the quarter must file a Sales and Use Tax Monthly Remittance (Form ST-51) for either or both months and pay the tax due for that month. Monthly and quarterly returns are due on the 20th of the month following the end of the period covered by the return.

The Division of Taxation is phasing out the use of paper sales and use tax returns and moving all taxpayers to electronic filing and payment through the NJ Sales and Use Tax EZ File Systems. Although only certain taxpayers are now *required* to file electronically, any New Jersey sales and use tax filer can choose to file online or by phone at any time.

For more information, request Tax Topic Bulletin S&U-7, *Filing Sales & Use Tax Returns*, or visit the Division of Taxation's Web site at: www.state.nj.us/treasury/taxation/su_12.shtml

Employer Responsibilities

Every New Jersey employer is required to register with the State and to withhold New Jersey income tax from wages paid to both resident and nonresident employees working in this State. By completing and filing Form NJ-REG as an employer, your business will be registered for

applicable taxes and related liabilities that are administered by both the Division of Taxation and the Department of Labor. You will be authorized to withhold and remit New Jersey income tax as well as contributions for New Jersey unemployment insurance/health care subsidy fund/workforce development partnership fund and disability insurance.

Who is an Employer? An *employer* is a person or organization for whom you perform a service as an *employee*. The employer usually provides the employee with the tools and place to work and has the right to fire the worker. An employer must withhold income tax from wages paid to an employee.

Who is an Employee? In general, anyone who performs services is an *employee* if the employer can control what will be done and how it will be done. As a rule, people who are in business for themselves are not employees. For example, construction contractors or others in an independent trade or profession who offer their services to the public are generally not employees. A sole proprietor or a partner in a partnership would never be an employee of his or her own business. However, in some cases, an officer of a corporation is considered an employee of that corporation.

For more information on a business's responsibilities as an employer, refer to *New Jersey Gross Income Tax Instruction Booklet for Employers, Payors of Pension and Annuity Income and Payors of Gambling Winnings* (NJ-WT) and Tax Topic Bulletin MISC-1, *Employer Responsibilities*.

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**
- Subscribe to *NJ Tax E-News*, the Division of Taxation's online information service, at:
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/