

**NEW YORK CITY IMPOSES TAX ON  
INTERIOR CLEANING AND MAINTENANCE SERVICES**

Effective December 1, 1989, New York City is imposing a 4% sales tax on charges for interior cleaning and maintenance services performed within New York City on a regular contractual basis for a term of 30 days or more, except for the services of window cleaning, rodent and pest control, and trash removal which continue to be subject to tax at 8 1/4%.

Interior cleaning and maintenance services include ordinary janitorial services such as: dusting furniture, pictures, window sills and ledges; vacuuming furniture and carpets; cleaning interior walls and woodwork; cleaning, disinfecting and deodorizing bathrooms and bathroom fixtures; stripping, washing, waxing and buffing floors; cleaning appliances; cleaning ash trays; changing linens; oiling door hinges; replacing light bulbs; replacing washers in faucets; and cleaning outlets from stoves, ovens and plumbing fixtures. Interior cleaning and maintenance does not include services that are ordinarily viewed as "repair" services.

Example 1. A company is in the business of cleaning boilers which are located in buildings owned by its customers. The company generally contracts to clean the inside of the boiler itself, the boiler breech and chimney and, as needed, the hot air ducts in the building. The company does not perform any repair work or plumbing. The company is performing interior cleaning and maintenance services.

Example 2. A company enters into a contract to provide periodic services on elevators and escalators for its customers. Under the terms of the contract, the elevators and escalators will be examined, cleaned, lubricated and adjusted. When conditions warrant, repairs or replacements will be recommended, but such work is not performed by the company. The company will, however, perform limited repairs such as replacing signal lamps, renewing carbon and copper contacts, and replacing motor brushes and fuses. The company is performing interior cleaning and maintenance services. While the contract does provide for limited repairs, such repairs are of the simple nature recognized as being part of general interior cleaning and maintenance.

Example 3. A company enters into a contract to provide periodic services on appliances located in an apartment complex owned by its customer. Under the terms of the contract, the company will perform any needed repairs when an appliance breaks down. When performing repairs, the company's employees will also perform such services as cleaning detergent build-up from in and around washing machines, cleaning lint traps on clothes dryers, cleaning the condensing coils at the rear of refrigerator units, and cleaning and replacing filters and grease traps on range hoods.

Notwithstanding the fact that the company's employees perform some general janitorial services in connection with the repairs being made, the company is providing repair services, not interior cleaning and maintenance services.

On and after December 1, 1989, charges for interior cleaning and maintenance services performed in New York City on a regular basis under a contract that is for a term of 30 days or more will be subject to the separate 4% sales tax imposed by New York City under Article 29 of the Tax Law. Charges for interior cleaning and maintenance services that are not performed on a regular contractual basis for a term of 30 days or more, and charges for services of window cleaning, rodent and pest control and removing trash from buildings are subject to the 8 1/4% combined New York State and New York City sales tax imposed under Article 28 of the Tax Law. The separate tax imposed by New York City does not apply to the charges for any interior cleaning and maintenance services that are subject to the combined New York State and New York City tax of 8 1/4%.

Example 4. A company contracts with the management of an apartment building located in New York City to provide special twenty-four hour emergency interior cleaning and maintenance services for the year 1990. The charges for the services are subject to the combined New York State and New York City tax of 8 1/4% since the services are not to be performed on a regular contractual basis.

Example 5. If the facts were the same as in Example 4, except that the contract calls for the company to perform the cleaning and maintenance services every month for the duration of the contract, then the charges for the services would be subject only to the 4% New York City tax.

As previously stated, contracts for window cleaning, rodent and pest control, and removing trash from buildings are subject to 8 1/4% tax. If one or more of these services is included as part of a general interior cleaning and maintenance contract, then the charges for such services must be separately stated; otherwise, the entire contract will be subject to tax at 8 1/4%, even if the length of the contract is 30 days or more.

Example 6. A company contracts with three department stores located in New York City to perform routine interior cleaning and maintenance services on a daily basis for a term of 30 days or more beginning January 1, 1990. Under the terms of the contract, the services the company will perform include dusting displays and counter tops, vacuuming carpeted areas, washing and waxing floors and walls, maintaining restroom areas and cleaning outlets from stoves, ovens and plumbing fixtures. In addition, the company will collect trash from all areas of the store and bag it for removal (the actual removal of the trash from the buildings is handled by someone else), and regularly wash the interior and exterior window surfaces. The services of washing the interior and exterior window surfaces are subject to tax at 8 1/4%. The other services are all routine interior cleaning and maintenance services and are

subject to tax at only the 4% New York City rate since they are performed on a regular contractual basis for a term of 30 days or more. If, however, the charges are not separately stated on the bill, invoice or other sale document the company presents to its customer, the entire charge will be subject to tax at 8 1/4%.

