



CELEBRATING  
55 YEARS

# nerej

## **CT sales tax rules put construction firms at risk - by Slattery and Claffey**

October 15, 2021 - Front Section



Bill Slattery  
FML

Bill Claffey  
FML

Building and construction contractors have a multitude of complex issues to deal with when it comes to sales and use taxes in Connecticut. The Department of Revenue Services went so far as to issue a 104-page manual to help the industry deal with the many complexities.

In practice, the manual created more questions than it answered, particularly in the area of whether or not certain services are taxable within the state. Without knowing it, contractors often expose themselves to risk of a large sales tax audit adjustment and frequently end up paying taxes they don't have to.

Knowing when to collect sales tax: In determining if a contractor is required to collect sales tax on a given sale, the state considers three elements — the type of service being performed, the type of property receiving the service, and whether or not the purchaser is exempt from sales tax.

Sales of tangible personal property are subject to tax unless a specific exemption relating to the purchaser applies. One example of exempt sale would be an inclined stairway chairlift for use by someone with a disability.

Services to commercial, industrial or income-producing property are subject to sales tax unless an exemption applies to the purchaser as well, such as nonprofit organizations. Sales of certain services such as repair and maintenance are subject to tax for all types of real property.

Installation vs. maintenance

The DRS manual provides a list of services that details the differences between installation versus repair or maintenance of property. In general, installation services are not taxable when performed to owner-occupied residential property and new construction.

Repair and maintenance services in general are taxed to the consumer on both labor and parts. This definition has caused most contractors to pay the sales tax upon purchasing parts and then charge the sales tax again to the consumer. Instead of effectively paying the tax twice, contractors should use a resale certificate when purchasing “integral parts” for the job.

Though Connecticut sales tax rules for construction firms are extremely complex and non-intuitive, it’s important to take the time to get it right. Sales tax audits are not uncommon for construction firms, and in this competitive, low-margin industry, a sudden tax bill you weren’t expecting can be devastating.

Bill Slattery and Bill Claffey are partners at FML, Glastonbury, Conn.

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540