

August 8, 2006

Sales and Use Tax - Contractors. EFFECTIVE JULY 1, 2006, SALES AND USE TAXES ARE NOT IMPOSED ON THE GROSS RECEIPTS FOR THE LABOR OF A CONTRACTOR IN CONNECTION WITH CERTAIN TYPES OF CONSTRUCTION PROJECTS.

With the passage of Laws 2006, LB 968, effective July 1, 2006, charges for contractor labor performed in connection with the following types of construction projects are exempt:

- A. The first or original construction of a new structure, building, or unit of a building;
- B. The addition to, or remodel, restoration, repair, or renovation of a residential dwelling (see definition below). This includes the addition of an entire room or floor to the dwelling, the completion of an unfinished portion of the dwelling, and repairs to a dwelling damaged by fire, flood, tornado, or other natural disaster;
- C. The construction, repair, or annexation of any structure used for the generation, transmission, or distribution of electricity; and
- D. The major addition to, or remodel, restoration, repair, or renovation of an existing building, unit of a building, or structure that costs at least 50% of the current value (see definition below) of the building, unit, or structure.

Charges for contractor labor performed on a building containing three or more residential units (e.g., apartment, condominium, townhouse) continue to be taxable. However, the owner-occupant (see definition below) of the residential unit may apply for a refund of sales and use taxes paid on the charges for contractor labor performed on his or her unit.

All building materials and fixtures used on construction projects remain taxable according to the contractor option chosen.

Specific exemptions for the following types of projects were repealed as of July 1, 2006. However, charges for the related contractor labor may still qualify for exemption under the new categories described in A. - D. above.

- 1. The addition of an entire room or floor to any existing building;
- 2. The completion of an unfinished portion of an existing building or structure;
- 3. The repair of a building or structure damaged by fire, flood, tornado, or other natural disaster;
or
- 4. The renovation of an existing building or unit of an existing building when at least 75% of the square footage of the building or unit is renovated.

Residential dwelling means a building designed for occupancy by one family or duplexes designed for occupancy by two families. Attached decks or porches and attached or detached garages are included as part of the dwelling. Fences, landscaping, retaining walls, storage buildings, driveways,

patios, sidewalks, and other structures that are not a part of the dwelling itself are not included in the definition of a residential dwelling.

Owner-occupied residential unit means a residential unit in a building containing three or more units that is actually occupied by the owner of record or by a person who has a life tenancy in the unit at the time of the construction project.

Current value means the value of the structure, building, or unit as determined in the records of the county assessor. If a unit of a building has no separate assessed value, the current value of the building shall be apportioned to the unit based on square footage of floor space. If the assessor has no current assessed value for the structure, building, or unit, the market value as shown by an appraisal of the property by a licensed appraiser within six months prior to commencement of the construction project must be used.

Notification to or application for approval of an exempt project by the Department of Revenue is no longer required. Contractors must continue to retain construction contracts, building permits, bid or building specifications, purchase orders, billing invoices, blue prints, drawings, appraisals, county valuation records, and any other appropriate documentation to describe or identify the construction work performed.

Nebraska Sales and Use Tax Regulations 1-017.10 and 1-017.18 regarding the exemptions for contractor labor are superceded by the provisions of Laws 2006, LB 968.

APPROVED:

A handwritten signature in black ink, appearing to read 'MJE', with a long horizontal stroke extending to the right.

Mary J. Egr Edson
State Tax Commissioner

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