

Sales Tax on Services - By Jurisdiction

Executive Summary

SALES TAX ON SERVICES

ANNUAL REPORT EXECUTIVE SUMMARY

November 2019

Overview

Eighty-one percent of the surveyed jurisdictions have a sales tax that applies to some services, such as telecommunications, entertainment admissions, and utilities. However, most of these taxes do not apply to construction services, real estate commissions, or other services related to real estate. Three states have no broadly applied sales tax, and eight jurisdictions have a business or occupation tax that, although technically not a sales tax, effectively taxes the sale of some services in the jurisdiction. Washington's fairly complicated tax scheme includes both a sales tax on sales and some services and a business and occupation tax on most services.

Expanding a state's sales tax to services is a fairly popular focus of state legislatures. For example, Georgia, Illinois, Kansas, Maine, North Dakota, and Vermont, among others, have considered such bills during recent legislative sessions. On the other hand, Florida, Massachusetts, and Michigan repealed their broadly based taxes on services. (In some cases, the acts were repealed as of their effective dates.)

The most significant change in the past year was in Puerto Rico which repealed the value added tax before it became effective in 2016 and reverted to the sales and use tax previously in place, including the taxation of designated services.

General Services Taxes

The application of sales and business and occupation taxes on contracting and construction trades varies significantly, and how the taxes are applied can turn on minor distinctions. For example, only prime contractors' services are taxed in Arizona. In Connecticut, a contractor's services are generally

taxable only if they are rendered in conjunction with existing commercial, industrial, or income-producing property; they are exempt if rendered in connection with new construction or residential property. In West Virginia a contractor's services are exempt if the activity results in a capital improvement. Overall, 15 jurisdictions tax contracting or construction services under several specified circumstances.

Professional services are generally taxed in only eight jurisdictions. Most states with a sales tax exempt many professional services, but the professionals are typically required to pay a sales tax on items purchased to conduct their businesses. Most states with a broad-reaching business and organization tax apply the tax to most professions, although South Dakota and Puerto Rico exempt certain medical services.

From January 2015 through April 2016, 36 jurisdictions revised their general sales tax laws, but many of the changes were minor or not related to the surveyed services. The most significant changes during that period were as follows:

- South Dakota, Kansas, Louisiana, Maine, and Puerto Rico increased their sale tax rates;
- Texas reduced its franchise tax rate;
- North Carolina extended its tax to repair, maintenance, and installation services; and
- Puerto Rico is replacing its sales tax with a value added tax that applies to most services.

From April 2016 through May 2017, a number of jurisdictions revised their general sales tax laws, but nearly all of the changes were minor or not related to the surveyed services. The most significant changes were:

- Puerto Rico repealed the value added tax before it became effective and reverted to the sales and use tax previously in place, including the taxation of designated services;

- North Carolina amended the provisions imposing a tax on construction contractors; and
- effective July 1, 2017, formerly exempt retailers "selling and installing fences, venetian blinds, window shades, awnings, storm windows and doors, floor coverings (as distinguished from floors themselves), cabinets, countertops, kitchen equipment, window air conditioning units or other like or comparable items" are subject to the sales tax.

In November 2016, voters approved an amendment to the Missouri Constitution that prohibits the expansion of state and local sales and use taxes (or any similar transaction-based tax) to impose taxes on any service or transaction that was not subject to sales, use or similar transaction-based tax on January 1, 2015.

From May 2017 to June 2018 the most significant changes were:

- North Carolina amended provisions related to taxation related to construction activities;
- Kentucky added landscaping services and janitorial services, including residential cleaning, to taxable services and installation charges became taxable as part of gross receipts/sales price;
- Virginia imposed and increase in the sales tax in the Historic Triangle;
- Louisiana's total sales tax rate is reduced from five percent to 4.45 percent effective July 1, 2018; and
- Guam's business privilege tax was temporarily increased from four percent to five percent for the period from April 1, 2018 to September 30, 2018 and effective October 1, 2018 a two percent general sales tax, which applies to most services, becomes effective.

In November 2018, voters approved an amendment to the Arizona Constitution which prohibits state and local governments from enacting any new or increased sales tax, transaction

privilege tax, or any other transaction-based tax on the privilege to engage in, or the gross receipts of sales or gross income derived from, any service performed in Arizona that was not already in effect on December 31, 2017.

In the most recent reporting period, Guam repealed its newly enacted general sales tax, before it became effective.

Sales Tax on Commissions

Most states do not tax real estate commissions. Of the surveyed jurisdictions, only eight jurisdictions assess either a sales tax or a business and occupation tax on real estate commissions.

Sales Tax on Related Services

Services that are related to real estate transactions are typically taxed like professional services. Thus, only nine jurisdictions tax property management, and only ten jurisdictions tax land surveys. Between January 2015 and April 2016, 15 jurisdictions revised their laws relevant to taxing services that are related to real estate transactions. However, other than the significant changes in Puerto Rico, these changes were generally minor, not substantive, or not relevant to this survey.

Services Covered by Annual Report

States apply taxes to a wide range of services. For purposes of this Annual Report, the focus is on services related to real estate transactions and a few professions that may indicate a trend toward taxing professional services. However, other services may be taxed, including but not limited to services under the following categories (with examples):

- Agricultural (such as horse boarding, veterinary services, landscaping);
- Industrial (including mining work, plate making, and typesetting);

- Construction (well drilling, general services);
- Transportation (bus and courier services, taxi operations);
- Storage (automotive, food, mini-storage and other warehousing);
- Utility (telephone, water, natural gas);
- Finance and Insurance (investment counseling, financial reporting);
- Personal (barbers, dating services, upholstery cleaning, and many others);
- Business (ad sales, employment agencies, secretarial services);
- Computer (software, ISP hosting, data processing);
- Automotive (washing, service, towing);
- Amusements (bowling alleys, cable television, circuses);
- Professional (geologists, chemists, psychologists);
- Leases and Rentals (tool rentals, car rentals, trailer parks, limos); and

- Fabrication, Installation and Repair (repair labor, custom fabrication, service contracts).

Alabama

Alabama, General service taxes

OVERVIEW

Alabama does not have a broad-reaching sales tax on services.

However, some services are taxed. For example, the state's retail sales tax is generally equal to four percent of "gross proceeds of sales," which are defined as the value from a tangible personal property sale, without deducting "the cost of the materials used, labor or service cost," among other things. Also, Alabama's sales tax applies to labor or service charges incurred in conjunction with certain sales or repairs of tangible personal property.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located. Alabama law does not deem contractors and builders to be selling the building materials they use. A contractor's business is generally considered to be rendering a service rather than selling materials at retail.

Carpenters, Plumbers, and Similar Trades

No relevant provisions were located.

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

No relevant provisions were located.

Attorneys

No relevant provisions were located.

Dentists

Alabama deems dentists to be primarily rendering professional services and incidentally using tangible personal property in connection with those services. Therefore, dentists are not selling dentures or other devices when they transfer the items to their patients, and a dentist's gross receipts from those sales are not subject to the sales tax.

Engineers

No relevant provisions were located.

Physicians

No generally relevant provisions were located.

Effective October 1, 2015, a licensed ophthalmologist dispensing ophthalmic materials to a patient constitutes a sale, subject to the state's sales tax. However, providing professional services in connection with dispensing ophthalmic materials, including dispensing fees or fitting fees, by a licensed ophthalmologist or a licensed optometrist is *not* considered a sale subject to the state sales tax.

Statutory sections 40-23-1 and 40-23-2 amended 2015. Regulation 810-6-1-.27 history unknown; r. 810-6-1-.84 adopted 1998; r. 810-6-1-.50 amended 2006.

[Ala. Code §§ 40-23-1, -2 \(2018\); Ala. Admin. Code r. 810-6-1-.27, -.50 \(2019\)](#)

Alabama, Sales tax on commissions

No relevant provisions were located.

Alabama, Sales tax on related services

No relevant provisions were located.

Although Alabama does not assess a sales tax on services related to real estate transactions, note that effective August 1, 2008, a buyer of Alabama property obtained by sale or transfer from a nonresident of Alabama must withhold and remit to the Commissioner of Revenue the following tax:

- for individual buyers or transferees, three percent of the purchase price or consideration paid; and
- for corporate, partnership, or unincorporated association buyers or transferees, four percent of the purchase price or consideration paid.

If the amount to be withheld is greater than the net proceeds payable to the seller or transferor, the buyer or transferee must withhold and pay over to the commissioner only the net proceeds otherwise payable to the seller or transferor. Certain transactions are exempt from this tax.

Section enacted 2008.

See [Ala. Code § 40-18-86 \(2019\)](#)

Alaska

Alaska, General service taxes

OVERVIEW

No provisions regarding a statewide sales tax on services were located.

Generally, a borough may levy a sales tax on sales, rents, and services provided in the borough. Several Alaska municipalities levy sales taxes ranging in 2014 from zero to seven percent, and the items taxed vary by community. For example, Juneau levies a tax on "retail sales and rentals made and services performed within the City," but it exempts some services, such as those provided by specified medical professionals and certain assisted living services, building or construction services, and services by financial institutions.

Other municipalities do not tax services. For example, Fairbanks and Anchorage reported no general sales taxes in 2014, although both had special taxes on items such as "beds" and tobacco.

See generally, [Alaska Office of State Assessor, Alaska State Sales Tax Information \(last visited Dec. 29, 2019\)](#).

CONSTRUCTION SERVICES

No relevant state laws or regulations were located.

FINANCIAL SERVICES

No relevant state laws or regulations were located.

PROFESSIONAL SERVICES

No relevant state laws or regulations were located.

Statutory section 29.45.650 amended 2005; tax table amended 2007; Juneau Code § 69.05.020 amended 2016; § 69.05.040 amended 2016.

[Alaska Stat. § 29.45.650 \(2018\)](#); [Alaska Dep't of Commerce, Community & Economic Development, Table 2 - 2014 Municipal Sales Tax, Special Taxes and Revenues](#); see also, [Alaska Office of State Assessor, Alaska Taxable 2017 \(Jan. 2018\)](#) (detailed municipal tax information)

Alaska, Sales tax on commissions

No relevant provisions were located.

Alaska, Sales tax on related services

No relevant provisions were located.

Arizona

Arizona, General service taxes

OVERVIEW

Arizona does not have a broad-reaching sales tax on services. However, its "transaction privilege" tax applies to some services. The tax is levied on "gross receipts," which include the total amount of the price of a retailer's retail sales, including "any services that are a part of the sales." For services rendered in connection with retail sales, the gross receipts from the services rendered "in addition to selling tangible personal property at retail are subject to tax unless the charge for service is shown separately on the sales invoice and records."

Note: In November 2018, voters approved an amendment to the Arizona Constitution adding a provision prohibiting state and local governments from enacting any new or increased "sales tax, transaction privilege tax, luxury tax, excise tax, use tax, or any other transaction-based tax, fee, stamp requirement or assessment on the privilege to engage in, or the gross receipts of sales or gross income derived from, any service" performed in Arizona that was not already in effect on December 31, 2017. [Ariz. Const. art. 9, § 25](#).

CONSTRUCTION SERVICES

Construction Contractors

Arizona taxes the "prime contracting classification" at the rate of five percent of the tax base plus an additional tax rate increment of six-tenths of one percent. The "prime contracting classification" consists of the "business of prime contracting and the business of manufactured building dealer."

The tax base for the prime contracting classification is 65 percent of the gross proceeds of sales or gross income less numerous permitted deductions. The portion attributed to the "actual direct costs of providing architectural or engineering services that are incorporated in a contract" is not subject to the tax. Effective January 1, 2019, the prime contracting classification does not include any work or operation performed by a person that is not required to be licensed by the Registrar of Contractors pursuant to Ariz. Rev. Stat. § 32-1121.

The gross proceeds of sales or the gross income derived from a contract with a real property owner to maintain, repair, replace, or alter existing property, is not subject to the tax if the contract does not include modification activities. The gross proceeds of sales or gross income from a "de minimis amount of modification activity does not subject the contract or any part of the contract to tax."

In this context:

- "contracting" means "engaging in business as a contractor";
- "contractor" is "synonymous with the term 'builder'";
- "modification" means "construction, improvement, movement, wreckage or demolition";
and
- "prime contractor" means "a contractor who supervises, performs or coordinates the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement."

The gross proceeds of sales or gross income attributable to a "written contract for design phase services or professional services, executed before modification begins and with terms, conditions and pricing of all of these services separately stated in the contract from those for construction phase services" are not subject to the prime contracting classification tax assessed by § 42-5075.

A prime contractor generally may purchase materials for modification contracts tax-free, but the materials will be subject to tax at the time of use. Materials purchased to complete maintenance, repair, replacement, and alteration contracts will be subject to sales tax at the time of purchase.

Thus:

- for a service contract, which includes repairs, maintenance, and alteration activities, the prime contractor pays the state's retail sales tax on materials, but it does not pay the state's contracting tax on revenue; and
- for a modification contract, the prime contractor does not pay a sales tax on construction materials, but it does pay a tax on its revenue from the contract.

For detailed information regarding application of the transaction privilege tax to contracts entered into after December 31, 2018, see [Ariz. Dep't of Rev., Arizona Transaction Privilege Tax Notice TPN-18-1 \(rev. May 3, 2019\)](#)

Carpenters, Plumbers, and Similar Trades

Many building-related services may be taxed as general contractors. Arizona regulations that previously specifically provided that certain services were generally taxable under the prime contracting classification have expired.

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

No relevant provisions were located.

The state's tax imposed on retail classifications does not apply to the gross proceeds of sales or gross income from professional or personal service occupations or businesses that sell or transfer personal property "only as inconsequential elements." Sales are "inconsequential elements" of a service if the property's purchase price to the person rendering the service represents less than 15 percent of the charge to the purchaser, the property is not in a form that is "subject to retail sale" at the time it is sold; and the charge for the personal property is not separately stated on the invoice.

A person engaged in both a retail business and a service business must keep records sufficient to determine whether the property was resold as a taxable retail sale.

Statutory section 42-5001 amended 2019; § 42-5010 amended 2015; § 42-5075 amended 2019; 42-5061 amended 2019. Regulations 15-5-104 and 15-5-105 amended 2006; rr. 15-5-606, 15-5-608, 15-5-613, 15-5-614, and 15-5-616 expired 2011.

[Ariz. Rev. Stat. §§ 42-5001, -5010, -5061\(A\)\(1\), -5075 \(2019\); Ariz. Admin. Code §§ 15-5-104, -105 \(2019\); see generally State of Arizona, Dep't of Rev., Transaction Privilege Tax \(last visited Dec. 29, 2019\)](#)

Arizona, Sales tax on commissions

No relevant provisions were located.

Note: In November 2018, voters approved an amendment to the Arizona Constitution adding a provision prohibiting state and local governments from enacting any new or increased "sales tax, transaction privilege tax, luxury tax, excise tax, use tax, or any other transaction-based tax, fee, stamp requirement or assessment on the privilege to engage in, or the gross receipts of sales or gross income derived from, any service" performed in Arizona that was not already in effect on December 31, 2017. [Ariz. Const. art. 9, § 25.](#)

Arizona, Sales tax on related services

No relevant provisions were located.

Note: In November 2018, voters approved an amendment to the Arizona Constitution adding a provision prohibiting state and local governments from enacting any new or increased "sales tax, transaction privilege tax, luxury tax, excise tax, use tax, or any other transaction-based tax, fee, stamp requirement or assessment on the privilege to engage in, or the gross receipts of sales or gross income derived from, any service" performed in Arizona that was not already in effect on December 31, 2017. [Ariz. Const. art. 9, § 25](#).

Arkansas

Arkansas, General service taxes

OVERVIEW

Arkansas applies a state "gross receipts tax" to some services, but the tax generally does not extend to the services addressed in this survey. (Assessed services include, among others, towing services, solid-waste collection and disposal, dry cleaning, laundry services, body piercing, tattooing, electrolysis, pest control services, alarm monitoring, locksmith services, pet grooming, and kennel services.) The basic gross receipts tax equals three percent of the gross proceeds or receipts from applicable sales, and additional taxes equal another 2.875 percent. (Effective July 1, 2013, a 2012 constitutional amendment also imposed a temporary .5 percent sales and use tax for state highways and bridges.)

Arkansas statutes explicitly provide that the tax is not levied "on any receipts derived from personal or professional services not before made the subject matter and within the scope of the present gross receipts tax law."

The gross receipts tax levied on mini-warehouse and self-storage rental services is repealed.

CONSTRUCTION SERVICES

Construction Contractors

A contractor is deemed to be a consumer of all tangible personal property he or she uses providing nontaxable services. Subsequent transfers of title or possession of property used by contractors performing a contract are *not* subject to the tax. However, if a contractor's performance of a

contract includes a taxable service (as listed in § 26-52-301(3) and noted above), then the entire gross proceeds or gross receipts from that taxable service, including the sale of any materials or supplies, is subject to the tax.

Carpenters, Plumbers, and Similar Trades

The gross receipts tax does *not* apply to the "initial installation, alteration, addition, cleaning, refinishing, replacement, or repair of nonmechanical, passive, or manually operated components of buildings or other improvements or structures affixed to real estate," including, among others, walls, ceilings, doors, locks, windows, glass, heat and air ducts, roofs, wiring, electrical switches and fixtures, pipes and plumbing fixtures, and similar components that become a part of real estate after installation (except flooring).

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

No relevant provisions were located.

Sections 26-52-103 and 26-52-301 amended 2019; §§ 26-52-302 and 26-52-307 amended 2017; § 26-52-316 amended 2015.

Ark. Code §§ 26-52-103, -301, -302, -307, -316 (LexisNexis 2019)

[Arkansas, Sales tax on commissions](#)

No relevant provisions were located.

[Arkansas, Sales tax on related services](#)

APPRAISALS

No relevant provisions were located.

HOME INSPECTIONS

No relevant provisions were located.

MLS SERVICES

No relevant provisions were located.

PROPERTY MANAGEMENT

No specifically relevant provisions were located. However, the state's excise tax applies to rooms or other accommodations by "hotels, apartment hotels, lodging houses, tourist camps, tourist courts, property management companies, or any other provider of accommodations to transient guests."

LAND SURVEYS

No relevant provisions were located.

OTHER RELATED SERVICES

No relevant provisions were located.

Section amended 2019.

Ark. Code § 26-52-301 (LexisNexis 2019)

California

California, General service taxes

OVERVIEW

California does not have a broad-reaching sales tax on services. However, some services are taxed. For example, "sales price" includes the total amount for which tangible personal property is sold, without a deduction for "labor or service cost," although it does not include the amount charged for "labor or services rendered in installing or applying the property sold."

CONSTRUCTION SERVICES

Construction Contractors

Generally, construction contractors are deemed to consume materials they furnish and install when performing construction contracts. However, if a contractor contracts to sell materials and to install them, the contractor is deemed to be the retailer of the materials if the contract:

- explicitly provides for the transfer of title to the materials before they are installed; and
- separately states the materials' sale price, exclusive of the installation charge.

In a time-and-material contract, if the contractor bills his or her customer an amount for "sales tax" on his or her marked-up billing for materials, the contractor is generally assumed to be the retailer of the materials.

Construction contractors are generally considered to be retailers of fixtures they furnish and install

when performing construction contracts. Therefore, the sales tax applies to their fixture sales. "Jobsite fabrication labor" and a prorated share of manufacturing overhead must be included in a fixture's sale price. "Jobsite fabrication labor" includes assembly labor performed before attaching a component or a fixture to real property.

Carpenters, Plumbers, and Similar Trades

A "construction contractor" includes "subcontractors and specialty contractors and those engaged in such building trades as carpentry, bricklaying, cement work, steel work, plastering, drywall installation, sheet metal work, roofing, tile and terrazzo work, electrical work, plumbing, heating, air-conditioning, elevator installation and construction, painting, and persons installing floor coverings, including linoleum, floor tile, and wall-to-wall carpeting, by permanently affixing such coverings to a floor." Therefore, those building trades are taxed in the same manner as indicated above for general construction contractors, and they are generally deemed to be consumers of materials furnished, but retailers of fixtures. Thus, their services are typically not taxable, except for the "jobsite fabrication of fixtures."

A cabinet is "prefabricated" and a "fixture" if 90 percent of the "total direct cost of labor and material in fabricating and installing the cabinet" is incurred before the cabinet is affixed to the property.

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

Fees to licensed architects for "their ability to design, conceive or communicate ideas, concepts, designs, and specifications" are not subject to the state's sales and use tax. Plans, specifications, renderings, models, or "other instruments of service" that a licensed architect provides under a contract or commission are "integral to the licensed architect's services" and not subject to the tax.

Attorneys

No relevant provisions were located.

Dentists

No specifically relevant provisions were located. Generally, dentists are consumers of the materials and other tangible personal property they use to perform their services. Therefore, the state's sales and use tax applies to the sale of the products *to* them. Dental laboratories are the retailers of the products they manufacture for dentists or other consumers, so the tax applies to their entire charge for the product, including materials and manufacturing services.

Engineers

No relevant provisions were located.

Physicians

No provisions were located that tax health professionals services. Also, a licensed physician is not considered a retailer with respect to ophthalmic materials he or she uses or furnishes performing professional services diagnosing, treating, or correcting eye conditions.

However, note that effective October 19, 2010, California imposes a sales tax on providers of support services, including personal care services, at retail.

Statutory section 6018 amended 1997; § 6011 amended 2002; § 6151 amended 2012; regulation 1521 amended 2008; r. 1506 amended 2016.

[Cal. Rev. & Tax. Code §§ 6011, 6018, 6151 \(2018\); Cal. Code Regs. tit. 18, §§ 1506, 1521 \(West 2019\)](#)

California, Sales tax on commissions

No relevant provisions were located.

California, Sales tax on related services

No relevant provisions were located.

Colorado

Colorado, General service taxes

OVERVIEW

Colorado does not have a broad-reaching sales tax on services. However, some services are taxed. For example, a taxed "retail sale" includes "the sales of those services specifically enumerated in the Act," such as rooms and accommodations, gas and electric service, and telephone and telegraph service. Also, the state's 2.91-percent sales tax is generally imposed on the "full purchase price of articles sold after manufacture or after having been made to order and includes the full purchase price for material used and the service performed in connection therewith."

The amount charged to the purchaser for labor or services rendered in installing and applying purchased personal property is not subject to tax if:

- that amount is separately stated; and
- the separate statement is not to avoid the sales tax.

Persons who render services are consumers of the tangible personal property that they "use incidentally in rendering the service." Therefore, the tax applies to the property's sale to them. If they also regularly sell tangible personal property to consumers, they are retailers with respect to those sales and must remit tax on them.

If a transaction is deemed to be a sale of tangible personal property, the tax applies to the gross receipts, with no deduction for the "work labor, skill, thought, time spent, or other expense of producing the property."

CONSTRUCTION SERVICES

Construction Contractors

Contractors who purchase tangible personal property to be built by them into a building or structure are generally deemed to be retail purchasers who must pay a sales or use tax on the purchases. A contractor who invoices separately for labor and materials must charge a sales tax on the marked up billing price of all materials.

Carpenters, Plumbers, and Similar Trades

A "contractor" includes, among others, building contractors, grading and excavating contractors, electrical contractors, and plumbing and heating contractors. In this context, "subcontractor" has the same meaning as "contractor."

Persons who render renovation services, such as painters and paper hangers, are rendering a service and are considered the users of the articles used or consumed in the service. Thus, they must pay sales or use tax on the articles at the time they are purchased, but no sales or use taxes apply to charges for the services.

FINANCIAL SERVICES

Bank Service Charges

Colorado statutes provide that the provisions of part 1 of the Sales Tax laws (that levy the tax on certain goods and services) "apply to national banking associations and to banks" organized and chartered under Colorado law. Colorado regulations clarify that banks and similar financial organizations that offer gifts or premiums as inducements are making taxable sales of tangible personal property.

Insurance Services

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

No relevant provisions were located.

Attorneys

No relevant provisions were located.

Dentists

No relevant provisions were located.

Engineers

No generally relevant provisions were located. Contracts for research work that require only the development of ideas, plans, or engineering data are not sales of tangible personal property, even if models and drawings are furnished to convey the ideas.

Physicians

No relevant provisions were located.

Statutory section 39-26-124 enacted 1963; § 39-26-106 amended 2010; § 39-26-102 amended 2019. Regulatory chapter 201-5 amended 2017; chapter 201-4 amended 2017.

Colo. Rev. Stat. §§ 39-26-102, -106, -124 (LexisNexis 2019); [201-4 Colo. Code Regs. §§ 39-26-102.9, -102.12](#); [201-5 Colo. Code Regs. §§ SR-10, -17, -28, -40 \(2019\)](#)

Colorado, Sales tax on commissions

No relevant provisions were located.

Colorado, Sales tax on related services

No relevant provisions were located.

Connecticut

Connecticut, General service taxes

OVERVIEW

Connecticut imposes a 6.35-percent tax on gross receipts from the retail sale of tangible personal property and certain specified services, including computer and data processing, credit information, credit reporting, private investigations, janitorial services, and extermination services, among others. "Sale" also includes the rendering of certain other services, generally including services on "industrial, commercial or income-producing real property." In this context, "income-producing

property" does *not* include property "used exclusively for residential purposes in which the owner resides and which contains no more than three dwelling units."

"Sales price," when applied to a service, means the total amount for which the service is rendered without deduction for labor or service costs, among other things.

Unless specifically included by Conn. Gen. Stat. § 12-407(a)(2), Connecticut exempts from the state's sales tax professional, insurance, or personal service transactions that involve sales as "inconsequential elements for which no separate charges are made."

CONSTRUCTION SERVICES

Construction Contractors

Generally, contractor services are taxed if they are rendered in conjunction with existing commercial, industrial, or income-producing property. "Income-producing property" does *not* include property "used exclusively for residential purposes in which the owner resides and which contains no more than three dwelling units." The services are exempt if they are rendered in conjunction with residential property.

A contractor must pay the state's sales tax as a consumer on the purchase or lease of all materials, supplies, or equipment used to fulfill any construction contract unless the contractor:

- contracts to sell materials or supplies at an agreed price and to render service in connection with those materials or supplies, for either an additional agreed price or on a time-consumed basis; or
- is in the business of selling the materials or supplies at retail.

"Contractor" includes both contractors and subcontractors. A "construction contract" is a contract for the "repair, alteration, improvement, remodeling or construction of real property."

Carpenters, Plumbers, and Similar Trades

Because "contractor" includes both contractors and subcontractors, the provisions related to contractors (see "*Construction Contractors*" above) apply to tradespersons acting as subcontractors. "Contractor" also explicitly includes "building, electrical, plumbing, heating, painting, decorating, paper hanging, air conditioning, ventilating, insulating, sheet metal, steel, masonry, carpentry, plastering, cement, road, bridge, landscape and roofing contractors or subcontractors."

Generally, subcontractors' services are taxable only if they are rendered in conjunction with existing commercial, industrial, or income-producing property, which does not include residential property.

A person who sells complete units of standard equipment at retail and installs that equipment, acts as a retailer selling tangible personal property in the same manner as other retailers. In such instances, the contract is not deemed to be one for improving, altering, or repairing real property, and the person performing the contract is primarily a retailer of tangible personal property. As such, he or she must segregate the retail price of the property from the installation charge, and the tax applies only to the property's retail price.

FINANCIAL SERVICES

Bank Service Charges

No relevant provisions were located.

Insurance Services

Connecticut's sales tax does not apply to the gross receipts from insurance service transactions that "involve sales as inconsequential elements for which no separate charges are made."

PROFESSIONAL SERVICES

Except as otherwise explicitly provided by statute, Connecticut's sales tax does not apply to gross receipts from the sale of professional or personal services that "involve sales as inconsequential elements for which no separate charges are made."

Accountants

No relevant provisions were located.

Architects

No relevant provisions were located.

Attorneys

No relevant provisions were located.

Dentists

No relevant provisions were located.

Engineers

No relevant provisions were located.

Physicians

No generally relevant provisions were located. However, a sale includes services connected to cosmetic medical procedures, which include medical procedures "directed at improving the individual's appearance" and that do not "meaningfully promote the proper function of the body or prevent or treat illness or disease."

Statutory section 12-407 amended 2019; §§ 12-408, and 12-412 amended 2019. Regulation amended 1999.

[Conn. Gen. Stat. §§ 12-407, -408, -412 \(2018\); Conn. Agencies Regs. § 12-426-18 \(2018\)](#)

Connecticut, Sales tax on commissions

Except as otherwise explicitly provided by statute, Connecticut's sales tax does not apply to gross receipts from the sale of professional or personal services that "involve sales as inconsequential elements for which no separate charges are made." No provisions were located assessing the state's sales tax on real estate commissions.

Section amended 2019.

[Conn. Gen. Stat. § 12-412 \(2018\)](#)

Connecticut, Sales tax on related services

APPRAISALS

Except as otherwise explicitly provided by statute, Connecticut's sales tax does not apply to gross receipts from the sale of professional or personal services that "involve sales as inconsequential elements for which no separate charges are made." No provisions were located assessing the state's sales tax on appraisals.

HOME INSPECTIONS

Except as otherwise explicitly provided by statute, Connecticut's sales tax does not apply to gross receipts from the sale of professional or personal services that "involve sales as inconsequential

elements for which no separate charges are made." No provisions were located assessing the state's sales tax on home inspections.

MLS SERVICES

Except as otherwise explicitly provided by statute, Connecticut's sales tax does not apply to gross receipts from the sale of professional or personal services that "involve sales as inconsequential elements for which no separate charges are made." No provisions were located assessing the state's sales tax on MLS services.

PROPERTY MANAGEMENT

Connecticut assesses its sales tax on "services to industrial, commercial or income-producing real property," including, but not limited to, management services. "Income-producing property" does not include:

- "property used exclusively for residential purposes in which the owner resides and which contains no more than three dwelling units"; or
- a housing facility for low and moderate income persons that is owned or operated by a nonprofit housing organization.

LAND SURVEYS

Except as otherwise explicitly provided by statute, Connecticut's sales tax does not apply to gross receipts from the sale of professional or personal services that "involve sales as inconsequential elements for which no separate charges are made." No provisions were located assessing the state's sales tax on land surveys.

OTHER RELATED SERVICES

Credit information and reporting services

Connecticut assesses its sales tax on credit information and reporting services, which include, but are not limited to, "assembling and evaluating information regarding the credit standing, creditworthiness, or credit capacity" of an individual or entity for the purpose of furnishing credit reports.

Statutory section 12-407 amended 2016; §§ 12-408, and 12-412 amended 2018. Regulation amended 1991.

[Conn. Gen. Stat. §§ 12-407, -408, -412 \(2018\)](#); [Conn. Agencies Regs. § 12-426-27 \(2019\)](#)

Delaware

Delaware, General service taxes

OVERVIEW

Although Delaware does not technically have a "sales tax," it imposes a broadly based "gross receipts tax" on persons engaged in business in the state. Generally, in addition to the state's basic licensing fees, a person generally must pay a license fee that equals a percentage of the aggregate gross receipts. As of January 1, 2017, that amount equals .3983 percent of aggregate gross receipts. The state allows a \$100,000 deduction when computing the fee due on monthly aggregate gross receipts. All branches or entities "comprising an enterprise with common ownership or common direction and control" are allowed only one monthly deduction from the entire enterprise's aggregate gross receipts.

If the taxable gross receipts during the "lookback period," which is the 12-month period between July 1 and June 30 immediately preceding the taxable year, do not exceed \$750,000, the return is due quarterly and the allowed deduction is \$300,000 per quarter. (Effective January 1, 2017, this threshold amount increases to \$1,500,000 and is subject to an annual adjustment.) Related entities are allowed only one quarterly deduction from the entire enterprise's aggregate gross receipts.

"Gross receipts" include the total consideration for services rendered, goods sold, or other-income producing transactions in the state, including fees and commissions.

CONSTRUCTION SERVICES

Construction Contractors

A contractor generally must pay .6472 percent of his or her aggregate gross receipts. The state allows a \$100,000 deduction when computing the fee due on each month's aggregate gross receipts.

If the taxable gross receipts during the "lookback period," which is the 12-month period between July 1 and June 30 immediately preceding the taxable year, do not exceed \$750,000, the return is due quarterly and the state allows a quarterly deduction of \$300,000. (Effective January 1, 2017, this threshold amount increases to \$1,500,000 and is subject to an annual adjustment.) Related entities are allowed only one quarterly deduction from the entire enterprise's aggregate gross receipts.

A "contractor" includes every person engaged in the business of furnishing labor or both labor and materials "in connection with all or any part of construction, alteration, repairing, dismantling or demolition of buildings" and "every other type of structure as an improvement, alteration or development of real property." Both general contractors and subcontractors are "contractors."

"Gross receipts" include:

- for a contractor other than a real estate developer, "all sums received for any work done or materials supplied in connection with any real property" located in Delaware, but it does not include "sums paid to subcontractors by the contractor," if the subcontractor is licensed and subject to the state's tax on those amounts, and if a written agreement exists between the contractor and the subcontractor stating the exact amounts payable to the subcontractor; and
- for real estate developers, "all sums received from the sale of real property with structures (commercial and/or residential) built thereon" reduced by specified amounts, such as the cost of the land and improvements other than structures, miscellaneous expenses, and certain sums paid to subcontractors.

Firms that qualify for "targeted industry credits" are not subject to gross receipts taxes for five years and then pay gross receipts taxes "reduced on a declining scale for a period of ten years beginning with a 90% reduction the first (sixth) year and ending with a 5% reduction the tenth (fifteenth) year."

Carpenters, Plumbers, and Similar Trades

A "contractor" is broadly defined to include most construction trades, and both general contractors and subcontractors are "contractors." Therefore, the provisions that apply to contractors (see "*Construction Contractors*" above) also apply to tradespersons acting as subcontractors.

FINANCIAL SERVICES

Bank Service Charges

Banks and similar financial institutions licensed or regulated under Delaware or federal law are generally exempt from the state's gross receipts tax.

Insurance Services

Insurance companies are exempt from the state's gross receipts tax.

PROFESSIONAL SERVICES

No provisions were located specifically identifying taxable professional services. However, it appears that "every person engaging . . . in any service industry, business, calling or profession" is subject to the state's gross receipts tax. As of January 1, 2017, that amount equals .3983 percent of aggregate gross receipts. The state allows a \$100,000 deduction when computing the fee due on monthly aggregate gross receipts. All branches or entities "comprising an enterprise with common ownership or common direction and control" are allowed only one monthly deduction from the entire enterprise's aggregate gross receipts.

If the taxable gross receipts during the "lookback period," which is the 12-month period between July 1 and June 30 immediately preceding the taxable year, do not exceed \$750,000, the payment is due quarterly and the state allows a quarterly deduction of \$300,000. (Effective January 1, 2017, this threshold amount increases to \$1,500,000 and is subject to an annual adjustment.) Related entities are allowed only one quarterly deduction from the entire enterprise's aggregate gross receipts.

Section 2122 enacted 1994; § 2501 amended 2000; § 2301 amended 2019; § 2502 amended 2016.

[Del. Code Ann. tit. 30, §§ 2122, 2301, 2501, 2502 \(2019\)](#)

Delaware, Sales tax on commissions

SALES TAX AMOUNT

Although Delaware does not technically have a sales tax, real estate brokers are subject to Delaware's gross receipts tax. As of January 1, 2017, that amount equals .3983 percent of aggregate gross receipts, which for real estate brokers means "commissions and fees." The state allows a \$100,000 deduction when computing the fee due on monthly aggregate gross receipts. All branches or entities "comprising an enterprise with common ownership or common direction and control" are allowed only one monthly deduction from the entire enterprise's aggregate gross receipts.

EXCEPTIONS

If the taxable gross receipts during the "lookback period," which is the 12-month period between July 1 and June 30 immediately preceding the taxable year, do not exceed \$750,000, the payment is due quarterly, and the state allows a quarterly deduction of \$300,000. (Effective January 1, 2017, this threshold amount increases to \$1,500,000 and is subject to an annual adjustment.) Related entities are allowed only one quarterly deduction from the entire enterprise's aggregate gross receipts.

Section 2122 enacted 1994; § 2301 amended 2019.

[Del. Code Ann. tit. 30, §§ 2122, 2301 \(2019\)](#)

Delaware, Sales tax on related services

Although Delaware does not technically have a sales tax, it appears that "every person engaging or continuing to engage in any service industry, business, calling or profession" is subject to the state's gross receipts tax. As of January 1, 2017, that amount equals .3983 percent of aggregate gross receipts. The state allows a \$100,000 deduction when computing the fee due on monthly aggregate gross receipts. All branches or entities "comprising an enterprise with common ownership or common direction and control" are allowed only one monthly deduction from the entire enterprise's aggregate gross receipts.

If the taxable gross receipts during the "lookback period," which is the 12-month period between July 1 and June 30 immediately preceding the taxable year, do not exceed \$750,000, the payment is due quarterly and the state allows a quarterly deduction of \$300,000. (Effective January 1, 2017, this threshold amount increases to \$1,500,000 and is subject to an annual adjustment.) Related entities are allowed only one quarterly deduction from the entire enterprise's aggregate gross receipts.

Section 2122 enacted 1994; § 2301 amended 2019.

[Del. Code Ann. tit. 30, §§ 2122, 2301 \(2019\)](#)

District of Columbia

District Of Columbia, General service taxes

OVERVIEW

The District of Columbia does not have a broad-reaching sales tax on services. However, the District generally imposes a 5.75-percent tax for the privilege of selling "retail sales," which include certain taxable services, such as specified utilities, telephone services, admission to public events, real property maintenance and landscaping, and data processing and information services, among others. As of October 1, 2014, several additional services, such as self-storage services, carpet and upholstery cleaning, and health-club services were added to the list of items that are subject to the District's sales tax.

Also, the tax is assessed on the "sales price," which means the total amount paid for a retail sale, without any deduction for service or transportation costs, among other things. "Sales price" explicitly includes "[a]ny services that are a part of the sale." However, it does not include the amount "separately charged for labor or services rendered in installing or applying the property sold," except as otherwise provided.

Generally, "sales price" does not include the amount charged for labor or services rendered in installing or applying the property sold if:

- the installation charges are shown separately from the property's sales price; and
- the property was not applied or installed as a repair or replacement part of other tangible personal property.

If the labor and service charges and the sales price are not shown separately, the tax applies to the total amount.

CONSTRUCTION SERVICES

Construction Contractors

If a contractor (or a subcontractor) agrees to sell the materials he or she uses at an agreed price or at the regular retail price and to perform the work either for an additional price or on the basis of time consumed, the contractor is deemed to be a vendor making a taxable sale at retail, so he or she must collect the tax from the purchaser. In this scenario, the contractor must furnish a resale certificate to the registered vendor from which the contractor buys the materials because that transaction is a nontaxable sale for resale.

In all other contracts, a contractor furnishing material and attaching that material to real property is deemed to be purchasing the materials, and he or she must either reimburse the registered vendor for the tax or pay the tax as the purchaser. The types of contracts in which the contractor is deemed to be the purchaser of the materials include contracts for materials and services that are:

- for a lump sum;
- on a cost-plus basis; or

- with "an upset or guaranteed price which may not be exceeded."

The above provisions do not apply to contracts in which the contractor "acts as a vendor of tangible personal property in the same manner as other vendors and is required to install that tangible personal property." In those cases, the contract is not deemed to be "for improving, altering, or repairing real property," even if the personal property is installed in real property. The person is "primarily a retailer of tangible personal property" and should segregate the property's retail selling price from its installation charge, and the tax applies only to the property's retail price. If the retail selling price is not segregated, the tax applies to the entire contract price, including the installation charge.

Under a time and materials contract (in which the contractor sells labor for one price and charges a separate price for the materials), the contractor is a vendor making a taxable sale at retail and must collect tax like any other vendor.

In lump-sum, cost-plus, and guaranteed-price contracts, the contractor consumes the materials purchased, and the contractor must pay the sales tax to his or her supplier.