The contract under which the interior' cleaning and maintenance services are performed may be written or oral. Services performed under the contract are performed on a "regular" basis when such services are rendered on a daily, weekly, biweekly or monthly basis, or at some other regular interval.

When a service contract entered into before December 1, 1989 expires after that date, and the contract is for a monthly, quarterly, yearly or other time period, the charge subject to the New York City tax is determined by the following formula:

$$\frac{\text{Number of days in contract period falling on or after December 1, 1989}}{\text{Total number of days in the full contract period}} \times \text{Total charges}$$

Example 7. A company is under contract to provide interior cleaning and maintenance services for a landlord with several apartment buildings located throughout the New York City area. The contract is for a one year period, January 1, 1989 through December 31, 1989. The total charge for the year is \$62,200. The contract does not provide for any window cleaning, rodent and pest control or trash removal. The amount of the contract subject to the 4% New York City tax is determined as follows:

$$\frac{31}{365} \times \$62,200 = \$5,282.74$$

Thus, \$5,282.74 of the contract price is subject to tax at 4%.

The charges for interior cleaning and maintenance services are subject to tax when the services are provided by a contractor to a landlord/owner, managing agent or tenant. Such charges will also be subject to tax when the services are provided by a landlord or managing agent to a tenant if there is either an additional charge, or a separately stated charge, for the services.

Example 8. The landlord of a commercial office complex located in New York City contracts with a cleaning contractor to provide regular interior cleaning and maintenance services for the offices of the tenants of the complex. There is no separate charge to the tenants for the services, and the landlord does not reduce the rent payments for those tenants who choose to provide their own interior cleaning and maintenance. The charges for the interior cleaning and maintenance services are

subject to tax (at 8 1/4% if the services are performed for a term of less than 30 days, 4% if the services are performed for a term of 30 days or more). The tax is payable by the landlord; the tenants are not required to pay tax on any portion of the amount they pay as rent.

Example 9. The managing agent for a residential hotel located in New York City employs a staff to provide interior cleaning and maintenance services to those residents of the hotel who want such services. If a resident chooses to use the cleaning services, that resident's lease will reflect a separate charge for the services. The separate charge to the tenant by the managing agent is subject to tax (at 8 1/4% if the services are performed for a term of less than 30 days, 4% if the services are performed for a term of 30 days or more).

Example 10. The managing agent of a commercial office complex located in New York City employs a janitorial staff which is responsible for the upkeep of the common areas in the complex (hallways, stairwells, vestibules, elevators, walkways, etc.) The same staff is available to perform interior cleaning and maintenance services on a regular basis for the tenants of the complex. The rental charge for tenants who choose to use the services of the janitorial staff is \$8.00 per square foot instead of the \$7.50 per square foot regularly charged. The additional \$.50 per square foot the managing agent charges those tenants who choose to use the janitorial services is subject to tax (at 8 1/4% if the services are performed for a term of less than 30 days, 4% if the services are performed for a term of 30 days or more).

Where interior cleaning and maintenance services are rendered by an employee for his or her employer, the wages, salaries or other compensation paid to the employee for the performance of such services are not subject to tax. Moreover, interior cleaning and maintenance services are not taxable when rendered by an individual who does not offer these services to the public in a regular trade or business. This latter exclusion is limited to individuals who do occasional odd jobs in their spare time, and who do not regularly perform such services either in their own business or as an employee of another person.

Every business that is required to collect the sales tax due on charges for interior cleaning and maintenance services must collect the tax from its customers at the time the charges for the services are collected. Whenever the customer is given a sales slip, invoice, receipt, or other document as evidence of the purchase, that document must show the sales tax as a separate charge; the words "tax included" or some similar phrase are not evidence that the tax has been paid or collected and, in the event the tax is not separately stated, the entire amount charged will be deemed the sale price and tax will be due on that total charge.

Example 11. A company has a three year contract ending December 31, 1990 to provide regular interior cleaning and maintenance services to its customer. The total contract price of \$180,000 is, in accordance with the terms of the contract, billed to the customer in monthly installments of \$5,000 each. The bills for the months of December 1989 through December 1990 must show \$5,000 as the charge for the services rendered, and a separate charge of \$200 for the tax due.

Businesses providing interior cleaning and maintenance services in New York City (Brooklyn, Queens, the Bronx, Manhattan and Staten Island) are required to be registered with the Tax Department as vendors for sales tax purposes. Failure to register and obtain a Certificate of Authority to collect tax will result in the imposition of substantial civil and/or criminal penalties.