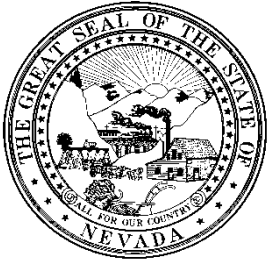


---

NEVADA DEPARTMENT OF TAXATION  
<http://tax.nv.gov>



**Tax Bulletin SUT 14-0002**  
**Issue Date: June 25, 2014**  
**Construction Contractors**

---

### **Statutes and/or Regulations Referenced**

NRS 372.325; NRS 372.326; NRS 372.340; NAC 361.1127; NAC 372.055; NAC 372.190; NAC 372.200

### **Introduction**

This bulletin provides sales and use tax information regarding materials used in construction contracts.

## **I. GENERAL TAX TREATMENT WHEN CONSTRUCTION CONTRACTORS PURCHASE GOODS FROM VENDORS**

Sales/use tax is imposed on the sale of tangible personal property. This includes property purchased to fulfill a construction contract. A construction contract for improvement to real property means a contract for erecting, constructing or affixing a structure or other improvement on or to real property; or the remodeling, altering, adding to, or repairing of an improvement to real property.

### **A. Payment of Sales Tax**

Construction contractors are considered the consumers of any material purchased to fulfill a construction contract in Nevada. This means that a contractor is required to pay the sales tax when they purchase the material from an in-state vendor. The contractor is also required to pay sales tax on the purchase if the purchase is made from an out-of-state vendor who is registered to collect tax in Nevada.

## **B. Payment of Use Tax**

If a contractor purchases materials for a Nevada project from an out-of-state vendor who does not collect and remit Nevada sales tax on the purchase of the material, the contractor must report and pay the use tax on the purchase price of the material.

In the case where the contractor paid sales tax outside of Nevada in an amount equal to or less than the rate in the County where the material is first consumed in Nevada, the contractor must pay use tax on the full purchase price of the material but is entitled to a credit toward the amount due in Nevada. The contractor must provide proof of payment to the other state deemed satisfactory to the Department to substantiate the credit.

## **C. Other General Issues**

When the contractor bills a customer for the finished work there should be no sales tax added to the invoice. This is because the tax has already been paid by the contractor when they purchased the material. If any tax is shown on the invoice the Department will consider it a retail sale rather than a construction contract and the contractor will be liable to the Department for that tax.

When entering into a contract for materials with any vendor, a contractor should keep copies of records to prove whether sales tax was paid at the time of purchase or whether use tax was reported and paid by the contractor. A contractor can verify a vendor's sales tax permit by calling the Department's Call Center or on the Department's website at [www.tax.nv.gov](http://www.tax.nv.gov).

## **II. CONTRACTORS AND RESALE CERTIFICATES**

Unless a contractor is registered with the Department for Sales Tax and has a valid Sales Tax Permit, the contractor cannot use a Resale Certificate to purchase materials without sales tax in the State of Nevada. The purpose of a Resale Certificate is to exempt the purchase from sales tax because the material will be resold and the tax will be charged to the end buyer.

A construction contractor may not purchase construction materials, supplies, or tools which are ordinarily used by a construction contractor in the performance of a construction contract using a resale certificate unless he is actually engaged in the business of selling the property without previously using it.

### **A. When Use of Resale Certificate is Appropriate**

When a contractor is registered as a retailer with the Department and purchases raw materials that are used in the fabrication of a finished product (that is not installed by the contractor), the finished product is subject to sales tax at the county rate in which the contractor's business is located, regardless of where the finished product is installed. The use of the resale certificate is appropriate in this case because the contractor will collect sales tax on the finished property.

### **III. TAX TREATMENT WHEN A CONTRACTOR FURNISHES AND INSTALLS A FINISHED PRODUCT**

The tax treatment of property that is furnished and installed by a contractor depends on whether it is deemed an improvement to real property which is determined on a case by case basis. In analyzing whether the installed property is an improvement to real property, the Department will consider whether a reasonable person would consider the item to be a permanent part of the land or improvement, taking into account annexation, adaptation and other objective manifestations of permanence, including the following:

- (a) Removal of the item would destroy the item or cause significant damage to the real property to which it is installed or attached;
- (b) The historic use of the item indicates an intention to leave the item in place;
- (c) The terms of a written agreement between parties indicates the intention of a tenant or lessee to remove or transfer ownership of the item; or
- (d) Ownership of the item would be conveyed with a transfer of the real property to which it is installed or attached.

If the materials furnished and installed are improvements to real property, the contractor should pay use tax on the materials. If however, the property is not an improvement to real property, it is a retail sale and sales tax should be collected from the customer as describe in II(A) above.

#### IV. COMMON MISTAKES

Based on the above, below is a list of some of the most common mistakes that contractors make with respect to payment or accrual of sales or use tax.

- Adding sales tax or any wording about sales tax on their construction contracts, invoices or receipts. When sales tax is charged on an invoice or receipt, the transaction is deemed to be a sale. By including the words “sales tax,” a contractor may unknowingly change the nature of the tax liability of the transaction from a use tax on materials cost to sales tax on the full retail price. Where this occurs, the contractor is no longer eligible to pay the tax on their purchase price. All sales tax charged to customers must be remitted to the Department.
- Using a resale certificate when purchasing construction materials they will use themselves either as part of a contract or for tools and supplies which are used in the trade.
- Including material that does not become part of the real property and is sold separately such as furniture, equipment, and display racks as part of their construction contract. The sale of these items is considered a retail sale.
- Not taxing fabrication labor in a retail sale where no installation to real property is involved.