Carpenters, Plumbers, and Similar Trades

In this context, the term "contractor" includes subcontractors. Therefore, the provisions described above (in "*Construction Contractors*") apply to tradespersons acting as subcontractors.

Gross receipts from real property maintenance services are subject to the sales tax. "Real property maintenance" includes "the activities of keeping the land or premises of a building clean, orderly and functional, including performing minor adjustments, maintenance or repairs."

Landscaping services and landscaping construction, design, and architecture are taxable. Vendors providing landscaping services may issue a resale certificate on all tangible personal property that will be sold as part of the taxable service or taxable contract.

FINANCIAL SERVICES

Bank Service Charges

No relevant provisions were located.

Insurance Services

A "retail sale" generally does not include insurance service transactions that "involve sales of tangible personal property as inconsequential elements for which no separate charges are made," so they are not taxable. "Sales as inconsequential elements" include any sales of tangible personal property made in connection with insurance service transactions where the sales price of the tangible personal property is less than ten percent of the amount charged for the service.

PROFESSIONAL SERVICES

Generally, a "retail sale" does not include professional service transactions that "involve sales as of tangible personal property as inconsequential elements for which no separate charges are made," so they are not taxable. "Sales as inconsequential elements" include any sales of tangible personal property made in connection with professional service transactions where the sales price of the tangible personal property is less than ten percent of the amount charged for the service.

Accountants

No specifically relevant provisions were located.

Architects

Landscape architecture services are taxable.

Attorneys

No specifically relevant provisions were located.

Dentists

No specifically relevant provisions were located.

Engineers

No specifically relevant provisions were located.

Physicians

No specifically relevant provisions were located.

Statutory sections 47-2001 and 47-2002 amended 2019. Regulation 407 adopted 1954; r. 403 amended 1976; r. 438 amended 1989; rr. 472 and 473 adopted 1989.

[D.C. Code §§ 47-2001, -2002 \(2019\); D.C. Mun. Regs. tit. 9, §§ 403, 407, 438, 472, 473 \(2019\)](#)

District Of Columbia, Sales tax on commissions

No specifically relevant provisions were located.

Generally, a taxable "retail sale" does not include "professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made."

Section amended 2019.

[D.C. Code § 47-2001 \(2019\)](#)

District Of Columbia, Sales tax on related services

APPRAISALS

No specifically relevant provisions were located. Generally, a taxable "retail sale" does not include "professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made."

HOME INSPECTIONS

No specifically relevant provisions were located. Generally, a taxable "retail sale" does not include "professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made."

MLS SERVICES

Generally, a taxable "retail sale" does not include "professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made." However, "retail sale" does include charges for information services, which include "electronic data retrieval or research, including . . . real estate listings."

PROPERTY MANAGEMENT

Property management companies are not considered vendors. Rather, they are consumers of all materials *and services* purchased to manage the property, including subcontractors' services. Vendors, including subcontractors, providing materials and services to property management companies must collect the sales tax on the charges *to* the companies. (In this context, a property management company is "a company providing mixed taxable and nontaxable services, such as real property maintenance and rent collection, to manage property for a contracted fee.")

Property management companies providing real property maintenance services through their own employees are not required to collect the sales tax on the charges for those services.

Property management companies are considered vendors if they:

- provide taxable services outside of the property management contract; or
- solely provide taxable services through their own employees or through subcontractors.

As vendors, they may issue a certificate of resale for the materials and services they purchase.

All other persons performing services usually provided by property management companies are considered consumers of all materials and services purchased to manage the property.

A vendor purchasing real property maintenance services from another vendor may issue a resale certificate for taxable services rendered, which acts as the authority for that vendor not to add reimbursement for the tax to the price of the service. The District's regulations provide the following example:

For example, Company A is performing a janitorial contract for XYZ Management Company. Included in the contract are services for window cleaning and trash removal. These services are subcontracted to B and C. Company A may issue a certificate of resale to B and to C. Neither B nor C would collect tax from Company A for the services they rendered. However, Company A would collect tax from XYZ.

LAND SURVEYS

Generally, a taxable "retail sale" does not include "professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made." However, "retail sale" does include charges for information services, which include "surveys."

OTHER RELATED SERVICES

No specifically relevant provisions were located. Generally, a taxable "retail sale" does not include "professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made."

Statutory section amended 2019. Regulation adopted 1989.

[D.C. Code § 47-2001 \(2019\)](#); [D.C. Mun. Regs. tit. 9, § 472 \(2019\)](#)

Florida

Florida, General service taxes

OVERVIEW

Florida no longer has a broad-reaching sales tax on services. The state imposes a six-percent tax on retail sales of tangible personal property and some taxable services, including transient rentals, certain admissions, nonresidential cleaning and pest control, communications, and protection services, among others.

The taxable "sales price" includes the total amount paid for tangible personal property, including any services that are a part of the sale, without deducting labor or service costs, among others. The term also includes the "consideration for a transaction which requires both labor and material to alter, remodel, maintain, adjust, or repair tangible personal property."

CONSTRUCTION SERVICES

Construction Contractors

The taxability of a real property contractor's purchases and sales is generally determined by the contract's pricing arrangement. Construction contracts are generally categorized into the following types:

- lump sum contracts, in which a contractor or subcontractor agrees to furnish materials, supplies, and necessary services for "a single stated lump sum price";
- cost plus or fixed fee contracts, in which the contractor or subcontractor agrees to furnish materials, supplies, and necessary services for "reimbursement of costs plus a fee that is fixed in advance or calculated as a percentage of the costs";
- upset or guaranteed price contracts, in which the contractor or subcontractor agrees to furnish materials, supplies, and necessary services "based on costs plus fees but with an upset or guaranteed maximum price";
- retail sale plus installation contracts, in which the contractor or subcontractor agrees to sell "specifically described and itemized materials and supplies at an agreed price or at the regular retail price and to complete the work either for an additional agreed price or on the basis of time consumed" and in which all materials that will be incorporated into the work are itemized and priced in the contract before work begins; or
- time and materials contracts, in which the contractor or subcontractor agrees to furnish materials, supplies, and necessary services for "a price that will be calculated as the sum of the contractor's cost or a marked up cost for materials to be used plus an amount for services to be based on the time spent performing the contract." (Time and materials contracts differ from retail sale plus installation contracts because (a) the materials are not completely identified, itemized, and priced in advance, and (b) because the property owner contracts for a finished job rather than the purchase of materials.)

Generally, contractors are the consumers of materials and supplies they use to perform real property contracts and must pay tax on the cost of those materials and supplies, unless the contractor has entered into a retail sale plus installation contract. Thus, contractors performing lump sum, cost plus or fixed fee, upset or guaranteed price, or time and materials contracts may not charge sales tax to their customers, even if they itemize charges for materials and labor in their proposals or invoices.

Contractors who perform retail sale plus installation contracts sell tangible personal property. Unless the transaction is exempt, they must charge their customers tax on the price paid for tangible personal property, but not on installation labor charges.

A real property contract may include materials and labor that are not real property improvements. A contract that involves a real property improvement, maintenance, or repair and also involves providing tangible personal property that does not become part of the real property is a mixed contract. In a mixed contract, taxability depends on the "predominant nature" of the work and on the contract terms. If the contract's predominant nature is for real property improvements, the transaction is taxed as if the contract were entirely for real property. If the predominant nature is for tangible personal property, the contract is taxed as if it were entirely for tangible personal property.

Contractors engaged in most construction trades, such as brick and stone masonry, built-in cabinetry, carpentry, cement and concrete work, door and window installation, and electrical system installation and repairs, among numerous other trades are generally considered to be real property contractors, although any particular job "may be determined not to involve an improvement to real property."

The sale, installation, maintenance, or repair of items such as art work, freestanding cabinets and shelving, computer system components, drapes, household appliances (unless built in and directly wired), television antennas, and window air-conditioning units, does not constitute a real property contract. Contractors who sell and install tangible personal property items must collect the state's sales tax on the full selling price, including any installation or other charges, even if those charges are separately stated.

Building materials used to construct "qualified homes," housing projects, or mixed-use projects (and labor costs associated with constructing a qualified home) are exempt from the state's sales tax. Likewise, building materials used in new construction located in a "rural area of opportunity" are exempt from the sales tax, but only through a refund of previously paid taxes by the owner, lessee or lessor of the new construction. Also, the state's tax does not apply to the sale to or use by a government contractor of overhead materials.

Carpenters, Plumbers, and Similar Trades

Contractors engaged in most construction trades, such as brick and stone masonry, built-in cabinetry, carpentry, cement and concrete work, door and window installation, and electrical system installation and repairs, among numerous other trades, are generally considered to be real property contractors, although any particular job "may be determined not to involve an improvement to real property." Thus, because most tradespersons are deemed to be "contractors," the provisions that

apply to general contractors (see "*Construction Contractors*" above) also apply to most tradespersons. Generally, whether the service and property transferred are taxable depends on the contract's form.

FINANCIAL SERVICES

Bank Service Charges

Bank service charges are generally exempt. For example, the rental charge for a safety deposit box and the charge for the use of depository bags are exempt. Also, if a bank issues a specified number of checks a month to customers for a fixed charge (which is a service charge on their accounts), the charge is exempt.

Sales and rentals of tangible personal property to state and national banks are taxable.

The state's tax also applies to a bank's sale of repossessed tangible personal property to a consumer, except that a bank need not collect the tax when it sells a repossessed automobile to a dealer for resale. Personalized checks that a bank sells to its customers are taxable.

Insurance Services

Insurance service transactions that "involve sales as inconsequential elements for which no separate charges are made" are exempt from the state's sales tax.

PROFESSIONAL SERVICES

Accountants

Professional or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made" are exempt from the state's sales tax.

Architects

Professional or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made" are exempt from the state's sales tax.

If an architect furnishes his or her client with a model, the total amount charged for the model is taxable because it constitutes the sale of tangible personal property and is not exempt as an inconsequential element of a personal service transaction.

Attorneys

Professional or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made" are exempt from the state's sales tax.

Dentists

Professional service transactions that "involve sales as inconsequential elements for which no separate charges are made" are exempt from the state's sales tax. Sales of drugs to or by dentists in connection with medical treatment are also exempt.

Engineers

Professional or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made" are exempt from the state's sales tax.

If an engineer furnishes his or her client with a model, the total amount charged for the model is taxable because it constitutes the sale of tangible personal property and is not exempt as an inconsequential element of a personal service transaction.

Physicians

Florida's tax does not apply to a physician's fees for professional services. If licensed practitioners, apart from their professional services, sell tangible personal property to the public that is subject to tax, they must collect the tax on those sales.

Sales of drugs to or by physicians in connection with medical treatment are exempt. Medical products and supplies that a practitioner uses to cure, alleviate, prevent, or treat injury, disease, or incapacity and that are temporarily or permanently incorporated into a patient are also exempt.

Licensed practitioners of healing arts are the consumers of tangible personal property, including equipment, used to render their professional services, so the state's tax applies to their purchase, unless exempt.

Statutory section 212.04 amended 2017; § 212.06 amended 2016; § 212.03 amended 2014; § 212.02 amended 2015; § 212.05 amended 2018; § 212.08 amended 2019. Regulation 12A-1.065 amended 1972; r. 12A-1.051 amended 2003; r. 12A-1.001 amended 2008; r. 1.020 amended 2010; r. 12A-1.0161 amended 1011.

[Fla. Stat. §§ 212.02, .03, .04, .05, .06, .08 \(2019\); Fla. Admin. Code Ann. r. 12A-1.001, .020, .0161, .051, .065 \(2019\)](#)

Florida, Sales tax on commissions

No provisions that explicitly assess a sales tax on real estate commissions were located.

However, Florida's statutes provide that "every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property," unless an exception applies. The exceptions include agricultural property and dwelling units, among others. For the exercise of that privilege, the state levies a tax "in an amount equal to 5.5 percent of

and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee." In this context, "total rent or license fee" includes:

- payments for the granting of a privilege to use or occupy real property for any purpose; and
- base rent, percentage rents, or similar charges.

Those charges are subject to the tax whether or not they can be attributed to the "ability of the lessor's or licensor's property as used or operated to attract customers." Payments for "intrinsically valuable personal property," such as franchises, trademarks, service marks, logos, or patents, are not subject to the tax. If a contract provides for both payments taxable as total rent or license fees and payments not subject to the tax, the tax must be based on the payments' reasonable allocation, and it does not apply to the nontaxable portion.

Also, when the rental or license fee of the real property is paid "by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5.5 percent of the value of the property, goods, wares, merchandise, services, or other thing of value."

Statutory section 212.031 amended 2019.

[Fla. Stat. § 212.031\(1\)\(a\), \(c\), \(d\) \(2019\)](#)

Florida, Sales tax on related services

APPRAISALS

No specifically relevant provisions were located. Generally, professional or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made" are exempt from the state's sales tax.

HOME INSPECTIONS

No specifically relevant provisions were located. Generally, professional or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made" are exempt from the state's sales tax.

MLS SERVICES

No specifically relevant provisions were located.

Generally, professional or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made" are exempt from the state's sales tax. However, this personal service transaction exemption does not exempt the sale of information services (except for professional services, services of persons acting in a representative or fiduciary capacity, or information services furnished to newspapers, radio, and television stations).

The sale of information services involving printed or duplicated matter, other than professional services and services of persons acting in a representative or fiduciary capacity, are taxable. The charge for information services furnished to newspapers and radio and television stations is exempt. "Information services" are the services of "collecting, compiling or analyzing information of any kind of nature, or furnishing reports thereof to other persons." The charge for furnishing information services that are not "produced for and provided exclusively to a single customer" is taxable. The charge for "furnishing information by way of electronic images which appear on the subscriber's video display screen" is not a taxable information service.

PROPERTY MANAGEMENT

No specifically relevant provisions were located. Generally, professional or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made" are exempt from the state's sales tax.

LAND SURVEYS

No specifically relevant provisions were located. Generally, professional or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made" are exempt from the state's sales tax.

OTHER RELATED SERVICES

No specifically relevant provisions were located.

Statutory section amended 2019. Regulation amended 2001.

[Fla. Stat. § 212.08 \(2019\)](#); [Fla. Admin. Code Ann. r. 12A-1.062 \(2019\)](#)

Georgia

Georgia, General service taxes

OVERVIEW

Georgia does not have a broad-reaching sales tax on services.

Georgia imposes a four-percent tax on the sales price of the retail sale of tangible personal property and certain specified services. The tax does not apply to professional, insurance, or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made." However, "retail sale" includes some taxable services, such as certain utilities, telephone services, and admission charges.

"Sales price" generally means the total consideration for which personal property or services are sold, "including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money." However, "sales price" does not include, among other things, installation charges if they are separately stated on the invoice, billing, or similar document given to the purchaser.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located.

However, a person who contracts to furnish tangible personal property and to perform services to construct, alter, repair, or improve real property is deemed to consume the property and generally must pay the state's sales tax at the time he or she purchases the property. (From January 1, 2012, to June 30, 2016, sales of tangible personal property used to construct a "competitive project of regional significance" are exempt from the state's sales and use tax.)

As of January 1, 2014, contractors do not incur a use tax on the repair, replacement, or component parts to grain bins, irrigation equipment, or fencing that a qualified agricultural producer:

- purchases tax-exempt under § 48-8-3.3 for use in an agricultural operation; and
- furnishes to the contractor for installation into real property.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located. However, a subcontractor who enters into a construction contract with a general or prime contractor is liable for the sales tax on tangible personal property the subcontractor purchases in the same manner as a general or prime contractor.

A subcontractor includes any person or entity that contracts with:

- a prime or general contractor to perform all or any part of the prime or general contractors contract; or

- a subcontractor who has contracted to perform any part of the contract entered into by a prime or general contractor.

The state's regulations explicitly provide that painters and paperhangers perform services that are not taxable, but that they are consumers of all tangible personal property they use and must pay the tax on their purchases of paint, wallpaper, supplies, and equipment.

FINANCIAL SERVICES

Bank Service Charges

No generally applicable provisions were located. Safety deposit box rental is not subject to the state's sales tax, but retail sales of repossessed and other tangible personal property are subject to the tax.

Banks and savings and loan associations must pay the state's sales tax to suppliers of tangible personal property and services purchased, leased, used, or consumed in their operations. Taxable purchases include automobiles, checks, checkbooks, premiums, office supplies and furniture, equipment, and advertising matter. If a bank or savings and loan association purchases checks and other items for a customer and pays the tax at the time of purchase, the subsequent sale is not a taxable transaction.

Insurance Services

Georgia's sales tax does not apply to insurance transactions that "involve sales as inconsequential elements for which no separate charges are made."

PROFESSIONAL SERVICES

Accountants

Georgia's sales tax does not apply to professional transactions that "involve sales as inconsequential elements for which no separate charges are made."

Architects

Georgia's sales tax does not apply to professional transactions that "involve sales as inconsequential elements for which no separate charges are made." However, the state's regulations provide that the tax does apply to blueprint sales.

Attorneys

Georgia's sales tax does not apply to professional transactions that "involve sales as inconsequential elements for which no separate charges are made."

Dentists

Georgia's sales tax does not apply to professional transactions that "involve sales as inconsequential elements for which no separate charges are made."

Engineers

Georgia's sales tax does not apply to professional transactions that "involve sales as inconsequential elements for which no separate charges are made."

Physicians

Generally, Georgia's sales tax does not apply to professional transactions that "involve sales as inconsequential elements for which no separate charges are made." Ga. Comp. R. & Regs. 560-12-2-.73, which previously explicitly provided that Georgia's sales tax does not apply to professional services rendered by physicians, surgeons, and other practitioners, was repealed effective September 4, 2014.

Statutory section 48-8-63 amended 2012; § 48-8-3 amended 2019; § 48-8-3.3 amended 2018; §§

48-8-2 amended 2019; § 48-8-30 amended 2019. Regulations 560-12-2-.68 and 560-12-2-.72 adopted 1965; r. 560-12-2-.11 amended 1975; r. 560-12-2-.26 amended 2001; r. 560-12-2-.73 repealed 2014.

Ga. Code Ann. §§ 48-8-2, -3, -3.3, -30, -63 (LexisNexis 2019); [Ga. Comp. R. & Regs. 560-12-2-.11, .26, .68, .72 \(2019\)](#)

Georgia, Sales tax on commissions

No specifically relevant provisions were located. Georgia's sales tax does not apply to professional or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made."

Section amended 2019.

Ga. Code Ann. § 48-8-3 (LexisNexis 2019)

Georgia, Sales tax on related services

No specifically relevant provisions were located. Georgia's sales tax does not apply to professional or personal service transactions that "involve sales as inconsequential elements for which no separate charges are made."

Section amended 2019.

Ga. Code Ann. § 48-8-3 (LexisNexis 2019)

Guam

Guam, General service taxes

OVERVIEW

Note: Effective October 1, 2018, Guam would have commenced collecting a comprehensive general sales tax "on tangible personal property and any service business, excluding banking and lending services, foreign currency services, and insurance services, at the rate of two percent (2%)." "General sales tax" meant a tax assessed on the purchaser of goods and services. However in July 2018 the new sales tax provisions were repealed before the tax became effective.

Guam imposes a broadly based "business privilege tax" levied against "persons on account of their businesses operating within and without Guam measured by the application of rates against values, gross proceeds of sales or gross income, as the case may be." The territory's five percent business privilege tax is assessed on the gross proceeds of sales of persons engaging within Guam in:

- a "service business or calling" not otherwise specifically taxed by statute;
- the "practice of a profession" (other than those "expounding" a church's religious doctrines); and
- any other "business, trade, activity, occupation or calling" not otherwise specifically taxed by statute, among other activities.

In this context, "gross income" means the taxpayer's total receipts received as compensation from "whatever activity," including compensation received by reason of the investment of the business's capital and without any deductions, except for "actual bad debts."

The territory's business privilege tax generally does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," if that person's gross annual service income is less than \$50,000 during the most recent tax year. This exemption:

- applies annually, beginning on "the first day of the month of the new tax year";
- is "subject to" the person's gross annual service income during the most recent tax year; and
- ends on the "last day of the month of the same tax year."

Generally, property is not regarded as "purchased for resale" (and therefore not taxable) if it is sold in connection with a service and the property's price is not separately identified to the customer.

CONSTRUCTION SERVICES

Construction Contractors

Guam assesses a five percent tax on a contractor's gross income. However, the taxpayer may deduct any amount that has been "included in the gross income earned from another taxpayer who is a contractor . . . and who has already paid the tax levied under this Subsection [26202(e)] for goods and services that include the deductible gross income of the taxpayer who is a contractor." A person claiming this deduction must show in his or her return the following information regarding the person paying the tax on the amount deducted:

- his or her name and contractor's license number;
- the registration number for a professional engineer, architect, or land surveyor; or
- the certificate of authorization number for a business authorized to provide engineering, architecture, or land surveying services.

"Primary contractor" includes every person engaged in the business of contracting:

- to "erect, construct, repair or improve any installation of any kind or description";
- to provide "any service or material for the erection, construction, repair or improvement of any installation"; or
- to provide labor "to another for any purpose or use whatsoever, including any other services or products that the project may require."

The tax does not apply to the gross proceeds received by contractors to construct certain residential buildings developed, owned, and operated by non-profit corporations or associations or paid by the contractor to "individual clients or to the rehabilitation center or workshop pursuant to the provisions of 17 GCA § 41106."

Carpenters, Plumbers, and Similar Trades

Guam's business privilege tax applies to most services. The territory assesses a five percent business privilege tax on the gross income of persons "engaging or continuing within Guam" any "business, trade, activity, occupation or calling" not otherwise specifically taxed by statute.

Guam statutes define "subcontractor" broadly to include every person engaged in the business of "providing labor, products, or services to a Primary Contractor for a specific project."

FINANCIAL SERVICES

Bank Service Charges

Every person engaged in the business of operating a bank or other financial institution is assessed a five percent business privilege tax on the business's net income. In this context, "net income" means the taxpayer's gross income received from all sources less certain specified amounts, such as salaries or bonuses paid, ordinary operating expenses, certain losses, and other "direct expenses."

Insurance Services

Every person engaged in the "business of an insurer" is assessed a five percent business privilege tax on gross income received as a premium for writing insurance (less returned premiums and certain commissions) and any other gross income earned or derived on Guam.

The territory's business privilege tax does not apply to the first \$40,000 earned or received per taxable year by a licensed insurance company as insurance premium income, provided the gross annual insurance premium income is less than \$50,000 during the most recent tax year.

PROFESSIONAL SERVICES

Accountants

Guam's business privilege tax applies to most services. The territory assesses a five percent business privilege tax on the gross income of persons "engaging or continuing within Guam" the practice of most professions. "Practice of a profession" means rendering a "professional service depending on the skill or art of the individual so rendering it, exclusive of the sale of tangible property."

The territory's business privilege tax generally does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," explicitly including accounting services, if that person's gross annual service income is less than \$50,000 during the most recent tax year.

Architects

Guam's business privilege tax applies to most services. The territory assesses a five percent business privilege tax on the gross income of persons "engaging or continuing within Guam" the practice of most professions. "Practice of a profession" means rendering a "professional service depending on the skill or art of the individual so rendering it, exclusive of the sale of tangible property."

The territory's business privilege tax generally does not apply to the first \$40,000 "earned or received per taxable year by any person as income service" if that person's gross annual service income is less than \$50,000 during the most recent tax year.

Attorneys

Guam's business privilege tax applies to most services. The territory assesses a five percent business privilege tax on the gross income of persons "engaging or continuing within Guam" the practice of most professions. "Practice of a profession" means rendering a "professional service depending on the skill or art of the individual so rendering it, exclusive of the sale of tangible property."

The territory's business privilege tax generally does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," explicitly including legal services, if that person's gross annual service income is less than \$50,000 during the most recent tax year.

Dentists

Guam's business privilege tax applies to most services. The territory assesses a five percent business privilege tax on the gross income of persons "engaging or continuing within Guam" the practice of most professions. "Practice of a profession" means rendering a "professional service depending on the skill or art of the individual so rendering it, exclusive of the sale of tangible property."

The territory's business privilege tax generally does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," explicitly including dental services, if that person's gross annual service income is less than \$50,000 during the most recent tax year.

If the territory's Medically Indigent Program fails to pay a claim for more than 90 days after receiving an invoice, the health care provider (unless he or she has a qualifying certificate) may offset an amount equal to the value of the unpaid services it provides against the business privilege taxes owed, provided certain specified conditions are met.

Engineers

Guam's business privilege tax applies to most services. The territory assesses a five percent business privilege tax on the gross income of persons "engaging or continuing within Guam" the practice of most professions. "Practice of a profession" means rendering a "professional service depending on the skill or art of the individual so rendering it, exclusive of the sale of tangible property."

The territory's business privilege tax generally does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," explicitly including engineering fees, if that person's gross annual service income is less than \$50,000 during the most recent tax year.

Physicians

Guam's business privilege tax applies to most services. The territory assesses a five percent business privilege tax on the gross income of persons "engaging or continuing within Guam" the practice of most professions. "Practice of a profession" means rendering a "professional service depending on the skill or art of the individual so rendering it, exclusive of the sale of tangible property."

The territory's business privilege tax generally does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," explicitly including medical services, if that person's gross annual service income is less than \$50,000 during the most recent tax year.

If the territory's Medically Indigent Program fails to pay a claim for more than 90 days after receiving an invoice, the health care provider (unless he or she has a qualifying certificate) may offset an amount equal to the value of the unpaid services it provides against the business privilege taxes owed, provided certain specified conditions are met.

Statutory sections 26101 and 26203 amended 2016 § 26202 amended 2018; § 26216 amended 2011; § 26201 amended 2010; §§ 26701 and 26702 repealed 2017..

[Guam Code Ann. tit. 11, §§ 26101, 26201, 26202, 26203, 26216 \(2019\); see also 2018 Guam Pub. Law 34-087, § 19.](#)

Guam, Sales tax on commissions

SALES TAX AMOUNT

Note: Effective October 1, 2018, Guam would have commenced collecting a comprehensive general sales tax "on tangible personal property and any service business, excluding banking and lending services, foreign currency services, and insurance services, at the rate of two percent (2%)."

"General sales tax" meant a tax assessed on the purchaser of goods and services. However in July 2018 the new sales tax provisions were repealed before the tax became effective.

Guam imposes a broadly based "business privilege tax" on the privilege of doing business in the territory. The territory's five percent tax is assessed on a business's "gross proceeds of sales or gross income." Guam assesses the tax on the gross income of persons "engaging or continuing within Guam" in:

- a "service business or calling" not otherwise specifically taxed by statute;
- the practice of most professions; and
- any other "business, trade, activity, occupation or calling" not otherwise specifically taxed by statute.

EXCEPTIONS

The territory's business privilege tax does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," if that person's gross annual service income, explicitly including "commissions on real estate sales or property management," is less than \$50,000 during the most recent tax year.

Statutory section 26203 amended 2016; § 26202 amended 2018; §§ 26701 and 26702 enacted and repealed in 2018.

[Guam Code Ann. tit. 11, §§ 26202, 26203 \(2019\)](#); *see also* [2018 Guam Pub. Law 34-087, § 19](#).

Guam, Sales tax on related services

Note: Effective October 1, 2018, Guam would have commenced collecting a comprehensive general sales tax "on tangible personal property and any service business, excluding banking and lending services, foreign currency services, and insurance services, at the rate of two percent (2%)." "General sales tax" meant a tax assessed on the purchaser of goods and services. However in July 2018 the new sales tax provisions were repealed before the tax became effective.

APPRAISALS

Guam's business privilege tax applies to most services. The territory assesses a five percent business privilege tax on the gross income of persons "engaging or continuing within Guam" a "service business or calling," the practice of most professions, and any other "business, trade, activity, occupation or calling" not otherwise specifically taxed by statute. The territory's business privilege tax generally does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," if that person's gross annual service income is less than \$50,000 during the most recent tax year.

HOME INSPECTIONS

Guam's business privilege tax applies to most services. The territory assesses a on the gross income of persons "engaging or continuing within Guam" a "service business or calling," the practice of most professions, and any other "business, trade, activity, occupation or calling" not otherwise specifically taxed by statute. The territory's business privilege tax generally does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," if that person's gross annual service income is less than \$50,000 during the most recent tax year.

MLS SERVICES

Guam's business privilege tax applies to most services. The territory assesses a four-percent tax (five percent for the period of April 1, 2018 to September 30, 2018) on the gross income of persons "engaging or continuing within Guam" a "service business or calling," the practice of most professions, and any other "business, trade, activity, occupation or calling" not otherwise specifically taxed by statute. The territory's business privilege tax generally does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," if that person's gross annual service income is less than \$50,000 during the most recent tax year.

PROPERTY MANAGEMENT

Guam's business privilege tax applies to most services. The territory assesses a four-percent tax (five percent for the period of April 1, 2018 to September 30, 2018) on the gross income of persons "engaging or continuing within Guam" a "service business or calling," the practice of most professions, and any other "business, trade, activity, occupation or calling" not otherwise specifically taxed by statute. The territory's business privilege tax does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," explicitly including "commissions on real estate sales or property management," if that person's gross annual service income is less than \$50,000 during the most recent tax year.

LAND SURVEYS

Guam's business privilege tax applies to most services. The territory assesses a five percent business privilege tax on the gross income of persons "engaging or continuing within Guam" a "service

business or calling," the practice of most professions, and any other "business, trade, activity, occupation or calling" not otherwise specifically taxed by statute. The territory's business privilege tax generally does not apply to the first \$40,000 "earned or received per taxable year by any person as income service," if that person's gross annual service income is less than \$50,000 during the most recent tax year.

OTHER RELATED SERVICES

No specifically relevant provisions were located. However, as noted above, the territory's business privilege tax applies broadly to most services.

Statutory section 26203 amended 2016; § 26202 amended 2018; §§ 26701 and 26702 enacted and repealed in 2018.

[Guam Code Ann. tit. 11, §§ 26202, 26203 \(2019\)](#); *see also* [2018 Guam Pub. Law 34-087, § 19](#)

Hawaii

Hawaii, General service taxes

OVERVIEW

Although Hawaii does not technically have a "sales tax," it imposes a broadly based "general excise tax" on the privilege of doing business in the state. Hawaii's state excise tax is four percent "measured by the application of rates against values of products, gross proceeds of sales, or gross income, whichever is specified" by law. The Oahu district also assesses a .5-percent tax.

Every representative or purchasing agent who engages in the business of performing services for another (other than as an employee) is assessed a tax equal to four percent of the "commissions and other compensation attributable to the services so rendered." A person engaged in a "service business or calling" is also assessed a tax equal to four percent of the business's gross income. A wholesaler is generally assessed a tax equal to .5 percent of gross income. Every person "engaging or continuing within the State in any business, trade, activity, occupation, or calling not included" in chapter 237 of the state's statutes is assessed a tax equal to four percent of gross income. Therefore, a business is taxed unless specifically exempted.

"Gross income" is broadly defined and includes the gross receipts "received as compensation for personal services" and received from "the sale of tangible personal property, or service, or both," among other things. A "service business or calling" includes "all activities engaged in for other persons for a consideration which involve the rendering of a service, including professional and transportation services."

Chapter 237 does not apply to "amounts received, charged, or attributable" to services furnished by one entity to a related entity.

Although Hawaii's tax is imposed on the business rather than the customer, the Hawaii Department of Taxation notes that the business may charge its customer for the tax in the same way that it includes other costs of doing business. The business need not "visibly pass" the tax on to the customer as an additional itemized charge, but it may do so. Any additional amount so charged becomes a part of the total sales price and, as such, is included in the total gross income subject to the general excise tax.

CONSTRUCTION SERVICES

Construction Contractors

A construction contractor's work is generally subject to the state's four-percent tax.

The tax for a sale at wholesale is .5 percent of the gross proceeds. Sales to a licensed contractor of "materials or commodities that are to be incorporated by the contractor into the finished work or project required by the contract and that will remain in such finished work or project in such form as to be perceptible to the senses" are sales at wholesale.

A "contractor" includes the following persons, among others:

- a person engaged in the business of "contracting to erect, construct, repair, or improve buildings or structures, of any kind or description";

- a person engaged in the practice of architecture, professional engineering, land surveying, and landscape architecture; and
- a person engaged in pest control or fumigation.

Contracting or services exported out of the state are generally exempt from the state's tax.

Gross income from contracting must be allocated to the taxation district in which the job site is located. Contractors with a home office in taxation districts other than Oahu are subject to the .5 percent county surcharge if the job site is located in the Oahu district.

A prime contractor may deduct from gross income any payments made to a subcontractor or licensed specialty contractor, provided the requirements of § 237-13(3)(B) and the following requirements are met:

- the prime contractor is licensed;
- the subcontractor or specialty contractor is licensed;
- the subcontractor is a "contractor" (as defined in § 237-6) or a specialty contractor licensed pursuant to chapter 444 (except for work exclusively on federal property, in which case the specialty contractor must be licensed under chapter 237); and
- the subcontractor, licensed specialty contractor, or prime contractor (on behalf of the subcontractor or licensed specialty contractor) pays the general excise taxes due on the amount the prime contractor claims as a deduction.

If authorized, the prime contractor may withhold the general excise tax from the gross income paid to the subcontractor or licensed specialty contractor and remit those taxes with a separate excise tax return containing the subcontractor's or specialty contractor's name and general excise tax

number. In that case, the prime contractor must provide the subcontractor with a copy of the general excise tax return.

See Haw. Code R. §18-237-13-03 (2019) for numerous examples illustrating when a prime contractor qualifies for the subcontract deduction.

Carpenters, Plumbers, and Similar Trades

Every person engaged in a "service business or calling" and every person "engaging or continuing within the State in any business, trade, activity, occupation, or calling not included" in the provisions of chapter 237 is assessed a tax equal to four percent of gross income. A "service business or calling" includes "all activities engaged in for other persons for a consideration which involve the rendering of a service, including professional . . . services." No general exemption exists for tradespersons' services.

Because tradespersons are considered "contractors," the provisions that apply to contractors (see "*Construction Contractors*" above) apply to tradespersons.

FINANCIAL SERVICES

Bank Service Charges

Because banks and financial institutions are taxed on net income, the general excise tax applies only to activities that are not core-related. Therefore, the general excise tax does *not* apply to amounts received by financial institutions from:

- "interest, discount, points, commitment fees, loan fees, loan origination charges, and finance charges";
- leasing personal property;

- fees related to administering deposits;
- gains from changes in foreign currency exchange rates (but not commissions arising from buying or selling "foreign currency or numismatic currency");
- servicing and selling loans; and
- interest from investing deposits from "financial or debt instruments."

Insurance Services

Every person engaged as a "licensed producer" pursuant to chapter 431 is assessed a tax equal to 0.15 percent of his or her commissions. The tax does not apply to the gross income of insurance companies authorized to do business, except for certain income received as rent from real property investments.

PROFESSIONAL SERVICES

Accountants

Every person engaged in a "service business or calling" is assessed a tax equal to four percent of gross income. A "service business or calling" includes "all activities engaged in for other persons for a consideration which involve the rendering of a service, including professional . . . services." No general exemption exists for accounting services.

However, the tax does not apply to "amounts received, charged, or attributable to services furnished" by one entity to a related entity. In this context, "services" explicitly includes accounting services.

Gross income received by a taxpayer engaged in a service business is allocated to the taxation district in which the services are intended to be used or consumed. Alternatively, the taxpayer may "allocate the gross income by using any reasonable allocation method that clearly, fairly, and

properly reflects the gross income to the appropriate taxation district; provided that the allocation method is documented." Hawaii's regulations provide the following example:

Taxpayer is an accounting firm. Taxpayer has a home office in the Oahu district, which constitutes substantial nexus with the Oahu district. Taxpayer's employees travel to other taxation districts to conduct audits of clients. Taxpayer shall allocate income to the taxation districts, where the services are intended to be consumed by the clients. Taxpayer shall be subject to the 0.5 per cent county surcharge for services intended to be consumed in the Oahu district.

Architects

Because architects are considered "contractors," the provisions that apply to contractors (see "*Construction Contractors*" above) apply to architects. As such, they are generally subject to the state's four-percent tax on gross income.

Attorneys

Every person engaged in a "service business or calling" is assessed a tax equal to four percent of gross income. A "service business or calling" includes "all activities engaged in for other persons for a consideration which involve the rendering of a service, including professional . . . services." No general exemption exists for legal services.

However, the tax does not apply to certain "fraternal benefit societies, orders, or associations" providing legal service plans, among other things. Also, the tax does not apply to "amounts received, charged, or attributable to services furnished" by one entity to a related entity. In this context, "services" explicitly includes legal services.

Gross income received by a taxpayer engaged in a service business is allocated to the taxation district in which the services are intended to be used or consumed. Alternatively, the taxpayer may "allocate the gross income by using any reasonable allocation method that clearly, fairly, and properly reflects the gross income to the appropriate taxation district; provided that the allocation method is documented." Hawaii's regulations provide the following two examples:

Taxpayer, an attorney whose home office is in the Oahu district, is retained by a client in the Maui district to prepare a lease for land in the Kauai district. Taxpayer shall allocate the income to the Kauai district, where the services are intended to be consumed. Taxpayer shall not be subject to the 0.5 per cent county surcharge because the services are intended to be consumed outside the Oahu district.

Taxpayer is a law firm comprised of sixty-five attorneys. Sixty attorneys work in Taxpayer's home office in the Oahu district and five work in Taxpayer's place of business located in the Hawaii district. Taxpayer is retained by a client in the Hawaii district for a court case in the Hawaii district. Taxpayer shall allocate gross income from services performed by the attorneys to the Hawaii district where Taxpayer's services are intended to be used or consumed, notwithstanding incidental travel, meetings, or court appearances, outside of the taxation district, or receipt of support services from the place of business located outside of the taxation district. Taxpayer shall not be subject to the 0.5 per cent county surcharge regardless of the substantial nexus with the Oahu district because the legal services are intended to be used or consumed in the Hawaii district.

Dentists

Every person engaged in a "service business or calling" is assessed a tax equal to four percent of gross income. A "service business or calling" includes "all activities engaged in for other persons for a consideration which involve the rendering of a service, including professional . . . services." No general exemption exists for dental services.

Gross income received by a taxpayer engaged in a service business is allocated to the taxation district in which the services are intended to be used or consumed. Alternatively, the taxpayer may "allocate the gross income by using any reasonable allocation method that clearly, fairly, and properly reflects the gross income to the appropriate taxation district; provided that the allocation method is documented." Hawaii's regulations provide the following example:

Taxpayer provides dentistry services from places of business in all of the taxation districts. Taxpayer has a home office in the Maui district. Taxpayer travels to the Oahu district to provide dentistry services. Taxpayer shall allocate the gross income to the taxation districts where the services are intended to be used or consumed. In this case, substantial nexus is established by Taxpayer's physical presence in the Oahu district. Taxpayer shall be subject to the 0.5 per cent county surcharge for services intended to be used or consumed in the Oahu district but shall not be subject to the 0.5 per cent county surcharge for services intended to be consumed in taxation districts other than the Oahu district.

Engineers

Because engineers are considered "contractors," the provisions that apply to contractors (see "*Construction Contractors*" above) apply to engineers. As such, they are generally subject to the state's four-percent tax on gross income.

Physicians

No specifically applicable provisions were located. However, every person engaged in a "service business or calling" is assessed a tax equal to four percent of gross income. A "service business or calling" includes "all activities engaged in for other persons for a consideration which involve the rendering of a service, including professional . . . services." No general exemption exists for physicians' services.

However, the tax does not apply to amounts "received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual; provided that this paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices."

Statutory section 237-29.7 enacted 1991; §§ 237-3, 237-6, and 237-29.53 amended 2000; §§ 237-7 and 237-23.5 amended 2001; § 237-24.8 amended 2011; § 237-24.3 amended 2017; §§ 237-4 and 237-23 amended 2015; § 237-13 amended 2018. Regulation 18-237-13-03 amended 1990; rr. 18-237-8.6-03 and 18-237-8.6-07 amended 2018.

