

Construction Contractors

The taxability of purchases of tangible personal property is summarized below. This list is not all-inclusive. Sales tax should be paid to the vendor or accrued and paid directly to the State of Kansas. This applies to purchases from both in-state and out-of-state vendors. A properly completed exemption certificate should be provided to your vendor for all purchases made without tax. Contractors must pay sales tax on their job materials unless the customer has provided a Project Exemption Certificate.

Definitions

"Contractor" means a person or business, including contractor-retailers, that contract to furnish materials and labor to construct, alter, repair, or improve real property, including buildings and other structures. A contractor expends its labor and skill to convert building materials into real property improvements. A contractor sometimes contracts to furnish labor only, using materials provided by the property owner or by another contractor. Contractor means general contractor, subcontractor, or specialty contractor, unless the context indicates otherwise.

"Retailer" means a person regularly engaged in the business of selling tangible personal property at retail and selling only to the user or consumer and not for resale.

"Contractor-retailer" means a person or business that acts as a contractor when it performs construction contracts and as a retailer when it sells tangible personal property at retail. A contractor-retailer holds itself out as providing construction services and operates a retail showroom or otherwise maintains an untaxed resale inventory to sell merchandise from. A contractor-retailer withdraws merchandise from the untaxed resale inventory to use in their construction projects and to sell at retail.

Note: A Contractor/Retailer acts in two capacities, as a contractor and as a retailer. This guide differentiates between a contractor's purchase/sale and a retailer's purchase/sale. The taxability of a transaction depends on whether you are acting as a contractor or a retailer.

"Labor services" to calculate the taxable portion of a job use the following formula; Gross sales, Less Subcontractors, Less taxed job materials = total labor

Purchases	Applies when acting as a:	Taxability
Materials and supplies, including associated freight charges, purchased by a "contractor". This also applies to materials that are purchased and taken delivery of in Kansas and used on projects in other states. As a contractor, you are by definition the final consumer of the materials, and not a retailer of them.	Contractor	Taxable
Materials, tools and supplies, including freight charges, purchased out-of-state in which tax was not paid at an equal to or greater tax rate in effect at your location.	Contractor	Taxable
Tools, including freight charges such as; drills, drill bits, screwdrivers, wrenches, hammers, nail guns, paint brushes, tool boxes, tool belts and saws.	Contractor	Taxable
Machinery & equipment, including freight charges, purchased such as; air compressors, backhoes, generators, shop vacs, cell phones and vehicles.	Contractor	Taxable
Materials for an exempt project using a Project Exemption Certificate (PEC). PECs are issued only to certain exempt entities or for certain for-profit entities that qualify under the economic development laws.	Contractor	Exempt
Lease or rental of construction equipment and tools where a Project Exemption Certificate has been issued for the project AND the equipment and tools will be used only on that exempt project.	Contractor	Exempt
Purchase of tools and equipment for a project covered by a Project Exemption Certificate.	Contractor	Taxable
Materials, tools, supplies, machinery and equipment, including freight charges, purchased for resale. Purchase must be made using a "RESALE EXEMPTION CERTIFICATE".	Retailer	Exempt
Materials, tools and supplies, machinery and equipment, including freight charges, purchased without tax and taken from inventory and used in your business and/or used on jobs. The cost of the items, including freight charges, must be accrued and paid directly to the State of Kansas.	Contractor & Retailer	Taxable
Lease or rental of any tangible personal property such as; tools, construction equipment, portable offices, construction trailers, port-a-potties (even when leased or rented for an exempt project) copier, fax and vehicles	Contractor	Taxable
Software and software upgrades and labor services to modify, alter, update or maintain software.	Contractor & Retailer	Taxable
Customized software, software upgrades and labor services to modify, alter, update or maintain customized software - "customized" software = software developed for a single end user.	Contractor & Retailer	Exempt
Furniture and fixtures, including but not limited to: desks, lamps, tables, chairs, shelving, plants, planters, artwork, signs.	Contractor & Retailer	Taxable
Parts and labor services of repairing, servicing, altering or maintaining tangible personal property, such as computers, printers, copiers, security equipment, etc.	Contractor & Retailer	Taxable
Maintenance contracts and warranties including optional and extended warranties on tangible personal property.	Contractor & Retailer	Taxable

