

**NEW JERSEY DIVISION OF TAXATION  
REGULATORY SERVICES BRANCH  
TECHNICAL BULLETIN**

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**TB- 67**

**ISSUED: 11-1-12**

**TAX: SALES AND USE TAX**

**TOPIC: CONTRACTOR EXEMPTION FOR IMPROVING,  
ALTERING, OR REPAIRING THE REAL PROPERTY  
OF QUALIFIED EXEMPT ENTITIES**

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When a contractor makes purchases to improve, alter or repair the real property of an exempt organization or certain qualifying businesses, the contractor may qualify for a New Jersey Sales and Use Tax exemption on the purchase of materials, supplies and services, when these purchases are used exclusively to fulfill the contract with the exempt organization or qualifying business in accordance with N.J.S.A. 54:32B-8.22.

The purpose of this bulletin is to identify the types of materials, supplies and services that qualify for exemption from sales and use tax under N.J.S.A. 54:32B-8.22 and to address other purchases, rentals, leases and uses by contractors.

## **DEFINITIONS**

“Contractor” refers to an individual, partnership, corporation or other commercial entity engaged in any business involving erecting structures for others, or building, or otherwise improving, altering, or repairing real property of others. N.J.A.C. 18:24-5.2.

“Exempt organization” is any agency, instrumentality, authority or public corporation of the governments of the United States of America or the State of New Jersey or any political subdivision of the State of New Jersey; or any nonprofit organization which holds a valid exempt organization certificate issued pursuant to the provisions of N.J.S.A. 54:32B-9(b). N.J.A.C. 18:24-5.2.

“Qualified Housing Sponsor” refers to a person, partnership, corporation or association certified by the New Jersey Housing and Mortgage Finance agency to have obtained financing, in addition to federal, state or local government subsidies, for a housing project from the New Jersey Housing and Mortgage Finance Agency pursuant to N.J.S.A. 55:14K-1, et seq., and that has a New Jersey Sales and Use Tax Housing Sponsor Letter of Exemption from the Division of Taxation. N.J.A.C. 18:24-5.16(a)9.

“UEZ qualified business” refers to a person or an entity that the Urban Enterprise Zone (UEZ) Authority has certified to be a qualified business according to the criteria in N.J.S.A. 52:27H-62.c. See, N.J.A.C. 18:24-5.16(a)8, in pertinent part.

## **REAL PROPERTY OWNERSHIP REQUIREMENTS**

The tax exemption provided by N.J.S.A. 54:32B-8.22 applies only if the contractor’s qualifying purchases are for exclusive use in improving, altering or repairing real property owned by the following:

- An exempt organization as defined above;
- An Urban Enterprise Zone (UEZ) qualified business having UZ-4 and UZ-5 exemption certificates; or
- A qualified housing sponsor

## **MATERIALS THAT QUALIFY FOR EXEMPTION**

The regulation at N.J.A.C. 18:24-5.2 defines “construction materials” as:

“items of tangible personal property purchased by a contractor for incorporation into property as a physical component part of such property.”

For purposes of the exemption, construction materials include but are not limited to the following:

- Adhesives and glues
- Appliances permanently attached to real property (e.g., built-in dishwasher or oven)
- Asphalt and paving materials
- Bathtubs permanently attached to real property
- Bolts and bolt nuts
- Bricks and masonry
- Blinds and drapery hardware and valences permanently attached to real property
- Cabinets and cabinet hardware permanently attached to real property
- Cables permanently attached to real property
- Carpeting and carpeting pads permanently attached to real property
- Caulking
- Ceiling materials (including hardware to attach and hang ceiling materials)
- Chimney cap and chimney components
- Coatings applied to materials listed
- Concrete
- Doors and door frames, hinges, jambs & parts (including electric opener equipment)
- Downspouts
- Electrical components attached to real property (boxes, conduits, generators, switches, transformers, etc.)