[Haw. Rev. Stat. §§ 237-3, -4, -6, -7, -13, -23, -23.5, -24.3, -24.8, -29.7, -29.53 \(2019\); Haw. Code R. §§ 18-237-8.6-03, -07; -13-03 \(2019\); Haw. Dep't of Taxation, *General Excise Tax \(Get\) Information* \(last visited Dec. 30, 2019\)](#)

Hawaii, Sales tax on commissions

SALES TAX AMOUNT

Every person engaged in a "service business or calling" is assessed a tax equal to four percent of gross income. A "service business or calling" includes "all activities engaged in for other persons for a consideration which involve the rendering of a service, including professional . . . services." No general exemption exists for commissions.

Gross income from services performed by a taxpayer engaged in a service business are allocated to the taxation district where the services are used or consumed. "Services related to real property are used or consumed where the real property is located. Services related to real property include, but

are not limited to, property management, real estate sales, real estate inspections, and real estate appraisals".

EXCEPTIONS

No relevant provisions were located.

Statutory section 237-7 amended 2001; § 237-13 amended 2018. Regulation 18-237-8.6-03 amended 2018; r. 18-237-29.53-04 promulgated 2018.

[Haw. Rev. Stat. §§ 237-7, -13 \(2019\); Haw. Code R. § 18-237-8.6-03, -29.53-04 \(2019\)](#)

Hawaii, Sales tax on related services

APPRAISALS

No specifically applicable provisions were located. However, every person engaged in a "service business or calling" is assessed a tax equal to four percent of gross income. A "service business or calling" includes "all activities engaged in for other persons for a consideration which involve the rendering of a service, including professional . . . services." No general exemption exists for appraisal services.

HOME INSPECTIONS

No specifically applicable provisions were located. However, every person engaged in a "service business or calling" is assessed a tax equal to four percent of gross income. A "service business or calling" includes "all activities engaged in for other persons for a consideration which involve the rendering of a service, including professional . . . services." No general exemption exists for home inspection services.

MLS SERVICES

No specifically applicable provisions were located. However, every person engaged in a "service business or calling" is assessed a tax equal to four percent of gross income. A "service business or

calling" includes "all activities engaged in for other persons for a consideration which involve the rendering of a service, including professional . . . services." No general exemption exists for MLS services.

PROPERTY MANAGEMENT

No specifically applicable provisions were located. However, every person engaged in a "service business or calling" is assessed a tax equal to four percent of gross income. A "service business or calling" includes "all activities engaged in for other persons for a consideration which involve the rendering of a service, including professional . . . services." No general exemption exists for property management services.

LAND SURVEYS

Because land surveyors are considered "contractors," the provisions that apply to contractors (see "**General service taxes: Construction Contractors**" above) apply to land surveyors. As such, they are generally subject to the state's four-percent tax on gross income.

OTHER RELATED SERVICES

Hawaii assesses a four-percent tax on the gross proceeds or gross income received from leasing real property. However, if real property is subleased by a lessee, the lessee is allowed a deduction from the amount of gross proceeds or gross income received from its sublease.

Section 237-7 amended 2001; § 237-13 amended 2018; § 237-16.5 amended 2017.

[Haw. Rev. Stat. §§ 237-7, -13, -16.5 \(2019\)](#)

Idaho

Idaho, General service taxes

OVERVIEW

Idaho does not have a broad-reaching sales tax on services.

However, Idaho imposes a six percent tax on the sales price of retail sales subject to taxation, and a "sale" includes, among other things, "producing, fabricating, processing, printing, or imprinting of tangible personal property for consumers who furnish . . . the tangible personal property used" in the process. Also, "sales price" includes, among other things, "the total amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold" without a deduction for the cost of labor or service. However, "sales price" does not include the amount charged for labor or services rendered in installing the property sold, if:

- that amount is stated separately; and
- the separate statement is not used as a means of avoiding the sales tax on "the actual sales price of the tangible personal property."

If the sale of tangible personal property includes incidental services, the tax applies to the total amount charged. If a consequential service is rendered, then none of the transaction is taxable if the transfer of the tangible personal property is an incidental part of the transaction.

If a mixed transaction involves the transfer of tangible personal property and the performance of a service, and both are consequential elements, the transaction is deemed to be two separate transactions. In that case, the tangible personal property sale is subject to the sales tax, and the other transaction is not.

Transportation and installation charges are specifically exempted from the sales tax if the service's charge is stated separately.

CONSTRUCTION SERVICES

Construction Contractors

No relevant provisions were located. However, all persons engaged in constructing, altering, repairing or improving real estate, are consumers of the materials they use, and all sales to them are taxable, unless explicitly exempt. The terms "contractor" and "subcontractor" do not include "persons who merely sell tangible personal property in the form of building materials, supplies, or equipment to construction contractors for delivery at the job site without any requirement that they install such tangible personal property."

Carpenters, Plumbers, and Similar Trades

Plumbers, electricians, and others doing residential repairs are considered to be "contractors improving real property." As such, they are consumers of the materials they install and are required to pay sales tax on materials they use. They do *not* charge a sales tax to their customers "unless they make a sale of materials only, with no installation."

Built-in appliances, such as dishwashers, microwave ovens, stove tops, refrigerators, stove hoods, central vacuum systems, waste disposal units, trash compactors, water softeners, water purification systems, and garage door openers, become fixtures when installed in residential buildings. Freestanding appliances, such as microwave ovens that are not built-in, freestanding stoves, refrigerators, washers, and dryers, remain personal property. A regular over-the-counter sale of a complete unit with an agreement to install it is not a contract to improve real property if the item does not become affixed to realty.

Idaho regulations provide that contractors who crush rock are performing a nontaxable service if:

- the rock is obtained on a construction site; and
- the crushed rock is used on the same site, for purposes such as backfill, land leveling, site preparation, or site cleanup.

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

Architects' services are not generally taxable, as in the following example set forth in Idaho's regulations:

An architect is hired to prepare construction plans for a house. He prepares the plans and delivers them to his client. . . . [T]his is a sale of services and the transfer of the tangible personal property, the plans, is inconsequential the transaction. No sales or use tax is due on the sale of the plans.

However, if the architect is asked to provide additional copies of the same plans, and he or she copies the plans and sells them to the requesting party, that is a taxable retail sale of tangible personal property.

Attorneys

Generally, an attorneys' services are not taxable, as indicated in the following example set forth in Idaho's regulations:

An attorney is retained by a client to prepare his will. The attorney prepares the will, sees that it is properly executed and bills the client. The physical document, the will, is then transferred from the attorney to the client. This is a sale of services because the client's object is not to obtain the will itself, but to ensure that his estate is disposed of in a certain way when he dies. Since, the transaction between the attorney and the client is not a retail sale of tangible personal property, no sales or use tax applies.

However, if that attorney prepares a form book of wills to sell to other attorneys, and the will he prepared in the above example is included, the sale of the form book to other attorneys is a taxable retail sale of tangible personal property.

Dentists

No relevant provisions were located.

Engineers

No relevant provisions were located.

Physicians

No relevant provisions were located.

Statutory section 63-3609 amended 1998; § 63-3612 amended 1999; § 63-3613 amended 2017; § 63-3619 amended 2006. Regulations 011.02 and 011.03 amended 1993; r. 012.011 amended 1994; r. 011.04 amended 2007; r. 014.05 adopted 2009; r. 014.06 amended 2009; r. 012.01 amended 2010; r. 012.12 amended 2011.

[Idaho Code §§ 63-3609, -3612, -3613, -3619 \(2019\); Idaho Admin. Code r. 35.01.02.011.02, .03, .04; .012.01, .11, .12; .014.05, .06 \(2019\)](#)

Idaho, Sales tax on commissions

No relevant provisions were located.

Idaho, Sales tax on related services

No relevant provisions were located.

Illinois

Illinois, General service taxes

OVERVIEW

Illinois does not have a broad-reaching sales tax on services. Illinois generally imposes a sales tax (known as the "Retailers' Occupation Tax") equal to 6.25 percent of gross receipts from sales of tangible personal property made in the course of business. The tax does not apply to receipts from sales "of personal services, where rendered as such."

"Selling price" includes the consideration for a sale, determined without deducting labor or service costs, among other things.

The Illinois legislature has been considering expanding its sales tax to many services during recent sessions. For example, [H.B. 750, 95th Gen. Assem., Reg. Sess. \(Ill. 2007-08\)](#), which did not pass into law, would have expanded the state's sales tax to 44 additional services, such as warehousing, carpet and upholstery cleaning services, "personal services other than hair, nail, facial, or nonpermanent makeup services," dry cleaning, laundry, interior design, computer systems design, credit bureaus, recreational sports centers, and limousine services. A bill with similar provisions, [S.B. 750, 96th Gen. Assem., Reg. Sess. \(Ill. 2009\) \(Amendment 4\)](#), would have taxed 39 services, including "other business services" and "other services to buildings and dwellings."

Illinois also imposes a "Service Occupation Tax" on all persons engaged in the business of making sales of service. The tax equals 6.25 percent of the selling price of all *tangible personal property* transferred as an incident of a sale of service. "Sale of Service" does not include, at the serviceman's election, sales "made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service" is generally less than 35 percent of the aggregate annual total gross receipts from all sales of service.

CONSTRUCTION SERVICES

Construction Contractors

"Construction contractor" includes general contractors, subcontractors, and specialized contractors, and means a person "who is engaged in the occupation of entering into and performing construction contracts," including building, reconstructing, installing, repairing, renovating, or remodeling.

A construction contractor is liable for the state's Retailers' Occupation Tax if the contractor:

- engages in "selling any kind of tangible personal property without installation to purchasers for use or consumption";
- sells furniture, curtains, drapes, floor covering (except when permanently affixed), trade fixtures and most machinery to purchasers for use or consumption, with or without seller installation; or
- "purchases and sells in finished form gas or electric stoves, refrigerators, washing machines, portable ventilating units and other portable equipment of this kind, which may be connected to and operated from a building's electrical, plumbing or other specialized system, but which is not actually a part of any such system and is considered to remain personal property when installed, even if the contractor does install such equipment pursuant to a construction contract."

If a sale is taxable with installation, but the sale and installation are made pursuant to a construction contract, the seller's receipts from the part of the transaction that "actually comprises the construction contract" are not subject to the tax. If a separate charge is made for the tangible personal property for which the construction contractor is taxable, the value of that property for purposes of computing the tax is the amount charged for the property, but not less than the property's cost to the construction contractor. If no separate charge is made, the property's value for tax purposes is the property's cost to the construction contractor.

See Ill. Admin. Code tit. 86, §§ 130.1934, 130.1940 and 130.2075 for additional details regarding the state's tax as applied to contractors.

A real estate developer does not incur the Retailers' Occupation Tax on receipts from selling real estate, but he or she is liable for tax on the cost price of the tangible personal property purchased and incorporated into real estate.

Certain sales of building materials purchased for incorporation into real estate located in an enterprise or high-impact business zone are exempt from the tax.

Sales of tangible personal property to construction contractors who resell the property in the form of tangible personal property are not taxable sales, but the contractor's resale is taxable. Also, sales of materials to construction contractors acting for charitable, religious, or educational organizations or for governmental bodies are exempt.

A retailer that makes a qualified sale of building materials to be incorporated into a Public-Private Partnerships for Transportation Act project may deduct receipts from those sales when calculating the tax. In this context, a "qualified sale" is a "sale of building materials that will be incorporated into a project for which a Certificate of Eligibility for Sales Tax Exemption has been issued by the agency having authority over the project."

Carpenters, Plumbers, and Similar Trades

Because the term "contractor" includes subcontractors, the provisions that apply to contractors (as described above in "*Construction Contractors*") apply to tradespersons acting as subcontractors. Generally, although the service provided by tradespersons is exempt, the tangible personal property transferred incident to the service is taxable at 6.25 percent.

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located.

Banks, savings and loans, finance companies, and other lending agencies are generally liable for tax when they engage in the business of selling to consumers tangible personal property to which they hold or acquire title.

If a lending agency does not take title to the property, the lending agency is not liable for payment of any Retailers' Occupation Tax with respect to the proceeds from that sale. Also, even if the lending agency takes title to a repossessed motor vehicle, if the original buyer, after the redemption period expires, has permission to redeem the vehicle and continues to perform under the original, unchanged installment contract, the transaction is not regarded as a sale and is not taxable.

Retail sales to banks and other privately-owned financial institutions are subject to the Retailers' Occupation Tax.

Insurance Services

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

No relevant provisions were located.

Attorneys

No relevant provisions were located.

Dentists

Dentists are "engaged primarily in a profession or service occupation." To the extent to which they engage in their profession, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption, so they are generally not required to remit the Retailers' Occupation Tax on receipts from engaging in their profession. However, dentists who sell tangible personal property, such as mouthwash and toothpaste, to purchasers "for use or consumption apart from their rendering of service as dentists" are liable for the tax on those items.

Engineers

No relevant provisions were located.

Physicians

Physicians and surgeons are "engaged primarily" in professions and primarily render services. To the extent to which they engage in their professions, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption, so they are generally not required to remit the Retailers' Occupation Tax on receipts from engaging in their professions. However, physicians or surgeons who sell tangible personal property, such as crutches or wheelchairs, to purchasers "for use or consumption apart from their rendering of service as physicians or surgeons" are liable for the tax on those items.

Statutory section 120/2-55 enacted 1999; § 120/1r enacted 2011; §§ 115/2, 120/2 amended 2019; §§ 115/3, 120/5k, and 120/5l amended 2013; § 120/1 amended 2014; § 115/3-10 amended 2019; § 120/2-10 amended 2019. Regulations 130.1940, 130.1960, 130.2020, and 130.2085 amended 2000; r. 130.2075 amended 2001; r. 130.120 amended 2008; r. 130.1934 amended 2010; r. 130.120 amended 2015; r. 130.1950 renumbered as 130.1956 in 2015.

[35 Ill. Comp. Stat. 115/2, /3, /3-10; 120/1, /1r, /2, /2-10, /2-55, /5k, /5l \(2019\); Ill. Admin. Code tit. 86, §§ 130.120, .1934, .1940, .1956, .1960, .2020, .2075, .2085 \(2019\)](#)

Illinois, Sales tax on commissions

No relevant provisions were located.

Illinois, Sales tax on related services

No relevant provisions were located.

Indiana

Indiana, General service taxes

OVERVIEW

Indiana does not have a broad-reaching sales tax on services.

However, the state imposes a seven-percent gross retail tax on some services, including the following:

- services that are part of a "unitary transaction," which is a transaction in which both goods and services are sold for a combined charge (in which case the services are taxed even if the services would not otherwise be taxable); and
- services that prepare, fabricate, modify, complete, or deliver a product before it is transferred to a customer, provided the services are stated separately.

Also, "gross retail income" generally includes the total consideration amount, without deducting the "cost of materials used, labor or service cost," or charges for "any services necessary to complete the sale."

CONSTRUCTION SERVICES

Indiana regulations provide that "personal services and services in respect to property not owned by the person rendering such services are not 'transactions of a retail merchant constituting selling at retail', and are not subject to gross retail tax." However, if, in conjunction with those services, the provider also transfers tangible personal property, that transfer constitutes a transaction of a retail merchant selling at retail unless:

- the service provider is in an occupation that "primarily furnishes and sells services";
- the property is "used or consumed as a necessary incident to the service";
- the price charged for the property is inconsequential compared to the service charge (no more than 10 percent); and

- the service provider pays a gross retail tax or a use tax on the tangible personal property at the time he or she acquires it.

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

Indiana regulations provide that "[p]rofessional services . . . are not 'transactions of a retail merchant constituting selling at retail', and are not subject to gross retail tax." However, if, in conjunction with those services, the provider also transfers tangible personal property, that transfer constitutes a transaction of a retail merchant selling at retail unless:

- the service provider is in an occupation that "primarily furnishes and sells services";
- the property is "used or consumed as a necessary incident to the service";
- the price charged for the property is inconsequential compared to the service charge (no more than 10 percent); and
- the service provider pays a gross retail tax or a use tax on the tangible personal property at the time he or she acquires it.

Statutory sections 6-2.5-1-1 enacted 1980; § 6-2.5-2-1 amended 2019; § 6-2.5-4-1 amended 2002; 6-2.5-1-5 amended 2018; § 6-2.5-2-2 amended 2014. Regulations 2.2-4-1, 2.2-4-2, and 2.2-4-7 adopted 1982; r. 2.2-1-1 amended 1987.

[Ind. Code §§ 6-2.5-1-1, -5; -2-1, -2; - \(4-12019\); 45 Ind. Admin. Code 2.2-1-1; -4-1, -2, -7 \(2019\)](#)

Indiana, Sales tax on commissions

No relevant provisions were located.

Indiana, Sales tax on related services

No relevant provisions were located.

Iowa

Iowa, General service taxes

OVERVIEW

Generally, sales of tangible personal property (except for processing or resale) are subject to Iowa's sales tax, unless exempt. Sales of services are exempt from the tax unless taxed by state law. Iowa imposes a six-percent tax on the sales price of tangible personal property and on furnishing taxable services. (The sales tax was five percent until July 1, 2008, and the six-percent rate returns to five percent on January 1, 2030.)

Several services are taxable in Iowa, including, among others, vehicle repair, investment counseling, financial institutions' service charges, barber and beauty services, carpentry, roof repair, electrical and electronic repair and installation, excavating, grading, commercial recreation, house and building moving, janitorial and building maintenance or cleaning, lawn care, landscaping, painting, papering, and interior decorating.

Also, "sales price" means the total consideration for which personal property or services are sold, without deducting labor or service costs, the costs of transportation to the seller, the seller's charges for "services necessary to complete the sale," and delivery and installation charges.

CONSTRUCTION SERVICES

Construction Contractors

A general building contractor's services are exempt from the state's tax.

Sales of building materials, supplies, and equipment to contractors for use erecting buildings or altering, repairing, or improving real property are retail sales of tangible personal property. If the contractor is also a retailer selling building materials, supplies, and equipment, the contractor purchases those items without liability for the tax if the property will be subject to the tax at the time of resale or at the time the contractor withdraws it from inventory for construction purposes.

If a contractor will use building materials, supplies, and equipment to perform a construction contract with a specified exempt entity, those purchases are not subject to the tax if:

- the items will be used to perform that construction contract; and
- a purchasing agent's authorization letter and an exemption certificate are presented to the retailer.

See Iowa Admin. Code ch. 701-19 (2017) (r. 701-19.1 through .20) for details regarding the application of Iowa's sales tax to construction activities.

Carpenters, Plumbers, and Similar Trades

The sales price of services connected with "new construction, reconstruction, alteration, expansion, [and] remodeling" are exempt. In other situations, tradespersons' services are generally subject to the state's six-percent tax.

Sales of building materials, supplies, and equipment to subcontractors or builders for use erecting buildings or altering, repairing, or improving real property are retail sales. If the subcontractor or builder is also a retailer selling building materials, supplies, and equipment, those purchases are without liability for the tax if the property will be subject to the tax at the time of resale or at the time the subcontractor or builder withdraws it from inventory for construction purposes.

The sale of carpeting is not a sale of building materials. Carpeting sales are treated as sales of ordinary tangible personal property, subject to the state's sales tax.

If a subcontractor or builder will use building materials, supplies, and equipment to perform a construction contract with a specified exempt entity, those purchases are not subject to the tax if:

- the items will be used to perform that construction contract; and
- a purchasing agent's authorization letter and an exemption certificate are presented to the retailer.

Carpentry repair and installation services are generally taxable in Iowa. However, although the regulations do not so specify, it appears that the new construction exemption would apply in many circumstances.

Persons engaged in the business of repairing or installing electrical wiring, fixtures, or switches on real property are rendering a taxable service. Iowa's regulations provide, "that electrical portion of the repair and installation of personal property powered by electric current is subject to tax." The service tax does not apply to electrical installation or repair if the service is on or connected with a structural change to a building. Electrical repair or installation on or connected with new construction on buildings or structures is also not subject to the service tax.

Persons engaged in the business of painting, papering, and interior decorating are rendering taxable services. If a person provides interior decorating services without charge as an incident to the sale of real or personal property, no sales tax (except as paid on the personal property's purchase price) is assessed.

See Iowa Admin. Code ch. 701-19 (2017) (r. 701-19.1 through .20) for details regarding the sales tax on construction activities.

FINANCIAL SERVICES

Bank Service Charges

The gross receipts from all "service charges" that relate to a depositor's checking account are subject to the state's six-percent service tax.

Financial institution service charges not related to checking accounts, such as safe-deposit box fees, mortgage and loan fees, trust-department fees (unless taxable as "investment counseling"), real estate appraisal fees, real estate loan servicing fees, escrow agent fees, finance charges, fees for collecting and transferring mortgage payments for a customer, are not subject to the state's sales tax.

Insurance Services

No specifically relevant provisions were located. Generally, sales of services are exempt from Iowa's sales tax unless taxed by state law, and no provision was located taxing insurance services.

PROFESSIONAL SERVICES

Accountants

No specifically relevant provisions were located. Generally, sales of services are exempt from Iowa's sales tax unless taxed by state law, and no provision was located taxing accounting services.

Accounting may also be exempt as an "information service," although any "investment counseling" would be taxable. "Information services" means "every business activity, process, or function by which a seller or its agent accumulates, prepares, organizes, or conveys data, facts, knowledge, procedures, and like services to a particular buyer (or its agent) of the information through any tangible or intangible medium."

Architects

Architects' services are exempt from the state's sales tax.

Attorneys

No specifically relevant provisions were located. Generally, sales of services are exempt from Iowa's sales tax unless taxed by state law, and no provision was located taxing attorneys' services.

The following example from the state's regulations implies that attorneys' services may also be exempt as "information services":

John Doe buys a packaged set of preprinted documents and instructions which anyone may purchase and which is entitled "Legal Eagle." Mr. Doe prepares his own will by reading the instructions, making choices and filling in the blanks on the preprinted documents. Mr. Doe has purchased tangible personal property and not an information service. His purchase is taxable.

The state's regulations also specify that the services of an attorney who is licensed in Iowa and performing duties as an attorney are not subject to tax as gross receipts from security or detective services (which are taxable).

Dentists

Dentists are not liable for tax on services rendered. However, the purchase of materials, supplies, and equipment *by* dentists is generally subject to the tax, unless the item is exempt because the person purchased it for his or her own use. Sales to dentists of tangible personal property that is to be "affixed" to a patient as part of a dental prosthetic device are exempt.

Engineers

Engineers' services are exempt from the state's sales tax.

Physicians

Physicians and surgeons are not liable for tax on services rendered. However, the purchase of materials, supplies, and equipment *by* physicians or surgeons is subject to the state's sales tax, unless the item is exempt because the person purchases it for his or her own use. Sales to physicians or surgeons of prescription drugs for a patient are exempt.

Statutory sections amended 2019. Regulatory chapter 701-17 amended 2004; ch. 701-26 amended 2011; ch. 701-18 amended 2016. Website undated.

[Iowa Code §§ 423.1, .2, .3 \(2019\); Iowa Admin. Code r. 701-17.36; -18.22; -26.8, .12, .16, .34, .69 \(2019\); Iowa Dep't of Revenue, Iowa Sales Tax Guide \(last visited Dec. 30, 2019\); Iowa Dep't of Revenue, Iowa Sales Tax Guide; Taxable Services \(last visited Dec. 30, 2019\)](#)

Iowa, Sales tax on commissions

No specifically relevant provisions were located. Generally, sales of services are exempt from Iowa's sales tax unless taxed by state law, and no provision was located taxing real estate commissions.

Website undated.

See [Iowa Dep't of Rev., Iowa Sales Tax Guide \(last visited Dec. 30, 2019\); Iowa Dept' of Rev, Iowa Sales and Use Tax: Taxable Services \(last visited Dec. 30, 2019\)](#) (list of taxable services)

Iowa, Sales tax on related services

APPRAISALS

No specifically relevant provisions were located.

Iowa regulations specifically provide that real estate appraisal fees are not subject to the state's sales tax as a bank service charge.

HOME INSPECTIONS

No specifically relevant provisions were located. Generally, sales of services are exempt from Iowa's sales tax unless taxed by state law, and no provision was located taxing home inspections.

MLS SERVICES

No explicitly relevant provisions were located. Generally, real estate listings are "information services," which are exempt from the state's sales tax, but MLS listings may fall under an exception

to the exemption because "information services" do not include information "prepared for general dissemination to the public in the form of books, magazines, newsletters, video or audio tapes, compact disks, or any other medium commonly used to communicate with large numbers of customers."

The state's regulations provide the following example related to real estate listings:

The seller provides, for a fee, a weekly bulletin listing information on real estate of use to brokers selling homes in a certain Iowa county. The seller secures the information from a multiple listing service without applying any independent thought during the compiling of that information. The bulletin is useful only to those brokers and not to the general public. Since the bulletin is a "real estate listing" and has been prepared for a particular group of customers and not for the general public, its sale is the sale of an information service rather than the sale of tangible personal property and is thus exempt from tax.

PROPERTY MANAGEMENT

No specifically relevant provisions were located. Generally, sales of services are exempt from Iowa's sales tax unless taxed by state law, and no provision was located taxing property management services.

LAND SURVEYS

No explicitly relevant provisions were located. Generally, "surveys" are "information services," which are exempt from the state's sales tax, but nothing in the regulations clarifies whether this exemption refers to land surveys or opinion surveys. "Information services" include "every business activity, process, or function by which a seller or its agent accumulates, prepares, organizes, or conveys data, facts, knowledge, procedures, and like services to a particular buyer (or its agent) of the information through any tangible or intangible medium." Because a land survey is prepared for a particular person, it is likely to be an exempt information service.

OTHER RELATED SERVICES

Title abstracts

Title abstracts are "information services," which are exempt from the state's sales tax.

Environmental testing services

Effective July 1, 2015, environmental testing services are not subject to the state's sales tax.

Statutory section amended 2019. Regulatory chapter 701-17 amended 2004; ch. 701-26 amended 2011. Website undated.

[Iowa Code § 423.3 \(2019\)](#); [Iowa Admin. Code r. 701-17.36; -26.8 \(2018\)](#); [Iowa Dep't of Revenue, Iowa Sales Tax Guide \(last visited Dec. 30, 2019\)](#).

Kansas

Kansas, General service taxes

OVERVIEW

Kansas does not have a broad-reaching sales tax on services.

However, the Kansas Retailers' Sales Tax Act levies a 6.5-percent tax on some specified services (increased from 6.15 percent as of July 1, 2015). The tax is generally imposed on the "sales or selling price," which means the total amount of consideration for which personal property or services are sold, without any deduction for labor or service costs, charges by the seller for services necessary to complete the sale, or delivery and installation charges.

CONSTRUCTION SERVICES

Construction Contractors

Kansas imposes a tax on "the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business," whether or not the installed or applied property remains tangible personal property or becomes a part of real estate. However, no tax is imposed on the service of "installing or applying tangible personal property" in connection with:

- the original construction of a building or facility;
- the "original construction, reconstruction, restoration, remodeling, renovation, repair or replacement" of a residence; or
- the construction, reconstruction, restoration, replacement, or repair of a bridge or highway.

A contractor is responsible for collecting and remitting sales tax on taxable services performed for others. The taxable base for contracts involving the application or installation of tangible personal property equals "the difference between the contract price and the cost of material, supplies, and payments to subcontractors." If a contractor does not separately state the sales tax amount for services performed in a contract, bid estimate, customer billing, or other document, the contractor must state in the document that all applicable sales taxes are included in the selling price.

The state's sales tax is not imposed on the service of installing or applying tangible personal property to restore, reconstruct, or replace a building or facility damaged or destroyed by fire, flood, tornado, lightning, explosion, or earthquake. Also, purchases made for certain projects, such as constructing hospitals or schools, among several others, are exempt.

Sales of tangible personal property or services purchased on or after July 1, 2014, to construct, reconstruct, enlarge, or remodel referenced agricultural businesses, and the sale and installation of machinery and equipment purchased for installation at those businesses, are also exempt. This exemption does not apply to a project with a total cost of less than \$50,000.

Dismantling or demolishing all or part of a building or facility is subject to the sales tax unless the services are performed in connection with the original construction of a building or facility on the same site.

Building material sales to contractors are generally taxable. Kansas assesses a 5.3-percent tax on the gross receipts received from the sales of tangible personal property to contractors for use in erecting structures, or building on, or otherwise improving, altering, or repairing property. If the contractor maintains an inventory of the tangible personal property for both sale at retail and for

use on property, the contractor is deemed a retailer with respect to purchases for and sales from the inventory.

Carpenters, Plumbers, and Similar Trades

Kansas imposes a tax on "the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business," whether or not the installed or applied property remains tangible personal property or becomes a part of real estate. However, no tax is imposed on "the service of installing or applying tangible personal property" in connection with:

- the original construction of a building or facility;
- the "original construction, reconstruction, restoration, remodeling, renovation, repair or replacement" of a residence; or
- the construction, reconstruction, restoration, replacement, or repair of a bridge or highway.

A subcontractor or repairman is responsible for collecting and remitting sales tax on taxable services performed for others. The taxable base for contracts involving the application or installation of tangible personal property equals "the difference between the contract price and the cost of material, supplies, and payments to subcontractors." If a subcontractor or repairman does not separately state the sales tax amount for services performed in a contract, bid estimate, customer billing, or other document, he or she must state in the document that all applicable sales taxes are included in the selling price.

The state's sales tax is not imposed on the service of installing or applying tangible personal property to restore, reconstruct, or replace a building or facility damaged or destroyed by fire, flood, tornado, lightning, explosion, or earthquake.

Dismantling or demolishing all or part of a building or facility is subject to the sales tax unless the services are performed in connection with the original construction of a building or facility on the same site.

Building material sales to subcontractors or repairmen are generally taxable. Kansas assesses a 5.3-percent tax on the gross receipts received from the sales of tangible personal property to all subcontractors or repairmen for use erecting structures, or building on, or otherwise improving, altering, or repairing property. If the subcontractor or repairman maintains an inventory of the property for both sale at retail and for use on property, the contractor is deemed a retailer with respect to purchases for and sales from the inventory.

By letter ruling dated February 22, 2012, the Kansas Department of Revenue has noted that the Kansas retailers' sales tax "is not imposed on soil excavation services if the charges for excavation are not lumped together as part of a taxable installation charge."

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

No relevant provisions were located.

Statutory section 79-3602 amended 2019; § 79-3603 amended 2015; § 79-3606 amended 2019. Regulation 92-19-66 amended 1998; r. 92-19-66b amended 1988. Private letter ruling issued 2012; tax notice issued 2014.

[Kan. Stat. §§ 79-3602, -3603, -3606 \(2018\); Kan. Admin. Regs. §§ 92-19-66, -66b \(2019\); Kan. Dep't of Rev., Priv. Ltr. Rul. P-2011-011 \(Feb. 22, 2012\); Kan. Dep't of Rev., Notice 14-13, *New Sales Tax Exemption for Certain Agricultural Operations* \(June 2014\)](#)

Kansas, Sales tax on commissions

No relevant provisions were located.

Kansas, Sales tax on related services

No relevant provisions were located.

Kentucky

Kentucky, General service taxes

OVERVIEW

Kentucky does not have a broad-reaching sales tax on services. However, the topic has been addressed, but not passed, in many recent legislative sessions. For example, in 2016, [H.B. 342](#) would have expanded Kentucky's sales tax to exterminating, pest-control, and landscaping services, among others. That bill died in committee.

However, some services are taxed. For example, Kentucky imposes a six-percent tax on the gross receipts from retail sales, and "gross receipts" includes the total consideration for which tangible personal property or services are sold, without deducting the retailer's charges for "any services necessary to complete the sale," or the "amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold," among other expenses. However, "sales price" does not include the charges for labor or services rendered installing or applying the property or service sold, provided the amount is stated separately on the invoice, bill of sale, or similar document given to the purchaser.

Also, certain services, such as temporary accommodations, sewer services, admissions sales, and many utilities, are subject to the state's tax.

Generally, persons engaged in the business of rendering business or professional services are classified as consumers, not retailers, of property they "use incidentally in rendering the service." However, if a person in the business of rendering services also regularly sells tangible personal property to consumers, that person is a retailer with respect to those sales and must pay tax on the sales.

CONSTRUCTION SERVICES

Construction Contractors

All sales to contractors of building materials that will be incorporated into a structure or real estate improvement by erecting, remodeling, or repairing the structure are subject to Kentucky's sales tax at the time of sale to the contractor.

A person or entity engaged exclusively in construction work as a contractor is not required to hold a retail sales tax permit unless the contractor operates a dual business as a contractor-retailer. If a contractor or contractor-retailer manufactures building material or supplies used in the construction business, the tax applies to "the sales price to him of all tangible personal property which enters into the manufacture of such materials or supplies."

Carpenters, Plumbers, and Similar Trades

All sales to subcontractors or builders of building materials that will be incorporated into a structure or real estate improvement by erecting, remodeling, or repairing the structure are subject to the sales tax at the time of sale to the subcontractor or builder.

A person or entity engaged exclusively in construction work as a subcontractor is not required to hold a retail sales tax permit.

If a subcontractor or builder manufactures building materials or supplies used in the construction business, the tax applies to "the sales price to him of all tangible personal property which enters into the manufacture of such materials or supplies."

Kentucky regulations clarify that house painters are consumers and that the state's tax does not apply to charges for painting real estate. In that case, the tax applies to the sale of paint to the house painter.

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located. Generally, a bank rendering services is a consumer, not a retailer, of tangible personal property it uses "incidentally in rendering the service."

Insurance Services

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No specifically relevant provisions were located. Generally, an accountant rendering professional services is a consumer, not a retailer, of tangible personal property used "incidentally in rendering the service."

Architects

No specifically relevant provisions were located. Generally, an architect rendering professional services is a consumer, not a retailer, of tangible personal property used "incidentally in rendering the service."

Attorneys

No specifically relevant provisions were located. Generally, a lawyer rendering professional services is a consumer, not a retailer, of tangible personal property used "incidentally in rendering the service."

Dentists

No specifically relevant provisions were located. Generally, dentists are consumers of the materials, supplies, and dental laboratory products they use to perform their services, so the tax applies to the sale of the tangible personal property to them.

Engineers

No specifically relevant provisions were located. Generally, an engineer rendering professional services is a consumer, not a retailer, of tangible personal property used "incidentally in rendering the service."

Physicians

No relevant provisions were located.

Statutory sections 139.200 and 139.010 amended 2019; regulations 26:060 and 26:080 amended 2016; r. 26:070 amended 2019; r. 26:010 amended 2019.

[Ky. Rev. Stat. Ann. §§ 139.010, .200 \(2019\); 103 Ky. Admin. Regs. 26:010, :060, :070, :080 \(2019\)](#)

Kentucky, Sales tax on commissions

No relevant provisions were located.

Kentucky, Sales tax on related services

OTHER RELATED SERVICES

A tax is imposed at the rate of six percent of the gross receipts derived from

- landscaping services, including but not limited to: lawn care and maintenance services; tree trimming, pruning, or removal services; landscape design and installation services; landscape care and maintenance services; and snow plowing or removal services; and

- janitorial services, including but not limited to residential and commercial cleaning services, and carpet, upholstery, and window cleaning services.

Amended 2019.

[Ky. Rev. Stat. § 139.200 \(2019\)](#)

Louisiana

Louisiana, General service taxes

OVERVIEW

Louisiana does not have a broad-reaching sales tax on services.

The state's sales tax is comprised of several distinct taxes, most of which generally apply to retail sales of tangible personal property and specified taxable services. Pursuant to La. Rev. Stat. Ann. § 47:302(A) and (C), a two-percent tax is levied on the retail sales price of tangible personal property and on the amounts paid or charged for specified taxable services. Section 47:321(A) and (C) assesses an additional one-percent tax on certain sales, including most taxable services (other than certain communications), and § 47:331(A) and (C) imposes another .97-percent tax on sales of tangible personal property and specified services. Finally, § 321.1 imposes an additional tax of one percent, which is reduced to .45 percent effective July 1, 2018.

Accordingly, the total sales tax imposed by the state is five percent, until July 1, 2018 when it is reduced to 4.45 percent. *See generally, [La. Dep't Rev., Revenue Information Bulletin No. 18-016, Decrease in Overall State Sales Tax Rate Effective July 1, 2018 \(June 24, 2018\)](#)*

Effective July 1, 2018, through July 1, 2025, each of the above cited statutes provide an exclusive list of 110 exemptions or exclusions from the tax imposed. All of those lists primarily identify specified goods, and do not include any of the services addressed in this survey. The Louisiana Department of Revenue has published a table explaining the changes enacted by Acts 25 and 26 of the 2016 First Extraordinary Session, and that chart verifies that the state continues to impose a zero-percent tax on the work products created by licensed professionals.

Only the services specifically itemized in La. Rev. Stat. Ann. § 47:301(14)(a)—(g) are subject to the state's sales tax. These services include certain hotel rooms, certain admissions, parking, printing, laundry, cleaning, cold storage space, repairs to tangible personal property, and telecommunications.

"Sales price" is the total amount for which tangible personal property is sold, including labor or service costs, among other things. "Sales price" does not include the "amount charged for labor or services rendered in installing, applying, remodeling, or repairing property sold."

CONSTRUCTION SERVICES

Construction Contractors

The work-product of persons licensed under Title 37 of the Louisiana Revised Statutes, which includes contractors, is specifically excluded from the definition of "tangible personal property."

Certain purchases by contractors are exempt from the state's sales tax, such as purchases by an immovable property contractor with an agency agreement with the government. Also, any person who restores, renovates, or rehabilitates an existing structure or builds a new house in an "approved housing development area pursuant to the provisions of R.S. 40:582.1 through 582.7" is entitled to a refund of the sales tax amount paid.

Louisiana's sales and use tax does not apply to "the sale of construction materials to Hands on New Orleans and RebuildingTogetherNewOrleans covenant partners," if the materials are intended for use in "constructing, rehabilitating, or renovating residential dwellings" that were destroyed or damaged by Hurricane Katrina or Hurricane Rita.

Carpenters, Plumbers, and Similar Trades

Generally, tangible personal property does not include "work products presented in a tangible form that have worth because of the technical or professional skills of the seller." The work-product of persons licensed under Title 37 of the Louisiana Revised Statutes, which includes plumbers, is specifically excluded from the definition of "tangible personal property." Also, only services

specifically itemized in La. Rev. Stat. Ann. § 47:301(14)(a)—(g) are subject to the state's sales tax, and none of the listed taxable services are trades related to real estate construction.

FINANCIAL SERVICES

No specifically relevant provisions were located.

However, the term "sales price" is defined as "the total amount for which tangible personal property is sold, less the market value of any article traded in including any services, except services for financing, that are a part of the sale valued in money . . . and includes the cost of materials used, labor or service costs, except costs for financing which shall not exceed the legal interest rate . . ."

PROFESSIONAL SERVICES

Generally, professional work is a "non-taxable technical or professional service" if:

- the tangible personal property delivered is "insignificant in comparison to the services performed"; and
- there is "a distinction between the value of the intangible content of the service and the tangible medium on which it is transferred."

Accountants

Tangible personal property does not include "work products presented in a tangible form that have worth because of the technical or professional skills of the seller." The work-product of licensed accountants, such as financial statements, is specifically excluded from the definition of "tangible personal property."

Documents that are prepared or reproduced without modification are taxable tangible personal property.

Architects

Tangible personal property does not include "work products presented in a tangible form that have worth because of the technical or professional skills of the seller." The work-product of licensed architects, such as drawings and plans, is specifically excluded from the definition of "tangible personal property."

Documents that are prepared or reproduced without modification are taxable tangible personal property.

Attorneys

Tangible personal property does not include "work products presented in a tangible form that have worth because of the technical or professional skills of the seller." The work product of licensed attorneys, such as legal documents prepared by the attorney, is specifically excluded from the definition of "tangible personal property."

Documents that are prepared or reproduced without modification are taxable tangible personal property.

