

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

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Sales Tax
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Certificate of Capital Improvement, Form ST-124, Revised 4/82,

Must Be Used On and After June 1, 1982

This memorandum clarifies the use of the Certificate of Capital Improvement, in accordance with Regulation section 532.4(f), promulgated May 19, 1982 and effective on May 21, 1982.

A Certificate of Capital Improvement is the document which a customer presents to his vendor/contractor to exempt from sales taxes his purchase of an addition or improvement to real property which qualifies as a capital improvement. The certificate requires a description of the work performed and certification of both the vendor and the customer.

When a customer signs a Certificate of Capital Improvement, he certifies that the work described on the front of the form will result in a capital improvement to real property within the guidelines stated in Regulation section 527.7(a)(3). He also indicates by his signature that he understands: 1) he will be responsible for any sales tax, interest and penalty which may be due as the result of a determination on audit that this work did not qualify as a capital improvement, and 2) he is required to pay the contractor the appropriate sales tax on any tangible personal property transferred pursuant to the contract which is not installed by the contractor as a permanent part of the real property.

A contractor certifies by his signature on the Certificate that he has contracted to perform the work described by the customer. If a written contract exists, a copy should be attached to the completed Certificate, and both should be retained by the contractor for his records.

On and after June 1, 1982 a customer must issue a Certificate of Capital Improvement, form ST-124 revised 4/82, to his contractor as evidence that the work performed will result in a capital improvement to real property. Anyone who still possesses unused forms ST-124 which were issued prior to April 1982 should destroy these unused forms. Only the form ST-124, revised as of 4/82 may be issued on and after June 1, 1982.

The Certificate may not be used to purchase building materials or other tangible personal property tax free.

Unless the customer gives the contractor a properly completed Certificate of Capital Improvement, the contractor must collect the sales tax on the full amount charged under the contract. A contractor remains liable for the sales tax on his purchases of building materials or other tangible personal property for incorporation into real property as a capital improvement, even though he has accepted a properly completed certificate.

Regulation section 532.4(f) states a Certificate of Capital Improvement is used to claim exemption from State and local sales tax on the purchase of a capital improvement as defined in section 527.7(a)(3). It also states a Certificate of Capital Improvement is properly completed when it complies with the provisions of section 532.4(c) (2).

Regulation section 527.7(a)(3) and section 1101(b)(9) of the Tax Law define a capital improvement to real property as an addition or alteration to real property which:

- (i) substantially adds to the value of the real property, or appreciably prolongs the useful life of the real property , and
- (ii) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself, and
- (iii) is intended to become a permanent installation.

THE WORK MUST MEET ALL THREE OF THE ABOVE REQUIREMENTS

Regulation section 532.L(c)(2) states a certificate is properly completed when it contains the:

- (i) date prepared
- (ii) name and address of purchaser,
- (iii) name and address of vendor,
- (iv) identification number of purchaser as shown on the certificate of authority,
- (v) signature of purchaser or purchaser's authorized representative, and
- (vi) any other information required to be completed on the form.

Attached is a copy of form ST-124 as revised on 4/82, to be used on and after June 1, 1982.

Publication 862, Classifications of Improvements and Repairs to Real Property for Sales Tax Purposes, is available to assist you in distinguishing between a repair and a capital improvement. This publication may be obtained from the Taxpayer Assistance Bureau by calling our toll free number 1-800-342-3536.