

## NEBRASKA WELL DRILLING AND IRRIGATION INDUSTRY

### OVERVIEW

Well drillers are contractors when they:

- ❖ Annex building materials (e.g., casing and gravel pack) and fixtures (e.g., pumps and oil assemblies) to real estate, including leased property; or
- ❖ Repair a well or fixtures in a well.

Well drillers must:

- ❖ Be registered in the Contractor Registration Database (Database). Registration in the Database is done by completing the Nebraska Department of Labor's online Contractor/Subcontractor Registration Application located at [dol.nebraska.gov](http://dol.nebraska.gov). The contractor option chosen by the contractor is part of this online registration; and
- ❖ Collect and remit Nebraska and local sales and use tax based on their contractor option.

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### TERMS

**Contractor.** A contractor is any person who repairs property annexed to real estate; who annexes building materials and fixtures to real estate; or who arranges for the annexation of building materials and fixtures. This includes drilling a well.

**Building Materials.** Building materials are items that will become real estate or are annexed to real estate. Examples include well casing, sand and gravel, concrete, bentonite, and electrical panels.

**Fixtures.** Fixtures are pieces of equipment that must be annexed to a building or structure in order to properly function yet remain identifiable as separate items. Examples include pumps, column tube shafts, oil tube shafts, oil assemblies, heads, couplers, air valves, faucet fittings, pressure gauges, swing check valves, gear heads, flow meters, shafts and covers, electric motors, and gas and diesel engines.

**Over-the-Counter Sales.** Over-the-counter sales are transactions where the terms of the sales agreement do not require the seller to annex building materials or fixtures to real estate. An example of this type of sale is when a customer buys a pressure gauge, takes it home and either installs it, or makes arrangements with someone other than the seller to annex it.

**Commercial Agriculture.** Commercial agriculture is the business of producing food products or other useful and valuable crops, or raising animal life. The crops and animal life can either be sold or used by the producer or grower to produce other products for sale.

## EQUIPMENT, TOOLS, AND SUPPLIES

Well drillers must pay sales and use tax on equipment, tools, and supplies purchased, leased, or rented that are used to complete a well drilling contract, regardless of the contractor's option. This includes equipment, tools, and supplies used to complete projects for an exempt entity such as a church, school, or governmental unit. Examples include backhoes, drilling rigs, bits, and lubricants.

## CONTRACTOR OPTIONS

The options determine two things:

- ❖ How sales and use tax will be paid or collected on building materials and fixtures; and
- ❖ How sales tax will be collected from the customer on certain types of projects.

**Please Note:** The options **do not** apply to over-the-counter sales, or to sales of either gravity or sprinkling irrigation systems.

**Option 1.** An Option 1 well driller is a retailer of building materials and fixtures, and must collect sales tax from the customer on the total amount charged for these items. The well driller maintains a tax-free inventory of building materials and fixtures, and may purchase such items tax-free by giving a properly completed [Nebraska Resale or Exempt Sale Certificate, Form 13](#), Section C, block 1, to the supplier.

**Option 2.** An Option 2 well driller is the consumer of all building materials and fixtures annexed to real property, and is required to pay sales tax to the supplier at the time of purchase; or if purchasing these items from an out-of-state supplier, by remitting consumer's use tax. The well driller **will not** collect sales tax from the customer on any charges for completion of the well drilling project.

**Option 3.** An Option 3 well driller is the consumer of all building materials and fixtures and can purchase them tax-free by giving a properly completed Form 13, Section C, block 1, to the supplier. The well driller will remit consumer's use tax on the cost of these items when they are withdrawn from inventory. The well driller **will not** collect sales tax from the customer on any charges for completion of the well drilling project.

Additional information about the contractor options is available in the [Nebraska Taxation of Contractors - General Information Guide](#).

## BILLING THE CUSTOMER

When billing the customer, two criteria determine if sales tax will be collected from the customer:

- ❖ The contractor option chosen by the well driller; and
- ❖ The type of well being drilled (e.g., commercial, residential, or agricultural).

### Commercial or Residential Wells

**Option 1** – Option 1 well drillers are retailers and collect sales tax from the customer on the total charge for building materials and fixtures.

The well driller does **not** collect sales tax on its contractor labor charges **provided** they are separately stated on the customer's invoice.

**Options 2 or 3** – Option 2 or 3 well drillers do **not** collect sales tax from their customers on any charges associated with the well-drilling construction project.

## Agricultural Wells

Agricultural wells include wells used to water crops or livestock.

Agricultural machinery and equipment used in commercial agriculture is exempt from sales and use tax.

**Option 1** – Option 1 well drillers collect sales tax from the farmer or rancher on charges for building materials (e.g., casing, gravel pack, electrical panels).

The well driller **does not** collect sales tax from the farmer or rancher on fixtures (e.g., pumps, oil assemblies), **provided** the well driller receives a properly completed Form 13, Section B, Category 2.

**Example:** A well driller is hired to drill an irrigation well.

Drilling labor	\$5,000 - Exempt (E)
Building materials (casing, gravel pack, etc.)	2,000 - Taxable
Fixtures (pumps, oil assemblies, etc.)	<u>1,000</u> - E
Subtotal	\$8,000
Sales Tax (5.5%)	<u>110</u>
Total due	\$8,110

The well driller does **not** collect sales tax on the charge for drilling labor, which includes mileage and equipment charges, **provided** the charges are separately stated on the farmer's or rancher's invoice.

**Please Note:** The Form 13, Section B, Category 2 is not valid for repair of agricultural wells. The farmer or rancher may apply for a refund of the tax paid on depreciable fixtures, for example pumps and oil assemblies.