Dentists

The work product of persons licensed under Title 37 of the Louisiana Revised Statutes, which includes dentists, is specifically excluded from the definition of "tangible personal property."

Restorative materials and devices that dentists use or prescribe in connection with dental care treatments are exempt.

Engineers

Generally, tangible personal property does not include “work products presented in a tangible form that have worth because of the technical or professional skills of the seller.” The work product of licensed engineers, such as drawings and plans, is specifically excluded from the definition of “tangible personal property.”

Documents that are prepared or reproduced without modification are taxable tangible personal property.

Physicians

The work product of persons licensed under Title 37 of the Louisiana Revised Statutes, which includes physicians, is specifically excluded from the definition of “tangible personal property.”

Statutory section 47:315.2 amended 1997; § 305.62 enacted 2009; §§ 47:301, 47:302, 47:305, 47:321, 47:321.1 and 47:331 amended 2019; § 47:301.2 amended 2016. Regulations 4303 and 4401 amended 2010; r. 4301 amended 2018.

[La. Rev. Stat. §§ 47:301, :301.2, :302, :305, :305.62, :315.2, :321, :321.1, :331 \(2019\)](#); [La. Admin. Code tit. 61, §§ 4301, 4303, 4401 \(2019\)](#); [La. Dep't of Rev., Revenue Information Bulletin No. 16-013, Sales Tax, Imposition of a New One-Cent Sales and Use Tax \(Mar. 24, 2016\)](#); [La. Dep't of Rev., Acts 25 and 26 - Taxable Rate of Transactions for Exemptions and Exclusions \(Jan. 2017\)](#)

Louisiana, Sales tax on commissions

No specifically relevant provisions were located. However, the work product of persons licensed under Title 37 of the Louisiana Revised Statutes, which includes real estate licensees, is specifically excluded from the definition of “tangible personal property.”

Section amended 2019.

[La. Rev. Stat. § 47:301 \(2019\)](#)

Louisiana, Sales tax on related services

APPRAISALS

The work product of persons licensed under Title 37 of the Louisiana Revised Statutes, which includes appraisers, is specifically excluded from the definition of “tangible personal property.”

Documents that are prepared or reproduced without modification are taxable tangible personal property.

HOME INSPECTIONS

No specifically relevant provisions were located. However, generally, tangible personal property does not include “work products presented in a tangible form that have worth because of the technical or professional skills of the seller.” A work product is a “non-taxable technical or professional service” if:

- the tangible personal property delivered is “insignificant in comparison to the services performed”; and
- there is “a distinction between the value of the intangible content of the service and the tangible medium on which it is transferred.”

Also, only services specifically itemized in La. Rev. Stat. Ann. § 47:301(14)(a)—(g) are subject to the state’s sales tax, and none of the listed taxable services are related to home inspections.

MLS SERVICES

No specifically relevant provisions were located. However, generally, tangible personal property does not include “work products presented in a tangible form that have worth because of the technical or professional skills of the seller.” A work product is a “non-taxable technical or professional service” if:

- the tangible personal property delivered is “insignificant in comparison to the services performed”; and
- there is “a distinction between the value of the intangible content of the service and the tangible medium on which it is transferred.”

Also, only services specifically itemized in La. Rev. Stat. Ann. § 47:301(14)(a)—(g) are subject to the state’s sales tax, and none of the listed taxable services are related to MLS services.

PROPERTY MANAGEMENT

No specifically relevant provisions were located. However, generally, tangible personal property does not include “work products presented in a tangible form that have worth because of the technical or professional skills of the seller.” A work product is a “non-taxable technical or professional service” if:

- the tangible personal property delivered is “insignificant in comparison to the services performed”; and
- there is “a distinction between the value of the intangible content of the service and the tangible medium on which it is transferred.”

Also, only services specifically itemized in La. Rev. Stat. Ann. § 47:301(14)(a)—(g) are subject to the state’s sales tax, and none of the listed taxable services are related to property management.

LAND SURVEYS

Generally, tangible personal property does not include "work products presented in a tangible form that have worth because of the technical or professional skills of the seller." The work product of persons licensed under Title 37 of the Louisiana Revised Statutes, which includes professional surveyors, is specifically excluded from the definition of "tangible personal property."

Also, "proprietary geophysical survey information or geophysical data analysis furnished under a restrictive use agreement even if transferred in the form of tangible personal property" is specifically excluded from the definition of tangible personal property.

OTHER RELATED SERVICES

No relevant provisions were located.

Statutory section amended 2019. Regulation amended 2019.

[La. Rev. Stat. § 47:301 \(2019\)](#); [La. Admin. Code tit. 61, § 4301 \(2019\)](#)

Maine

Maine, General service taxes

OVERVIEW

Generally, Maine imposes a tax on certain "taxable services." Beginning January 1, 2016, the state's tax is 5.5 percent on tangible personal property and taxable services, unless otherwise specified (making permanent its previously temporary tax increase).

Effective January 1, 2016, Maine also increased its service provider tax to six-percent tax of the value of several services sold in Maine, including cable and satellite television, fabrication, community and personal support, and residential training services. None of these services assessed by the service-provider tax are specifically within the scope of this survey, although some are related to certain medical care services. For example, the state assesses a six-percent tax on the

following: private nonmedical institution services; community support services for persons with mental health diagnoses, intellectual disabilities, or autism; and group residential services for persons with brain injuries.

CONSTRUCTION SERVICES

No relevant provisions were located.

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

No relevant provisions were located.

Statutory sections 1811 and 1752 amended 2019; § 2552 amended 2015.

[Me. Rev. Stat. tit. 36, §§ 1752, 1811, 2552 \(2019\)](#)

Maine, Sales tax on commissions

No relevant provisions were located.

Maine, Sales tax on related services

No relevant provisions were located.

Maryland

Maryland, General service taxes

OVERVIEW

Maryland does not have a broad-reaching sales tax on services. Except as otherwise provided, Maryland imposes a six-percent tax on the taxable price of retail sales and specified taxable services. "Taxable services" include, among others, commercial textile cleaning or laundering for a buyer who is in a business that requires a recurring service, cleaning of a commercial or industrial building, certain telecommunications services, credit reporting, security services, and certain services related to utilities. "Taxable price" is the consideration paid, including any labor or service rendered, among other things. "Taxable price" does not include charges that are made in connection with a sale and are stated as a separate item for several services, such as delivery directly to the buyer by the vendor, application or installation services, and professional services.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located. Generally, the state's sales tax does not apply to personal or professional services that are not a taxable service and that involve a sale as an "inconsequential element for which no separate charge is made." The list of "taxable services" does not include construction contractors.

The sale of tangible personal property to a person who will use or resell it "in the form of real property" is taxable. Thus, a "person who constructs, improves, alters, or repairs real property" must pay the tax on all materials purchased that "will be incorporated into real property in such a manner that the materials will lose their identity as tangible personal property." Determining whether material will become a part of real property depends principally on intent. If the party's intent is "to permanently and substantially improve" real property, the material is considered to become real property. If the party's intent is to use the property for a temporary purpose, the material retains its character as tangible personal property.

A person who purchases materials to be incorporated into the real property of a private, nonprofit charitable, educational, or religious organization may purchase the materials tax-free.

The retail sale of equipment, tools, and supplies used to improve real property, but not incorporated into the realty, is always subject to tax.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located. Generally, the state's sales tax does not apply to personal or professional services that are not a taxable service and that involve a sale as an "inconsequential element for which no separate charge is made." The list of "taxable services" does not include persons in the construction trades (although it does include cleaning of a commercial or industrial building).

The sale of tangible personal property to a person who will use or resell it "in the form of real property" is taxable. Thus, a "person who constructs, improves, alters, or repairs real property" must pay the tax on all materials purchased that "will be incorporated into real property in such a manner that the materials will lose their identity as tangible personal property." Determining whether material will become a part of real property depends principally on intent. If the party's intent is "to permanently and substantially improve" real property, the material is considered to become real property. If the party's intent is to use the property for a temporary purpose, the material retains its character as tangible personal property.

A person who purchases material to be incorporated into real property of a private, nonprofit charitable, educational, or religious organization may purchase the material tax-free.

The retail sale of equipment, tools, and supplies used to improve real property, but not incorporated into the realty, is always subject to tax.

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located. Generally, the state's sales tax does not apply to personal or professional services that are not a taxable service and that involve a sale as an "inconsequential element for which no separate charge is made." The list of "taxable services" does not include bank services.

Insurance Services

Maryland's sales tax does not apply to insurance services that are not a taxable service and that involve a sale as an "inconsequential element for which no separate charge is made." The list of "taxable services" does not include insurance services. Also, the state's tax does not apply to services customarily rendered by insurance agents.

A person providing nontaxable services must pay the tax on all purchases of materials, supplies, tools, and equipment he or she uses or transfers as part of the nontaxable service, unless a specific statutory exemption applies. If a person providing services also makes independent sales of tangible personal property, the person must generally collect sales tax on those sales.

PROFESSIONAL SERVICES

Accountants

Maryland's sales tax does not apply to services customarily rendered by accountants.

A person providing nontaxable services must pay the tax on all purchases of materials, supplies, tools, and equipment he or she uses or transfers as part of the nontaxable service, unless a specific statutory exemption applies. If a person providing services also makes independent sales of tangible personal property, the person must generally collect sales tax on those sales.

Architects

No specifically relevant provisions were located. However, Maryland's sales tax does not apply to professional services that are not a taxable service and that involve a sale as an "inconsequential element for which no separate charge is made." The list of "taxable services" does not include architectural services.

A person providing nontaxable services must pay the tax on all purchases of materials, supplies, tools, and equipment he or she uses or transfers as part of the nontaxable service, unless a specific statutory exemption applies. If a person providing services also makes independent sales of tangible personal property, the person must generally collect sales tax on those sales.

Attorneys

Maryland's sales tax does not apply to services customarily rendered by attorneys.

A person providing nontaxable services must pay the tax on all purchases of materials, supplies, tools, and equipment he or she uses or transfers as part of the nontaxable service, unless a specific statutory exemption applies. If a person providing services also makes independent sales of tangible personal property, the person must generally collect sales tax on those sales.

Dentists

Maryland's sales tax does not apply to services customarily rendered by dentists.

A person providing nontaxable services must pay the tax on all purchases of materials, supplies, tools, and equipment he or she uses or transfers as part of the nontaxable service, unless a specific statutory exemption applies. If a person providing services also makes independent sales of tangible personal property, the person must generally collect sales tax on those sales.

Engineers

No specifically relevant provisions were located. However, Maryland's sales tax does not apply to professional services that are not a taxable service and that involve a sale as an "inconsequential element for which no separate charge is made." The list of "taxable services" does not include engineering services.

A person providing nontaxable services must pay the tax on all purchases of materials, supplies, tools, and equipment he or she uses or transfers as part of the nontaxable service, unless a specific statutory exemption applies. If a person providing services also makes independent sales of tangible personal property, the person must generally collect sales tax on those sales.

Physicians

Maryland's sales tax does not apply to services customarily rendered by physicians.

A person providing nontaxable services must pay the tax on all purchases of materials, supplies, tools, and equipment he or she uses or transfers as part of the nontaxable service, unless a specific statutory exemption applies. If a person providing services also makes independent sales of tangible personal property, the person must generally collect sales tax on those sales.

Statutory section 11-219 amended 2008; §11-104 amended 2018; §§ 11-101 and 11-102 amended 2019. Regulation amended 1999.

[Md. Code, Tax-Gen. §§ 11-101, -102, -104, -219 \(2019\)](#); [Md. Code Regs. 03.06.01.01 \(2019\)](#)

Maryland, Sales tax on commissions

No specifically relevant provisions were located. However, Maryland's sales tax does not apply to professional and personal services that are not a taxable service and that involve a sale as an "inconsequential element for which no separate charge is made." The list of "taxable services" does not include real estate commissions.

Statutory section amended 2008.

[Md. Code, Tax-Gen. § 11-219 \(2019\)](#)

Maryland, Sales tax on related services

No specifically relevant provisions were located. However, Maryland's sales tax does not apply to professional and personal services that are not a taxable service and that involve a sale as an "inconsequential element for which no separate charge is made." The list of "taxable services" does not include real estate-related services.

Statutory section amended 2008.

[Md. Code, Tax-Gen. § 11-219 \(2019\)](#)

Massachusetts

Massachusetts, General service taxes

OVERVIEW

In July 1990, the Massachusetts legislature extended the state's sales tax to several services. However, that tax, which was to become effective December 1, 1990 (but was postponed until March 6, 1991), was ultimately repealed on March 8, 1991, retroactive to March 6, 1991 as to most of the services.

Currently, although the state's sales tax equals 6.25 percent of a vendor's gross receipts from sales of property *or services*, the term "services" is explicitly limited to telecommunications services. Furthermore, "retail sale" excludes "professional, insurance, or personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made." As a general guideline, "inconsequential" means less than 10 percent of the total charge.

However, some services (in addition to telecommunications services) are still taxed. For example, "sales price" equals the total amount paid by a purchaser to a vendor as consideration for a retail sale, with no deduction for labor or service costs or the cost of transportation before sale at retail. The price also includes "any amount paid for any services that are a part of the sale" and the amount charged for labor or services to install or apply the property sold.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located. Generally, a taxable "retail sale" excludes "professional, insurance, or personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made."

Note that if a nonresident contractor that enters into a contract pursuant to which tangible personal property will be consumed or used in Massachusetts, the nonresident contractor must deposit with the commissioner an amount equal to, as of August 1, 2009, 6.25 percent of the total contract amount (or furnish a guarantee bond in an equal amount) to secure payment of the

tax payable for tangible personal property consumed or used in performing the contract. As used in this context, a "contractor" is a person engaged in constructing, reconstructing, altering, remodeling, or repairing real property.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located. Generally, a taxable "retail sale" excludes "professional, insurance, or personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made."

Massachusetts regulations clarify the effect of the state's sales tax on service enterprises. The regulations note that a service transaction is not subject to the state's sales tax if the "real object of the transaction is the service itself" and either:

- no tangible personal property is transferred; or
- an inconsequential transfer of tangible personal property occurs, and the service enterprise does not separately state the property's purchase price on the customer's bill, in which case the service enterprise pays the sales tax when the enterprise purchases the property from a vendor.

The service transaction is subject to the sales tax if:

- tangible personal property is transferred, and the charge for the property is stated separately from the labor charge on the customer's bill, whether or not the property's value is inconsequential; or
- tangible personal property is transferred, the property's value is not inconsequential, and the charge for the property is not separately stated on the customer's bill.

The regulations provide the following example:

A plumber replaces a faucet on a sink for a customer, and separately states the charge for labor and the charge for the faucet on the bill to the customer. The cost of the faucet is \$15.00, and the labor charge is \$20.00. Since the charge for the faucet is stated separately on the bill to the customer, . . . the sales tax applies to the charge for the faucet. The plumbing enterprise collects the tax from the customer, and may give a resale certificate to its own vendor when it purchases the faucet. . . . [I]f the plumber does not state separately the charge for the faucet, the entire combined charge is taxable to the customer because the value of the property is not inconsequential in relation to the total charge.

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located. Generally, a taxable "retail sale" excludes "professional, insurance, or personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made."

Insurance Services

A taxable "retail sale" excludes insurance service transactions that "involve no sale or which involve sales as inconsequential elements for which no separate charges are made."

PROFESSIONAL SERVICES

No specifically relevant provisions were located. Generally, a taxable "retail sale" excludes "professional, insurance, or personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made."

Statutory section 64H-1 amended 2013; §§ 64H-2 and 64H-30A amended 2009. Regulation amended 2003. Technical information release dated 1991.

[Mass. Gen. Laws ch. 64H, §§ 1, 2, 30A \(2019\)](#); [830 Mass. Code Regs. 64H.1.1 \(2018\)](#); see [Mitchell Adams, Comm'r of Revenue, Mass. Dep't of Revenue, TIR 91-5: Effect of Repeal of Sales Tax on Services \(June 28, 1991\)](#)

Massachusetts, Sales tax on commissions

No specifically relevant provisions were located. Generally, a taxable "retail sale" excludes "professional, insurance, or personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made."

Statutory section amended 2013.

[Mass. Gen. Laws ch. 64H, § 1 \(2019\)](#)

Massachusetts, Sales tax on related services

No specifically relevant provisions were located. Generally, a taxable "retail sale" excludes "professional, insurance, or personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made."

Statutory section amended 2013.

[Mass. Gen. Laws ch. 64H, § 1 \(2019\)](#)

Michigan

Michigan, General service taxes

OVERVIEW

Michigan does not have a broad-reaching sales tax on services.

However, the Michigan legislature has a history of proposing, considering, and even enacting sales taxes on services. For example, in 2007, the legislature passed Public Act 93, which expanded Michigan's six-percent use tax to several specific services, including many personal services and consulting. After considerable public outcry, Michigan's governor signed Public Act 145, which repealed the tax on services. As noted in Public Act 145, "It is the intent of the legislature that the repeal of section 3d of the use tax act [the tax on numerous services] . . . is retroactive and is effective immediately after section 3d of the use tax act . . . took effect on December 1, 2007." Although Public Act 145 repealed the tax on services, it imposed a surcharge on the Michigan Business Tax to replace revenue lost from the service-tax repeal.

Other bills, such as [S.B. 307, 94th Leg., Reg. Sess. \(Mich. 2007\)](#) and [H.B. 4368, 94th Leg., Reg. Sess. \(Mich. 2007\)](#), each of which would have levied a two-percent tax on "every person performing or delivering a service in a transaction," did not pass into law. These bills would have assessed a tax on several professional services.

In March 2010, Governor Granholm proposed expanding the state's sales tax to many service categories and reducing the sales and use tax rate, but that proposal did not become law.

Michigan does have a sales tax on retail sales, and a person engaged in the business of making retail sales who is also engaged in a business, occupation, or profession that is not subject to the sales tax must "keep books to show separately the transactions used in determining" the sales tax amount. If the person fails to keep separate books, he or she will be assessed the state's six-percent sales tax on the entire gross proceeds of both of his or her businesses.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located. However, Michigan regulations note that contractors are deemed to be "consumers of the materials used by them." Therefore, sales to contractors of tangible personal property are taxable, unless they are "affixed to and made a structural part of real estate" for a qualified exempt nonprofit hospital or nonprofit housing entity. In this context, a "contractor" includes "only prime, general, and subcontractors directly engaged in the business of constructing, altering, repairing, or improving real estate for others."

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located. However, the cost of a manufactured product affixed to real property may include some labor costs, such as the costs of labor "at the job site for mixing, combining or blending" a product before it is affixed to the real estate.

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

No relevant provisions were located.

Attorneys

No relevant provisions were located.

Dentists

Except as specifically identified in the rules, dentists "render nontaxable services." Taxable events generally include the sale of materials, supplies, equipment, drugs, and other tangible personal property.

Engineers

No relevant provisions were located.

Physicians

Except as specifically identified in the rules, physicians, surgeons, osteopaths, and "other practitioners of the healing arts" render nontaxable services. Taxable events include the sale of "drugs, medications, instruments, equipment and other tangible personal property to such persons for use in rendering professional services or in connection with their office, laboratory or other similar quarters."

Statutory section 205.52 amended 2004. Regulations adopted 1979. Revenue bulletin amended 2002. Public Act 145 enacted 2007; Public Act 93 enacted and repealed in part 2007.

[Mich. Comp. Laws § 205.52\(3\) \(2019\)](#); [2007 Mich. Pub. Acts ch. 145](#); [Mich. Admin. Code r. 205.71, .111 \(2019\)](#); [Mich. Rev. Admin. Bulletin 1993-5 \(2002\)](#); *see also* [2007 Mich. Pub. Acts ch. 93](#); [Senate Fiscal Agency Memorandum from Eric Scorsone and David Zin to Members of the Senate \(Mar. 3, 2010\)](#)

Michigan, Sales tax on commissions

No relevant provisions were located.

Michigan, Sales tax on related services

No relevant provisions were located.

Minnesota

Minnesota, General service taxes

OVERVIEW

Minnesota does not have a broad-reaching sales tax on services, but it does tax some services. The state generally imposes a 6.875 percent sales tax on gross receipts from retail sales, which include several specified services, such as admissions, transient lodging, nonresidential parking, certain club memberships, laundry and dry cleaning services, building and residential cleaning and maintenance, pest control, security services, lawn care, and telecommunications, among others.

"Sales price," which is used to measure the sales tax, means the total amount of consideration without deducting labor or service costs, costs of transportation to the seller, the seller's charges for "services necessary to complete the sale," and delivery and installation charges, among other expenses.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located.

The sale of building materials, supplies, and equipment *to* contractors to erect buildings or to alter, repair, or improve real property is generally a taxable retail sale.

The purchase and use of construction materials and supplies used in, and equipment incorporated into, the construction of real property improvements in a job opportunity building zone, biotechnology and health sciences industry zone, and other exempt projects as specified by § 297A.71 are exempt from the state's sales tax.

A "contractor-retailer" is a person who uses in construction contracts and makes retail sales of building materials, supplies, and equipment. A sale by a contractor-retailer of building supplies, materials, and equipment that does not provide for installation is a retail sale. If the sale provides for installation of the merchandise, it is a construction contract and the contractor-retailer must pay the tax on the materials' cost.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located.

The sale of building materials, supplies, and equipment *to* subcontractors or builders to erect buildings or to alter, repair, or improve real property is a taxable retail sale.

The purchase and use of construction materials and supplies used in, and equipment incorporated into, the construction of real property improvements in a job opportunity building zone,

biotechnology and health sciences industry zone, and other exempt projects as specified by § 297A.71 are exempt from the state's sales tax.

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

No relevant provisions were located.

Statutory sections amended 2019, except § 297A.62 amended 2016; regulation amended 2008.

[Minn. Stat. §§ 297A.61, .62, .68, .71 \(2019\); Minn. R. 8130.1200 \(2019\)](#)

Minnesota, Sales tax on commissions

No relevant provisions were located.

Minnesota, Sales tax on related services

No relevant provisions were located.

Mississippi

Mississippi, General service taxes

OVERVIEW

Mississippi levies a seven-percent tax on gross proceeds from sales and gross income from several specified services, including, among others, air-conditioning installation or repairs, certain amusements, burglar and fire alarm services, car-washing, computer software services, electricians' work, grading, excavating, landscaping, hotels or motels, parking, plumbing, geophysical surveying services, and termite or pest control services.

"Gross income" means the total charges for services, including, among other things, compensation for labor and services performed, without deducting labor costs.

CONSTRUCTION SERVICES

Construction Contractors

Generally, on non-residential contracts over \$10,000, Mississippi imposes a 3.5 percent tax on the contract's value. If the contract is for \$10,000 or less, the state imposes its seven-percent sales tax on material purchases by the contractor.

More specifically, pursuant to § 27-65-21, every person in the "business of contracting or performing a contract" or engaging in certain specified activities is assessed a tax equal to 3.5 percent of the total contract price or compensation received. These activities include the following if the compensation exceeds \$10,000:

constructing, building, erecting, repairing, grading, excavating, drilling, exploring, testing or adding to any building, highway, street, sidewalk, bridge, culvert, sewer, irrigation or water system, drainage or dredging system, levee or levee system or any part thereof, railway, reservoir, dam, power plant, electrical system, air conditioning system, heating system, transmission line, pipeline, tower, dock, storage tank, wharf, excavation, grading, water well, any other improvement or structure or any part thereof.

This tax is levied on, and must be paid by, the prime contractor.

The following are excluded from the tax:

- the contract price or compensation received for improvements or structures that are "used for or primarily in connection with a residence or dwelling place for human beings";
- that portion of the total contract price attributable to design or engineering services if the total contract price exceeds \$100,000,000 or, as of July 1, 2014, if the engineering services are performed by a professional engineer who is the general or prime contractor;

- the contract price or compensation received to repair or replace a utility distribution or transmission system damaged by a natural disaster, if the entity performs the service at its cost; and
- the contract price or compensation received for "constructing, building, erecting, repairing or adding to any building, facility or structure" located at a refinery.

Sales of materials and services for use in residential construction activities are taxed at the regular retail tax rate.

If a person engaged in a business that is taxed pursuant to § 27-65-23 (see "*Carpenters, Plumbers, and Similar Trades*" below) also qualifies as a contractor, and the contract exceeds \$10,000, that person must pay the tax imposed by pursuant to § 27-65-21 in place of the tax imposed by § 27-65-23.

See 35-10-01 Miss Code R. § 100 *et seq.*, for additional details related to contractors and certain tradespersons.

Carpenters, Plumbers, and Similar Trades

Generally, electrical work, wiring, insulating, plumbing or pipe fitting, tin and sheet-metal work, woodworking, wood-turning shops, and welding are among the specified taxable services ("§ 27-65-23 services"), and persons engaged in those business are subject to a seven-percent tax on their gross income. However, these services are subject to the 3.5-percent contractor's tax, and not the state's seven-percent sales tax, if they are performed pursuant to a non-residential contract greater than \$10,000.

Persons performing § 27-65-23 services for contracts of \$10,000 or less owe the regular retail sales tax on their gross income. Persons performing contracts of \$10,000 or less that do *not* include § 27-65-23 services owe no tax on gross income, but must pay the regular retail sales tax on all taxable purchases.

If a person engaged in one of the § 27-65-23 services also qualifies as a contractor, and the contract exceeds \$10,000, that person must pay the contractors' tax imposed by § 27-65-21 (see "*Construction Contractors*" above).

See 35-10-01 Miss Code R. § 100 *et seq.*, for additional details related to contractors and certain tradespersons.

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located. However, sales of tangible personal property or services to state or federal banks and state credit unions are subject to Mississippi's retail sales tax. Federal credit unions are not subject to the state's sales tax on tangible personal property or services they purchase for their own use.

Insurance Services

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

Generally, in the context of contracting activities, “[d]esign, engineering and other professional services” are exempt from the state’s tax if they are *not* related to one of the following:

- sales of tangible personal property taxable by § 27-65-17;
- services taxable by § 27-65-23; or
- activities taxable by § 27-65-21.

In the context of the 3.5-percent contractors’ tax imposed by § 27-65-21, the portion of the contract price “attributable to design or engineering services” is excluded if the project’s total contract price exceeds \$100,000,000.

Attorneys

No relevant provisions were located.

Dentists

The gross income dentists receive from performing their professional services is not subject to Mississippi’s sales tax.

Dentists are deemed to be consumers of all materials, supplies, and equipment they purchase for use in their practice. Therefore, all sales made *to* dentists are retail transactions taxable at the regular seven-percent rate.

Engineers

Generally, in the context of contracting activities, “[d]esign, engineering and other professional services” are exempt from the state’s tax if they are *not* related to one of the following:

- sales of tangible personal property taxable by § 27-65-17;
- services taxable by § 27-65-23; or
- activities taxable by § 27-65-21.

In the context of the 3.5-percent contractors’ tax imposed by § 27-65-21, the portion of the contract price “attributable to design or engineering services” is excluded if the project’s total contract price exceeds \$100,000,000.

For contracts or activities subject to the tax levied by Miss. Code Ann. § 27-65-21 entered into on or after July 1, 2014, the portion of the contract for engineering services may be excluded from the total contract price if the services are performed by a professional engineer who is also the general or prime contractor.

Physicians

No relevant provisions were located.

Statutory section 27-65-13 amended 1955; § 27-65-23 amended 2007; § 27-65-3 amended 2014; § 27-65-21 amended 2015. Regulation 100 of subpart 3.04 amended 2009; rr. 302, 303, and 801 of subpart 10.01 amended 2018; rr. 100, 101, and 102 of subpart 5.07 amended 2015; history of r. 100 of subpart 12.03 unknown.

Miss. Code §§ 27-65-3, -13, -21, -23 (LexisNexis 2019); [35-IV-3.04 Miss. Code R. § 100](#); [35-IV-5.07 Miss. Code R. §§ 100, 101, 102](#); [35-IV-10.01 Miss. Code R. §§ 302, 303, 304, 801](#); [35-IV-12.03 Miss. Code R. § 100 \(2019\)](#)

Mississippi, Sales tax on commissions

No relevant provisions were located.

Mississippi, Sales tax on related services

APPRAISALS

No relevant provisions were located.

HOME INSPECTIONS

No relevant provisions were located.

MLS SERVICES

No relevant provisions were located.

PROPERTY MANAGEMENT

No relevant provisions were located.

LAND SURVEYS

No generally relevant provisions were located.

Mississippi levies a seven-percent tax on the gross income of services "performed in connection with geophysical surveying . . . of oil, gas, water and other mineral resources."

OTHER RELATED SERVICES

No relevant provisions were located.

Section amended 2007.

Miss. Code § 27-65-23 (LexisNexis 2019)

Missouri

Missouri, General service taxes

OVERVIEW

Missouri does not have a broad-reaching sales tax on services. Mo. Rev. Stat. § 144.020 imposes a four-percent tax on sales of tangible personal property and certain taxable services, including admission charges, utilities, telecommunications, transient housing, and transportation, among others. However, the Missouri Department of Revenue refers to the state's total sales tax rate as 4.225 percent. Certain transactions, such as sales to the government, are exempt.

Taxable "gross receipts" includes the total sales price, including any services (other than charges for extending credit) that are a part of the sale.

Note: In November 2016 voters approved an amendment to the Missouri constitution that prohibits the expansion of state and local sales and use taxes (or any similar transaction-based tax) to impose taxes on any service or transaction that was not subject to sales, use or similar transaction-based tax on January 1, 2015. [Mo. Const. art. X, § 26.](#)

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located.

If title passes from the contractor to the purchaser before tangible personal property is attached to real property, the contractor does not pay tax on its purchase, but must collect tax on the item's sale price. If title passes after the attachment, the contractor is subject to tax on the purchase of the tangible personal property and does not collect tax on the item's transfer of ownership or title. Generally, title passes after installation is complete, unless the contractor and purchaser expressly agree otherwise.

Persons selling tangible personal property to construction contractors to be incorporated into realty are subject to the state's sales tax on their gross receipts from the sales. Retail sales of tangible personal property and materials to construct, repair, or remodel facilities for an exempt entity, such as a political subdivision, school, or other specified entity, are exempt if the purchases are related to the entities' exempt functions and activities. Contractors are not exempt from sales tax on the purchase of machinery, equipment, or tools used to fulfill contracts for exempt entities.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located.

A cabinetmaker who creates cabinets or counter tops from raw materials for sale to contractors or customers may be exempt. The cabinetmaker's "purchases of energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing process are exempt from state sales and use tax and local use tax, but not local sales tax on items allowed under section 144.054, RSMo."

Persons selling tangible personal property to subcontractors to be incorporated into realty, are subject to the state's sales tax on gross receipts from the sales.

Retail sales of tangible personal property and materials to construct, repair, or remodel facilities for an exempt entity, such as a political subdivision, school, or other specified entity, are exempt if the purchases are related to the entities' exempt functions and activities. The contractor must furnish the exemption certificate to all subcontractors.

The Missouri Department of Revenue has stated by letter ruling that the "installation of plastic sheeting to protect occupied spaces during roof repair," removal the plastic sheeting with the dust and debris, and "blowing air over the tops of ducts and horizontal surfaces to remove dust and other debris" are not taxable services. Thus, "charges for installation and removal of the plastic sheeting with the captured debris and duct cleaning" after roof repair are not subject to the state's sales tax.

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located.

Persons selling tangible personal property or taxable services to banks, credit unions or institutions, and savings and loan associations are subject to the use tax. Persons selling to federal reserve banks and federal land banks are not subject to the state's use tax.

Insurance Services

No relevant provisions were located.

PROFESSIONAL SERVICES

Architects

No relevant provisions were located.

Attorneys

No relevant provisions were located.

Dentists

No specifically relevant provisions were located.

A dentist's purchase of tangible personal property to be used in the practice of his or her profession is deemed to be a purchase for use or consumption and not for resale.

Engineers

No relevant provisions were located.

Physicians

No specifically relevant provisions were located.

Purchases of tangible personal property by licensed physicians to be used in the practice of their profession are deemed to be purchases for use or consumption and not for resale.

Statutory section 144.062 amended 2007; §§ 144.010 and 144.030 amended 2018; § 144.020 amended 2019. Regulation 10-4.080 refiled 1976; rr. 10-112.010 and 10-110.621 amended 2007; r. 10-110.955 adopted 2001; r. 10-112.010 amended 2008.

[Mo. Rev. Stat. §§ 144.010, .020, .030, .062 \(2019\)](#); [Mo. Code Regs. Ann. tit. 12, §§ 10-4.080, -110.621, -110.955, -112.010 \(2019\)](#); [Mo. Dep't of Rev., Sales/Use Tax \(last visited Dec. 30, 2019\)](#); Mo. Dep't of Rev., Letter Ruling 6980 (Nov. 30, 2011); see also [Mo. Dep't of Rev., Taxable Services \(last visited Dec. 30, 2019\)](#)

Missouri, Sales tax on commissions

No relevant provisions were located.

Note: In November 2016 voters approved an amendment to the Missouri constitution that prohibits the expansion of state and local sales and use taxes (or any similar transaction-based tax) to impose taxes on any service or transaction that was not subject to sales, use or similar transaction-based tax on January 1, 2015. [Mo. Const. art. X, § 26.](#)

Missouri, Sales tax on related services

No relevant provisions were located.

Note: In November 2016 voters approved an amendment to the Missouri constitution that prohibits the expansion of state and local sales and use taxes (or any similar transaction-based tax) to impose taxes on any service or transaction that was not subject to sales, use or similar transaction-based tax on January 1, 2015. [Mo. Const. art. X, § 26.](#)

Montana

Montana, General service taxes

OVERVIEW

Montana does not have a broad-reaching sales tax. However, the state does impose a sales tax on accommodations, campgrounds, and the base rental charge for vehicles.

CONSTRUCTION SERVICES

No relevant provisions were located.

FINANCIAL SERVICES

Bank Service Charges

No relevant provisions were located.

Insurance Services

No specifically relevant provisions were located. However, an authorized insurer generally must pay a tax equal to 2.75 percent of the net premiums. Effective retroactively to tax years beginning after December 31, 2014, casualty insurers issuing legal professional liability insurance policies must pay a tax in the amount of 0.75 percent of those net premiums.

PROFESSIONAL SERVICES

No relevant provisions were located.

Section 15-68-102 amended 2019; § 15-68-101 amended 2005; § 33-2-705 amended 2017.

[Mont. Code §§ 15-68-101, -102; 33-2-705 \(2019\)](#)

Montana, Sales tax on commissions

No relevant provisions were located.

Montana, Sales tax on related services

No relevant provisions were located.

Nebraska

Nebraska, General service taxes

OVERVIEW

Nebraska does not have a broad-reaching sales tax on services. However, the state assesses a 5.5-percent tax on several services, including utility installation, admissions, lodging accommodations, and other specified services.

CONSTRUCTION SERVICES

Construction Contractors

Generally, gross receipts from a construction project or the repair of real estate or fixtures are exempt from the state's sales tax, except as otherwise provided by regulation. In most cases, sales of building materials are taxable.

A contractor or repairperson may elect how he or she is taxed. A contractor or repairperson who does not elect to be taxed as a retailer is considered to be the consumer of the building materials he or she furnishes. A contractor or repairperson may elect as follows:

- to be taxed as a retailer, in which case he or she is not considered to be the final consumer of building materials annexed to real estate (Option 1);
- to be taxed as the consumer of building materials annexed to real estate, in which case he or she will pay the sales tax at the time of purchase and will "maintain a tax-paid inventory" (Option 2); or
- to be taxed as the consumer of building materials annexed to real estate, and issue a resale certificate when purchasing building materials and remit the appropriate use tax on any building materials when withdrawn from inventory (Option 3).

Beginning October 1, 2007:

- an Option 1 contractor's labor charges that are separately stated on the billing invoice are not taxable; and
- an Option 2 or Option 3 contractor's labor charges for installation of items that become annexed to real estate are normally not taxable.

Construction services performed on an "owner-occupied residential unit" were subject to tax before October 1, 2007. An owner may obtain a refund of any sales and use taxes paid by the owner on construction services. More specifically, the taxpayer is entitled to a refund of sales tax paid on the gross receipts for "the labor of a contractor for any major addition, remodeling, restoration, repair, or renovation . . . as it existed prior to October 1, 2007."

A contractor must register in the Contractor Registration Database and elect a contractor option by completing the Nebraska Department of Labor's online Contractor/Subcontractor Registration Application. Contractors who do not register and elect a contractor option are treated as a retailer under Option 1.

Generally, charges for installation and repair labor are taxable if the item of property being installed, repaired, or replaced:

- is taxable; and
- is not annexed to real property.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located. However, as with a contractor, a "repairman" may elect how he or she is taxed. (See "*Construction Contractors*" above.)

FINANCIAL SERVICES

Bank Service Charges

Taxable construction services explicitly do not include lender fees or closing costs. However, a financial institution that sells, leases, or rents property or services to consumers must collect and remit the tax. Taxable sales by financial institutions include, but are not necessarily limited to, "sales of checkbooks, silverware, pictures, savings or piggy banks, and repossessed merchandise."

Safe-deposit box rentals are not taxable, but personalized checks are.

Insurance Services

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

No relevant provisions were located.

Attorneys

No relevant provisions were located.

Dentists

Charges for a dentist's professional services are not taxable, and dentists are considered consumers of all property and services they purchase for use in their profession.

Engineers

No relevant provisions were located.

Physicians

Charges for a physician's professional services are not taxable, and physicians are considered consumers of all property and services they purchase for use in their profession.

Statutory section 77-2701.02 amended 2003; §§ 77-2701.10 and 77-2704.55 amended 2007; regulation 1-038 amended 1994; r. 1-001 amended 2003; r. 1-051 amended 2005; r. 1-082 amended 2009; r. 1-017 and informational brochure revised 2011.

[Neb. Rev. Stat. §§ 77-2701.02, .10; -2704.55 \(2019\)](#); [316 Neb. Admin. Code § 1-001, -017, -038, -051, -082 \(2019\)](#); [Neb. Dep't of Revenue, *Nebraska Taxation of Contractors General Information* \(June 22, 2011\)](#); [Neb. Dep't of Revenue, *Information for Contractors* \(last visited Dec. 30, 2019\)](#)

Nebraska, Sales tax on commissions

No specifically relevant provisions were located. (316 Neb. Admin. Code § 1-017 (2007), which previously provided that taxable construction services did not include real estate brokerage commissions and fees, has been amended and no longer contains that provision.)

Regulation amended 2011.

See [316 Neb. Admin. Code § 1-017 \(2019\)](#)

Nebraska, Sales tax on related services

No relevant provisions were located. (316 Neb. Admin. Code § 1-017 (2007), which previously explicitly provided that taxable construction services did not include inspection fees and other certain costs, has been amended and no longer contains those provisions.)

Regulation amended 2011.

See [316 Neb. Admin. Code § 1-017 \(2019\)](#)

Nevada

Nevada, General service taxes

OVERVIEW

Nevada does not have a broad-reaching sales tax on services.

However, the state taxes some services. For example, Nevada imposes a tax on retailers equal to two percent of the gross receipts from the sale of tangible personal property sold at retail. Nevada's Department of Taxation indicates that the minimum statewide tax rate is 6.85 percent, once the local school support and relief taxes are added.

"Gross receipts" and "sales price" both include the total amount of the sale, without deducting labor or service costs, among other things. Also, the sales price includes any services that are a part of the sale, except the amount received for labor or services used to install or apply the property sold.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located.

A "construction contractor" is a person who "acts solely in his professional capacity or through others to construct, alter, repair, add to, remodel or otherwise improve any real property." A construction contractor is deemed to consume tangible personal property purchased to improve real property, so the tax applies to the total sales price of the property sold to the contractor.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located.

The term "construction contractor" includes subcontractors and specialty contractors. Therefore, the provisions described above (see "*Construction Contractors*") also apply to subcontractors.

Nevada's sales tax does not apply to installation charges for large appliances if the charges are stated separately on the sales receipt or in the sales contract. If a large appliance is "sold as a constituent part of a contract for the construction or refurbishment of an improvement to real property or a mobile home," the contractor must pay the sales tax on the sales price of the large appliance *to* the contractor.