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Motor fuels (e.g. gasoline, diesel) which are consumed in the off-highway operation of motor vehicles or excavation and construction equipment in connection with any construction project for which a Project Exemption Certificate (PEC) has not been issued	Contractor	Taxable
Excavation Services such as digging a basement, digging trenches for water/sewer lines, driveway grading, etc.	Contractor	Exempt
Excavation Services when tangible personal property such as topsoil, sand, pipes, etc. are brought in (not moved from on-site). The installation charges of tangible personal property are subject to sales tax when the job is not original construction or residential.	Contractor	Taxable
Linen and uniform services	Contractor & Retailer	Taxable
Newspaper and magazine subscriptions.	Contractor & Retailer	Taxable
Office supplies, such as, paper, pens, pencils, labels, calculators, etc.	Contractor & Retailer	Taxable
Pest control materials and supplies.	Contractor & Retailer	Taxable
Printed materials production and distribution (such as direct mail items)	Contractor & Retailer	Taxable
Professional services such as legal or accounting services.	Contractor & Retailer	Exempt
Janitorial supplies such as vacuums, carpet cleaners, rags, toiletries, etc.	Contractor & Retailer	Taxable
Security cameras and other security equipment.	Contractor & Retailer	Taxable
Telephone answering services.	Contractor & Retailer	Taxable
Trash removal, shredding services, cleaning services, plant watering and care.	Contractor & Retailer	Exempt
Utilities including but not limited to electricity, gas and water.	Contractor & Retailer	Taxable
Complimentary bottled water, soft drinks, coffee, creamer, sugar, cups and stir sticks, balloons, stickers, pens and candy.	Contractor & Retailer	Taxable
Tangible property to be given away or donated. (Items that are given away or donated to a tax exempt entity are not subject to sales tax as of April 2007)	Contractor & Retailer	Taxable
Promotional items including but not limited to: calendars, mugs and items of clothing.	Contractor & Retailer	Taxable

The taxability of sales of tangible personal property and labor services are summarized below. The applicable sales tax must be collected unless the purchaser provides a proper exemption certificate. To calculate the taxable portion of a job use the following formula; Gross sales, Less Subcontractors, Less taxed job materials = total labor

Sales	Applies when acting as a:	Taxability
Retail sales made of tangible personal property.	Retailer	Taxable
Labor on an exempt project using a Project Exemption Certificate (PEC) PECs are issued only to certain exempt entities or for certain for-profit entities that qualify under the economic development laws.	Contractor	Exempt
Lease or rental of equipment with an operator, is providing a service and therefore would be taxable if the service being performed by the equipment operator is taxable. (examples above)	Contractor & Retailer	Taxable
Lease or rental of equipment with an operator, is providing a service and therefore would be exempt if the service being performed by the equipment operator is exempt. (examples above)	Contractor & Retailer	Exempt
Labor services performed at a residence on original construction, reconstruction, restoration, remodeling, renovation and repair (see page 6 of the Sales and Use Tax guide for Contractors, Subcontractors and Repairmen, Publication KS-1525, for a definition of residence)	Contractor	Exempt
Labor services to install or repair appliances such as washer/dryers, TVs, and dishwashers at a residence.	Contractor & Retailer	Taxable
Labor services performed in connection with the "original construction" of a building or facility (see pages 7-9 of the Sales and Use Tax guide for Contractors, Subcontractors and Repairmen, Publication KS-1525, for types of projects considered to be "original construction").	Contractor	Exempt
Labor services performed on real property projects in the general category of commercial remodel work. (These are projects that are not considered to be residential, original construction or exempt for another reason). Examples include but not limited to: remodeling interior or exterior, painting, wallpapering, plumbing electrical or HVAC work, roofing, siding and guttering.	Contractor	Taxable
Demolition of a building or facility or a portion of a building or facility.	Contractor	Taxable
Demolition services performed in connection with the "original construction" of a building (residential or commercial) or facility on the same site.	Contractor	Exempt
Asbestos removal services.	Contractor	Taxable
Asbestos removal services in conjunction with restoring, reconstruction, remodeling or renovation of a residence • Services done to a commercial building damaged by fire flood tornado lightning, explosion or earthquake • Services being done in conjunction with complete demolition of a building and a <u>new</u> building is constructed on the same site • Services are performed with a project covered by a Project Exemption Certificate.	Contractor	Exempt
Maintenance contracts and warranties including optional and extended warranties on tangible personal property.	Contractor & Retailer	Taxable