**Options 2 or 3** – Option 2 or 3 well drillers **do not** collect sales tax from the farmer or rancher.

Well drillers operating under Option 2 or Option 3 are the consumers of all building materials and fixtures that they annex to the well. They cannot accept a Form 13 from the farmer or rancher to exempt its purchases of fixtures from tax. The farmer or rancher cannot obtain a refund of the tax paid by the well driller on its purchases of the building materials and fixtures.

## WELL DRILLING CONTRACTS WITH EXEMPT ENTITIES

Well drillers drilling or repairing wells for entities that are exempt from sales tax must obtain appropriate documentation from the exempt entity in order to support why sales tax was:

- ❖ Not paid on building materials and fixtures; or
- ❖ Not collected from the customer on building materials and fixtures.

This documentation must be obtained before work starts (e.g., drilling), and this documentation may be used only for making tax exempt purchases of building materials and fixtures annexed into the well site.

Please see the Resource List below for entities that are exempt from Nebraska sales and use tax.

**Please Note:** Governmental units listed in [Nebraska Sales and Use Tax Reg. 1-093.04](#) that sell electricity, gas, heat, or water are not exempt entities.

**Option 1** – Option 1 well drillers that are the only contractor working for an exempt entity must obtain a properly completed Form 13, Section B, from the exempt entity to support why sales tax was not collected.

**Option 2** – Option 2 well drillers that are the only contractor working for an exempt entity must obtain a properly completed [Purchasing Agent Appointment, Form 17](#), from the exempt entity.

Well drillers must complete a Form 13, Section C, Part 2 and provide it to the supplier, along with a copy of the Form 17, to purchase building materials and fixtures tax exempt.

**Option 3** – Option 3 well drillers that are the only contractor working for an exempt entity must obtain a properly completed Form 17 from the exempt entity.

Well drillers must keep a copy of the Form 17 in their records to support why they do not owe consumer's use tax on their cost of building materials and fixtures.

## **IRRIGATION SYSTEMS**

Gravity and sprinkling irrigation systems, including any above- or below-ground pipe running from the wellhead to the center pivot, are tangible personal property.

The sales and installation of these systems are retail sales. The contractor options **do not** apply to retail sales. Well drillers **must** collect sales tax on the materials and labor charges, unless the purchaser provides a properly completed Form 13, Section B, Category 2. Businesses and individuals selling irrigation systems are retailers and are required to obtain a Nebraska Sales Tax Permit.

**Labor Charges to Install Irrigation Systems.** Labor charges to install and assemble irrigation systems **are not** subject to sales tax **provided** the seller obtains a properly completed Form 13, Section B, Category 2.

## **REPAIR AND REPLACEMENT PARTS AND LABOR FOR IRRIGATION SYSTEMS**

### **Repair and Replacement Parts**

Sales of repair and replacements parts for irrigation systems used in commercial agricultural are taxable. The well driller is required to collect and remit sales tax on the amount charged for the repair and replacement parts. The seller cannot accept a Form 13 to exempt such sales from tax.

The farmer or rancher may apply for a refund of the tax paid on depreciable fixtures, for example sprinkler heads.

### **Labor**

Labor charges to repair an irrigation system are not taxable **provided** they are separately stated on the invoice.

A lump sum charge for materials and labor to repair an irrigation system is taxable.

## **CONTRACTOR REGISTRATION DATABASE**

Well drillers must be registered in the Contractor Registration Database (Database). Registration in the Database is done by completing the Nebraska Department of Labor's online Contractor/Subcontractor Registration Application located at [dol.nebraska.gov](http://dol.nebraska.gov). The contractor option chosen by the contractor is part of this online registration.

Well drillers hiring other construction contractors to perform construction contractor projects are **required** to withhold income tax at the rate of 5% on **all** payments made to construction contractors who **are not** registered in the Database.

**Example:** A well driller hires an electrician to install the panel at the well site. If the electrician **is not** registered in the Database, then the well driller must withhold 5% from the payment made to the electrician. If the electrician **is** registered in the Database, no withholding is required.

Well drillers can confirm that other construction contractors are registered in the Database, and print or download that confirmation. No withholding is required when payment is made to contractors who are registered in the Database.

## **GENERAL INFORMATION**

**Obtain a Permit.** A Nebraska Sales Tax Permit is obtained by completing and returning a [Nebraska Tax Application, Form 20](#), to the Department.

**Remit the Tax.** Well drillers will report and remit sales and use taxes on a [Nebraska and Local Sales and Use Tax Return, Form 10](#). In order to properly complete the Form 10, well drillers should start with [Nebraska Net Taxable Sales and Use Tax Worksheets](#).

Lines 1-15 of Schedule III are used to calculate any difference between gross receipts and the net taxable sales.

Lines 16-21 of Schedule III are used to calculate any consumer's use tax a well driller may owe.

## RESOURCE LIST

- ❖ [Nebraska Sales and Use Tax Refund Claim, Form 7AG-I](#)
- ❖ [Nebraska Taxation of Nonprofit Organizations Information Guide](#)
- ❖ [Governmental Entities Information Guide](#)
- ❖ [Instructions to Complete Form 10 Information Guide](#)
- ❖ [Nebraska Consumer's Use Tax Information Guide](#)
- ❖ [Nebraska and Local Sales Tax Information Guide](#)
- ❖ [Agricultural Machinery and Equipment Information Guide](#)

Sales and Use Tax Regulations:

- ❖ [1-017 Contractors](#)
- ❖ [1-090 Nonprofit Organizations](#)
- ❖ [1-091 Religious Organizations](#)
- ❖ [1-092 Educational Institutions](#)
- ❖ [1-093 Governmental Units](#)

**revenue.nebraska.gov**  
800-742-7474 (NE and IA), 402-471-5729  
Nebraska Department of Revenue, PO Box 94818, Lincoln, NE 68509-4818