The state's tax applies to charges for painting tangible *personal* property in connection with producing a finished product for consumers, but it does not apply to charges for painting *real* property.

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

No specifically relevant provisions were located. The state's provisions that apply to construction contractors do *not* apply to licensed architects.

Attorneys

No relevant provisions were located.

Dentists

No specifically relevant provisions were located.

Engineers

No specifically relevant provisions were located. The state's provisions that apply to construction contractors do *not* apply to licensed professional engineers.

Physicians

No relevant provisions were located.

Statutory section 372.105 enacted 1955; § 372.7265 enacted 1997; §§ 372.025 and 372.065 amended 2006; regulation 372.450 enacted 1968; R. 372.200 amended 1979; R. 372.190 amended 2012.

[Nev. Rev. Stat. §§ 372.025, .065, .105, .7265 \(2017\)](#); [Nev. Admin. Code §§ 372.190, .200, .450 \(2018\)](#);
See [Nev. Dep't of Taxation, Sales & Use Tax Publications \(last visited Dec. 30, 2019\)](#)

[Nevada, Sales tax on commissions](#)

No relevant provisions were located.

[Nevada, Sales tax on related services](#)

No relevant provisions were located.

New Hampshire

New Hampshire, General service taxes

OVERVIEW

Although New Hampshire taxes a few services, such as communications, utilities, hotels, and served meals, it does not have a broad-reaching sales tax on retail sales of tangible personal property or services.

CONSTRUCTION SERVICES

No relevant provisions were located.

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

No relevant provisions were located.

Section 78-A:6 amended 2009; § 82-A:3 amended 2003; § 82-A:4 amended 2004.

See, e.g., [N.H. Rev. Stat. §§ 78-A:6; 82-A:3, :4 \(2019\)](#)

New Hampshire, Sales tax on commissions

No relevant provisions were located.

New Hampshire, Sales tax on related services

No relevant provisions were located.

New Jersey

New Jersey, General service taxes

OVERVIEW

New Jersey generally imposes a 6.625 percent tax on receipts from retail sales of tangible personal property or specified digital products and receipts from every sale (except for resale) of specified services, including, among others,

- producing or printing certain tangible personal property or specified digital products;
- installing certain tangible personal property, but not most services rendered installing property that "will constitute an addition or capital improvement to real property, property or land";
- storing tangible personal property not held for sale in the regular course of business;
- maintaining, servicing or repairing real property (other than certain residential heating system units), "as distinguished from adding to or improving such real property by a capital improvement";
- utility, telecommunications, and information services; and
- massage, bodywork or somatic services (unless provided pursuant to a doctor's prescription).

Also, "sales price" includes the total consideration for which personal property or services are sold, without deducting for labor or service costs, costs of transportation to the seller, charges for "services necessary to complete the sale," and delivery charges, among others.

CONSTRUCTION SERVICES

Construction Contractors

Services rendered by a contractor installing tangible personal property are generally subject to tax, unless the installation results in a capital improvement to real property. The factors that determine whether services result in a capital improvement include whether the improvement results in:

- an increase in the real property's value; and
- a significant increase in the real property's useful life.

Contractors may not collect tax from the customer for installations that result in a capital improvement to real property, except for landscaping services, floor covering installations, or alarm system installations. Payment of the tax on materials used in a nontaxable capital improvement is the contractor's responsibility, and the services are not subject to tax. If a property owner purchases construction materials and supplies from a retail store or other supplier, instead of having the contractor purchase or supply them,

- the property owner is liable for sales tax on the construction materials and supplies; and
- the capital improvement exemption applies only to the services.

Services rendered by a contractor in maintaining, servicing, or repairing real property (except for certain residential heating system repairs and garbage removal) are generally subject to tax, but the contractor must charge the sales tax on only that portion of his or her bill attributable to services. The tax on materials used is the contractor's responsibility. New Jersey's regulations provide that services subject to tax explicitly include repainting the interior or exterior of a building; patching a roof; cleaning up oil spills; snow plowing; power-washing a building; lawn mowing; applying lawn chemicals; tree spraying; and weeding.

Receipts from sales made to contractors of materials, supplies, or services for use on the real property of certain exempt organizations, qualified businesses within an enterprise zone, or certain "housing sponsors" with projects that have received subsidies are exempt from the state's sales tax.

Taxable services purchased *by* a contractor are also subject to tax unless they are performed for a purchasing contractor exclusively for use in fulfilling a contract with an exempt organization. The services subject to tax include, but are not limited to, the following:

- fabricating tangible personal property;
- "installing tangible personal property, for the benefit of the contractor, rather than the property owner," such as installing scaffolding or temporary construction fencing or lighting; and
- maintaining, servicing, or repairing real or tangible personal property, such as debris removal.

If a person fabricates items to be incorporated into real property and installs the property, the person may purchase all component materials as purchases for resale, so the fabricator/contractor is not required to pay tax on those materials at the time of purchase. If a fabricator/contractor sells the completed product for installation by someone else, he or she must collect tax on the product's sales price. See regulation § 18:24-5.11 for additional provisions related to a fabricator/contractor's sale and installation of completed products.

Carpenters, Plumbers, and Similar Trades

A "contractor" is an "individual, partnership, corporation or other commercial entity engaged in any business involving erecting structures for others, or building, or otherwise improving, altering, or repairing real property of others." ("Contractor" does not include "the owner of the real property on which services are being performed.") Therefore, the provisions that apply to contractors (as described above in "*Construction Contractors*") apply to tradespersons providing services to real property owners.

A "subcontractor" is a contractor who enters into a contract to perform a specified operation for a second contractor. Generally, services performed by subcontractors for prime contractors that result in real property capital improvements are not subject to tax. However, New Jersey's regulations provide that the following services performed by a subcontractor are subject to sales tax upon purchase by a prime contractor:

- landscaping services;
- flooring installation services; and
- alarm or security system installation services.

A subcontractor's purchases are taxed in the same manner as a prime contractor's purchases. Taxable services performed "by a subcontractor for a prime contractor are not subject to collection of tax by the subcontractor from the prime contractor." In such cases, the prime contractor is responsible for collecting the tax. However, the subcontractor should maintain records to substantiate that he or she performed taxable services for a prime contractor.

A subcontractor's materials purchased to fulfill service contracts with prime contractors are subject to tax, unless the purchases are for "exclusive use in fulfilling service contracts with a prime contractor fulfilling a contract with an exempt organization."

New Jersey's regulations provide that charges for landscaping, floor covering installation, and alarm system installation charges that result in capital improvements are taxable to the party who contracts with the contractor performing the service, which may be the property owner or the prime contractor. Charges for installation services that result in other capital improvements are exempt from sales tax.

FINANCIAL SERVICES

Bank Service Charges

No generally relevant provisions were located.

New Jersey imposes a seven-percent tax on receipts from retail sales of safe-deposit box rentals.

Insurance Services

"Retail sale" does not include insurance service transactions that involve the transfer of tangible personal property as an "inconsequential element" for which no separate charges are made.

PROFESSIONAL SERVICES

Accountants

No specifically applicable provisions were located. Generally, a "retail sale" does not include professional or personal service transactions that involve the transfer of tangible personal property as an "inconsequential element" for which no separate charges are made.

Architects

No specifically applicable provisions were located. Generally, a "retail sale" does not include professional or personal service transactions that involve the transfer of tangible personal property as an "inconsequential element" for which no separate charges are made.

Attorneys

Generally, a "retail sale" does not include professional or personal service transactions that involve the transfer of tangible personal property as an "inconsequential element" for which no separate charges are made. New Jersey's regulations explicitly provide that an attorney who consults with a purchaser of his professional services, gathers information, and draws up a legal document is not providing an information service, and his or her services are not subject to tax.

Dentists

No specifically applicable provisions were located. Generally, a "retail sale" does not include professional or personal service transactions that involve the transfer of tangible personal property as an "inconsequential element" for which no separate charges are made.

Engineers

No specifically applicable provisions were located. Generally, a "retail sale" does not include professional or personal service transactions that involve the transfer of tangible personal property as an "inconsequential element" for which no separate charges are made.

Physicians

No specifically applicable provisions were located. However, generally, a "retail sale" does not include professional or personal service transactions that involve the transfer of tangible personal property as an "inconsequential element" for which no separate charges are made. Also, although tattooing, including all permanent body art and permanent cosmetic make-up applications, are taxable, services provided pursuant to a doctor's prescription in conjunction with reconstructive breast surgery are not.

Statutory section 54:32B-8.22 amended 2006; § 54:32B-2 amended 2018; § 54:32B-3 amended 2018. Regulations amended 2016.

[N.J. Stat. §§ 54:32B-2, -3, -8.22 \(2019\)](#); N.J. Admin. Code §§ 18:24-5.2, .3, .5, .6, .7, .8, .10, .11, .12; -22.3; -35.5 (LexisNexis 2019)

New Jersey, Sales tax on commissions

No specifically relevant provisions were located. Generally, a "retail sale" does not include professional or personal service transactions that involve the transfer of tangible personal property as an "inconsequential element" for which no separate charges are made.

Section amended 2014.

N.J. Stat. § 54:32B-2 (2019)

New Jersey, Sales tax on related services

APPRAISALS

New Jersey's regulations explicitly provide that "a business obtain[ing] information concerning a particular piece of real property, which may include an on-site inspection of such property in order to sell a real estate appraisal to banks, mortgage companies, individuals, etc." is obtaining an "appraisal service," which is not an information service and is not subject to the state's sales tax.

HOME INSPECTIONS

No specifically relevant provisions were located. Generally, a "retail sale" does not include professional or personal service transactions that involve the transfer of tangible personal property as an "inconsequential element" for which no separate charges are made.

MLS SERVICES

New Jersey's regulations explicitly provide that a multiple listing service, which is available only to a real estate licensee and facilitates offers of cooperation and compensation between brokers, is not an information service and is not subject to the state's sales tax.

PROPERTY MANAGEMENT

No specifically relevant provisions were located. Generally, a "retail sale" does not include professional or personal service transactions that involve the transfer of tangible personal property as an "inconsequential element" for which no separate charges are made.

LAND SURVEYS

No specifically relevant provisions were located. Generally, a "retail sale" does not include professional or personal service transactions that involve the transfer of tangible personal property as an "inconsequential element" for which no separate charges are made.

OTHER RELATED SERVICES

Title abstract services

No specifically relevant provisions were located. However, New Jersey's regulations explicitly provides that a title insurance company issuing a title policy, which includes the pass-through of costs associated with obtaining and examining necessary title information, is not an information service and is not subject to the state's sales tax.

Environmental testing services

Effective New Jersey's regulations explicitly provide that a business performing environmental testing services and issuing a report on factors, such as the condition of the property, levels of a particular substance, or habitability, is not providing an information service and the report is not subject to the state's sales tax.

Section amended 2011; regulation amended 2016.

[N.J. Stat. § 54:32B-2 \(2019\)](#); N.J. Admin. Code § 18:24-35.5 (LexisNexis 2019)

New Mexico

New Mexico, General service taxes

OVERVIEW

Although New Mexico does not technically have a "sales tax," it imposes a broadly based "gross receipts tax" on persons engaged in business in the state. The tax differs from a sales tax in that the persons engaged in business are "solely liable" for the tax, rather than collectors on the state's behalf.

New Mexico's gross receipts tax is an excise tax equal to five and one-eighth percent of gross receipts. Gross receipts from performing a service in New Mexico are subject to the tax unless a specific exemption or deduction applies. In this context, "service" means "all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property." "In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling."

"Gross receipts" include, among other things, the total consideration received from selling services performed outside New Mexico or from performing services in New Mexico.

Unless a specific exemption applies, New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax."

CONSTRUCTION SERVICES

Construction Contractors

Unless a transaction is exempt, construction activities and tangible personal property that will become part of a construction project are generally both included in the taxable transaction. However, a person in the construction business may execute a nontaxable transaction certificate for the *purchase* of tangible personal property that will become part of a construction project.

Also, a contractor may deduct construction service or construction-related service receipts from gross receipts if the sale is "made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person performing the construction service." In that case, the buyer delivering the nontaxable transaction certificate must have the construction services directly contracted for or billed to a construction project that is:

- subject to the gross receipts tax upon completion;
- subject to the gross receipts tax upon the sale of the real property upon which the project was constructed; or
- located on the tribal territory of an Indian nation, tribe, or pueblo.

Effective January 1, 2013, "construction-related service," as used in this context, means "a service directly contracted for or billed to a specific construction project, including design, architecture, drafting, surveying, engineering, environmental and structural testing, security, sanitation and services required to comply with governmental construction-related regulations." However, the

term excludes "general business services such as legal or accounting services, equipment maintenance and real estate sales commissions."

Construction services for certain facilities, such as a "sole community provider hospital" located in a "federally designated health professional shortage area," may be deducted under certain circumstances.

Carpenters, Plumbers, and Similar Trades

Generally, services provided by tradespersons are taxable at the rate of five and one-eighth percent of gross receipts. However, a subcontractor may deduct gross receipts if the primary contractor provides the subcontractor with certain nontaxable transaction certificates.

FINANCIAL SERVICES

Bank Service Charges

No specifically applicable provisions were located. However, because New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax" and no explicit exemption or deduction was located, bank service charges are presumed to be taxed at the rate of five and one-eighth percent of gross receipts.

Insurance Services

Because New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax," insurance services are presumed to be taxed at the rate of five and one-eighth percent of gross receipts. However, an insurance company's receipts from premiums for surety bonds or insurance policies are exempt from the gross receipts tax.

PROFESSIONAL SERVICES

Accountants

No specifically applicable provisions were located. However, because New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax" and no explicit exemption or deduction was located, an accountant's services are presumed to be taxed at the rate of five and one-eighth percent of gross receipts.

The construction exemptions do not apply to accounting services because "construction" does not include services that do not physically change the land or create, change, or demolish a structure. Accordingly, accounting services are explicitly excluded from the definition of "construction."

Architects

No specifically applicable provisions were located. However, because New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax" and no explicit exemption or deduction was located, an architect's services are presumed to be taxed at the rate of five and one-eighth percent of gross receipts.

The construction exemptions do not apply to architectural services because "construction" does not include services that do not physically change the land or create, change, or demolish a structure. Accordingly, architectural services are explicitly excluded from the definition of "construction." Architectural services for certain facilities, such as a "sole community provider hospital" located in a "federally designated health professional shortage area," may be deducted under certain circumstances.

Attorneys

Attorneys' fees are subject to New Mexico's gross receipts tax, regardless of the source of payment or the fact of court appointment, to the extent that the services are performed in the state.

The construction exemptions do not apply to legal services because "construction" does not include services that do not physically change the land or create, change, or demolish a structure. Accordingly, legal services are explicitly excluded from the definition of "construction."

Dentists

Dental services are presumed to be taxed at the rate of five and one-eighth percent of gross receipts, unless deductible. However, certain medical and health care services are deductible from gross receipts, including receipts from payments by the United States government for dental services.

Engineers

No specifically applicable provisions were located. However, because New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax" and no explicit exemption or deduction was located, engineering services are presumed to be taxed at the rate of five and one-eighth percent of gross receipts.

The construction exemptions do not apply to engineering services because the term "construction" does not include services that do not physically change the land or create, change, or demolish a structure. Accordingly, engineering services are explicitly excluded from the definition of "construction." Engineering services for certain facilities, such as a "sole community provider hospital" located in a "federally designated health professional shortage area," may be deducted under certain circumstances.

Physicians

Physicians' services are presumed to be taxed at the rate of five and one-eighth percent of gross receipts, unless deductible. Also, New Mexico specifically provides that a nonemployee anesthetist's receipts from anesthetic services performed for a surgeon are subject to the gross receipts tax. However, certain medical and health care services are deductible from gross receipts, including receipts from payments by the United States government for specified medical and health services, by a third-party administrator of the federal TRICARE program, or by the Indian health service for services by medical doctors and osteopathic physicians.

A health care practitioner may also deduct:

- certain receipts from payments by a managed health care provider or health care insurer for commercial contract services or Medicare part C services; and
- payments by a third-party claims administrator pursuant to a contract with a managed care company or a health insurer.

Statutory section 7-9-24 amended 1988; § 7-9-4 amended 2010; § 7-9-51 amended 2001; § 7-9-99 amended 2006; §§ 7-9-3, 7-9-3.5, and 7-9-5 amended 2019; § 7-9-52 amended 2012; § 7-9-77.1 amended 2014; regulations 3.2.1.29, 3.2.6.9, and 3.2.112.8 amended 2001; rr. 3.2.241.9 and 3.2.241.10 amended 2006; r. 3.2.1.11 amended 2018; r. 3.2.1.18 amended 2012.

[N.M. Stat. §§ 7-9-3, -3.5, -4, -5, -24, -51, -52, -77.1, -99 \(2019\); N.M. Code R. §§ 3.2.1.11, .18, .29; .6.9; .112.8; .241.9, .10 \(2019\)](#)

New Mexico, Sales tax on commissions

SALES TAX AMOUNT

Although New Mexico does not technically have a "sales tax," it imposes a "gross receipts tax" equal to five and one-eighth percent of gross receipts on persons engaged in business in the state. "Gross receipts" include "the total commissions or fees derived from the business of buying, selling or promoting the purchase, sale or lease, as an agent or broker on a commission or fee basis, of any property, service, stock, bond or security." "Property" includes real property.

Receipts from commissions on real property sales are not deductible under § 7-9-66 (which permits deductions for commissions received on sales of tangible *personal* property that is not subject to the tax).

If a real estate brokerage commission is apportioned by prior written or oral agreement among the broker who listed the property, the broker who sold the property, and the "sales personnel of each," the parties must allocate the gross receipts from the commission as provided in the agreement. The tax is calculated according to this allocation, provided that the real estate brokers must "withhold and pay over the gross receipts tax applicable to that portion of the commission allocated to sales

personnel of that broker."

Receipts of a person in the construction business from the sale of a completed construction project include the amounts the person received and then paid to a real estate broker. The total receipts from the construction project's sale are generally subject to the gross receipts tax. (See § 7-9-66.1 for deductions related to amounts subject to the gross receipts tax pursuant to § 7-9-53(A).)

A real estate broker's receipts from performing services for a person engaged in the construction business may not be deducted from gross receipts pursuant to § 7-9-52 (regarding deducting receipts from selling a construction service if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person performing the service).

EXCEPTIONS

Real estate commissions on the portion of a transaction subject to gross receipts tax pursuant to § 7-9-53(A) (regarding receipts from the sale or lease of real property and from the lease of a manufactured home) may be deducted from gross receipts if the person claiming the deduction submits to the department evidence substantiating the deduction. In this context, "commissions on that portion of the transaction subject to gross receipts tax" is the portion of the commission that "bears the same relationship to the total commission as the amount of the transaction subject to gross receipts tax does to the total purchase price." The formula for determining the deductible portion of a real estate commission is as follows: "Deductible commission equals total real estate commission times a fraction, the numerator of which is the taxable receipts from the sale of the property and the denominator of which is the total receipts from the sale of the property." "Taxable receipts from the sale" is the portion of the receipts that is "attributable to improvements constructed on the real property by the seller in the ordinary course of the seller's construction business." New Mexico's regulations provide the following example:

A real estate broker receives a \$6,000 commission on a \$100,000 sale of property by a construction contractor. Of the \$100,000, \$70,000 is the value of improvements constructed by the seller, for which the seller is subject to gross receipts tax. \$30,000 is the value of the underlying land, which the seller (contractor) can deduct from gross receipts pursuant to Section 7-9-53 NMSA 1978. The real estate broker must report \$6,000 as gross receipts. The real estate broker may calculate the deductible portion using the formula given in Subsection A of Section 3.2.226.8 NMAC: $\$6,000 \times \$70,000 / \$100,000 = \$4,200$.

Thus, the real estate broker deducts \$4,200 and pays tax on the remaining \$1,800.

No portion of a real estate commission is deductible if the total receipts from the real property sale are either deductible or exempt from gross receipts tax. For example,

Example 1: A real estate broker receives a \$6,000 commission on the sale of a home by the owner. The receipts of the homeowner from the sale are exempt as receipts from an isolated or occasional sale pursuant to Section 7-9-28 NMSA 1978. The real estate broker must pay tax on the entire \$6,000 commission.

Example 2: A real estate broker receives a \$6,000 commission on the sale of a piece of raw land by a developer. Receipts from the sale of the land are deductible from gross receipts as receipts from the sale of real property pursuant to Section 7-9-53 NMSA 1978. The real estate broker must pay tax on the entire \$6,000 commission.

Statutory section 7-9-66.1 enacted 1990; § 7-9-53 amended 1998; §§ 7-9-3 and 7-9-3.5 amended 2019; § 7-9-4 amended 2010; regulations 3.2.225.8, 3.2.226.8, and 3.2.226.9 amended 2001; r. 3.2.1.18 amended 2012.

[N.M. Stat. §§ 7-9-3, -3.5, -4, -53, -66.1 \(2019\); N.M. Code R. §§ 3.2.1.18; .225.8; .226.8, .9 \(2019\)](#)

New Mexico, Sales tax on related services

APPRAISALS

No specifically applicable provisions were located. However, because New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax" and no explicit exemption was located, an appraiser's services are presumed to be taxed at the rate of five percent of gross receipts.

HOME INSPECTIONS

No specifically applicable provisions were located. However, because New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax" and no explicit exemption was located, a home inspector's services are presumed to be taxed at the rate of five percent of gross receipts.

MLS SERVICES

No specifically applicable provisions were located. However, because New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax" and no explicit exemption was located, MLS services are presumed to be taxed at the rate of five percent of gross receipts.

PROPERTY MANAGEMENT

No specifically applicable provisions were located. However, because New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax" and no explicit exemption was located, a property manager's services are presumed to be taxed at the rate of five percent of gross receipts.

LAND SURVEYS

No specifically applicable provisions were located. However, because New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax" and no explicit exemption was located, a surveyor's services are presumed to be taxed at the rate of five percent of gross receipts.

The construction exemptions do not apply because "construction" does not include services that do not physically change the land or create, change, or demolish a structure. Accordingly, surveying services are explicitly excluded from the definition of "construction."

OTHER RELATED SERVICES

Title abstract services

No specifically applicable provisions were located. However, because New Mexico presumes that "all receipts of a person engaging in business are subject to the gross receipts tax" and no explicit exemption or deduction was located, title abstract services are presumed to be taxed at the rate of five percent of gross receipts.

Escrow fees

An escrow agent's receipts from handling installment purchase agreements (such as real estate contracts) are not deductible from gross receipts.

Statutory section 7-9-5 amended 2019; regulation 3.2.219.8 amended 2001; r. 3.2.1.11 amended 2018.

[N.M. Stat. § 7-9-5 \(2019\)](#); [N.M. Code R. §§ 3.2.1.11; .219.8 \(2019\)](#)

New York

New York, General service taxes

OVERVIEW

New York does not have a broad-reaching sales tax on services.

The state generally imposes a four percent tax on receipts from retail sales of tangible personal property and specified services, such as certain utilities, telecommunications services, parking, interior design, protective services, and installation of tangible personal property, among others. The tax is also assessed on "maintaining, servicing or repairing tangible personal property. . . not held for sale in the regular course of business" (except "for installing property which, when installed, will constitute an addition or capital improvement to real property").

The state also assesses a tax on "maintaining, servicing or repairing real property . . . whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property. . . by a capital improvement." This tax excludes services by an individual who is not in a regular trade or business that offers services to the public and those rendered with respect to property used in the production of gas or oil, used predominantly either in producing tangible personal property for sale by farming or in a commercial horse boarding operation, or in certain waste-removal facilities.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located, although services on real property are generally taxable if the work is for repair or maintenance.

The sale of tangible personal property *to* a contractor for use in erecting structures or buildings or "adding to, altering, improving, maintaining, servicing or repairing real property" is deemed to be a taxable "retail sale." However, this provision does not apply to property:

- used to erect a structure for an exempt organization;
- used to erect a structure used predominantly in the "production phase" of farming or in a commercial horse-boarding operation; or
- used to add to, alter, or improve the above real property,

provided the tangible personal property will become an "integral component part" of the structure or real property. A similar exemption applies to tangible personal property sold to a contractor to maintain, service, or repair such real property.

A sale of tangible personal property sold *by* a contractor to a person (other than an exempt organization) for whom he or she is adding to or improving real property by a capital improvement is also exempt, if the personal property is to become an "integral component part" of the structure or real property.

The state's regulations give the following examples:

Example 1: A contractor enters into a contract to build an addition to a home for \$35,000. The terms of the contract are time and materials (\$20,000 for materials and \$15,000 for labor). Since the contractor is the consumer of the materials and the materials become an integral component part of the real property, he cannot charge his customer the tax on the materials.

Example 2: A contractor builds a home for a customer which includes the sale of a free-standing refrigerator. He is required to collect the tax on the sale of the refrigerator.

See N.Y. Comp. Codes R. & Regs. tit. 20, §§ 527.7, 541.1, 541.2, 541.3, 541.5, and 541.7 for details regarding the application of the tax to contractors', subcontractors', and repairmen's services, purchases, and sales in various situations.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located, although services on real property are generally taxable if the work is for repair or maintenance. The state assesses a tax on "maintaining, servicing or repairing real property . . . whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property . . . by a capital improvement." This tax excludes services by an individual who is not in a regular trade or business that offers services to the public and those rendered with respect to property used in the production of gas or oil, used predominantly either in producing tangible personal property for sale by farming or in a commercial horse-boarding operation, or certain waste-removal facilities.

Generally, the sale of tangible personal property to a subcontractor or repairman for use in erecting structures or buildings or "adding to, altering, improving, maintaining, servicing or repairing real property" is deemed to be a "retail sale." However, this provision does not apply to property:

- used to erect a structure for an exempt organization;
- used to erect a structure used predominantly in the "production phase" of farming or in a commercial horse-boarding operation; or
- used to add to, alter, or improve the above real property,

provided the tangible personal property is to become an "integral component part" of the structure or real property. A similar exemption applies to tangible personal property sold to a subcontractor or repairman to maintain, service, or repair such real property.

A sale of tangible personal property sold *by* a subcontractor or repairman to a person (other than an exempt organization) for whom he or she is adding to or improving real property by a capital improvement is exempt from the tax, provided the personal property is to become an "integral component part" of the structure or real property.

Consistent with the above law, the New York State Department of Taxation and Finance has opined that the original installation or entire replacement of stairs by a manufacturer and installer of stairs and railings generally qualifies as a capital improvement and therefore is not taxable.

See N.Y. Comp. Codes R. & Regs. tit. 20, §§ 527.7, 541.1, 541.2, 541.3, 541.5, and 541.7 for details regarding the application of the tax to contractors', subcontractors', and repairmen's services, purchases, and sales in various situations.

FINANCIAL SERVICES

Bank Service Charges

No relevant provisions were located.

However, New York statutes explicitly provide that a sale by a credit union is exempt from the sales tax if it is a "vendor of services or property of a kind not ordinarily sold by private persons."

Also, tangible personal property purchased for promotional or advertising purposes and given away or sold for a minimal charge, or that is not ordinarily sold by that person in his or her business operation, is a retail sale to the purchaser, and not a sale to the recipient. New York's regulations provide the following example:

A bank has purchased premiums which will be given to depositors upon the opening of an account in a new branch. As the bank is not in the business of selling such items, and as it in fact does not sell such items to its customers, the sale to the bank of such items of tangible personal property is a retail sale which is taxable at the time of purchase. The bank has not purchased these items for resale.

Insurance Services

No generally relevant provisions were located. However, receipts from sales of and fees associated with water and sewer service line protection programs sold to residential property owners are exempt.

PROFESSIONAL SERVICES

Accountants

No specifically relevant provisions were located. Note that "the activities in the state of an affiliated person in providing accounting . . . services or advice to a seller, . . . including, but not limited to, making decisions about (a) strategic planning, (b) marketing, (c) inventory, (d) staffing, (e) distribution, or (f) cash management, will not result in making the seller a vendor" in the context of the state's sales tax.

Architects

Interior decorating and designing services are subject to the state's sales tax, including those services performed by architects. However, the taxable services do not include "services which consist of the practice of architecture," as defined by § 7301 of the state's education law, provided the services are performed by a licensed architect.

Attorneys

No specifically relevant provisions were located. Note that "the activities in the state of an affiliated person in providing . . . legal services or advice to a seller, . . . including, but not limited to, making decisions about (a) strategic planning, (b) marketing, (c) inventory, (d) staffing, (e) distribution, or (f) cash management, will not result in making the seller a vendor" in the context of the state's sales tax.

The New York Tax Department has clarified the taxability of certain attorney services. An attorney's charges for examining an abstract, issuing a title report and closing title, when a title underwriter issues the title policy, are not taxable. However, an attorney's title report in other contexts may be subject to the state's sales tax. For example, in Zone 1, an attorney in private practice who is representing one of the parties may prepare and issue a title report to a title company. Based on that title report, the company will issue a title insurance policy and remit a portion of the premium

to the attorney. Because a non-lawyer may prepare a title report, the attorney's sale of the title report is subject to sales tax as the sale of an information service. However, the preparation of a title report by a lawyer, for which there is no separate charge and which is an incidental part of a larger service, is not taxable. See N.Y. Tax Bulletin TB-ST-5 (Sept. 23, 2010) for additional details regarding the taxability of certain attorney services.

Dentists

No specifically relevant provisions were located.

New York regulations clarify that a dentist's purchase of products, such as gold to be used in fillings, is not a purchase for resale, even though the product is transferred to the patient. Tangible personal property purchased to use in performing a service that is not subject to tax is not a purchase for resale. (If a person, in the course of his business operations, purchases tangible personal property or services that he or she intends to sell, the property or services are considered to be purchases for resale that are generally not subject to tax until the property is transferred to the customer.)

Engineers

Interior decorating and designing services are subject to the tax, including those services performed by engineers. However, the taxable services do not include "services which consist of the practice of engineering," as defined by § 7201 of the state's education law, provided the services are performed by a licensed engineer.

Physicians

No relevant provisions were located.

Statutory section 1116 amended 2008; §§ 1101 and 1105 amended 2018; § 1115 amended 2017; § 1105 amended 2016. Regulation 526.3 adopted 1976; rr. 528.16 and 528.17 adopted 1977; r. 527.7 amended 1991; r. 541.5 amended 1992; rr. 528.18, 541.2, and 541.3 amended 1995; r. 541.7 amended 2000; r. 541.1 amended 2001; r. 526.6 amended 2008. Bulletin TB-ST-5 issued 2010; opinion TSB-A-12(6)S issued 2012.

[N.Y. Tax Law §§ 1101, 1105, 1115, 1116 \(2019\)](#); [N.Y. Comp. Codes R. & Regs. tit. 20, §§ 526.3, .6](#);

[527.7](#); [528.16](#), [.17](#), [.18](#); [541.1](#), [.2](#), [.3](#), [.5](#), [.7](#) (2019); [N.Y. Tax Bulletin TB-ST-5 \(Sept. 23, 2010\)](#); [N.Y. Sales Tax Advisory Opinion TSB-A-12\(6\)S \(March 19, 2012\)](#)

New York, Sales tax on commissions

No relevant provisions were located.

New York, Sales tax on related services

APPRAISALS

No relevant provisions were located.

HOME INSPECTIONS

The Tax Department has clarified that property inspections are "nontaxable sales." Furthermore, if a non-surveyor provides a title company with a report on whether or not there are any changes to an existing land survey that involves visually inspecting the real property, the service is not taxable.

MLS SERVICES

No relevant provisions were located.

PROPERTY MANAGEMENT

No specifically relevant provisions were located.

LAND SURVEYS

The Tax Department has clarified that charges for performing a land survey by a licensed surveyor are not subject to the state's sales tax. Therefore, the sales tax does not apply to a search company's charge for ordering and delivering the results of a land survey conducted by a licensed surveyor when the results are incorporated into a title report. Also, if a non-surveyor provides a title company with a report on whether or not there are any changes to an existing land survey, the service is not taxable.

OTHER RELATED SERVICES

Abstracts of title and other public record searches

The New York Tax Department's interpretation regarding the application of the sales and use tax to the sale of abstracts of title and other public record searches was changed. Sales of the following items are subject to sales tax unless the resale exclusion applies:

- title abstracts;

- tax searches;

- searches of municipal records for violations;

- certified or noncertified copies obtained from the public record;

- certificates of title and lien searches;

- certificates of good standing and franchise tax searches;

- cooperative unit searches; and

- zoning lot parties-in-interest certifications.

Any charge by a municipality or county clerk for records is not taxable. However, a search company's entire charge for the searches, including an amount charged to recoup the municipality's or county clerk's charge, is taxable.

The following are *not* taxable sales:

- title insurance or a guaranteed title search;
- surveyor charges, whether or not done by a licensed surveyor;
- property inspections;
- charges for recording instruments and related service charges; and
- charges of an examining counsel for examining an abstract, issuing a title report and closing title, when the title underwriter issues the title policy, although an attorney's issuance of a title report in other contexts may be subject to sales tax.

See N.Y. Tax Bulletin TB-ST-5 (Sept. 23, 2010) for additional details regarding the taxability of the above charges.

Real estate consulting services

The New York State Department of Taxation and Finance has issued an advisory opinion that concludes that independent real estate consulting services are not subject to state or local sales or compensating use taxes.

Bulletin TB-ST-5 issued 2010; opinion TSB-A-12(4)S issued 2012.

[N.Y. Tax Bulletin TB-ST-5 \(Sept. 23, 2010\)](#); [N.Y. Sales Tax Advisory Opinion TSB-A-12\(4\)S \(March 2, 2012\)](#)

North Carolina

North Carolina, General service taxes

OVERVIEW

North Carolina does not have a broad-reaching sales tax on services. The state imposes a tax on retailers in the amount of 4.75 percent of the retailer's net taxable sales or gross receipts. However, this tax applies to relatively few services, such as hotel room rentals, dry cleaners, laundries, certain utilities (some of which are taxed at a different rate), telecommunications, video programming, and satellite radio.

Also, "sales price" generally includes the total amount for which tangible personal property, certain digital property, or services are sold, leased, or rented, including the labor or service costs, all costs of transportation to the retailer, charges by the retailer for "any services necessary to complete the sale," delivery charges, and installation charges, among other things.

The general tax rate also applies to the sales price of or the gross receipts derived from repair, maintenance, and installation services. "Repair, maintenance, and installation services" includes, among other activities, "floor refinishing and the installation of carpet, flooring, floor coverings, windows, doors, cabinets, countertops, and other installations where the item being installed may replace a similar existing item. The replacement of more than one of a like-kind item, such as replacing one or more windows, is a single repair, maintenance, and installation service." It does not include an installation defined as a capital improvement or services used to fulfill a real property contract taxed in accordance with § 105-164.4H

CONSTRUCTION SERVICES

Construction Contractors

Effective March 1, 2015, the general rate applies to the sales price of or the gross receipts derived from repair, maintenance, and installation services.

Contractors are generally deemed to be the consumers of tangible personal property they use and are liable for paying the state's sales or use taxes on the property.

A "retailer-contractor" is liable for tax on the sales price of any tangible personal property sold at retail and on the cost price of any tangible personal property used to perform a contract. A "retailer-contractor" is a person that "acts as a retailer when it makes a sale at retail and as a real property contractor when it performs a real property contract."

A "real property contractor" is a person that "contracts to perform a real property contract" in accordance with § 105-164.4H. The term includes a general contractor, a subcontractor, or a builder. A real property contract is a "contract between a real property contractor and another person to perform a capital improvement to real property."

A "capital improvement," includes in relevant part:

- new construction, reconstruction, or remodeling;
- performance of work that requires the issuance of a permit under the State Building Code, other than repair or replacement of electrical components, gas logs, water heater, and similar individual items that are not part of new construction, reconstruction, or remodeling;
- painting or wallpapering of real property, except where painting or wallpapering is incidental to the repair, maintenance, and installation service;
- replacement or installation of a septic tank system, siding, roof, plumbing, electrical, commercial refrigeration, irrigation, sprinkler, or other similar system. but the term does not include the repair, replacement, or installation of electrical or plumbing components, water heaters, gutters, and similar individual items that are not part of new construction, reconstruction, or remodeling;

- replacement or installation of a heating or air conditioning unit or a heating, ventilation, or air conditioning system, but the term does not include the repair, replacement, or installation of gas logs, water heaters, pool heaters, and similar individual items that are not part of new construction, reconstruction, or remodeling;
- replacement or installation of roads, driveways, parking lots, patios, decks, and sidewalks;
- services performed to resolve an issue that was part of a real property contract if the services are performed within six months of completion of the real property contract or, for new construction, within 12 months of the new structure being occupied for the first time;
- landscaping; and
- addition or alteration to real property that is permanently affixed or installed to real property and is not an activity listed in § 105-164.3(33I) as a repair, maintenance, and installation service.

The general tax rate applies to the sales price of tangible personal property sold to a real property contractor for its use in erecting structures, building on, or otherwise improving, altering, or repairing real property. These sales are taxed as provided by N.C. Gen. Stat. § 105-164.4H, which generally provides that a real property contractor is the consumer of the personal property that the contractor installs or applies for others and that becomes part of real property. Therefore, a retailer generally must collect tax on the sales price of the tangible personal property sold at retail to a real property contractor unless a statutory exemption applies.

A mixed transaction contract that includes both a real property contract for a "capital improvement" and repair, maintenance, and installation services not related to the capital improvement is taxable as follows:

- if the allocated sales price of the taxable repair, maintenance, and installation services included in the contract is less than or equal to 25 percent, then the repair, maintenance, and installation services portion of the contract, and the tangible personal property, digital property, or service used to perform those service, are taxable as a real property contract pursuant to § 105.164.4H; and

- if the allocated sales price of the taxable repair, maintenance, and installation services included in the contract is greater than 25 percent of the contract price, then sales and use tax applies to the sales price of or the gross receipts derived from the taxable repair, maintenance, and installation services portion of the contract, in which case, the person "must determine an allocated price for each taxable repair, maintenance, and installation service in the contract based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business."

The relevant laws do not require contractors to collect a tax for their services.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located.

Subcontractors are liable for paying the state's sales tax on the taxable tangible personal property they *purchase* to fulfill their subcontracts, unless that property is otherwise exempt.

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located.

If a finance company maintains a regular place of business where repossessed personal property is sold as "an adjunct" to the company's principal business, the company must pay the state's tax on its sales. However, if the finance company, "as an incident only of its finance business, has occasion, from time to time, to repossess articles of tangible personal property upon which payments have become delinquent and sells such tangible personal property either at public auction or at private sale," those sales are not subject to the tax.

Insurance Services

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

Architects are assessed a sales tax on blueprints or plans if they reproduce and sell plans or drawings. No tax is due "when plans and specifications are instruments of service and title thereto remains with the architects."

Sales of blueprints *to* an architectural or engineering firm for use or consumption (not for resale) are subject to the state sales tax.

Attorneys

No relevant provisions were located.

Dentists

No specifically relevant provisions were located.

Dentists are deemed to be consumers of the tangible personal property they purchase for use in rendering professional services. With the exception of false teeth and orthopedic appliances, sales of tangible personal property *to* dentists are subject to the state's sales tax.

Engineers

No specifically relevant provisions were located.

Sales of blueprints, photographs, and other property to an engineering firm for use or consumption (not for resale) are subject to the state's sales tax.

Physicians

No specifically relevant provisions were located.

Sales *to* physicians of "medical instruments and laboratory equipment used to diagnose, prevent, treat, or cure disease" are subject to the state's sales tax. Sales of medical equipment and medical supplies are also subject to the sales tax, unless the sale is exempt because they are covered under Medicare or Medicaid programs and are sold on a medical necessity certificate or written prescription.