- Elevators and escalators
- Exterior building coverings (siding, etc.)
- Fans permanently attached to real property
- Fencing materials, fence posts and gates permanently attached to real property
- Fire escape ladders permanently attached to real property
- Filler material
- Flagpoles permanently attached to real property
- Flooring joists and flooring materials
- Heating oil tanks and propane tanks permanently attached to real property
- Gate and garage door openers permanently attached to real property
- Glazing materials
- Gravel
- Grouting
- Gutters
- Gypsum panels
- Heating, ventilation and air conditioning (HVAC) equipment permanently attached to real property (including equipment used for “alternative” energy)
- Joint compound
- Insulation materials
- Landscaping materials
- Lighting equipment and lighting fixtures permanently attached to real property
- Louvers permanently attached to real property
- Lumber
- Mailboxes permanently attached to real property
- Masonry materials
- Mesh permanently attached to real property (e.g., used for repairing holes in walls)
- Moisture barriers
- Molding
- Nails
- Paint, paint flakes and paint textures
- Partition panels and partition walls permanently attached to real property
- Paste
- Patching material
- Pipes and pipe components permanently attached to or laid into real property
- Plaster
- Plugs for drains, filling, patching, etc.
- Plumbing components and plumbing fixtures permanently attached to real property
- Plywood
- Posts and beams and hardware for permanently attaching posts and beams
- Putty
- Rainspouts
- Rebar
- Rock
- Roofing materials (shingles, etc.)

- Sand
- Screws
- Seals and seal coatings, compounds and waxes
- Sheetrock and hardware for permanently attaching and joining sheetrock
- Shelves and shelving components permanently attached to real property
- Shower stalls permanently attached to real property
- Shutters (for windows)
- Siding
- Sod
- Solder
- Sprinkler systems (interior or exterior systems permanently attached to real property)
- Steel building components (girders, posts, etc.)
- Stone
- Tar
- Tanks permanently attached to plumbing or real property
- Tiles
- Topsoil
- Traffic signs and signals permanently attached to real property
- Vapor barrier material
- Wall coverings and wall paper
- Water filtration systems permanently attached to real property
- Water pumps
- Waxes and polishes
- Windows and window framing, glass, hardware, screens, shutters and well covers
- Wiring (any kind that is permanently attached to real property)

## **SUPPLIES THAT QUALIFY FOR EXEMPTION**

The regulation at N.J.A.C. 18:24-5.2 defines “construction supplies” as:

“...items of tangible personal property consumed in the fulfillment of a construction contract, which items do not become a physical component part of the property upon which work is performed. Supplies include, but are not limited to lubricants, cleaning compounds, polyethylene covers, rock salt and rope.”

For purposes of meeting the exemption criteria in N.J.S.A. 54:32B-8.22, “exclusive use” means that the supplies purchased will be entirely consumed in use, or lack any residual utility after use, and they will not be used on jobs performed for nonexempt organizations either prior to, simultaneously with, or after completion of the exempt organization job. See N.J.A.C. 18:24-5.3(b).

For purposes of the exemption, construction supplies include but are not limited to the following:

- Adhesive tapes, including duct, marking, masking and painting tapes
- Belts (this exemption does not apply to drive belts used within motor vehicles)
- Blades for scrapers or for utility knives
- Builders paper (exemption does not apply to business or office paper)
- Bungee cords
- Cardboard molds or thin plastic molds (exemption applies only to single-use/disposable molds)
- Carpet protection coverings
- Chalk
- Cleaning compounds
- Drain opener liquids and powders
- Drill bits
- Dry gas
- Dust control compounds
- Dynamite and explosives
- Fasteners (clamps, clips, ties, etc.)
- Flares (i.e., safety flares)
- Fungicides
- Grease
- Grinding wheels
- Hacksaw blades
- Lubricating grease and oil
- Masking tape
- Mopheads
- Paint brushes and paint rollers\*
- Paper or plastic clothing protectors and paper or plastic shoe protectors
- Plastic covers, drop cloths, and tarps\*
- Plastic oil cans\*
- Plastic edgers, pour spouts, strainers and trays for painting\*
- Plastic scrub brushes\*
- Plastic siphon tubes\*
- Plastic stripping tools\*
- Plastic spreaders, stirrers and trowels, etc.\*
- Rags and polishing cloths
- Rope
- Sandpaper, sanding sponges and similar disposable abrasion supplies
- Saw blades
- Shims (e.g., made of wood)
- Solvents
- Sponges
- Staples
- Stop leak compounds

- String
- Tapes for joining, marking, painting or patching
- Testing kits (for testing water, etc.)

*\*Exemption applies only to disposable supplies that cannot be used for other jobs*

## **SERVICES THAT MAY QUALIFY FOR EXEMPTION**

The law at N.J.S.A. 54:32B-8.22 exempts services for the exclusive use in erecting structures, building on, or otherwise improving, altering or repairing real property of an exempt organization, a UEZ qualified business, or a qualified housing sponsor.

