

ST-8 (10-16, R-13)

State of New Jersey
DIVISION OF TAXATION

SALES TAX
FORM ST-8

CERTIFICATE OF EXEMPT
CAPITAL IMPROVEMENT

To be completed by both owner of real property and contractor, and retained by contractor. Read instructions on back of this certificate. Do not send this form to the Division of Taxation.

A registered New Jersey contractor must collect the tax on the amount charged for labor and services under the contract unless the owner gives him a properly completed Certificate of Exempt Capital Improvement.

MAY BE ISSUED ONLY BY THE OWNER OF THE REAL PROPERTY
MAY NOT BE ISSUED FOR THE PURCHASE OF MATERIALS

(Name of Contractor)

(Address of Contractor)

(Contractor's New Jersey Certificate of Authority Number)

THE FOLLOWING INFORMATION MUST BE FURNISHED:

The nature of the contract is as follows (describe the exempt capital improvement to be made): _____

The address or location where work is to be performed: _____

TOTAL AMOUNT OF CONTRACT \$ _____

The undersigned hereby certifies that he is not required to pay sales and use tax with respect to charges for installation of tangible personal property, because the performance of the contract will result in an exempt capital improvement to real property. The undersigned purchaser hereby affirms (under the penalties for perjury and false swearing) that all of the information shown in this Certificate is true.

CONTRACTOR'S CERTIFICATION

I certify that all sales and use tax due has been or will be paid by the undersigned on purchases of materials incorporated or consumed in the performance of the contract described herein.

(Signature of Contractor)

(Date)

PROPERTY OWNER'S SIGNATURE

(Name of owner of real property)

(Address of owner of real property)

By _____

(Signature of owner, partner,
officer of corporation, etc.)

(Date)

Any person making representations on this certificate which are willfully false may be subject to such penalties as may be provided for by law.

INSTRUCTIONS

TO THE PROPERTY OWNER:

In cases where the contractor performs work which results in an *exempt capital improvement* to your house or land (real property), he may NOT charge you any sales tax if you issue to him a properly completed Certificate of Exempt Capital Improvement (Form ST-8).

It is important to distinguish between an exempt capital improvement and a taxable capital improvement, repair or installation. If the fulfillment of a contract only maintains the existing value of the property, it is a repair and not a capital improvement. Where an improvement results in an increase in the capital value of the real property, it is generally considered that a capital improvement has been performed. (But see below list of taxable capital improvements.)

As an aid to determine whether a contract is for a repair to real property or a capital improvement to real property, the treatment of such transaction for income tax purposes under the Federal Internal Revenue Code may be used as a guide. 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.

The following are examples of *exempt* capital improvements:

New construction (other than taxable capital improvements listed below)	Porch enclosure, construction of	Paneling, installation of
In-ground swim pool, installation of	New roof, installation of	New heating system installation
New central air conditioner installation	Tiled bath, installation of	Rewiring
Painting a newly constructed house	New bath fixtures, installation of	New electrical outlets installed
New hot water heater installation	New kitchen cabinets, installation of	New siding, installation of
Patio, construction of	New kitchen fixtures, installation of	Garage, construction of
	Paving of driveway	Storm doors and windows, original or initial installation of

The following are examples of *taxable* capital improvements. This form cannot be issued for these services, which are subject to sales tax on and after October 1, 2006:

- Seeding, sodding, grass plugging of new lawns, planting trees, shrubs, hedges, plants, etc.
- Clearing and filling land associated with seeding, sodding, grass plugging of new lawns, or planting trees, shrubs, hedges, plants, etc., including tree/stump removal
- Installing carpeting and other flooring
- Installing a hard-wired security, burglar or fire alarm system

TO THE CONTRACTOR:

If you enter into a contract to add to or improve real property by an exempt capital improvement (see examples above) and the property owner issues to you a properly completed Certificate of Exempt Capital Improvement, which you must retain, you should not collect sales tax from the property owner. (You are required to pay sales tax to your supplier on the purchase of the tangible personal property you purchase for use in performing the contract irrespective of whether the work constitutes a repair or a capital improvement.)

However, if you enter into a contract to repair, maintain, or service real or tangible personal property, or to install a taxable capital improvement, you must collect tax on the charge for labor or services performed in accordance with the contract.

GOOD FAITH:

Good Faith- To act in good faith means to act in accordance with standards of honesty. In general, registered sellers who accept exemption certificates in good faith are relieved of liability for the collection and payment of sales tax on the transaction covered by the exemption certificate.

In order for good faith to be established, the following conditions must be met:

- (a) Certificate must contain no statement or entry which the seller knows is false or misleading;
- (b) Certificate must be an official form or a proper and substantive reproduction, including electronic;
- (c) Certificate must be filled out completely;
- (d) Certificate must be dated and include the purchaser's New Jersey tax identification number or, for a purchaser that is not registered in New Jersey, the Federal employer identification number or out-of-State registration number. Individual purchasers must include their driver's license number; and
- (e) Certificate or required data must be provided within 90 days of the sale.

The contractor may, therefore, under the circumstances, accept this "good faith" Certificate of Exempt Capital Improvement as a basis for not collecting sales tax with respect to service or labor charges.

Sales transactions which are not supported by properly executed certificates shall be deemed to be taxable sales and the contractor must collect the proper tax. In the case of an improper certificate or the absence of a certificate, the burden of proof that the tax was not required to be collected is upon the contractor. If the above listed good faith requirements are met, a contractor is relieved of liability if the purchaser was not entitled to the exemption.

CORRECTION OF CERTIFICATE:

In general, contractors have 90 days after performance of the contract to obtain a corrected certificate where the original certificate lacked material information required to be set forth in said certificate or where such information is incorrectly stated.

RETENTION OF CERTIFICATES:

Certificates must be retained by the contractor for a period of not less than four years from the date of performance of the contract covered by the certificate. Certificates must be in the physical possession of the contractor and available for inspection on or before the 90th day following the date of the transaction to which the certificate relates.

FOR MORE INFORMATION: Read publication S&U-6 (Sales Tax Exemption Administration) at

<http://www.state.nj.us/treasury/taxation/pdf/pubs/sales/su6.pdf>

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