Statutory sections amended 2019. Regulations 07B.1604 expired July 1, 2019; r. 07B.4110 adopted 1976; r. 07B.1501 amended 1992; r. 07B.2701 amended 1993; r. 07B.1404 amended 2000; r. 07B.2611 amended 2002; r. 07B.4109 amended 2006; r. 07B.2607 amended 2009. Previously applicable regulations 07B.0806, 07B.2602, and 07B.2608 repealed 2016.

[N.C. Gen. Stat. §§ 105-164.3, .4, .4H \(2018\); 17 N.C. Admin. Code 07B.1404, .1501, .2701, .4109, .4110 \(2019\)](#)

North Carolina, Sales tax on commissions

No relevant provisions were located.

North Carolina, Sales tax on related services

No relevant provisions were located.

North Dakota

North Dakota, General service taxes

OVERVIEW

North Dakota does not have a broad-reaching sales tax on services, but the North Dakota legislature has visited the topic.

However, the state taxes some services. Although personal and professional services are generally not subject to sales tax, the materials and supplies used solely in rendering services are subject to sales tax *when purchased*. Also, North Dakota's five-percent sales tax applies to services such as certain communication services and hotel rooms, and "gross receipts" generally includes the total amount of consideration, without any deduction for labor or service costs or seller's charges for services necessary to complete the sale (except delivery and installation charges).

CONSTRUCTION SERVICES

Construction Contractors

A contractor or subcontractor installing materials into real property located in North Dakota must pay sales or use tax on those materials regardless of who owns them.

Gross receipts from sales in which a contractor furnishes to the retailer a certificate that includes the contractor's license number are explicitly exempted from the tax, and the contractor must remit the tax on taxable purchases made *by* the contractor in the same manner as retailers remit the state's sales tax.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located.

FINANCIAL SERVICES

Bank Service Charges

No relevant provisions were located. However, "[when] financial institutions are engaged in the business of purchasing tangible personal property for lease or rental at retail, they are required to collect and remit the tax from their customers on all periodic lease or rental payments unless the financial institution paid sales or use tax on the purchase price of the property at the time of purchase." If the financial institution offers the property as an inducement to deposit funds, sales tax applies on the full purchase price.

Insurance Services

No relevant provisions were located. North Dakota statutes specifically provide that insurance premiums are exempt from the tax imposed by chapter 57-39.2.

PROFESSIONAL SERVICES

No relevant provisions were located.

Statutory sections amended 2015; regulation 81-04.1-04-17 amended 2016; r. 81-04.1-01-22 amended 2002.

[N.D. Cent. Code §§ 57-39.2-01, -02.1, -04 \(2019\); N.D. Admin. Code 81-04.1-01-22, -04-17, -20 \(2019\)](#)

North Dakota, Sales tax on commissions

No relevant provisions were located.

North Dakota, Sales tax on related services

No relevant provisions were located.

Ohio

Ohio, General service taxes

OVERVIEW

Ohio levies a 5.75-percent tax on retail sales made in the state. A "sale" includes a transfer of tangible personal property and several services, including, among others, the repair and installation of taxable property, motor vehicle washing, laundry services, certain automatic data processing, electronic publishing and computer services, telecommunications, landscaping and lawn care, building maintenance and janitorial services, employment placement, exterminating services, sports clubs, satellite broadcasting, specified personal care services, transportation by motor vehicle or aircraft within the state, motor vehicle towing, snow removal services (unless provided by a person with less than \$5,000 in sales during the calendar year), and certain electronic publishing.

The taxed "price" generally means the total consideration, without deducting labor or service costs, charges for "services necessary to complete the sale," and delivery and installation charges, among other things.

CONSTRUCTION SERVICES

Construction Contractors

Generally, a construction contract pursuant to which tangible personal property is incorporated into a structure or improvement and becomes a part of the real property is not a sale of the tangible personal property. The construction contractor is the consumer of the personal property.

A "construction contract" is an agreement pursuant to which tangible personal property is "transferred and incorporated into real property . . . so as to become a part thereof without regard to whether it is new construction or an addition to or alteration of an existing building or structure." A "construction contractor" includes both a prime contractor and a subcontractor.

The sale and installation of carpeting, agricultural land tile, or portable grain bins, or providing landscaping and lawn care service and products are "never a construction contract." Nor are the following:

- an agreement to transfer and install a business fixture, which is personal property that is permanently affixed to real property, but that primarily benefits the occupant's business;

- the "transfer and affixation" of personal property where title does not transfer to the premises' owner; or
- tangible personal property that is temporarily affixed during construction.

Unless an exemption applies, a construction contractor who purchases materials or taxable services to incorporate into real property is the consumer of those materials or services and generally must pay the state's sales tax on their purchase price. A construction contractor is the consumer, even if a subcontractor provides the actual labor. Contracts with the government, for a church or charity, for the original construction of a sports facility, for a hospital, or for certain agricultural buildings, among others, are exempt.

A construction contractor who also "makes substantial sales of the same types of tangible personal property that the contractor incorporates into real property" may purchase that property on a resale basis and exempt from the sales tax.

A person who manufactures or fabricates items and then sells and incorporates some of them into real property must elect whether to be treated as a manufacturer or as a construction contractor on the purchase of raw materials incorporated into the manufactured items. If the person elects to be treated as a manufacturer, the purchase of raw materials may be exempted from the tax on the basis that they will be incorporated into an item manufactured for sale. If the person elects to be treated as a construction contractor, he or she must pay sales tax on the acquisition cost of the raw materials, unless the materials are used to perform a nontaxable construction contract.

See regulation 5703-9-14 for addition details related to the state's sales tax's application to construction contracts.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located.

Because a subcontractor is included in the definition of "contractor," the provisions that apply to construction contractors (as described above in "*Construction Contractors*") apply to tradespersons acting as subcontractors.

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located. Generally, unless otherwise provided, a "sale" does not include professional or personal services, or "professional . . . or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

Insurance Services

A "sale" does not include "insurance . . . service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

As of October 1, 2009, a "sale" subject to the state's sales tax includes "all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a Medicaid health insuring corporation pursuant to the corporation's contract with the state." However, if the U.S. Department of Health and Human Services determines that taxing those transactions constitutes an "impermissible health care-related tax," then these transactions are not taxable sales.

PROFESSIONAL SERVICES

Accountants

Generally, a "sale" does not include the receipt of professional services or "professional . . . service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made." "Personal and professional services" explicitly include accounting services.

Architects

No specifically relevant provisions were located. However, generally, a "sale" does not include the receipt of professional services or "professional . . . service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

A person engaged in producing by blueprinting and other similar processes, copies of documents or drawings, and "transferring the copies so produced for a price charged to customers," is a vendor, and those transfers are taxable "sales."

Attorneys

Generally, a "sale" does not include the receipt of professional services or "professional . . . service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made." "Personal and professional services" explicitly include legal services.

Dentists

No specifically relevant provisions were located. However, generally, a "sale" does not include the receipt of professional services or "professional . . . service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

Dentists "who are engaged in selling tangible personal property as received from others" are vendors of those items. Also, dentists are consumers of all tangible personal property and services purchased *by* them in connection with their dentistry practice.

Engineers

No specifically relevant provisions were located. However, generally, a "sale" does not include the receipt of professional services or "professional . . . service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

Physicians

Taxable "personal care services" do not include services provided by a licensed physician. Also, generally, a "sale" does not include the receipt of professional services or "professional . . . service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

Physicians "who are engaged in selling tangible personal property as received from others" are vendors of those items. Also, physicians are consumers of all tangible personal property and services purchased *by* them in connection with their practices.

Statutory sections 5739.01 and 5739.02 amended 2019. Regulation 5703-9-38 effective 2017; r. 5703-9-14 amended 2016.

[Ohio Rev. Code §§ 5739.01, .02 \(2019\); Ohio Admin. Code 5703-9-14, -38 \(2019\)](#)

Ohio, Sales tax on commissions

No specifically relevant provisions were located. However, except as otherwise provided, a "sale" does not include the receipt of professional services or "professional . . . or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

Statutory section amended 2019.

[Ohio Rev. Code § 5739.01 \(2019\)](#)

Ohio, Sales tax on related services

APPRAISALS

No specifically relevant provisions were located. However, except as otherwise provided, a "sale" does not include the receipt of professional services or "professional . . . or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

HOME INSPECTIONS

No specifically relevant provisions were located. However, except as otherwise provided, a "sale" does not include the receipt of professional services or "professional . . . or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

MLS SERVICES

No specifically relevant provisions were located. However, except as otherwise provided, a "sale" does not include the receipt of professional services or "professional . . . or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

PROPERTY MANAGEMENT

No specifically relevant provisions were located. However, except as otherwise provided, a "sale" does not include the receipt of professional services or "professional . . . or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

A person who performs a "facility management" is a consumer of all tangible personal property and services purchased to use in connection with performing his or her contract. The purchase of that property and services is not subject to the resale exception.

LAND SURVEYS

No specifically relevant provisions were located. However, except as otherwise provided, a "sale" does not include the receipt of professional services or "professional . . . or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made."

OTHER RELATED SERVICES

No relevant provisions were located.

Statutory section amended 2019.

[Ohio Rev. Code § 5739.01 \(2019\)](#)

Oklahoma

Oklahoma, General service taxes

OVERVIEW

Oklahoma levies a 4.5-percent tax on the gross receipts or gross proceeds of each sale of tangible personal property (except newspapers and periodicals) and several services, including, among others, certain utilities, transportation, telecommunications, printing, hotel rooms, parking, computer programs, advertising, and entertainment admission fees.

Also, "gross receipts" or "gross proceeds" include the total consideration for which personal property or services are sold, without deducting, among other things, labor or service costs, costs of transportation to the seller, charges for services "necessary to complete the sale," and delivery or installation charges, unless they are separately stated on the invoice.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located.

Unless specifically exempt, a contractor must pay the sales tax as a consumer on the *purchase* of taxable services and materials, supplies, tools, and equipment he or she uses to fulfill a construction contract to develop or improve real property.

A contractor may make purchases exempt from the state's sales tax based on another entity's exempt status only in the limited circumstances specified by statute, which include products necessary to perform public contracts with Oklahoma municipalities or public schools, contracts with private educational institutions or churches, or contracts to construct livestock facilities, certain campus projects, or hazardous waste treatment plants, among others.

Carpenters, Plumbers, and Similar Trades

The term "contractor" means both contractors and subcontractors, including (but not limited to) building, grading and excavating, electrical, plumbing, heating, painting, drilling, decorating, paper hanging, air conditioning, ventilating, insulating, sheet metal, masonry, carpentry, plastering, cement, landscape, and roofing contractors, among others. Therefore, the provisions that apply to contractors (see "*Construction Contractors*" above) also apply to tradespersons acting as subcontractors.

FINANCIAL SERVICES

Bank Service Charges

Financial institutions are "primarily engaged in providing nontaxable services," such as providing customers with cashier's checks, money orders, traveler's checks, checking accounts, and safe deposit boxes.

However, gross receipts from sales of coin savings banks, certain commemorative medals, collectors' coins or currency sold above face value that are not otherwise exempt, repossessed assets, meals and beverages in the institution's cafeteria, and parking charges are subject to the state's sales tax.

Sales to most financial institutions are also subject to the state's sales tax. Any tangible personal property an institution purchases to give away or sell at cost or less than cost to a customer is "taxable at the time it is purchased." If a financial institution sells an item at a price that is greater than its cost, the financial institution may purchase the property without paying sales tax by giving the vendor a valid sales tax permit and collecting the tax at the time the institution resells the item.

Sales to Federal Reserve Banks, Federal Land Banks, Federal Home Loan Banks, and federally chartered credit unions are exempt from the sales tax.

Insurance Services

No specifically relevant provisions were located.

Generally, insurance companies do not qualify as exempt *purchasers* for sales tax purposes and must pay the state's sales tax to vendors when making a taxable purchase of tangible personal property or services.

PROFESSIONAL SERVICES

Accountants

No specifically relevant provisions were located. Accountants must collect the sales tax on gross receipts from "sales of tangible personal property and services taxable under the Sales Tax Code, including photocopying and FAX."

The following *purchases* by accountants are subject to the state's sales tax:

- books, supplies, and equipment;
- tax reporting services; and

- publications sold by tax service companies.

Architects

No relevant provisions were located.

Attorneys

No specifically relevant provisions were located. Attorneys must collect sales tax on gross receipts from "sales of tangible personal property and services taxable under the Sales Tax Code, including photocopying and FAX."

The following *purchases* by attorneys are subject to the state's sales tax:

- law books, supplies, furniture, and equipment; and
- update, pocket-part, and loose-leaf service charges.

Dentists

Dentists "primarily render services and incidentally use tangible personal property in connection therewith." Therefore, dentists' gross receipts are generally not subject to the state's sales tax.

Items a dentist *purchases*, but that are used incidentally when he or she renders professional or laboratory services, are subject to the state's sales tax. The dentist must pay the tax when he or she purchases the item.

Engineers

No relevant provisions were located.

Physicians

Physicians are engaged in a profession that "primarily render[s] service." Therefore, "to the extent to which they engage in such professions, they are not engaged in the business of selling tangible personal property to purchasers." Consequently, they are not required to remit sales tax on receipts from engaging in their professions, including receipts from both services and tangible personal property "dispensed incidentally" to the service. However, the physician must pay the state's sales tax when *purchasing* that tangible personal property.

Also, physicians are the consumers of supplies, medicines, furniture, tools, and equipment they use in their profession. Therefore, sales of those items *to* physicians are subject to the state's sales tax. However, if a physician sells items (such as medical bracelets, crutches, or wheelchairs) to purchasers "apart from" rendering services as a physician or surgeon, he or she must collect sales tax on the gross receipts from those sales.

Statutory section 1352 amended 2016; § 1354 amended 2012. Regulations 19-1 and 19-192 amended 1994; r. 19-106 amended 1998; r. 19-71 amended 2003; r. 19-261 amended 2005; rr. 1-7, 19-55, and 19-56 amended 2012; r. 19-161 adopted 2005; r. 19-105 amended 2015.

[Okla. Stat. tit. 68, §§ 1352, 1354 \(2019\)](#); [Okla. Admin. Code §§ 710:65-1-7; -19-1, -55, -56, -71, -105, -106, -161, -192, -261 \(2019\)](#)

Oklahoma, Sales tax on commissions

No relevant provisions were located.

Oklahoma, Sales tax on related services

No relevant provisions were located.

Oregon

Oregon, General service taxes

Oregon levies no general sales tax.

[Ore. Dep't of Rev., About Sales Tax in Oregon \(last visited Dec. 30, 2019\)](#)

Oregon, Sales tax on commissions

No relevant provisions were located.

Oregon, Sales tax on related services

No relevant provisions were located.

Pennsylvania

Pennsylvania, General service taxes

OVERVIEW

Pennsylvania does not have a broad-reaching sales tax on services.

However, the state imposes on each "sale at retail" of tangible personal property or some services a six-percent tax on the purchase price. "Sale at retail" includes any transfer for consideration of tangible personal property and specified services, including printing, washing and inspecting motor vehicles, cleaning tangible personal property other than wearing apparel or shoes, applying or installing tangible personal property as a repair or replacement part of other tangible personal property (unless the services are rendered to construct, remodel, repair or maintain real estate), lobbying, credit reporting, secretarial services, pest control, and building maintenance or cleaning, among others. The term "sale at retail" excludes transfers of tangible personal property or services for resale purposes, and certain other services related to manufacturing, farming, public utilities, and processing. "Purchase price" includes the total value, without deduction for transportation, labor, or service costs.

CONSTRUCTION SERVICES

Construction Contractors

A "construction contract" is generally a contract or agreement for "the construction, reconstruction, remodeling, renovation or repair of real estate or a real estate structure." A "construction contractor" is a "person who performs an activity pursuant to a construction contract," and includes both a prime contractor and a subcontractor. The Commonwealth does not impose its sales tax on a contractor's purchase of building machinery and equipment and services for specified charitable or nonprofit organizations, to be transferred to the United States or the Commonwealth, or for certain transactions related to public schools public schools.

Generally, the repair or installation of most tangible personal property is subject to tax, and the taxable price includes both materials and labor. However, construction or repair services to realty are not taxable, although the repairer or installer must pay the tax on the purchase of taxable personal property and services used in the person's business. Thus, a vendor must collect the tax on the vendor's services even if the tangible personal property upon which the taxable services are performed will later be affixed to real estate.

Construction activities include activities "resulting from an agreement or contract under which a contractor attaches or affixes tangible personal property to real estate so as to become a permanent part thereof. Construction activities also include the service of repairing real estate even though tangible personal property is not transferred by a contractor in conjunction with the repairs which he makes." Regulation 31.11 contains an extensive list of items, such as air conditioners and alarm systems, that are presumed to become a permanent part of real estate.

The Commonwealth imposes its sales tax on construction activities as follows:

- a contractor must pay the tax on the purchase price of all property that he or she furnishes and installs in performing construction activities, and the contractor may include the tax in his or her bid proposal, but not as a separately stated item;
- a contractor whose activities are "confined to construction activities" must pay the tax directly to the supplier at the time of purchase;
- a construction contractor must pay tax on all tools and equipment that are used but not transferred in conjunction with the construction activities; and

- a contractor who performs both construction and sales activities must be licensed to collect sales tax.

A contractor who produces the property he or she consumes is entitled to the exemption provided by the law for those operations.

See regulations 46.1 (steel beams), 46.2 (exempt public utility facilities), 46.3 (stained glass windows), 46.4 (fixed price construction contracts), 46.5 (outdoor advertising signs), 46.6 (renting equipment to others), and 46.7 (nonresidents) for additional details regarding the application of the sales tax to construction activities.

Carpenters, Plumbers, and Similar Trades

Because the term "construction contractor" includes both prime contractors and subcontractors, the provisions that apply to contractors (see "*Construction Contractors*" above) also apply to tradespersons acting as subcontractors. Generally, the repair or installation of most tangible personal property is subject to tax, and the taxable price includes both materials and labor. However, construction or repair services to realty are not taxable, although the repairer or installer must pay the tax on the purchase of taxable personal property and services used in the person's business. Thus, a vendor must collect the tax on the vendor's services even if the tangible personal property upon which the taxable services are performed will later be affixed to real estate.

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located.

A financial institution must pay the commonwealth's sales tax at the time it *purchases* tangible personal property to use in its business, including property the financial institution gives to its customers, such as passbooks and checkbooks. A financial institution that sells personalized checkbooks or other items subject to tax may either:

- collect the tax from its customers and remit the tax with its monthly returns; or
- pay the tax to its suppliers based on the price at which the institution will sell the merchandise to its customers and reimburse itself for the tax by collecting it from customers.

Insurance Services

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

Services "by the learned professions" are not taxable. However, although the person rendering a nontaxable service does not collect tax, he or she is liable for taxes on purchases of taxable personal property and services used in the person's business.

Architects

Services "by the learned professions" are not taxable. However, although the person rendering a nontaxable service does not collect tax, he or she is liable for taxes on purchases of taxable personal property and services used in the person's business.

Attorneys

Services "by the learned professions" are not taxable. However, although the person rendering a nontaxable service does not collect tax, he or she is liable for taxes on purchases of taxable personal property and services used in the person's business.

Dentists

Services "by the learned professions" are not taxable. However, although the person rendering a nontaxable service does not collect tax, he or she is liable for taxes on purchases of taxable personal property and services used in the person's business. Whether taxes are owed on purchases of medicines, medical supplies, medical equipment and prosthetic or therapeutic devices is "based essentially upon the use for which the purchases are intended rather than upon the occupation of the purchaser." Dentists' purchases of materials used in dental treatment and property "transferred by the dentist to the patient" are exempt.

Engineers

Services "by the learned professions" are not taxable. However, although the person rendering a nontaxable service does not collect tax, he or she is liable for taxes on purchases of taxable personal property and services used in the person's business.

Physicians

Services "by the learned professions" are not taxable. However, although the person rendering a nontaxable service does not collect tax, he or she is liable for taxes on purchases of taxable personal property and services used in the person's business. Whether taxes are owed on purchases of medicines, medical supplies, medical equipment, and prosthetic or therapeutic devices is "based essentially upon the use for which the purchases are intended rather than upon the occupation of the purchaser." The following are exempt purchases: medicines and drugs; medical supplies that are used to alleviate or treat medical conditions and that are consumed during the use; and certain other medical supplies and devices. The sale at retail or use of medical equipment is subject to tax, unless otherwise exempt.

Sections 7201, 7202 and 7204 amended 2019. Regulations 31.12, 46.1, 46.2, and 46.3 adopted 1972; r. 31.11 amended 1983; r. 46.5 amended 1984; r. 52.1 amended 1990; rr. 31.5, 31.6, 46.7, and 46.9 amended 1993; history of rr. 31.1, 31.26, 46.4, and 46.6 unknown.

[72 Pa. Stat. §§ 7201, 7202, 7204 \(West 2019\); 61 Pa. Code §§ 31.1, .5, .6, .11, .12, .26; 46.1, .2, .3, .4, .5, .6, .7, .9; 52.1 \(2019\)](#)

Pennsylvania, Sales tax on commissions

No specifically relevant provisions were located. Generally, few services related to real property are taxed, and services "by the learned professions" are not taxable. However, although a person rendering a nontaxable service does not collect tax, he or she is liable for taxes on purchases of taxable personal property and services used in the person's business.

Regulation amended 1993.

[61 Pa. Code § 31.6 \(2019\)](#)

Pennsylvania, Sales tax on related services

No specifically relevant provisions were located. Generally, few services related to real property are taxed, and services "by the learned professions" are not taxable. However, although a person rendering a nontaxable service does not collect tax, he or she is liable for taxes on purchases of taxable personal property and services used in the person's business.

Regulation amended 1993.

[61 Pa. Code § 31.6 \(2019\)](#)

Puerto Rico

Puerto Rico, General service taxes

OVERVIEW

Puerto Rico has attempted to significantly revise its sales tax laws in recent years by switching from a sales and use tax to a value added tax. This process included:

- a period of increased sales and use tax rates to 10.5 percent (11.5 percent, including the municipal assessment) starting July 1, 2015;

- a period of a four-percent tax on specified designated professional services and business-to-business services, starting October 30, 2015; and
- a period of transition to a value added tax, starting June 1, 2016, as extended.

The value added tax would have applied broadly to numerous goods and services. Generally, unless a specific exemption applied, a service was likely subject to the value added tax.

The transition to the value added tax was originally scheduled for April 1, 2016, but it had been postponed until June 1, 2016. Puerto Rico's sales and use tax was to remain in effect until May 31, 2016, and the four-percent designated professional services tax until June 1, 2016. However, on Friday, May 20, the Governor vetoed a bill to repeal the VAT system. On May 26, 2016, the Puerto Rico Senate, following a vote by the House of Representatives of Puerto Rico earlier in the week, voted to override the Governor's veto, with the votes in both houses reaching the required two-thirds majority to override the veto. Consequently, the sales and use tax regime remains in effect.

Upon repeal of the VAT tax system, the Department of Treasury issued the following guidance:

"I. Explanatory memorandum

Law 72-2015 of May 29, 2015 ("Law 72-2015"), Law 101-2015 of July 1, 2015 ("Law 101-2015"), Law 107-2015 of July 2, 2015 ("Law 107-2015") and Law 159-2015 of September 30, 2015 ("Law 159-2015") amended several sections of Subtitle D of the 2011 Puerto Rico Internal Revenue Code, as amended ("Code"), and incorporated a new DDD Subtitle to, among other purposes, modify the Tax on Sales and Use ("IVU") applicable to the rendering of taxable services in Puerto Rico as of July 1, 2015 and establish a tax on designated professional services and services rendered between traders as of 1 October 2015. In addition, Subtitle DD was added to the Code to establish a Value Added Tax ("VAT") on any taxable item and any taxable transaction, as defined in Section 4110.01 of the Code.

In essence, these laws increased the UVI from 7% to 11.5%, established an IVU of 4% ("Special IVU of 4%") to certain services (particularly services between merchants and designated professional services), and through the approval of the same the transformation of the IVU to the VAT was completed. Therefore, it was decided that from April 1, 2016, the IVU, established in Subtitle D of

the Code, would be replaced by the VAT as for the state portion of the tax. However, the 1% Municipal Sales Tax and Municipal Use Tax ("IVU Municipal") would remain in force on the sale and use of all taxable items, in accordance with the same basis, exemptions and limitations contained in Subtitle D of the Code, except for the exceptions provided in Section 6080.14 of the Code.

Although the Department of the Treasury ("Department") was ready to implement VAT as of April 1, 2016, in response to the claim of various sectors, the Department deferred its validity until June 1, 2016 to provide to the merchants an additional term for them to prepare for the tax change.

However, the elimination of VAT was recently approved by the Legislative Assembly of Puerto Rico with immediate effect. Accordingly, the Department issues this Administrative Determination with the purpose of: (1) notifying all taxpayers and merchants about the VAT repeal; (2) to repeal the administrative determinations issued in relation to VAT; And (3) inform the provisions that will remain in force and those of a transitional nature adopted by the Department as a result of the VAT repeal."

II. Determination

A. Rate and Surtax on Sales and Use Tax

In line with the recently adopted amendments to the Code, Subpart DD is deleted, which comprises from Section 4110.01 to Section 4180.02, thus repealing VAT. Therefore, Subtitles D and DDD of the Code remain in force. Accordingly, an IVU will continue to be imposed, collected and paid on any sales transaction of a taxable item and on the use, storage, or consumption of a taxable item in Puerto Rico.

Pursuant to Sections 4020.01, 4020.02, 4210.01 and 4210.02 of the Code, the sum of the tax and the surtax of the Sales Tax and the Use Tax is maintained at 10.5% for the state portion and at 1%, corresponding to the municipal portion, under Section 6080.14 of the Code, for a total IVU of 11.5%. In addition, the 4% Special IVU will continue to apply after May 31, 2016 on services rendered to other merchants and designated professional services.

Likewise, only those merchants who comply with the provisions of Chapter 5 of Subtitle D of the Code, ie holders of a Certificate of Reseller and Exemption from Municipal IVU, may claim a credit for the IVU paid in the purchase and import of tangible personal property for resale."

[P.R. Dep't Treasury, Admin. Determination No. 16-09, Repeal of Value Added Tax \(VAT\) \(June 1, 2016\).](#)

CONSTRUCTION SERVICES

2015 P.R. Laws ch. 72 provided that effective from October 1, 2015, through March 31, 2016, general taxable services are subject to a 10.5-percent rate. These services include construction services.

Pursuant to 2015 P.R. Laws ch. 159, subcontracted services are exempt from the sales tax, as long as the subcontracted service is related to a construction project or to telecommunication services hired by a merchant dedicated to providing telecommunication services.

FINANCIAL SERVICES

Bank Service Charges

Interest and service charges by financial institutions are excluded from the sales tax, except that banking charges and fees imposed by financial institutions to their business clients to manage their deposit accounts were subject to the tax.

Insurance Services

Insurance services and commissions are excluded from the sales tax.

PROFESSIONAL SERVICES

Accountants

Designated professional services are subject to the four-percent sales tax. Designated professional services include services provided by accountants.

Architects

Designated professional services are subject to the four-percent sales tax. Designated professional services include services provided by architects.

Attorneys

Designated professional services are subject to the four-percent sales tax. Designated professional services included legal services.

Dentists

No specifically relevant provisions were located.

However, if the services are treated like other medical services, health or medical hospital services were excluded from both the 10.5-percent and the four-percent sales taxes.

Engineers

Designated professional services were subject to the four-percent sales tax. Designated professional services included services provided by engineers.

Physicians

Health or medical hospital services are excluded from both the 10.5-percent and the four-percent sales taxes.

Relevant laws amended 2015.

2015 P.R. Laws chs. 72, 159; see also [McConnell Valdes, LLC, Tax Alert: Act No. 72 to Amend the Puerto Rico Internal Revenue Code of 2011 \(June 3, 2015\)](#); [KPMG, SALT Alert! 2015-23: Puerto Rico Issues Detailed Guidance on Applicability of Sales and Use Tax to Business-to-Business and Designated Professional Services Effective October 1, 2015 \(2015\)](#).

Puerto Rico, Sales tax on commissions

Designated professional services are subject to the four-percent sales tax. Designated professional services include services provided by agents, vendors, and real estate companies. See **General service taxes—Overview**.

Relevant laws amended 2015.

2015 P.R. Laws chs. 72, 159; see also [McConnell Valdes, LLC, Tax Alert: Act No. 72 to Amend the Puerto Rico Internal Revenue Code of 2011 \(June 3, 2015\)](#); [KPMG, SALT Alert! 2015-23: Puerto Rico Issues Detailed Guidance on Applicability of Sales and Use Tax to Business-to-Business and Designated Professional Services Effective October 1, 2015 \(2015\)](#).

Puerto Rico, Sales tax on related services

APPRAISALS

Designated professional services are subject to the four-percent sales tax. Designated professional services include services provided by professional real estate appraisers.

HOME INSPECTIONS

No specifically relevant provisions were located.

MLS SERVICES

No specifically relevant provisions were located.

PROPERTY MANAGEMENT

No specifically relevant provisions were located.

LAND SURVEYS

Designated professional services are subject to the four-percent sales tax. Designated professional services include services provided by surveyors.

OTHER RELATED SERVICES

Title and Credit Insurance

Insurance services and commissions are excluded from the 10.5-percent sales tax. These insurance services include title and credit insurance.

Relevant laws amended 2015.

2015 P.R. Laws chs. 72, 159; see **General service taxes—Overview**; see also [McConnell Valdes, LLC, Tax Alert: Act No. 72 to Amend the Puerto Rico Internal Revenue Code of 2011 \(June 3, 2015\)](#); [KPMG, SALT Alert! 2015-23: Puerto Rico Issues Detailed Guidance on Applicability of Sales and Use Tax to Business-to-Business and Designated Professional Services Effective October 1, 2015 \(2015\)](#)

Rhode Island, General service taxes

OVERVIEW

Rhode Island does not have a broad-reaching sales tax on services, and occupational and professional services are generally not subject to the state's sales tax. In an occupation or profession that primarily furnishes services, the tangible personal property used incidentally in rendering the service is taxable, but the tax is imposed on the sale of the property *to* the person rendering the service. However, if a person engaged in an occupation or profession sells tangible personal property in addition to rendering services, he or she is deemed to be making retail sales and must pay the tax to the state.

Also, Rhode Island's seven-percent tax is imposed on some services. For example, "sales" include certain telecommunications services and utilities. "Sales price" includes the total consideration without any deduction for, among other things, labor or service costs and charges by the seller for "services necessary to complete the sale, other than delivery and installation charges." "Sales price" does not include "the amount charged for labor or services rendered in installing or applying the property sold when the charge is separately stated by the retailer to the purchaser."

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant statutory provisions were located.

Pursuant to Department of Revenue rules, a contractor pays Rhode Island's sales tax as a consumer on *purchases* of all materials, supplies, tools, and equipment used to fulfill a construction contract, unless:

- the contractor contracts to sell materials or supplies at an agreed price and to render service in connection with the materials supplied, either for an additional agreed price or on the basis of time consumed; or
- the contractor is engaged in the business of selling the materials or supplies at retail.

In that case, the contractor is deemed to be a retailer and must collect the tax from the person to whom he or she sells the materials or supplies.

If a contractor fabricates part or all of the articles used in construction work, the manufactured articles are not made for resale as tangible personal property, the sale of the materials to the contractor constitutes a retail sale, and the contractor pays the tax as a consumer.

If a contractor sells complete units at retail and installs them, the contract is not deemed to be one for improving, altering or repairing real property, and the person performing the contract is primarily a retailer of tangible personal property and must segregate the full retail selling price of the property from the charge for installation because the tax applies only to the property's retail price.

Carpenters, Plumbers, and Similar Trades

Occupational services are generally not subject to the state's sales tax, and services by painters and "other similar services" are not subject to the sales tax.

Rhode Island's regulations regarding contractors (as described above in "*Construction Contractors*") defines the term "contractor" to include both contractors and subcontractors, "including but not limited to building, electrical, plumbing, heating, painting, decorating, paper hanging, air conditioning, ventilating, insulating, sheet metal, steel, masonry, carpentry, plastering, cement, road, bridge, landscape and roofing contractors or subcontractors." Therefore, the above provisions apply to carpenters, plumbers and similar tradespersons acting as subcontractors.

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

Professional services are generally not subject to the state's sales tax.

Architects

Professional services are generally not subject to the state's sales tax.

Attorneys

Professional services are generally not subject to the state's sales tax.

Dentists

Professional services are generally not subject to the state's sales tax.

Engineers

Professional services are generally not subject to the state's sales tax.

Physicians

Professional services are generally not subject to the state's sales tax.

Statutory section 44-18-12.1 enacted 2006; §§ 44-18-7 and 44-18-7 amended 2019; § 44-18-12 amended 2012; Regulations history unknown.

[R.I. Gen. Laws §§ 44-18-7, -12, -12.1, -18 \(2019\); 280 R.I. Code R. §§ 20-70-54.5, .6 \(2019\)](#)

Rhode Island, Sales tax on commissions

No relevant provisions were located.

Rhode Island, Sales tax on related services

No relevant provisions were located.

South Carolina

South Carolina, General service taxes

OVERVIEW

South Carolina does not have a broad-reaching sales tax on services. The state's sales tax does not apply to "receipts from services, when the services are the true object of the transaction, . . . unless the sales and use tax is specifically imposed by statute on such services." The state's five-percent tax on the gross proceeds of sales is specifically imposed on tangible personal property, laundry services, electricity, communication services, and manufacturer-consumed goods. The state imposes an additional one-percent tax on most taxable amounts. The state also imposes a seven-percent tax on specified transient accommodations.

"Gross proceeds of sales" includes the sale of tangible personal property without any deduction for the cost of labor or service.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located. Generally, the state's sales tax does not apply to "receipts from services, when the services are the true object of the transaction, . . . unless the sales and use tax is specifically imposed by statute on such services," and no statute specifically applying the tax to construction contractors' services was located.

"Retail sale" includes all sales of tangible personal property (except wholesale sales), including sales of building materials *to* construction contractors for resale or use in real estate. Also, sales of building materials purchased by contractors "for use in adding to, repairing or altering real property," are subject to the state's sales tax at the time of purchase.

Carpenters, Plumbers, and Similar Trades

Few specifically relevant provisions were located. Generally, the state's sales tax does not apply to "receipts from services, when the services are the true object of the transaction, . . . unless the sales and use tax is specifically imposed by statute on such services," and no statute specifically applying the tax to tradespersons was located.

"Retail sale" includes all sales of tangible personal property (except wholesale sales), including sales of building materials *to* builders for resale or use in real estate. Also, sales of building materials purchased by builders "for use in adding to, repairing or altering real property," are subject to the state's sales tax at the time of purchase.

Persons providing painting services, where the only tangible personal property they supply is the paint they apply, are "primarily rendering a service and not making retail sales." Therefore, receipts from painting are not subject to the state's sales tax, and the paint, tools, brushes, equipment, and supplies a painter purchases are subject to the sales tax at the time of sale *to* the painter. However, if a painter sells painted signs, furniture, or articles they have manufactured or purchased for painting, those sales are subject to the sales tax, but, in that case, the painter purchases that paint and other materials tax free at wholesale.

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located.

Finance companies and other lending institutions are retailers "when making sales of tangible personal property physically or constructively repossessed in claim and delivery proceedings."

Insurance Services

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

Receipts from performing professional services are not subject to the state's sales tax. The property accountants use to perform accounting services is subject to tax on its sale *to* the accountant.

Architects

Architects are not deemed to be engaged in the business of selling tangible personal property when they render professional services by forming original plans, designs, and specifications. Charges for the sale of original design concepts that have been "changed as a result of elevation and/or other architectural modifications to a customer's specific requirements" are also considered to be nontaxable proceeds from rendering professional services.

Sales by architects of "all reproductions of such plans, designs or specifications, unaltered or unmodified in any way," are subject to the state's sales tax.

Attorneys

Receipts from performing professional services are not subject to the state's sales tax. The property attorneys use to perform legal services is subject to tax on its sale *to* the attorney. Therefore, law books, supplies, and equipment used by attorneys are taxable.

Dentists

Receipts from performing professional services are not subject to the state's sales tax. The property dentists use to perform dental services is subject to tax on its sale *to* the dentist. Therefore, equipment, supplies, and medicines that dentists use in rendering professional service are taxable at the time of purchase by the dentist, except that sales of dental prosthetic devices to dentists are exempt from the tax.

Engineers

Receipts from performing professional services are not subject to the state's sales tax. The property engineers use to perform civil engineering services is subject to tax on its sale *to* the engineer.

Physicians

Receipts from performing professional services are not subject to the state's sales tax. The property licensed medical doctors use to perform health care services is subject to tax on its sale *to* the physician. If, in addition to rendering a service, a doctor is in the business of selling tangible personal property (such as medicine), the doctor must remit the tax on those sales.

Doctors are deemed to be the consumers of the "supplies, medicines, office furniture and fixtures and special tools and equipment" they use in their profession. Therefore, sales of those supplies and equipment *to* doctors are retail sales subject to the state's sales tax.

Statutory section 12-36-110 amended 1997; § 12-36-130 amended 2009; § 12-36-1110 enacted 2006; § 12-36-90 amended 2019; § 12-36-910 amended 2011; § 12-36-920 amended 2014.
Regulations adopted 2002.

[S.C. Code §§ 12-36-90, -110, -130, -910, -920, -1110 \(2019\); S.C. Code Regs. 117-308; -308.1, .2, .3, .4, .6, .16; -314; -314.1, .2; -317.1 \(2019\)](#)

South Carolina, Sales tax on commissions

No specifically relevant provisions were located. Generally, the state's sales tax does not apply to "receipts from services, when the services are the true object of the transaction, . . . unless the sales

and use tax is specifically imposed by statute on such services," and no statute specifically applying the tax to real estate commissions was located.

In the context of the state's tax on accommodations, "[r]eal estate agents, brokers, corporations, or listing services" that remit taxes on those services must "notify the department if rental property, previously listed by them, is dropped from their listings."

Statutory section 12-36-920 amended 2014. Regulation adopted 2002.

[S.C. Code § 12-36-920 \(2019\)](#); [S.C. Code Regs. 117-308 \(2019\)](#)

South Carolina, Sales tax on related services

No specifically relevant provisions were located. Generally, the state's sales tax does not apply to "receipts from services, when the services are the true object of the transaction, . . . unless the sales and use tax is specifically imposed by statute on such services," and no statute specifically applying the tax to real-estate related services was located.

Regulation adopted 2002.

[S.C. Code Regs. 117-308 \(2019\)](#)

South Dakota

South Dakota, General service taxes

OVERVIEW

South Dakota generally applies a four-percent sales tax to the "gross receipts of any person from the engaging or continuing in the practice of any business in which a service is rendered." A service is taxable, unless specifically exempt. "Service" is broadly defined as "all activities engaged in for other persons for a fee, retainer, commission, or other monetary charge, which activities involve predominantly the performance of a service as distinguished from selling property." Section 10-45-5, which lists several taxed services, explicitly provides that "the specific enumeration of businesses and professions made in this section does not, in any way, limit the scope and effect of § 10-45-4 [which imposes the tax on services]."

Effective June 1, 2016, the tax was increased to four and one-half percent. However, this rate will be reduced by one-tenth percent on the July first following the calendar year for which each additional twenty million dollar increment of net revenue is collected and remitted by remote sellers, except it may not be reduced below four percent.

CONSTRUCTION SERVICES

Construction Contractors

South Dakota law explicitly exempts construction services from the state's sales tax. However, a tax in the amount of two percent is assessed on the "gross receipts of all prime contractors engaged in realty improvement contracts."

Carpenters, Plumbers, and Similar Trades

South Dakota law exempts construction services from the state's sales tax. However, certain floor work is included in the state's list of services subject to tax. Subcontractors are generally subject to the two-percent tax imposed by § 10-46A-1.

