

**NEW JERSEY DIVISION OF TAXATION
REGULATORY SERVICES BRANCH
TECHNICAL ADVISORY MEMORANDUM**

TAM – 2012-3

ISSUED: 12-11-12

TAX: SALES AND USE TAX

**TOPIC: CHARGES FOR WATER DAMAGE
RESTORATION SERVICES**

The Division has received several inquiries regarding the application of the New Jersey Sales and Use Tax Act to charges for water restoration services.

Real property: structures and buildings

Charges for maintaining, servicing, and repairing real property are subject to tax. N.J.S.A. 54:32B-3(b)(4). A repair service means a service that fixes problems with property in order to maintain the property's existing value and keep it in working condition. N.J.A.C. 18:24-5.16. A maintenance service preserves the existing condition of property. N.J.A.C. 18:24-5.16.

Restoration work often includes the installation of tangible personal property in an effort to replace or repair existing structures. Unless the installation of tangible personal property results in an exempt capital improvement to real property, the installation of tangible personal property to real property is also subject to tax. N.J.S.A. 54:32B-3(b)(4). A "capital improvement" occurs when tangible personal property is permanently affixed to real property (land or buildings) and becomes a permanent part of such property. To qualify as a capital improvement, the installation must increase the capital value of the real property or significantly increase the useful life of such property. If the work performed on the real property results in an exempt capital improvement, the installer does not collect sales tax on the labor portion of the bill, provided the customer issues the installer a properly completed [Certificate of Exemption Capital Improvement \(Form ST-8\)](#).

In general, water damage restoration services (drying and extracting water) performed on buildings are subject to tax pursuant to N.J.S.A. 54:32B-3(b)(4) since the building is being restored to working condition. However, if the work consists of new construction, it is a capital improvement. For example, charges for the installation of new walls, siding, and a garage door are exempt capital improvements when rebuilding a garage destroyed by water damage. However, if the garage is simply being repaired from the damage inflicted (i.e., replacing shattered glass or fixing the garage door but not replacing it), the charges are taxable as a repair. Rebuilding a deck that was damaged from the water and/or sand constitutes new construction, thus this work is considered an exempt capital improvement to real property. However, if the existing deck is simply repaired, the labor charges are subject to tax.

Note that the installations of floor covering and alarm/security systems, and certain landscaping services are subject to tax. N.J.S.A. 54:32B-3(b)(2). Although these services may result in a capital improvement to real property, they are subject to tax. N.J.S.A. 54:32B-3(b)(2); N.J.S.A. 54:32B-3(b)(11).

Charges for mold detection or inspection are not subject to sales tax as they are non-enumerated services. However, mold removal services involve the maintenance or repair of real property, which is subject to sales tax. N.J.S.A. 54:32B-3(b)(4).

Tangible personal property: household items

Charges for installing, maintaining, servicing, and repairing tangible personal property are subject to tax. N.J.S.A. 54:32B-3(b)(2).

Charges for water damage restoration services performed on household goods such as furniture, decorative items, personal items, bric-a-brac, etc., are subject to sales tax as charges for maintaining or servicing tangible personal property under N.J.S.A. 54:32B-3(b)(2). Charges for bleaching, deodorizing and other cleaning services, including charges for carpet cleaning and sand removal services, are taxable maintenance services. N.J.S.A. 54:32B-3(b)(4).

If you have any doubt whether the work to be performed constitutes a repair or an exempt capital improvement, you should communicate with the Division of Taxation and describe in detail such work. You may contact the Division's Customer Service Center at (609) 292-6400 or send an e-mail to the Division at: nj.taxation@treas.state.nj.us.

Note: A Technical Advisory Memorandum ("TAM") is an informational statement of the law, regulations, or Division policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, or changes in Division policies could affect the validity of the information presented in a TAM.