

LEGAL BLOG

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ARE YOUR OHIO CONSTRUCTION CONTRACTS AT RISK?

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In Ohio, the sale of taxable tangible personal property or services are subject to the Ohio sales tax.

Similarly, the use of taxable tangible personal property or services for which the vendor did not charge sales tax is subject to the Ohio use tax.

Ohio law requires a contractor making retail sales of tangible personal property or taxable services to register for sales tax by obtaining a vendor's license. This can be done at, Register for a Vendor's License or Seller's Use Tax Account | Department of Taxation (ohio.gov). Separate sales and use tax returns and registrations are required.

The party to a construction contract—who is legally responsible for paying the Ohio sales or use tax due—will depend on the specifics of each construction contract.

WHAT KIND OF CONSTRUCTION CONTRACTS DO YOU HAVE?

For Ohio sales and use tax purposes, **contractors** are taxed on materials they purchase and incorporate into real property (“real property construction contracts”). This may include material used for repairs, construction, or additions to real property.

In contrast, **consumers** are subject to the Ohio sales and use tax on the materials and labor used in a contractor's installation of personal property or business fixtures (“personal property contracts”). Items purchased or leased for use on a temporary basis during the installation or construction are subject to the same. The contractor should charge and collect Ohio sales tax on its invoice to the customer, calculated on an amount that includes the cost of materials, labor, installation, profit, mark-up and overhead.

See Ohio Revised Code, 5739.01(B)(defining “sale” for sales tax purposes).

IS IT A PERSONAL PROPERTY CONTRACT? Some examples include:

- Warehouse security cameras
- Parking lot lighting at car dealerships
- HVAC and special purpose flooring for computer rooms
- Certain computer cabling
- Window treatments
- Specialty cabinetry
- Sale and installation of carpeting
- Sale of landscaping services – including tree plantings and shrubs
- Signage
- Indoor pool

IS IT A REAL PROPERTY CONTRACT? Some examples include:

- General parking lot lighting
- Tile, wood, and laminate flooring
- Refinished flooring
- Outdoor pool
- Dock doors/levelers
- Permanent Fencing
- Alarm systems to prevent entry from exterior
- Card reader on exterior door
- Security cameras on exterior
- Elevators

IS IT AN ITEM USED ON A TEMPORARY BASIS TO COMPLETE THE CONTRACT? Some examples include:

- Electricity, lighting, or water service
- Protective fencing
- Construction elevators
- Shoring lumber
- Concrete forms
- Scaffolding
- Certain Signage

Many construction contracts may include real property, personal property, leased property, or temporarily used property. And it may not be clear how many items you purchased for use in a contract should be taxed. **If you have a question, [we can help.](#)**

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