FINANCIAL SERVICES

Bank Service Charges

Financial services of institutions subject to tax under chapter 10-43 (income tax on banks and financial corporations) are specifically exempt from the state's sales tax, including the following service fees, among others:

- loan origination fees;
- late payment charges;

- interest charges; and
- points charged on loans.

Insurance Services

Commissions earned or service fees paid by an insurance company to an agent or representative for the sale of a policy are specifically exempt from the state's sales tax. No other provisions were located exempting service fees related to insurance.

PROFESSIONAL SERVICES

Accountants

South Dakota imposes a four-percent tax on an accountant's gross receipts. Licensed accountants may deduct the following from gross receipts:

- charges to clients for tangible personal property;
- a product transferred electronically; or
- services purchased by the accountant on a client's behalf.

Effective June 1, 2016, the tax will be increased to four and one-half percent. However, this rate will be reduced by one-tenth percent on the July first following the calendar year for which each additional twenty million dollar increment of net revenue is collected and remitted by remote sellers, except it may not be reduced below four percent.

Architects

South Dakota imposes a four-percent tax on an architect's gross receipts. However, the gross receipts from architectural services rendered for a project entirely outside of South Dakota are exempt.

Effective June 1, 2016, the tax will be increased to four and one-half percent. However, this rate will be reduced by one-tenth percent on the July first following the calendar year for which each additional twenty million dollar increment of net revenue is collected and remitted by remote sellers, except it may not be reduced below four percent.

Attorneys

South Dakota imposes a four-percent tax on legal services. Licensed attorneys may deduct the following from gross receipts:

- amounts that represent charges to clients for tangible personal property;
- a product transferred electronically; or
- services the attorney purchased on a client's behalf.

A person using the services of a nonresident attorney in South Dakota is liable for the use tax if the sales tax is not paid.

Dentists

Health services are exempt from South Dakota's sales tax. Dentists are deemed to render a service to their patients and those gross receipts are not subject to the state's sales tax. However, if a dentist regularly sells tangible personal property (such as toothbrushes or mouthwash), the dentist

must report a tax on those sales. Dentists who fabricate dentures or other similar items for their patients are considered consumers of the materials used in the fabrication.

Engineers

Engineering services are specifically subject to the state's four-percent tax. However, the gross receipts from engineering services rendered for a project entirely outside of South Dakota are exempt.

Physicians

Health services are exempt from South Dakota's sales tax. This exemption includes charges for professional services by physicians, surgeons, chiropractors, podiatrists, osteopaths, and physical therapists.

Statutory section 10-45-4 amended 1979; § 10-45-4.1 amended 1980; § 10-46A-1 amended 1985; § 10-45-12.2 amended 1988; § 10-46A-2 amended 1993; § 10-45-12.1 amended 2004; § 10-45-29.1 amended 2010; § 10-45-5.2 amended 2015; §§ 10-45-2 and 10-45-5 amended 2016; new section enacted 2016. Regulatory section 64:06:02:28 amended 1995; r. 64:06:02:53 amended 2008; r. 64:06:02:81.01 amended 2015.

[S.D. Codified Laws §§ 10-45-2, -4, -4.1, -5, -5.2, -12.1, -12.2, -29.1; -46A-1, -2; 64-9 \(2019\); S.D. Admin. R. 64:06:02:28, :53, :81.01 \(2019\)](#)

South Dakota, Sales tax on commissions

SALES TAX AMOUNT

South Dakota's four-percent tax explicitly applies to services provided by real estate agents and managers. The state's regulations elaborate that a "commission received by a real estate broker or agent, under any type of agency agreement, is subject to the state sales tax unless the commission is otherwise specifically exempted." No specific exemptions are listed. The regulations also provide that any fee "originating from the sale of real property sold in the state of South Dakota, regardless of the broker's or agent's residence, is subject to sales tax." Any municipal sales tax applies to the sale of real property located within that municipality's limits.

The regulations provide the following examples:

(1) A real estate broker takes a listing on a home in Pierre. Under the multiple listing agreement, another agent sells the property. The listing broker collects the commission and the state and city sales tax. The broker then distributes the selling agent's percentage of the commission and the applicable sales tax to the selling agent. The listing broker remits state and city sales tax on that portion of the commission to which the broker was entitled. The selling agent remits state and city sales tax on the portion the selling agent received.

(2) A real estate broker takes an exclusive listing on an acreage in rural South Dakota. The broker collects the commission and state sales tax after the property is sold and remits the sales tax to the department.

EXCEPTIONS

Although the state's regulations mention exemptions, no exemptions applicable only to real estate commissions are specified.

Statutory section amended 2015. Regulatory section amended 2002.

[S.D. Codified Laws § 10-45-5.2 \(2019\); S.D. Admin. R. 64:06:02:85 \(2019\)](#)

South Dakota, Sales tax on related services

APPRAISALS

"All appraiser's services" are specifically subject to South Dakota's four-percent sales tax.

HOME INSPECTIONS

Although no provisions were located specifically addressing sales taxes on home inspections, South Dakota law provides that listed services are not intended to be a comprehensive list of taxable services and that all services are taxable unless specifically made exempt.

MLS SERVICES

Although no provisions were located specifically addressing sales taxes on MLS services, South Dakota law provides that listed services are not intended to be a comprehensive list of taxable services and that all services are taxable unless specifically made exempt.

PROPERTY MANAGEMENT

Real estate management services are subject to the state's four-percent sales tax.

LAND SURVEYS

All services are taxable unless specifically made exempt. Only the gross receipts from surveying services rendered for a project entirely outside South Dakota are exempt from the state's sales tax.

OTHER RELATED SERVICES

Title Abstracts

Abstracters' services are subject to South Dakota's four-percent tax on gross receipts. (The state's statutes also specify that services provided by "title abstract offices" are specifically subject to the tax.)

Effective June 1, 2016, the tax will be increased to four and one-half percent. However, this rate will be reduced by one-tenth percent on the July first following the calendar year for which each additional twenty million dollar increment of net revenue is collected and remitted by remote sellers, except it may not be reduced below four percent.

Section 10-45-4.1 amended 1980; § 10-45-12.2 amended 1988; § 10-45-5.2 amended 2015; § 10-45-5 amended 2016; § 10-64-9 enacted 2016.

Tennessee

Tennessee, General service taxes

OVERVIEW

Tennessee does not have a broad-reaching sales tax on services. Generally, the state assesses a seven-percent tax on the sales price of tangible personal property sold at retail, plus an additional 2.75-percent tax on the amount in excess of \$1600, but less than or equal to \$3200, on the sale of certain single articles of personal property. The state also levies its tax on specified taxable services, including transient lodging, parking, telecommunications, repair services for tangible personal property, laundering, and dry cleaning, among others. The tax also applies to the installation of tangible personal property that remains tangible personal property after installation if "a charge is made for the installation, whether or not the installation is made as an incident to the sale of the tangible personal property, and whether or not any tangible personal property is transferred in conjunction with the installation service."

"Sales price" means the total consideration without deducting for labor or service costs, costs of transportation to the seller, charges for "any services necessary to complete the sale," or delivery and installation charges.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located.

Contractors constructing or improving real property, whether on a lump-sum or cost-plus basis, are consumers of the materials they use. As consumers, they generally must pay the state's sale tax on materials or equipment they *purchase* for use in connection with their contracts (unless exempt).

Contractors engaged in both the business of building, improving, altering, or repairing real property and the business of selling building materials and supplies may give a resale certificate to their

suppliers. Contractor-dealers selling tangible personal property must pay the sales tax on all withdrawals from inventory for use as a contractor.

The transfer of tangible personal property by a contractor who contracts to install that property as a real property improvement generally does not constitute a taxable sale.

If a person contracts to fabricate tangible personal property from materials selected or furnished by a customer (a "made to order" sale), the total proceeds from the sale are subject to the state's sales tax. Charges made for installing tangible personal property that has been fabricated and that remains personal property after installation, are subject to the tax. Charges for labor to install fabricated property that becomes real property are not subject to the sales tax if the charges are billed separately on an invoice given to the customer at the time of the sale.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located.

Tradespersons acting as subcontractors constructing or improving real property, whether on a lump-sum or cost-plus basis, are consumers of the materials they use, and they generally must pay the state's sale tax on the materials or equipment they *purchase* for use in connection with their contracts (unless exempt).

Subcontractors in both the business of building, improving, altering, or repairing real property and the business of selling building materials and supplies may give a resale certificate to their suppliers.

Note that in this context, "sale for resale" generally does not include a sale of tangible personal property or software to a dealer for use in the business of selling services. Property used in the business of selling services includes property that is regularly furnished to purchasers of the service without a separate charge. A dealer that sells services is considered the consumer of property used in selling, performing, or furnishing such services.

The transfer of tangible personal property by a contractor who contracts to install that property as a real property improvement generally does not constitute a taxable sale.

If a person contracts to fabricate tangible personal property from materials selected or furnished by a customer (a "made to order" sale), the total proceeds from the sale are subject to the state's sales tax. Charges made for installing tangible personal property that has been fabricated and that remains personal property after installation, are subject to the tax. Charges made for labor to install fabricated property that becomes real property are not subject to the sales tax if the charges are billed separately on an invoice given to the customer at the time of the sale.

FINANCIAL SERVICES

Bank Service Charges

No relevant provisions were located.

Insurance Services

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

No specifically relevant provisions were located.

Sales of blue prints are subject to the state's tax "when sold for use or consumption."

Attorneys

No relevant provisions were located.

Attorneys are subject to the professional privilege tax.

Dentists

No specifically relevant provisions were located.

A dentist is the consumer of the tangible personal property and taxable services used in his or her profession, so sales of tangible personal property and taxable services to a dentist are taxable unless exempt. The tax does not apply to a dentist's charges to his or her patients in connection with the sale or transfer of tangible personal property.

Engineers

No relevant provisions were located.

Physicians

Fees for a physician's professional services are not subject to Tennessee's sales tax. If a physician is also engaged in the business of selling tangible personal property or taxable services, he or she must collect the sales tax on those sales.

Physicians are the consumers of the tangible personal property and taxable services used to render their professional services, so sales of that property and services to physicians are taxable unless exempt.

Physicians and osteopathic physicians are subject to the professional privilege tax.

Statutory section 67-6-335 enacted 1986; § 67-6-541 amended 2007; §§ 67-6-102, 67-6-202, 67-6-205, and 67-6-209 amended 2019. Regulation 1320-5-1-.41 amended 1983; r. 1320-5-1-.08 adopted 1984; r. 1320-5-1-.48 amended 2016; rr. 1320-5-1-.07, 1320-5-1-.17, 1320-5-1-.47, and 1320-5-1-.52 amended 2000.

Tenn. Code §§ 67-6-102, -202, -205, -209, -335, -541 (LexisNexis 2019); [Tenn. Comp. R. & Regs. 1320-5-1-.07, -.08, -.17, -.41, -.47, -.48 \(2017\)](#)

Tennessee, Sales tax on commissions

No relevant provisions were located.

Tennessee, Sales tax on related services

APPRAISALS

No relevant provisions were located.

HOME INSPECTIONS

No relevant provisions were located.

MLS SERVICES

No relevant provisions were located.

PROPERTY MANAGEMENT

No generally relevant provisions were located.

If an individual property owner uses a property management company to manage vacation lodging he or she owns, the property management company must apply the sales tax to the rental's sales price and remit it to the commissioner. This requirement does not prohibit the property management company from collecting the tax from the consumer.

LAND SURVEYS

No relevant provisions were located.

OTHER RELATED SERVICES

No relevant provisions were located.

Section amended 2007.

Tenn. Code § 67-6-501 (LexisNexis 2019)

Texas

Texas, General service taxes

OVERVIEW

Texas imposes a 6.25-percent tax on the sales price of each "taxable item" sold. "Taxable items" are tangible personal property and taxable services, which include, among others,

- amusement, cable television, parking, storage, and personal services;
- the "repair, remodeling, maintenance, and restoration" of certain tangible personal property;
- telecommunications, credit-reporting, debt-collection, insurance, and information services;
- real property services (see "*Construction Contractors*" below);
- real property repair and remodeling; and
- certain utility services.

Generally, "sales price" includes the total amount for which a taxable item is sold, without deducting the cost of labor or service employed, transportation or installation costs, or "transportation incident" to performing a taxable service.

Texas also generally assesses a franchise tax on a nonretail business's taxable margin in an amount equal to .75 percent of the taxable margin effective January 1, 2016 (.375 percent for taxable entities primarily engaged in retail or wholesale). "Taxable margin" is based on an entity's gross receipts from business done in the state. See [Tex. Tax Code ch. 171 \(2019\)](#) for additional details regarding the state's franchise tax on gross receipts.

CONSTRUCTION SERVICES

Construction Contractors

Generally, Texas imposes a 6.25-percent tax on construction contractors' services, except for those services performed for new construction and residential structures.

"Real property repair and remodeling," which is a taxable service, means the "repair, restoration, remodeling, or modification" of a real property improvement *except* to the following:

- a residence;
- an improvement "immediately adjacent" to a residence and "used in the residential occupancy of the structure or separate part of the structure by the person using the structure or part as a residence"; or
- an improvement to "a manufacturing or processing production unit in a petrochemical refinery or chemical plant that provides increased capacity."

"Real property service" generally includes the following:

- landscaping and lawn care;
- certain garbage removal;
- "building or grounds cleaning, janitorial, or custodial services";
- structural pest control; and
- surveying real property.

"Real property service" does *not* include any of the above services that a contractor purchases "as part of the improvement of real property with a new structure to be used as a residence or other improvement immediately adjacent to the new structure and used in the residential occupancy of the structure."

In this context, a "contractor" is a person "who makes an improvement on real estate and who, as a necessary or incidental part of the service, incorporates tangible personal property into the property improved," including builders, developers, and others "acting as a builder to improve residential real property."

A contractor is the consumer of tangible personal property furnished by him and incorporated into his customer's property if the contract contains a lump-sum price covering both the contractor's service and necessary "incidental" materials. A contractor is the seller of tangible personal property he or she furnishes and incorporates into the customer's property if the contract contains separate amounts for performing the service and for the necessary "incidental" materials. In that case, the contractor must collect the state's sales tax on the property from the customer. The tax rate is applied to the greater of the price of the materials in the contract or the price of the materials to the contractor.

The purchase of tangible personal property for use in performing a contract for an improvement to realty for an exempt organization is generally exempt if the property is incorporated into the realty.

Labor to restore real property is exempt from the state's sales tax if the labor charge is separately itemized and the work is performed on property was damaged by a disaster.

See regulation 3.291 for extensive, detailed provisions related to applying the state's sales tax to contractors' services, regulation 3.347 for a detailed definition of "contract for the improvement to realty," regulation 3.356 for details related to the definition of "real property services," and regulation 3.357 for provisions that apply to nonresidential real property.

Carpenters, Plumbers, and Similar Trades

Texas laws broadly define "contractor" to include a person "who makes an improvement on real estate and who, as a necessary or incidental part of the service, incorporates tangible personal property into the property improved. The term includes builders, developers, and others "acting as a builder to improve residential real property." Therefore, many tradespersons are contractors, and the provisions set forth above apply to their services (see "*Construction Contractors*" above).

Generally, Texas imposes a 6.25-percent tax on construction contractors' services, except for those services performed for new construction and residential structures. Charges for labor and materials to rebuild, replace, alter, modify, or upgrade existing non-residential realty are taxable.

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located.

Insurance Services

Texas imposes a 6.25-percent tax on the sales price of insurance services. Insurance premiums subject to gross premiums taxes are exempt.

"Insurance services" include "insurance loss or damage appraisal, insurance inspection, insurance investigation, insurance actuarial analysis or research, insurance claims adjustment or claims processing, or insurance loss prevention service." The phrase does not include "coverage for which a premium is paid or commissions paid to insurance agents for the sale of insurance or annuities." See regulation 3.355 for additional details regarding the application of the state's sales tax to insurance services.

Note that a corporation that is a farm mutual insurance company, local mutual aid association, or burial association is exempt from the state's franchise tax on gross receipts. Also, effective October 1, 2015, a service performed by a person licensed under chapter 4102 of the insurance code (regarding public insurance adjusters) is not deemed to be providing a taxable insurance service.

PROFESSIONAL SERVICES

Accountants

No specifically relevant provisions were located.

Architects

No specifically relevant provisions were located.

Attorneys

No specifically relevant provisions were located. However, taxable "debt collection services" explicitly do not include the collection of a judgment by an attorney if he or she represented the person in the suit from which the judgment arose.

Dentists

No specifically relevant provisions were located.

Engineers

No specifically relevant provisions were located.

Physicians

No specifically relevant provisions were located. However, medical services are explicitly not taxable as "insurance services," and health services prescribed by a licensed practitioner are not taxable as "amusement services."

Unless a health care provider qualifies as an exempt organization, he or she must pay tax on the *purchase* of therapeutic appliances, devices, and related supplies.

Statutory section 151.0028 amended 2019; § 151.051 amended 1990; § 151.311 amended 1993; § 151.0047 amended 1997; § 151.350 amended 1999; §§ 151.0036, 151.007, 151.010, and 151.0101 amended 2001; § 171.0525 amended 2005; §§ 151.0048, 151.056 amended 2007; §§ 151.308

amended 2013, §§ 171.002 amended 2017; § 171.1011 amended 2019; § 151.0039 amended 2017; § 151.308 amended 2015; § 171.103 amended 2013. Regulation 3.347 adopted 1979; r. 3.355 amended 1995; r. 3.356 amended 2018; r. 3.357 adopted 2002; r. 3.284 amended 2004; r. 3.291 amended 2008.

[Tex. Tax Code §§ 151.0028, .0036, .0039, .0047, .0048, .007, .010, .0101, .051, .056, .308, .311, .350; 171.002, .103, .0525, .1011 \(2019\); 34 Tex. Admin. Code §§ 3.284, .291, .347, .355, .356, .357 \(2019\)](#)

Texas, Sales tax on commissions

No specifically relevant provisions were located applying the state's sales tax to real estate commissions.

However, the state's .75-percent franchise tax applies to the taxable margins, as determined using gross receipts, of most service businesses. Texas statutes explicitly provide that in apportioning margin, the gross receipts of a taxable entity from business done in Texas include, among other things, the taxable entity's receipts from each service performed in Texas, except that the entity must exclude certain "flow-through funds that are mandated by contract or subcontract to be distributed to other entities," such as "sales commissions to nonemployees, including split-fee real estate commissions."

Section 171.103 amended 2013; § 171.002 amended 2017; § 171.1011 amended 2017.

[Tex. Tax Code §§ 171.002, .103, .1011 \(2019\)](#)

Texas, Sales tax on related services

APPRAISALS

No specifically relevant provisions were located. However, in the context of applying the state's sales tax to insurance services, Texas regulations explicitly provide that "the charge for an appraisal required by a lender as a condition of extending credit is not taxable as an insurance service because the primary purpose in obtaining the service is financing the loan."

The state's franchise tax of .75 percent of taxable margins applies to most nonretail businesses. See [Tex. Tax Code ch. 171 \(2019\)](#) for details regarding the state's franchise tax on gross receipts.

HOME INSPECTIONS

No specifically relevant provisions were located.

The state's franchise tax of .75 percent of the taxable margin applies to most nonretail businesses. See [Tex. Tax Code ch. 171 \(2019\)](#) for details regarding the state's franchise tax on gross receipts.

MLS SERVICES

No specifically relevant provisions were located.

Also, the state's franchise tax of .75 percent of the taxable margin applies to most nonretail businesses. See [Tex. Tax Code ch. 171 \(2019\)](#) for details regarding the state's franchise tax on gross receipts.

PROPERTY MANAGEMENT

Services performed by a property management company's employee are exempt from the state's sales tax if:

- the employee is permanently assigned to one rental property by the property management company;
- the company is "reimbursed on a dollar-for-dollar basis for the services provided"; and

- the employee "remains assigned to that property while employed by successive owners or management companies."

This exemption does not apply to services performed by an employee for properties other than the one to which he or she employee is permanently assigned. Also, the property management company must:

- be "contractually obligated to the property owner to exercise control over the activities of the employee providing the service"; and
- manage and direct the employee's day-to-day activities.

The company must pay tax on the taxable items *purchased* and provided to employees providing services on managed property.

A "property management company" is a "person who, for consideration, operates and manages all the activities at a property held by the owner for purposes of rental, such as: an office building, mall or other retail or office complex, an apartment complex, duplex, or home." The company's responsibilities must include "securing tenants, hiring and supervising employees for operation or upkeep of the property, receiving and applying revenues, and incurring and paying expenses derived from the operation of the property as directed by the owner."

Property management companies whose "employees provide taxable services as part of their overall management and operation of a rental property need not collect tax on those services if their value is insignificant." These taxable services are "insignificant" in any billing period in which their value is five percent or less of the amount charged by the management company for services. The amount charged by the management company for taxable services is determined by deducting from the total charge any mortgage payments made by the management company for the property owner and any amounts paid to persons other than the company's employees for goods and services. If the taxable services' value exceeds this five-percent limit, the entire amount charged is considered taxable unless charges for taxable services are separately itemized and taxed.

Purchases *by* a property management company for use by the property owner of taxable goods, labor, or services may be handled in either of the following ways:

- the management company may issue a resale certificate to the supplier and collect the tax from the property owner on the itemized charge for the goods, labor, or service; or
- the management company may pay tax to the supplier and collect an equal amount from the property owner.

The state's franchise tax of .75 percent of the taxable margin also applies to most nonretail businesses. See [Tex. Tax Code ch. 171 \(2019\)](#) for details regarding the state's franchise tax on gross receipts.

LAND SURVEYS

Texas assesses a 6.25-percent tax on "real property services," which include surveying real property. However, generally, "real property services" do not include services purchased by a contractor "as part of the improvement of real property with a new structure to be used as a residence or other improvement immediately adjacent to the new structure and used in the residential occupancy of the structure."

Real property surveying includes activities performed to determine or confirm real property's boundaries or the location of structures or other improvements in relation to the property's boundaries.

OTHER RELATED SERVICES

Landman Services

A taxable entity that is primarily engaged in performing landman services must exclude from its total revenue, to the extent included pursuant to other specified statutes, subcontracting payments the taxable entity made to nonemployees for landman services. In this context, "landman services" means:

- performing title searches to determine ownership of or to cure title defects related to oil, gas, or other mineral or petroleum interests;
- negotiating mineral rights for the exploration, development, or production of oil, gas, or other related mineral or petroleum interests; or
- negotiating or managing the negotiation of contracts or other agreements related to mineral interest ownership for the exploration, exploitation, disposition, development, or production of oil, gas, or other related mineral or petroleum interests.

Statutory section 151.354 enacted 1999; § 151.0048 amended 2007; § 171.103 amended 2013; § 171.002 amended 2017; § 171.1011 amended 2019. Regulation 3.356 amended 1995; r. 3.355 amended 2018.

[Tex. Tax. Code §§ 151.0048, .354; 171.002, .103, .1011 \(2019\); 34 Tex. Admin. Code §§ 3.355, .356 \(2019\)](#)

Utah

Utah, General service taxes

OVERVIEW

Utah does not have a broad-reaching sales tax on services. Generally, the state imposes a state tax of 4.85 percent on the sales price or purchase price of certain transactions, including retail sales of tangible personal property and some services, such as telephone services, certain utilities, prepared food, admissions, repair or cleaning of tangible personal property, tourist accommodations, and laundry services, among others. The statewide combined rate, including state, local and county option taxes, is generally 5.95 percent. The terms "purchase price" or "sales price" include the total consideration for which tangible personal property or services are sold, including labor costs, service costs, or any charge for services necessary to complete the sale. However, the terms do not include delivery or installation charges that are separately stated on an invoice, bill of sale, or similar document provided to the purchaser.

Generally, if a transaction consists of the sale, lease, or rental of a product or service that is subject to taxation and the sale, lease, or rental of a product or service that is not subject to taxation, the entire transaction is subject to taxation unless the seller, at the time of the transaction:

- separately states on an invoice, bill of sale, or similar document provided to the purchaser the portion that is not subject to taxation; or
- is able to "identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter."

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located.

Sales *to* the state (and its political subdivisions) are generally exempt, but this exemption does not apply to sales of:

- construction materials (except those for certain public education institutions or those purchased by the state and installed or converted to real property by state employees); or
- tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of an electric generation and transmission facility project.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located.

See generally [Utah Tax Comm'n Publication 42, Sales Tax Information for Sales, Installation and Repair of Tangible Personal Property Attached to Real Property \(rev'd June 2015\)](#)

FINANCIAL SERVICES

No relevant provisions were located.

PROFESSIONAL SERVICES

No relevant provisions were located.

Sections amended 2019.

[Utah Code §§ 59-12-102, -103, -104 \(2019\)](#); see also [Utah Tax Comm'n, Utah Code Title 59, Ch. 12: Sales & Use Tax Act, Combined Sales and Use Tax Rates: Rates in effect as of January 1, 2020](#)

Utah, Sales tax on commissions

No relevant provisions were located.

Utah, Sales tax on related services

No specifically relevant provisions were located. Generally, "amounts paid or charged to access a database" are exempt from the state's sales and use taxes, if the primary purpose for accessing the database is to view or retrieve information. The exemption does not include "amounts paid or charged" for a digital audiowork, audio-visual work, or book.

Section amended 2017.

[Utah Code § 59-12-104 \(2018\)](#)

Vermont

Vermont, General service taxes

OVERVIEW

Vermont does not have a broad-reaching sales tax on services. However, the state's six-percent tax on retail sales applies to some services, such as public utilities, entertainment admissions, and most telecommunications. Also, "sales price" means the total amount of consideration, without deduction for labor or service costs, charges by the seller for services "necessary to complete the sale" (other than installation charges), and delivery charges, among others.

Charges when tangible property is transferred as part of a personal services transaction are explicitly not subject to the state's tax, provided:

- the transaction's focus is to provide services;
- no separate charge is made for the transfer of the property; and
- the property's value (including the value of services added) is less than 10 percent of the total charge.

However, if the transaction's focus is the transfer of tangible personal property, all receipts from the sale are generally taxable, including receipts from separately stated charges for services to produce the property.

Charges by an advertising agency for the transfer of advertising materials (when the transfer is made in conjunction with the delivery of advertising services) and charges for delivery of documents that record or memorialize professional services are also generally not subject to the tax.

2015 Vt. Acts & Resolves ch. 57 noted the shift of the state's economy from one based on goods to one based on services. The act also requires the Commissioner of Taxes to report to the state senate regarding how the Department of Taxes would implement an extension of the state's sales and use tax to "select consumer services, not to include business to business services, most commonly taxed in other states."

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located.

Upon application to the commissioner and obtaining a direct payment permit, a contractor who acquires tangible personal property consisting of materials and supplies to be used to erect structures or improve real property for others may pay the tax directly to the commissioner and waive the collection of the tax by the vendor.

"Retail sale" includes sales to contractors of materials and supplies for their use in erecting structures or improving, altering, or repairing real property.

Carpenters, Plumbers, and Similar Trades

No specifically relevant provisions were located.

Upon application to the commissioner and obtaining a direct payment permit, a subcontractor or repairman who acquires tangible personal property consisting of materials and supplies to be used to erect structures or improve real property for others may pay the tax directly to the commissioner and waive the collection of the tax by the vendor.

"Retail sale" includes sales to subcontractors or repair persons of materials and supplies for their use in erecting structures or improving, altering, or repairing real property.

FINANCIAL SERVICES

Bank Service Charges

No relevant provisions were located.

Insurance Services

No specifically relevant provisions were located. Charges for documents that record or memorialize professional services rendered, such as charges for insurance policies, are exempt from Vermont's tax on retail sales.

PROFESSIONAL SERVICES

Accountants

Charges for documents that record or memorialize professional services rendered, such as charges for tax returns and reports produced by accountants, are exempt from Vermont's tax on retail sales.

Architects

Charges for documents that record or memorialize professional services rendered, such as charges for drawings produced by architects, are exempt from Vermont's tax on retail sales.

Attorneys

Charges for documents that record or memorialize professional services rendered, such as charges for "briefs, memoranda, agreements, and wills prepared by lawyers," are exempt from Vermont's tax on retail sales.

Dentists

No relevant provisions were located. "Toothbrushes, floss, and similar items of nominal value" that dentists give to patients during treatment are exempt.

Engineers

No relevant provisions were located.

Physicians

No relevant provisions were located.

Section 9745 amended 2013; §§§ 9701 and 9741 amended 2019; § 9771 amended 2017.

[Vt. Stat. tit. 32, §§ 9701, 9741, 9745, 9771 \(2019\)](#)

Vermont, Sales tax on commissions

No relevant provisions were located.

Vermont, Sales tax on related services

No relevant provisions were located.

Virgin Islands

Virgin Islands, General service taxes

OVERVIEW

Virgin Island law does not provide for a sales tax on services. However, subject to only a few specified exemptions, the territory applies a four-percent tax on the gross receipts of "[e]very individual and every firm, corporation, and other association doing business in the Virgin Islands."

"Gross receipts" includes all receipts for services and the "value accruing from the sale of tangible personal property or services," without deducting labor costs or any other expenses.

Generally, it is unlawful for anyone who is required to pay a gross receipts tax to "state separately the gross receipts tax or any portion thereof on any bill or invoice to any customer or client."

An individual, firm, corporation, and other association with annual gross receipts of less than \$225,000 is exempt from paying the gross receipts tax on the first \$9,000 of gross receipts each month. An individual, business, or association is presumed to have annual gross receipts of less than \$225,000 if its actual gross receipts for the preceding tax year was less than \$225,000. That presumption continues each month until the actual gross receipts are \$225,000 or more for the taxable year. At that time, the gross receipts tax is due and payable on the entire gross receipts for that tax year. The V.I. Department of Internal Revenue provides the following example:

The \$9,000-per-month exemption is lost if not used in one month. For example, a business with gross receipts of \$7,000 in one month and \$10,000 in a second month would owe tax on \$50 in the second month, while a business with gross receipts of \$8,000 in each month would owe no tax.

Most of the specified exemptions from the gross receipts tax, such V.I. lottery ticket sale commissions, franchised bus operators' gross income, receipts of certain costume jewelry manufacturers, and receipts from farming and fishing, are not relevant to this survey.

CONSTRUCTION SERVICES

Construction Contractors

Although no provisions were located specifically applying a sales tax on construction contractors' services, the territory's law provides that "[e]very individual and every firm, corporation, and other association doing business in the Virgin Islands" must generally pay a four-percent tax on the gross receipts of the business.

Providers of affordable housing pursuant to an approved Affordable Housing Development Agreement are exempt from the gross receipts tax on those receipts connected with producing the affordable housing.

Also, a contractor (and his or her subcontractors) for a project being constructed or rehabilitated with certain funds provided through the United States Department of Housing and Urban Development or the Cranston-Gonzales National Affordable Housing Act are exempt from the gross receipt tax on receipts related to the project if every contractor and subcontractor:

- guarantees that preference in employment for the project will be given first to United States citizens or permanent residents who have resided in the Virgin Islands for at least one year and who are qualified to perform the work;
- certifies that they will comply with the above requirement and will use the Employment Security Agency in hiring for the project;
- certifies that they will have at least 80 percent Virgin Islands domiciliaries, 60 percent minorities and veterans, 25 percent women, and 10 percent handicapped individuals employed on the project; and
- guarantees and certifies that all materials, supplies, and equipment will be purchased in the Virgin Islands.

Carpenters, Plumbers, and Similar Trades

Although no provisions were located specifically applying a sales tax on tradespersons' services, the territory's law provides that "[e]very individual and every firm, corporation, and other association doing business in the Virgin Islands" must generally pay a four-percent tax on the gross receipts of the business.

Subcontractors who perform work on affordable housing pursuant to an approved Affordable Housing Development Agreement are exempt from the gross receipts tax on receipts connected with producing the affordable housing.

Also, a contractor (and his or her subcontractors) on a project being constructed or rehabilitated with certain funds provided through the United States Department of Housing and Urban

Development or the Cranston-Gonzales National Affordable Housing Act are exempt from the gross receipt tax on receipts related to the project if every contractor and subcontractor:

- guarantees that preference in employment for the project will be given first to United States citizens or permanent residents who have resided in the Virgin Islands for at least one year and who are qualified to perform the work;
- certifies that they will comply with the above requirement and will use the Employment Security Agency in hiring for the project;
- certifies that they will have at least 80 percent Virgin Islands domiciliaries, 60 percent minorities and veterans, 25 percent women, and 10 percent handicapped individuals employed on the project; and
- guarantees and certifies that all materials, supplies, and equipment will be purchased in the Virgin Islands.

FINANCIAL SERVICES

Bank Service Charges

Banks are exempt from the gross receipts tax.

Insurance Services

International insurance companies are exempt from the gross receipts tax.

Although the tax does not apply to "premiums on insurance written," insurance agents' commissions are subject to the gross receipts tax.

PROFESSIONAL SERVICES

Although no provisions were located specifically applying a sales tax on professionals' services, the territory's law provides that "[e]very individual and every firm, corporation, and other association doing business in the Virgin Islands" must generally pay a four-percent tax on the gross receipts of the business. No relevant exemptions were located. (See "OVERVIEW" above for a more detailed description of the tax amount.)

Statutory section 43 amended 2008; § 43h enacted 1991; 43f amended 1993; § 43g amended 2007. Regulatory history unknown. Booklet dated 2016.

V.I. Code tit. 33, §§ 43, 43f, 43g, 43h (LexisNexis 2018); 33-3 V.I. Code R. § 43-4 (2019); [V.I. Bureau of Internal Revenue, *Tax Structure Booklet of the U.S. Virgin Islands* \(2016\)](#)

Virgin Islands, Sales tax on commissions

SALES TAX AMOUNT

Although no provisions were located specifically applying a sales tax on real estate commissions, the territory's law provides that "[e]very individual and every firm, corporation, and other association doing business in the Virgin Islands" must generally pay a four-percent tax on the gross receipts of the business. No relevant exemptions were located. See "General service taxes: OVERVIEW" for a more detailed description of the tax amount.

EXCEPTIONS

No relevant provisions were located.

Section amended 2008.

V.I. Code tit. 33, § 43 (LexisNexis 2018)

Virgin Islands, Sales tax on related services

APPRAISALS

Although no provisions were located specifically applying a sales tax on appraisals, the territory's law provides that "[e]very individual and every firm, corporation, and other association doing business in the Virgin Islands" must generally pay a four-percent tax on the gross receipts of the business. No relevant exemptions were located. See "General service taxes: OVERVIEW" for a more detailed description of the tax amount.

HOME INSPECTIONS

Although no provisions were located specifically applying a sales tax on home inspections, the territory's law provides that "[e]very individual and every firm, corporation, and other association doing business in the Virgin Islands" must generally pay a four-percent tax on the gross receipts of the business. No relevant exemptions were located. See "General service taxes: OVERVIEW" for a more detailed description of the tax amount.

MLS SERVICES

Although no provisions were located specifically applying a sales tax on MLS services, the territory's law provides that "[e]very individual and every firm, corporation, and other association doing business in the Virgin Islands" must generally pay a four-percent tax on the gross receipts of the business. No relevant exemptions were located. See "General service taxes: OVERVIEW" for a more detailed description of the tax amount.

PROPERTY MANAGEMENT

Although no provisions were located specifically applying a sales tax on property management services, the territory's law provides that "[e]very individual and every firm, corporation, and other association doing business in the Virgin Islands" must generally pay a four-percent tax on the gross receipts of the business. No relevant exemptions were located. See "General service taxes: OVERVIEW" for a more detailed description of the tax amount.

LAND SURVEYS

Although no provisions were located specifically applying a sales tax on land surveys, the territory's law provides that "[e]very individual and every firm, corporation, and other association doing business in the Virgin Islands" must generally pay a four-percent tax on the gross receipts of the business. No relevant exemptions were located. See "General service taxes: OVERVIEW" for a more detailed description of the tax amount.

OTHER RELATED SERVICES

Although no provisions were located specifically applying a sales tax on other related services, such as title abstracts, the territory's law provides that "[e]very individual and every firm, corporation, and other association doing business in the Virgin Islands" must generally pay a four-percent tax on the gross receipts of the business. No relevant exemptions were located. See "General service taxes: OVERVIEW" for a more detailed description of the tax amount.

Section amended 2008.

V.I. Code tit. 33, § 43 (LexisNexis 2018)

Virginia

Virginia, General service taxes

OVERVIEW

Virginia does not have a broad-reaching sales tax on services.

However, although services are generally exempt from the state's 4.3 percent state tax on retail sales, some services provided in connection with the sale of tangible personal property are taxable. (Note that the Virginia Department of Taxation lists the general sales tax rate as 5.3 percent, including a one-percent local tax in addition to the 4.3-percent state tax.) The full amount of sales transactions involving both tangible personal property and services are generally either taxable or exempt (whether or not the charges are separately stated), and the state uses a "true object" test to determine the transaction's taxability.

Also, "sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, without any deduction on account of the cost of labor or service costs, among other things.

Virginia's sales tax does not apply to the following, among others:

- "professional, insurance, or personal service transactions" that involve sales as "inconsequential elements for which no separate charges are made";
- services rendered by repairmen for which a separate charge is made;
- separately stated charges for services rendered to install, apply, remodel, or repair property sold or rented; or
- separately stated transportation charges.

CONSTRUCTION SERVICES

Construction Contractors

No specifically relevant provisions were located.

Any person who contracts to "perform construction, reconstruction, installation, repair, or any other service with respect to real estate or fixtures thereon, and in connection therewith to furnish tangible personal property" is deemed to have purchased that tangible personal property for use or consumption. Any sale to that person is deemed a sale for the ultimate consumer and not for resale, and the dealer making the sale is obligated to collect the tax. Tangible personal property that is incorporated into real property construction and that loses its identity is also deemed to be tangible personal property used or consumed.

The term "contractor" includes both prime contractors and subcontractors.

A contractor or subcontractor may not pass Virginia's sales or use tax on to anyone else, but must take the tax amount into consideration when submitting a bid.

A "using or consuming contractor" may also be engaged in the business of selling tangible personal property to customers for use or consumption by them. In that case, the person is a dealer with respect to those sales, and if he or she removes from his or her sales inventory tangible personal property purchased under a resale certificate, he or she must pay the tax on the cost of that property.

Carpenters, Plumbers, and Similar Trades

No specifically applicable provisions were located.

The provisions described above (in "*Construction Contractors*") that apply to contractors also apply to tradespersons acting as subcontractors. A person selling and installing tangible personal property that becomes real property is generally considered a contractor. However, until July 1, 2017, a retailer "selling and installing fences, venetian blinds, window shades, awnings, storm windows and doors, floor coverings (as distinguished from floors themselves), cabinets, countertops, kitchen equipment, window air conditioning units or other like or comparable items is not classified as a using or consuming contractor with respect to them."

A person or entity "primarily engaged in the business of furnishing and installing tangible personal property that provides electronic or physical security" on real property used by a financial institution is deemed a retailer of that personal property, including when the personal property is installed on real property that is not used by a financial institution. However, the relevant statutory subsection does not address installation services.

Note: Legislation enacted in 2018, [2018 Va. Acts ch. 850](#) (to be codified as Va. Code § 58.1-603.2), imposes an additional one percent state sales tax in the "Historic Triangle," meaning all of the City of Williamsburg and the Counties of James City and York, which tax is to be added to the rate of the state sales tax imposed pursuant to sections [58.1-603](#) and [58.1-603.1](#)

FINANCIAL SERVICES

Bank Service Charges

No specifically relevant provisions were located.

Virginia's sales tax applies to property purchased *by* national and state banks and certain other financial institutions. The bank must also collect and pay the tax if it sells, leases, or rents tangible personal property. Safe-deposit-box rentals are not subject to the tax.

Insurance Services

Insurance transactions that involve "sales as inconsequential elements for which no separate charge is made" are not subject to the state's sales tax.

PROFESSIONAL SERVICES

Accountants

No specifically relevant provisions were located. However, generally, professional transactions that "involve sales as inconsequential elements for which no separate charge is made" are not subject to the state's sales tax.

