



Certificate of Capital Improvement - Exemption Form ST-124

Introduction

Services that result in a capital improvement to real property are exempt from sales tax. A capital improvement to real property is an addition or alteration to real property that:

- substantially adds to the value of the real property or appreciably prolongs the useful life of the real property; and
- 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
- is intended to become a permanent installation.

The work performed must meet **all three** of these requirements to be considered a capital improvement. For guidance as to whether a job is a capital improvement or repair, see Tax Bulletin [Capital Improvements \(TB-ST-104\)](#) and [Publication 862, Sales and Use Tax Classifications of Capital Improvements and Repairs to Real Property](#).

How to use Form ST-124

If you are the customer and the work being performed will result in a capital improvement, fill out [Form ST-124, Certificate of Capital Improvement](#), and give it to the contractor. You must give the contractor a properly completed form within 90 days after the service is rendered.

Note: [Form ST-124](#) **cannot be used** by a property owner, contractor, subcontractor, or other person to purchase building materials or other tangible personal property exempt from sales tax.

A prime contractor must furnish a copy of the certificate to each of the subcontractors on the job and the subcontractors must retain the copy as part of their records. The contractor must also maintain a method of associating an exempt sale made to a particular customer with the exemption certificate on file for that customer. See also Tax Bulletin [Recordkeeping Requirements for Sales Tax Vendors \(TB-ST-770\)](#).

Refunds

A contractor is not required to accept [Form ST-124](#). If a contractor does not accept the certificate and charges sales tax on work that the customer believes qualifies as a capital improvement, the customer can apply for a refund directly to the Tax Department. For more information, see Tax Bulletin [How to Apply for a Refund of Sales and Use Tax \(TB-ST-350\)](#).

Leasehold improvements

As a general rule, additions or alterations to real property for or by a tenant with respect to leased premises are presumed to be temporary in nature. Consequently, they generally do not qualify as capital improvements. However, an alteration or addition to leased property may qualify as a capital improvement if there is an intention to make it permanent and it also meets the other two criteria for a capital improvement described

above. For example, an intention of permanence would be demonstrated by a provision in the building lease indicating that immediately upon installation, title to the installation vests with the lessor, and the installed property is to remain with the premises after the termination of the lease. For additional information see [TSB-M-83\(17\)S](#), *Taxable Status of Leasehold Improvements For or By Tenants*.

Flooring material

Whether the installation of flooring material qualifies as a capital improvement depends on the type of material being installed.

The installation of the following materials qualifies as a capital improvement if the installation meets the three criteria for a capital improvement outlined in the *Introduction* section of this bulletin:

- ceramic tile,
- hardwood,
- slate,
- terrazzo, and
- marble.

However, the installation of materials considered to be *floor covering* qualifies as a capital improvement **only** when the materials are installed as **the initial finished floor** in:

- the construction of a new building or structure; or
- the construction of a new addition to an existing building or structure; or
- the total reconstruction of an existing building or structure.

The term *floor covering* includes materials such as:

- carpet,
- carpet padding,
- linoleum and vinyl roll flooring,
- carpet tile,
- linoleum tile, and
- vinyl tile.

Example: Homeowner D replaces the flooring in her existing kitchen with new ceramic floor tiles. The installation of the ceramic floor tiles qualifies as a capital improvement.

Example: Homeowner E replaces the flooring in his bathroom with new vinyl flooring. The installation of the new vinyl flooring does not qualify as a capital improvement because it is not the bathroom's initial finished floor.

Example: Homeowner F constructs an addition to his house that will function as a home theater. Carpeting is installed as the flooring material in the new addition. The installation of the carpeting qualifies as a capital improvement because it is the initial finished floor in the construction of a new addition to an existing building.

Mobile homes

The installation of a mobile home can never qualify as a capital improvement.

Penalties

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- a penalty equal to 100% of the tax due;

- a \$50 penalty for each fraudulent exemption certificate issued;
- criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- revocation of your *Certificate of Authority*, if you are required to be registered for sales tax purposes.

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

References and other useful information

Tax Law: Sections 1101(b)(4)(i), 1115(a)(17), and 1145(a)(5)

Regulations: Section 527.7

Publications: [Publication 862](#), *Sales and Use Tax Classifications of Capital Improvements and Repairs to Real Property*

Memoranda: [TSB-M-83\(17\)S](#), *Taxable Status of Leasehold Improvements For or By Tenants*

Bulletins:

[Capital Improvements \(TB-ST-104\)](#)

[Exemption Certificates for Sales Tax \(TB-ST-240\)](#)

[How to Apply for a Refund of Sales and Use Tax \(TB-ST-350\)](#)

[Recordkeeping Requirements for Sales Tax Vendors \(TB-ST-770\)](#)

[Sales and Use Tax Penalties \(TB-ST-805\)](#)