

Sec. 12-426-18. Contractors and subcontractors

(a) **Definitions.** For purposes of this section, unless the context otherwise requires:

(1) “Contractor” means both contractors and subcontractors and, among others, building, electrical, plumbing, heating, painting, decorating, paper hanging, air conditioning, ventilating, insulating, sheet metal, steel, masonry, carpentry, plastering, cement, road, bridge, landscape and roofing contractors or subcontractors.

(2) “Construction contract” means a contract for the repair, alteration, improvement, remodeling or construction of real property.

(3) “Exempt entity” means any person that is entitled to make purchases of tangible personal property exempt from sales and use taxes under subsection (1), (2), (5), (8), (84), (90), (92), (93) or (95) of section 12-412 of the General Statutes, or under section 7-273mm, 16-344 or 32-23h of the General Statutes.

(b) **Taxability of sales to or by construction contractors.** A contractor shall pay the tax as a consumer on the purchase or lease of all materials, supplies or equipment used by the contractor in fulfilling either a lump sum contract, a cost-plus contract, a time and material contract with an upset or guaranteed price which may not be exceeded, or any other kind of construction contract except:

(1) where the contractor contracts to sell materials or supplies at an agreed price and to render service in connection therewith, either for an additional agreed price or on the basis of time consumed, or

(2) where such contractor is engaged as a permittee in the business of selling such materials or supplies at retail.

In the case of either (1) or (2), the contractor is a retailer and shall give the person selling the contractor such materials or supplies a resale certificate bearing the contractor’s permit number and collect the tax from the person to whom the contractor sells the same. Whenever such use is made of a resale certificate by a contractor, it shall be limited to the exceptions included in (1) or (2) above and the contractor shall be held strictly and solely accountable for the collection of the sales tax involved and the payment to the state of all taxes due thereon based upon the contractor’s gross receipts from such retail sales and such contractor shall further be held strictly accountable for the payment of the use tax to the state if the contractor makes any use of such property other than retention, demonstration or display while holding it for resale or if the contractor makes purchases subject to the use tax.

(c) **Construction contracts entered into with exempt entities.**

(1) Where a contractor enters into a construction contract with an exempt entity, the contractor may purchase such materials and supplies as are to be installed or placed in projects being performed under these contracts and will remain in such projects after their completion, including tangible personal property that remains tangible personal property after its installation or placement, without payment of the tax and shall not charge any such exempt organization or agency any sales or use tax thereon. The contractor shall, in the case of such exempt purchases, furnish the contractor’s suppliers for each project with a completed certificate, the form of which shall be prescribed by the commissioner.

(2) If the contractor is unable to designate the exact amount of materials or supplies to be covered by such exempt purchase certificate, the contractor shall estimate the amount of such purchases and shall be held strictly accountable for any use tax due the state thereon

in the event of any use other than the permanent installation or placement of such purchases in the exempt project designated.

(3) The contractor shall maintain adequate records to support the contractor's use of all such exempt purchase certificates and to show the disposition of all materials or supplies so purchased.

(4) Where a contractor uses materials or supplies by installing or placing them permanently in a project for any exempt entity or under the provisions of subdivisions (1) or (2) of subsection (b) of this section and the contractor has already paid a tax on such materials or supplies at the time of purchase, the contractor may deduct the purchase price of the same on the contractor's next return as an adjustment.

(d) **Articles fabricated by contractor.** A contractor may, in certain instances, itself fabricate part or all of the articles that the contractor uses in construction work. For example, a sheet metal contractor may partly or wholly manufacture roofing, cornices, gutter pipe, furnace pipe, furnaces, ventilation or air conditioning ducts or other such items from sheet metal that the contractor purchases, and use these articles, pursuant to a contract for the construction or improvement of real property. In this instance, the sale of sheet metal to such contractor constitutes a sale at retail within the meaning of the law and the contractor shall pay the tax as a consumer when the contractor buys the same. This is so whether the articles so fabricated are used in the alteration, repair or reconstruction of an old building or are used in new construction work.

(e) **Persons who sell complete units of standard equipment at retail and install same.** This section is not applicable to sales contracts whereby a person, whether the person is a contractor, subcontractor or otherwise, acts as a retailer selling tangible personal property in the same manner as other retailers and is required to install a complete unit of standard equipment, requiring no further fabrication but simply installation, assembling, applying or connecting services. In such instances the contract will not be regarded as one for improving, altering or repairing real property. For example, the retailer of an awning or blind agrees not only to sell it but to hang it; an electrical shop sells electrical fixtures and agrees to install them; a retailer sells an electric washing machine and contracts to install the same; a dealer sells cabinets and agrees to install them. A person performing such contracts is primarily a retailer of tangible personal property and should segregate the full retail selling price of such property from the charge for installation, as the tax applies only to the retail price of the property.

(f) **Equipment, tools and supplies.** Contractors are the consumers of equipment, including rolling or movable equipment such as trucks, tractors, scaffolding, etc., tools and supplies such as pipe cutters, trowels, wrenches, oxygen, acetylene, gasoline, acid and thread-cutting oil, which they use in their business, and the tax applies to the sales or leases of such equipment, tools and supplies to contractors.

(g) **Contractor performing taxable services.** Where the contractor performs services taxable under section 12-407(2) of the General Statutes, the contractor is making a sale at retail, must register with the Commissioner of Revenue Services and must collect the tax on that portion of the charge representing the taxable services. For this purpose the charge for said service should be segregated on the invoice.

(Effective April 7, 1980; Amended April 7, 1999)