Taxable services purchased by a contractor are subject to tax unless such services are performed for a purchasing contractor exclusively for use in fulfilling a contract with an exempt organization, a UEZ qualified business, or a qualified housing sponsor. See, N.J.A.C. 18:24-5.5(a).

For purposes of the exemption, services include but are not limited to:

- Construction site cleanup services for sweeping and removing debris
- Construction site garbage removal
- Construction site snow removal services
- Dust control services
- Fabrication services (to fabricate material that will be permanently attached to real property)
- Installation of alarm or security systems
- Installation of floor coverings (if coverings will be permanently attached to real property)
- Installation of scaffolding used for construction
- Installation of temporary fencing around the construction site
- Installation of temporary lighting during construction (exemption does not apply to temporary lighting for the offices of the contractor; see below)
- Landscaping services, as defined in N.J.S.A. 54:32B-2(ww), and maintaining landscaped grounds, such as mowing services
- Pest control services
- Test well drilling
- Washing of decks, siding or windows

## **EXEMPTION CERTIFICATES USED FOR CONTRACTOR EXEMPTION UNDER N.J.S.A. 54:32B-8.22**

If the owner of the real property is an exempt organization or a qualified housing sponsor, a contractor must provide sellers with the Contractor's Exempt Purchase Certificate, ([Form ST-13](#)). If the real property owner is a UEZ qualified business, the contractor must obtain the Contractor's Exempt Purchase Certificate (Form UZ-4) from the UEZ qualified business and provide it to sellers.

The contractor must also retain in his records, the required proof of exemption such as a copy of a contract with a New Jersey or federal government entity, a copy of the Exempt Organization Certificate (Form ST-5), or a copy of the Exempt Purchase Certificate (Form UZ-5). For further information, see Bulletin [S&U-6](#), *Sales Tax Exemption Administration*.

## **PURCHASES INELIGIBLE FOR CONTRACTOR EXEMPTION UNDER N.J.S.A. 54:32B-8.22**

### *Construction Equipment*

The exemption provided in [N.J.S.A. 54:32B-8.22](#) does not apply to leases, rentals, purchases or uses of construction equipment. [N.J.A.C. 18:24-5.4\(a\)](#). Construction equipment includes, but is not limited to grading, lifting and excavating vehicles, compressors, scaffolds, forms, hand tools, and ladders. See [N.J.A.C. 18:24-5.2](#). Other examples of taxable equipment and tools are chains, cutters, extension cords, gas cans, generators, guide wires, hand trucks, hoses, industrial vacuum cleaners, measuring devices, metal buckets, metal trowels, padlocks, road skids and wheelbarrows.

### *Electricity and Natural Gas*

[N.J.S.A. 54:32B-8.22](#) does not provide an exemption for sales and use tax on electricity, natural gas and related transmission services. See, [N.J.S.A. 54:32B-9\(c\)\(3\)](#) and [N.J.S.A. 52:27H-79a](#). Such purchases are therefore subject to tax.

### *Office Equipment and Supplies*

Office equipment, furniture, and office supplies used by contractors do not qualify for exemption, including cash boxes and registers, computers, copiers, ice chests, microwave ovens, mini-fridges, safes and water dispensers.

### *Temporary Buildings and Conveniences*

The use of temporary buildings and conveniences fails to meet the exemption criteria of exclusively used for improving, altering or repairing the real property of an exempt organization, a UEZ qualified business or a qualified housing sponsor. Portable toilet rentals, including cleaning and waste disposal charges, are taxable. Also, purchases, leases, rentals and uses of

temporary structures and trailers, such as a temporary garage, office space, porch, shed, tent and storage structures, are taxable. Associated delivery, installation, maintenance and similar charges are also taxable.

*Services and Other Transactions Subject to Tax*

Repair or maintenance services performed on construction equipment, including tools (see above), are taxable. Further, the sales tax law imposes tax on several types of services and transactions that are not for the contractor's exclusive use in erecting structures or building on, or otherwise improving, altering or repairing real property. These purchases do not qualify for the exemption under N.J.S.A. 54:32B-8.22. These taxable transactions include but are not limited to hotel/motel occupancies, information services, memberships, parking, prepared food and beverages, and telecommunications services.

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**Note:** A Technical Bulletin is an informational document designed to provide guidance on a topic of interest to taxpayers and describe changes to the law, regulations, or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.