Virginia's statutes also provide that the tax did not apply to the following: "[b]eginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele." No law was located indicating whether those items are taxed after July 1, 2006.

Architects

No specifically relevant provisions were located. However, generally, professional transactions that "involve sales as inconsequential elements for which no separate charge is made" are not subject to the state's sales tax.

Virginia's statutes also provide that the tax did not apply to the following: "[b]eginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele." No law was located indicating whether those items are taxed after July 1, 2006.

Attorneys

No specifically relevant provisions were located. However, generally, professional transactions that "involve sales as inconsequential elements for which no separate charge is made" are not subject to the state's sales tax.

Virginia's statutes also provide that the tax did not apply to the following: "[b]eginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele." No law was located indicating whether those items are taxed after July 1, 2006.

Dentists

Dentists are deemed to be providing professional services that are not subject to the state's sales tax.

Dentists are consumers of all tangible personal property they purchase for use in their practice (except controlled drugs, which they may purchase exempt from the tax). The sales tax applies to sales to a dentist of "dentures, plates, braces and similar prosthetic devices" (unless purchased on behalf of a specific patient) and furnishings, equipment, tools and other dental supplies.

Engineers

No specifically relevant provisions were located. However, generally, professional transactions that "involve sales as inconsequential elements for which no separate charge is made" are not subject to the state's sales tax.

Virginia's statutes also provide that the tax did not apply to the following: "[b]eginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele." No law was located indicating whether those items are taxed after July 1, 2006.

Physicians

Professional services performed by physicians, surgeons, and other healing arts practitioners are not subject to the state's sales tax. However, if a practitioner regularly sells tangible personal property, he or she must collect and pay the tax on those retail sales.

Physicians are deemed to be consumers of all tangible personal property used in performing their professional services, so they generally must pay the tax to their suppliers. A physician's purchase of "wheelchairs, braces, crutches, prostheses, orthopedic appliances, durable medical equipment, and similar items" are taxed (unless purchased on behalf of a specific patient).

Statutory section 58.1-610 amended 2017; § 58.1-609.10 amended 2017; §§ 58.1-603 and 58.1-609.5 amended 2013; § 58.1-602 amended 2019. Regulation 10-210-170 repealed effective November 26, 2008; r. 10-210-595 adopted 2008; rr. 10-210-410, 10-210-500, and 10-210-2060 amended 1985; r. 10-210-4040 amended 1994.

[Va. Code §§ 58.1-602, -603, -609.5, -609.10, -610 \(2019\); 23 Va. Admin. Code §§ 10-210-410, -500, -595, -2060, -4040 \(2019\); Va. Dep't of Taxation, Sales and Use Tax \(last visited Dec. 30, 2019\)](#)

Virginia, Sales tax on commissions

No relevant provisions were located.

Virginia, Sales tax on related services

No relevant provisions were located.

Washington

Washington, General service taxes

OVERVIEW

Washington assesses both a sales tax on retail sales, including some services, and a business and occupations tax on the gross income of most businesses.

The state's sales tax, which is levied by chapter 82.08, is 6.5 percent of the selling price of each retail sale, unless exempt. The retail sales tax applies to the sales price of tangible personal property sold to persons for use in performing a business activity that is taxable as a "service and other business" under the business and occupations tax. "Sales price" means the total consideration for which tangible personal property or taxable services are sold, without deducting labor or service costs, charges for "services necessary to complete the sale," or delivery and installation charges.

The business and occupation tax, which is levied by chapter 82.04, generally equals .471 percent of the "value of products, gross proceeds of sales, or gross income of the business, as the case may be" for businesses specified in the statutes. Other business and service activities are subject to a 1.5-percent tax on their gross income. These businesses generally include persons rendering professional or personal services to persons (rather than to personal property), such as accountants, agents, appraisers, architects, attorneys, barbers, brokers, collection agents, dentists, employment agents, engineers, landscape architects, lawyers, loan agents, physicians, real estate agents, and "numerous other persons." They do not include personal and professional services specifically included in the definition of "sale at retail," such as amusements, recreation, abstracts, title insurance, escrow businesses, and credit bureau businesses.

CONSTRUCTION SERVICES

Construction Contractors

Generally, construction contractors must both collect and remit the 6.5-percent sales tax and pay the .471-percent business and occupations tax.

A "prime contractor" is a person "engaged in the business of performing for consumers, the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property, either for the entire work or for a specific portion thereof."

For the business and occupation tax, prime contractors are taxable under the retailing classification on the gross contract price. Prime contractors must also collect from consumers the retail sales tax on the full contract price. For both taxes, if no gross contract price is stated in the contract, the tax is based on the total construction costs "required for the construction and paid by the builder."

Sales to prime contractors of materials that "become part of the structure being built or improved" are sales for resale, which are not subject to the retail sales tax. Sales of form lumber to contractors are also sales for resale if the lumber is used first for molding concrete at the job and then "incorporated into the product of that same contract project or job as an ingredient or component thereof." Sales of form lumber that is not incorporated into the project are taxable retail sales.

The retail sales tax applies to sales to prime contractors of tools, machinery, equipment, and consumable supplies that are primarily for use by the contractor (rather than for resale as part of the finished structure). The retail sales tax also applies to sales of tangible personal property, labor, services, and materials to speculative builders.

"Retail sale" includes the sale of tangible personal property consumed and labor and services rendered for "the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers," unless exempt. "Services rendered in respect to" means services that are "directly related to the constructing, building, repairing, improving, and decorating of buildings or other structures and that are performed by a person who is responsible for the performance of the constructing, building, repairing, improving, or decorating activity." The term does not include "services such as engineering, architectural, surveying, flagging, accounting, legal, consulting, or administrative services," so those services are not subject to the retail sales tax.

Carpenters, Plumbers, and Similar Trades

Generally, construction contractors must both collect and remit the 6.5-percent sales tax and pay the .471-percent business and occupations tax.

Tradespersons may be either "prime contractors" or "subcontractors." A "prime contractor" is a person "engaged in the business of performing for consumers, the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property, either for the entire work or for a specific portion thereof." A "subcontractor" is "a person engaged in the business of performing a similar service for persons other than consumers, either for the entire work or for a specific portion thereof."

For the business and occupation tax, prime contractors are taxable under the retailing classification, and subcontractors are taxed under the wholesaling classification, both on the gross contract price. Prime contractors must also collect from consumers the retail sales tax on the full contract price. For both taxes, if no gross contract price is stated in the contract, the tax is based on the total construction costs "required for the construction and paid by the builder."

Sales to prime contractors and subcontractors of materials that "become part of the structure being built or improved" are sales for resale, which are not subject to the retail sales tax. Sales of form lumber to contractors are also sales for resale, if the lumber is used first for molding concrete at the job and then "incorporated into the product of that same contract project or job as an ingredient or component thereof." Sales of form lumber that is not incorporated into the project are taxable retail sales.

The retail sales tax applies to sales to prime contractors and subcontractors of tools, machinery, equipment, and consumable supplies that are primarily for use by the contractor (rather than for resale as part of the finished structure). The retail sales tax also applies to sales of tangible personal property, labor, services, and materials to speculative builders.

"Retail sale" includes the sale of tangible personal property consumed and labor and services rendered for "the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers," unless exempt. "Services rendered in respect to" means services that are "directly related to the constructing, building, repairing, improving, and decorating of buildings or other structures and that are performed by a person who is responsible for the performance of the constructing, building, repairing, improving, or decorating activity." The term does not include "services such as engineering, architectural, surveying, flagging, accounting, legal, consulting, or administrative services," so those services are not subject to the retail sales tax.

FINANCIAL SERVICES

Bank Service Charges

The gross income or gross sales of banks are generally subject to the 1.5-percent business and occupation tax under the "service and other activities" classification. The following types of income are taxable under this classification: interest, commissions, and dividends earned; fees and carrying charges; charges for bookkeeping or data processing; and safety deposit box rentals.

Sales of tangible personal property and certain services are defined as "retail sales" and are subject to the business and occupation tax. These sales, which include the following, are also subject to the retail sales tax: sales of meals or confections; repossessed merchandise; promotional material; check registers; coin banks; and personalized checks. The sales tax does not apply when a financial institution buys tangible personal property for resale to its customers without intervening use.

See § 82.04.4281 for amounts that banks may deduct from their taxable income.

"Financial services" are subject to a credit for persons engaged in international service.

Insurance Services

Until July 1, 2009, every licensed insurance agent, broker, or solicitor is assessed a .484-percent tax on gross income from licensed activities. Effective July 1, 2009, every licensed insurance producer or title insurance agent is assessed a .484-percent tax on gross income from licensed activities.

A person who represents and performs services for fire or casualty insurance companies as a licensed "independent resident managing general agent" is also subject to the .484-percent business and occupations tax on gross income.

Income earned by insurance companies is generally subject to the service and other activities business and occupation tax, unless the law provides an exemption or deduction. See § 82.04.320 and regulation 458-20-163 for applicable exemptions and deductions.

Insurance companies are subject to the retail sales tax on retail purchases, taxable services, or articles acquired for their own use. Also, insurance companies must collect the state's sales tax on salvaged property or other tangible personal property they sell to consumers.

PROFESSIONAL SERVICES

Accountants

Accountants render "personal services to others." Therefore, they generally must pay the state's business and occupations tax, but not its sales tax.

Persons engaged in the business of rendering personal services to others are subject to the 1.5-percent "service and other activities" tax on the gross income of their business. Gross income includes fees for services rendered and all charges recovered for expenses incurred in connection with the services, such as transportation, hotel, restaurant, and telephone costs.

The state's retail sales tax does not apply to the amount charged or received for personal services to others, even if some tangible personal property in the form of materials and supplies is furnished or used in connection with the services. Accountants are consumers of materials and supplies used in connection with their business, and they must pay the retail sales tax on their purchase of those items. If an accountant sells tangible personal property apart from the personal services, he or she must collect the retail sales tax on the sale of those articles.

The tax imposed on an accountant's services is subject to the credit available to persons engaged in international service.

For every person engaging in the business of cleaning up radioactive waste and other by-products of weapons production and nuclear research and development for the federal government, the tax equals gross income times 0.471. This radioactive waste clean-up classification does not apply to general accounting services, but it does apply to performance audits performed for persons cleaning up radioactive waste.

Architects

Architects render "personal services to others." Therefore, they generally must pay the state's business and occupations tax, but not its sales tax.

Persons engaged in the business of rendering personal services to others are subject to the 1.5-percent "service and other activities" tax on the gross income of their business. Gross income includes all fees for services rendered and all charges recovered for expenses incurred in connection with the services, such as transportation, hotel, restaurant, and telephone costs.

The state's retail sales tax does not apply to the amount charged or received for personal services to others, even if some tangible personal property in the form of materials and supplies is furnished or used in connection with the services. Architects are consumers of materials and supplies used in connection with their business, and they must pay the retail sales tax on their purchase of those items. If an architect sells tangible personal property apart from personal services, he or she must collect the retail sales tax on the sale of those articles.

The tax imposed on an architect's services is subject to the credit available to persons engaged in international service.

Attorneys

Attorneys render "personal services to others." Therefore, they generally must pay the state's business and occupations tax, but not its sales tax.

Persons engaged in the business of rendering personal services to others are subject to the 1.5-percent "service and other activities" tax on the gross income of their business. Gross income includes all fees for services rendered and all charges recovered for expenses incurred in connection with the services, such as transportation, hotel, restaurant, and telephone costs.

The state's retail sales tax does not apply to the amount charged or received for personal services to others, even if some tangible personal property in the form of materials and supplies is furnished or used in connection with the services. Attorneys are consumers of materials and supplies used in connection with their business, and they must pay the retail sales tax on their purchase of those

items. If an attorney sells tangible personal property apart from the personal services, he or she must collect the retail sales tax on the sale of those articles.

The tax imposed on an attorney's services is subject to the credit available to persons engaged in international service.

For every person engaging in the business of cleaning up radioactive waste and other by-products of weapons production and nuclear research and development for the federal government, the tax equals gross income times 0.471. This radioactive waste clean-up classification does not apply to general legal services, but it does apply to those legal services that "assist in the accomplishment of a requirement of a clean-up project undertaken by the United States department of energy." Therefore, legal services provided to contest a tax liability or to defend a workers' compensation claim do not qualify for the radioactive waste clean-up classification. However, legal services related to resolving a contractual dispute between parties to a clean-up contract between the United States department of energy and a prime contractor do qualify.

Dentists

Dentists render "personal services to others." Therefore, they generally must pay the state's business and occupations tax, but not its sales tax.

Dentists are subject to the 1.5-percent "service and other activities" tax on their gross income from performing dental services, including any separate charges for drugs, medicines, and other substances administered or provided to a patient as part of dental services. Gross income also includes any separate charges for prosthetic devices provided as part of the dental services. See regulation 458-20-151 for detailed provisions related to the taxability of a health care provider's services and other relevant provisions.

The state's retail sales tax does not apply to the amount charged or received for personal services to others, even if some tangible personal property in the form of materials and supplies is furnished or used in connection with the services. Dentists are consumers of materials and supplies used in connection with their business, and they must pay the retail sales tax on the purchase of those items. If a dentist sells tangible personal property apart from the personal services, he or she must collect the retail sales tax on the sale of those articles.

The tax imposed on a dentist's services is subject to the credit available to persons engaged in international service.

Engineers

Engineers render "personal services to others." Therefore, they generally must pay the state's business and occupations tax, but not its sales tax.

Persons engaged in the business of rendering personal services to others are subject to the 1.5-percent "service and other activities" tax on the gross income of their business. Gross income includes all fees for services rendered and all charges recovered for expenses incurred in connection with the services, such as transportation, hotel, restaurant, and telephone costs.

The state's retail sales tax does not apply to the amount charged or received for personal services to others, even if some tangible personal property in the form of materials and supplies is furnished or used in connection with the services. Engineers are consumers of materials and supplies used in connection with their business, and they must pay the retail sales tax on their purchase of those items. If an engineer sells tangible personal property apart from the personal services, he or she must collect the retail sales tax on the sale of those articles.

The tax imposed on an engineer's services is subject to the credit available to persons engaged in international service.

Physicians

Physicians render "personal services to others." Therefore, they generally must pay the state's business and occupations tax, but not its sales tax.

Persons engaged in the business of rendering personal services to others are subject to the 1.5-percent "service and other activities" tax on their gross income, including any separate charges for drugs, medicines, and other substances administered or provided to a patient as part of health care services. Gross income also includes any separate charges for prosthetic devices. See regulation

458-20-151 for detailed provisions related to the taxability of a health care provider's services and other relevant provisions.

The state's retail sales tax does not apply to the amount charged or received for personal services to others, even if some tangible personal property in the form of materials and supplies is furnished or used in connection with the services. Physicians are consumers of materials and supplies used in connection with their business, and they must pay the retail sales tax on their purchase of those items. If a physician sells tangible personal property apart from the personal services, he or she must collect the retail sales tax on the sale of those articles.

The tax imposed on a physician's services is subject to the credit available to persons engaged in international service.

Statutory section 82.04.320 amended 1961; § 82.04.051 enacted 1999; § 82.04.4281 amended 2007; §§ 82.04.070, 82.04.263, and 82.04.44525 amended 2009; § 82.04.080 amended 2010; § 82.04.29002 enacted 2010; §§ 82.04.050, 82.04.220 amended 2017; § 82.04.250 amended 2014; §§ 82.04.260, 82.04.280, 82.04.290 and 82.08.010 amended 2019; § 82.08.020 amended 2016. Regulation 458-20-138 amended 1970; r. 458-20-224 amended 1986; r. 458-20-170 amended 1987; r. 458-20-207 amended 2004; rr. 458-20-146 and 458-20-163 amended 2010; r. 458-20-151 amended 2016.

[Wash. Rev. Code](#)

[§§ 82.04.050, .051, .070, .080, .220, .250, .260, .263, .280, .290, .29002, .320, .4281, .44525; .08.010, .020 \(2019\); Wash. Admin. Code 458-20-138, -146, -151, -163, -207, -224 \(2019\)](#)

Washington, Sales tax on commissions

SALES TAX AMOUNT

A real estate broker, who is deemed to be an independent contractor, is taxable under the "service and other activities" classification on the business's gross income. Therefore, every person engaging in Washington in the business of providing real estate brokerage services is assessed a 1.5-percent business and occupation tax on the business's gross income. The tax is applied to the gross commission earned by the particular real estate firm, including commissions paid to brokers (including designated and managing brokers) in the same firm on a particular transaction and other expenses of doing business. Gross income does not include amounts held in trust for others.

Real estate salesmen, who are also presumed to be independent contractors, are also subject to the "service and other activities" classification of the business and occupation tax. They are assessed the 1.5-percent tax on gross income from real estate commissions and fees earned if the brokerage office at which the real estate salesman's license is posted has not paid the tax on that gross commission.

EXCEPTIONS

If a real estate commission is divided between an originating brokerage office and a cooperating brokerage office on a particular transaction, each office pays the tax only on its share of the commission.

If a brokerage office has paid the required tax on a transaction, salesmen or associated brokers in the same office are not required to pay a similar tax on the same transaction.

Statutory section 82.04.390 amended 1961; § 82.04.29002 enacted 2010; §§ 82.04.255 amended 2011; § 82.04.220 amended 2017; regulation 458-20-128 amended 1983.

[Wash. Rev. Code §§ 82.04.220, .255, .29002, .390 \(2019\)](#); [Wash. Admin. Code 458-20-128 \(2019\)](#)

Washington, Sales tax on related services

APPRAISALS

No specifically relevant provisions were located. However, appraisers render "personal services to others," and most likely must pay the state's business and occupations tax, but not its sales tax. As a person engaged in the business of rendering personal services to others, an appraiser is probably subject to the 1.5-percent "service and other activities" tax on his or her business's gross income.

The tax on an appraiser's gross income is subject to the credit for persons engaged in international service.

HOME INSPECTIONS

No specifically relevant provisions were located. However, home inspectors render "personal services to others," and most likely must pay the state's business and occupations tax, but not its sales tax. As a person engaged in the business of rendering personal services to others, a home inspector is probably subject to the 1.5-percent "service and other activities" tax on his or her business's gross income. (From May 1, 2010, through June 30, 2013, an additional .3 percent was added to that rate.)

MLS SERVICES

No specifically relevant provisions were located. However, MLS services are probably subject to the state's business and occupations tax. Washington's statutes and regulations do not specify whether they are subject to its sales tax.

PROPERTY MANAGEMENT

Property managers render "personal services to others," and generally must pay the state's business and occupations tax, but not its sales tax. As a person engaged in the business of rendering personal services to others, a property manager is probably subject to the 1.5-percent "service and other activities" tax on his or her business's gross income. (From May 1, 2010, through June 30, 2013, an additional .3 percent was added to that rate.)

However, a property management company "from a housing authority for gross wages and benefits paid directly to or on behalf of on-site personnel from property management trust accounts that are required to be maintained under RCW 18.85.285."

Note that § 82.04.394, which previously provided that the business and occupation tax does not apply to amounts received by a nonprofit property management company for on-site personnel from property management trust accounts, was repealed in 2011. However, effective August 24, 2011, the amounts received by the following may be deducted from the "measure of tax" under chapter 82.04:

- a "nonprofit property management company from the owner of property for gross wages, benefits, and payroll taxes paid to, or for, personnel performing on-site functions";

- a "property management company from a housing authority for gross wages, benefits, and payroll taxes paid to, or for, personnel performing on-site functions"; or
- a "property management company from a limited liability company or limited partnership of which the sole managing member or sole general partner is a housing authority for gross wages, benefits, and payroll taxes paid to, or for, personnel performing on-site functions."

LAND SURVEYS

No specifically relevant provisions were located. However, surveyors render "personal services to others," and most likely must pay the state's business and occupations tax, but not its sales tax. As a person engaged in the business of rendering personal services to others, a surveyor is probably subject to the 1.5-percent "service and other activities" tax on his or her business's gross income.

The tax on a surveyor's gross income is subject to the credit for persons engaged in international service.

OTHER RELATED SERVICES

Escrow services

A "retail sale" includes the sale of or charge made for escrow services. Therefore, the gross receipts of escrow businesses, including escrow fees or service charges received by an escrow agent, are subject to the state's 6.5-percent sales tax. The retail sales tax also applies to sales to such businesses of forms, office supplies, and equipment.

Escrow businesses are taxed under the retailing classification on gross receipts from fees or premiums charged to consumers for escrow services. The gross income from collection contracts that do not involve an escrow is subject to tax under the "service and other" activities business and occupations tax classification.

Credit bureau services

The sale of or charge made for credit bureau services is a taxable "retail sale."

Title Abstract Services

A "retail sale" includes the sale of or charge made for title abstract services. Therefore, the gross receipts of abstract businesses, including abstract fees, are subject to the state's 6.5-percent sales tax. The retail sales tax also applies to sales *to* such businesses of forms, office supplies, and equipment.

Abstract businesses are taxed under the retailing classification on gross receipts from fees or premiums charged to consumers for abstract services.

Title insurance

A "retail sale" includes the sale of or charge made for title insurance. Therefore, the gross receipts of a title insurance businesses, including title insurance fees or premiums, are subject to the state's sales tax. The retail sales tax also applies to sales *to* such businesses of forms, office supplies, and equipment.

Title insurance businesses are taxed under the retailing classification on gross receipts from fees or premiums charged to consumers for title insurance services.

Statutory section 82.04.051 enacted 1999; § 82.04.44525 amended 2009; § 82.04.29002 enacted 2010; § 82.04.394 repealed 2011; § 82.04.4274 enacted 2011; § 82.04.050 and 82.04.220 amended 2017; §§ 82.04.250 and 82.08.020 amended 2014; regulation amended 1983.

[Wash. Rev. Code §§ 82.04.050, .051, .220, .250, .29002, .4274, .44525; .08.020 \(2019\); Wash. Admin. Code 458-20-156 \(2019\)](#)

West Virginia

West Virginia, General service taxes

OVERVIEW

West Virginia's six-percent sales and service tax generally applies to all services, except professional services, personal services, and services subject to the public service commission's regulation. "Professional services" include activities recognized as professional under common law, by the State Tax Division, and by the West Virginia Legislature. "Personal services" include services such as nursing, barbering, shoe shining, and manicuring.

See W.V. Code § 11-15-9 for a list of exempt transactions, including, among others, certain utilities and sales of services to the government.

CONSTRUCTION SERVICES

Construction Contractors

Generally, if a construction contractor's activity results in a capital improvement, the contractor's service is exempt from the state's sales and services tax. Thus, contractors typically provide a service that is not subject to the tax. A contractor must pay the state's sales tax on all purchases of goods and services he or she uses to perform a capital improvement contract.

"Contracting" includes "the furnishing of work, or both materials and work, for another (by a sole contractor, general contractor, prime contractor, subcontractor or construction manager)" to fulfill a contract to:

- construct, alter, repair, decorate, or improve all or part of a new or existing building or structure;
- remove or demolish all or part of a building or structure; or

- alter, improve, or develop real property.

"Contracting" also includes services provided by a construction manager if the project results in a capital improvement. In the sales-tax context, a "capital improvement" is an improvement that is "affixed to or attached to and become[s] a part of" a building, structure, or real property or that adds "utility to real property" and is "intended to be relatively permanent." "Contracting" does not include providing installation services that are incidental to the retail sale of tangible personal property from the service provider's inventory. Contractors may not assert an exemption to which the purchaser of the contracting service is entitled. However, effective July 1, 2012, this provision does not apply to "purchases of services, building materials and tangible personal property, except purchases of gasoline and special fuel, to be installed into a building or facility or directly used or consumed in the construction, alteration, repair or improvement" of a building by a person performing contracting, *if* the contracting services purchaser is a qualified nonprofit youth organization.

If a contractor's work does not result in a capital improvement to a building, structure, or real property, the work "is not contracting. It is the rendering of a taxable service."

For additional, detailed provisions regarding contractors' sales-tax liability, see W. Va. Code R. §§ 107 through 122 (2008).

Carpenters, Plumbers, and Similar Trades

"Contracting" includes capital-improvement work by both prime contractors and subcontractors. Therefore, the provisions that apply to construction contractors generally apply to tradespersons acting as subcontractors. If a tradesperson's activity results in a capital improvement, the service is exempt from the state's sales and service tax. However, the tradesperson is subject to tax on all purchases of goods and services he or she uses to perform a capital improvement contract.

For example, carpenters are generally performing a service. Therefore, their gross receipts are subject to the state's consumers sales and service tax if the work does not result in a capital improvement to a building, structure, or real property.

FINANCIAL SERVICES

Bank Service Charges

Generally, the services banks render to consumers are exempt from the sales and service tax because the services constitute professional services, consideration for credit extensions, charges related to the transfer of intangible property, or electronic data processing services. However, banks must collect a six-percent sales tax on the following (unless the purchaser or transaction is exempt):

- real estate management charges, unless the service is provided by a licensed real estate broker;
- safety deposit box rentals;
- fees for collection of notes and others' accounts;
- sales of promotional items, checks, checkbooks, and similar items to consumers; and
- research and copying charges.

Purchases *by* banks of tangible personal property or taxable services for use in providing the exempt services are subject to the state's sales and service tax.

Insurance Services

The state's sales tax does not apply to insurance sales by insurance agencies. Purchases *by* an agency for use in its insurance business are subject to the sales and service tax, unless specifically exempt.

PROFESSIONAL SERVICES

Accountants

Accountants' services are professional services exempt from the state's sales and service tax.

Professionals must *pay* the tax on all purchases for use in their businesses, except purchases for resale.

Architects

Architects' services are professional services exempt from the state's sales and service tax.

Professionals must *pay* the tax on all purchases for use in their businesses, except purchases for resale.

Attorneys

Attorneys' services are professional services exempt from the state's sales and service tax.

Professionals must *pay* the tax on all purchases for use in their businesses, except purchases for resale.

Dentists

Dentists' services are professional services exempt from the state's sales and service tax.

Professionals must *pay* the tax on all purchases for use in their businesses, except purchases for resale.

Dentists who engage in a manufacturing activity, such as operating their own dental lab, generally are not considered to be engaging in a professional activity. Products manufactured for another dentist are subject to the sales and service tax.

Engineers

Engineers' services are professional services exempt from the state's sales and service tax.

Professionals must *pay* the tax on all purchases for use in their businesses, except purchases for resale.

Physicians

Physicians' services are professional services exempt from the state's sales and service tax.

Although professionals generally must pay the tax on all purchases for use in their businesses, a health-care provider's purchase of drugs, mobility enhancing equipment, prosthetic devices, and certain durable medical equipment to be dispensed by prescription and used to diagnose, cure, mitigate, treat, or prevent injury or disease in humans is exempt from the tax.

Statutory section 11-15-8a enacted 1989; §§ 11-15-3 and 11-15-8 amended 2003; § 11-15-9 amended 2018; § 11-15-2 amended 2008; § 11-15-8d amended 2012; § 11-15-9i amended 2016. Regulations adopted 1993.

[W. Va. Code §§ 11-15-2, -3, -8, -8a, -8d, -9, -9i \(2019\); W. Va. Code R. §§ 110-15-2, -8, -8a, -31, -62, -99, -105 \(2019\); see also W. Va. Code R. §§ 110-15-107 through -122 \(2019\)](#) (details regarding the application of the state's sales tax to construction contracts)

West Virginia, Sales tax on commissions

A real estate broker or salesman who is licensed by the West Virginia Real Estate Commission provides "professional services excepted from the imposition of the consumers sales and service tax and use tax when rendering services which require such a license."

Statutory section 11-15-8 amended 2003; § 11-15-2 amended 2008. Regulations adopted 1993.

[W. Va. Code §§ 11-15-2, -8 \(2019\); W. Va. Code R. §§ 110-15-8.1, -87 \(2019\)](#)

West Virginia, Sales tax on related services

APPRAISALS

The services of real estate appraisers and certified real estate appraisers licensed in accordance with West Virginia law are professional services, exempt from the state's sales and service tax. However, persons in the real estate appraisal business who do not hold a valid West Virginia real estate license cannot render certified appraisals and are not providing a professional service. Therefore, they must collect the state's six-percent sales and service tax on the sale of their services.

Professionals must pay the tax on all *purchases* for use in their businesses, except for purchases for resale.

HOME INSPECTIONS

No provisions specifically applicable to general home inspections were located. However, persons engaged in the termite and pest control business are providing services that are subject to the state's sales tax, and both initial inspections for termites or other pests and reinspections are subject to the state's six-percent tax.

Also, governmental units that render services "subject to competition from other persons" must collect the sales tax on those services. However, governmental inspection fees (other than motor vehicle inspection fees) are not taxable.

MLS SERVICES

No specifically relevant provisions were located.

PROPERTY MANAGEMENT

Property management fees are subject to the state's six-percent sales and service tax, unless a licensed real estate broker provides the service.

LAND SURVEYS

Registered professional engineers performing surveys are exempt from the state's tax as professionals. By implication, surveys performed by others are probably taxable.

OTHER RELATED SERVICES

No relevant provisions were located.

Statutory sections 11-15-3, 11-15-8, and 11-15-14 amended 2003; § 11-15-2 amended 2008. Regulations adopted 1993.

[W. Va. Code §§ 11-15-2, -3, -8, -14 \(2019\); W. Va. Code R. §§ 110-15-8.1, -17, -31, -34, -87, -99 \(2019\)](#)

Wisconsin

Wisconsin, General service taxes

OVERVIEW

Wisconsin generally imposes a five-percent tax on the sales price of the sale of tangible personal property or specified services, including, among others, certain temporary accommodations, amusements, telecommunications, parking, printing, landscaping, and lawn maintenance services. (Before October 1, 2009, the tax was calculated on "gross receipts.") "Sales price" is the total consideration amount, without deducting labor or service costs, transportation costs to the seller, charges by the seller for services necessary to complete a sale, certain delivery charges (not including separately stated direct mail charges), and installation charges.

Generally, if a transaction involves both the transfer of tangible personal property (and certain specified items or property) and the performance of a service, the purchaser's "true objective" determines whether the transaction is deemed to be a sale of tangible personal property or a service with any property transfer "merely incidental" to the service. If the purchaser's objective is to obtain the personal property, the sale is a taxable property sale. However, if the purchaser's objective is to obtain the service, the sale is a nontaxable service sale, even if some tangible personal property may be transferred.

CONSTRUCTION SERVICES

Construction Contractors

"Sale" includes sales of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders to alter, repair, or improve real property. Real property "construction contractors" are "persons who perform real property construction activities" and include persons engaged in many trades, such as building, electrical work, plumbing, heating, painting, steel work, ventilating, paper hanging, sheet-metal work, excavating, landscaping, roofing, carpentry, masonry, cement work, plastering, and tile work.

Wisconsin laws regarding construction contracts are extensive and contain many exemptions and qualifications. Generally, the state's five-percent sales tax applies to the repair, service, alteration, cleaning, painting, inspection, and maintenance of tangible personal property, unless the transaction is exempt or the person is installing or applying tangible personal property that will constitute a real property addition or capital improvement. Exempt transactions include, among others, sales to the government. See Wis. Stat. § 77.52(2)(ag) for an extensive list of items (such as furnaces and stoves) that retain their character as tangible personal property, regardless of the extent to which the item is fastened to or built into real property.

Contractors and subcontractors are consumers of the tangible personal property and certain other specified items they use in real property construction, so the state's sales tax applies to the sale of those items *to* them.

Construction contractors may be retailers with respect to some activities and consumers with respect to others. When a construction contractor acts as a retailer, he or she must pay the tax on the sales price of retail *sales* of the tangible personal property (and on the sales price of certain

specified items) or taxable services. When the contractor acts as a consumer, the contractor must pay the tax on *purchases* of property consumed.

Contractors are retailers of:

- property, items, and goods the contractor installs that "retain their character as personal property";
- labor or services furnished to install tangible property and items, property and goods that retain their character as personal property;
- labor and material furnished to repair, service, alter, clean, paint, and maintain items that retain their character as tangible personal property for repair purposes; and
- tangible personal property sold.

Contractors must determine whether a particular contract or transaction results in a real property improvement or in the sale and installation of personal property. Personal property becomes a part of real property if it is:

- physically annexed to the real property;
- applied or adapted to the "use or purpose to which the real property is devoted"; or
- intended to be "a permanent accession to the real property."

Personal property that becomes a part of real property includes items such as boilers, furnaces, built-in household items such as kitchen cabinets and dishwashers, awnings, carpeting, and general wiring and lighting facilities. Property that "retains its character as personal property after

installation," includes items such as furniture, washers and dryers, portable appliances, window air-conditioning units, and communication equipment.

The sales tax exemption provided to governmental units and other exempt entities does not apply to building materials a contractor purchases for use pursuant to a construction contract with the exempt entity. Therefore, the sales price of the sales of these building materials to a contractor are subject to the state's sales tax if the building materials become a part of the real property.

A contractor who performs real property construction activities may not add tax to his or her charges because those activities are not taxable. The tax a contractor pays on materials consumed during the construction is a cost of doing business. A contractor's charges for repairing, servicing, altering, cleaning, painting, and maintaining tangible personal property are taxable.

See Wis. Admin. Code Tax § 11.68 for detailed provisions related to construction contractors, including additional definitions, examples of contractor purchases, classifications of property after installation, examples of property that becomes a part of realty and property that remains personal property, provisions related to property purchased by a person who performs both construction contracting and retail selling, and construction and repair and replacement services.

The sales price of a contractor's lump sum contract is exempt from tax if the total sales price of all taxable products and services the contractor sells as a part of the lump sum contract is less than 10 percent of the total lump sum contract amount. However, unless the contract is entered into with a tax-exempt entity, the contractor is the consumer of those taxable products and must pay tax on their purchase. In this context, a "lump sum contract" is a "contract to perform real property construction activities and to provide tangible personal property, items or property . . . or taxable services and for which the contractor quotes the charge for labor, services of subcontractors, tangible personal property, items and property . . . and taxable services as one price."

Effective February 1, 2016, an out-of-state business performing disaster relief work is not required to register or obtain a certificate for sales made during a disaster period.

Carpenters, Plumbers, and Similar Trades

Real property construction contractors are "persons who perform real property construction activities," and include persons engaged in activities such as building, electrical work, plumbing, heating, painting, steel work, ventilating, paper hanging, sheet-metal work, excavating, landscaping, roofing, carpentry, masonry, cement work, plastering, and tile work, among other trades. Therefore, the provisions that apply to contractors (see "*Construction Contractors*" above) also apply to most tradespersons.

Wisconsin generally imposes a five-percent tax on the repair, service, alteration, cleaning, painting, inspection, and maintenance of tangible personal property, unless the transaction is exempt or the person is installing or applying tangible personal property that will constitute a real property addition or capital improvement.

FINANCIAL SERVICES

Bank Service Charges

Financial institutions are "primarily engaged in providing nontaxable services." Nontaxable services include charges to customers for cashier's checks, money orders, traveler's checks, checking accounts, and safe-deposit boxes.

A financial institution must collect the state's sales tax on sales of parking, coin savings banks, collectors' coins or currency sold above face value, commemorative medals, gold and silver bullion, prepared foods, personalized imprinted checks (unless the check printer is the retailer of the checks to customers, and repossessed merchandise.

A financial institution's office-furniture and equipment purchases are subject to the state's tax.

Tangible personal property a financial institution purchases to give to a customer is taxable at the time of purchase. A financial institution may purchase tax-free tangible personal property that it will resell (rather than give away).

Insurance Services

No specifically relevant provisions were located.

The sales price of insurance sales (such as vehicle rental insurance sales) are generally not subject to Wisconsin's sales tax if they are separately stated on an invoice.

PROFESSIONAL SERVICES

Accountants

No provisions were located applying Wisconsin's sales tax to professional services.

If a person engaged in making retail sales is also engaged in a profession that is not taxable, the person must keep books that show separately the transactions used to determine the tax owed. If the person does not keep separate books, the tax is levied on the receipts of both of the person's businesses or professions.

Persons engaged in the business of furnishing services are consumers of the tangible personal property used "incidentally in rendering their services." Therefore, the tax applies to the sale of the tangible personal property to service-providers such as accountants.

Architects

Fees paid to architects (except for landscaping planning fees) to design buildings or structures are not subject to Wisconsin's sales tax. However, if an architect has blueprints made from original drawings, the sale of the blueprints is subject to the tax. Charges by a self-employed person for commercial drafting are subject to the state's tax if the charge is for "detailed drawings based entirely on specifications and data supplied by architects, engineers or other business firms." The charges are also taxable if the concepts, ideas, specifications, or designs are the customer's, and draftsman simply transfers the customer's details to paper. Conversely, if the draftsman uses his or her own concepts and ideas to produce detailed drawings for a customer, the drawings' sale is not taxable.

Attorneys

No provisions were located applying Wisconsin's sales tax to professional services.

If a person engaged in making retail sales is also engaged in a profession that is not taxable, the person must keep books that show the transactions used to determine the tax owed. If the person does not keep separate books, the tax is levied on the receipts of both of the person's businesses or professions. Persons engaged in the business of furnishing services are consumers of the tangible personal property used "incidentally in rendering their services." Therefore, the tax applies to the sale of the tangible personal property *to* service-providers such as attorneys.

Dentists

Charges by dentists for dental services are not subject to Wisconsin's sales tax. Also, charges for items specifically designed for a patient that are installed in the patient's mouth are not subject to the state's tax. Sales to dentists of products such as medicines, alloys used to fill teeth, crowns, bridges, dentures, and items fabricated by a dental laboratory, are exempt from the state's tax. The sales price of sales *to* dentists of materials to construct braces, dental equipment, surgical instruments, and office equipment and supplies are taxable.

Engineers

No provisions were located applying Wisconsin's sales tax to professional services.

If a person engaged in making retail sales is also engaged in a profession that is not taxable, the person must keep books that show the transactions used to determine the tax owed. If the person does not keep separate books, the tax is levied on the receipts of both of the person's businesses or professions. Persons engaged in the business of furnishing services are consumers of the tangible personal property used "incidentally in rendering their services." Therefore, the tax applies to the sale of the tangible personal property *to* service-providers.

Physicians

No provisions were located applying Wisconsin's sales tax to professional services.

If a person engaged in making retail sales is also engaged in a profession that is not taxable, the person must keep books to show the transactions used to determine the tax owed. If the person does not keep separate books, the tax is levied on the receipts of both of the person's businesses or professions. Although physicians regularly transfer products such as medicines, bandages, and other tangible personal property to their patients, those transfers are "an incident of a service," not a retail sale of the property. Physicians are consumers of those items, and their *purchase* is taxable, unless specifically exempt.

Statutory section 77.60 amended 2013; §§ 77.51 and 77.52, amended 2019; § 77.54 amended 2018. Regulations 11.18, 11.27, and 11.67 amended 2010, r. 11.68 amended 2018; r. 11.17 amended 2013; rr. 11.04 and 11.68 amended 2014.

[Wis. Stat. §§ 77.51, .52, .54, .60 \(2019\); Wis. Admin. Code Tax §§ 11.04, .17, .18, .27, .67, .68, .69 \(2019\)](#)

Wisconsin, Sales tax on commissions

No relevant provisions were located.

Wisconsin, Sales tax on related services

No relevant provisions were located.

Wyoming

Wyoming, General service taxes

OVERVIEW

Wyoming does not have a broad-reaching sales tax on services. Unless a transaction is exempt, the state imposes a four-percent tax on retail sales of tangible personal property and some services, including, among others, certain telecommunications services, public utilities, restaurant meals, transient lodging, amusements, and certain services rendered to real or tangible personal property within an oil or gas well site.

"Sales price," which is used to determine the sales tax amount, includes the total consideration for which personal property or taxable services are sold, without deducting for labor or service costs, charges for any "services necessary to complete the sale," or delivery and installation charges.

Charges made by a vendor to install tangible personal property in conjunction with the property's retail sale is subject to the state's sales tax unless "the installation charge is separately stated and the installation is to real property."

CONSTRUCTION SERVICES

Construction Contractors

Charges for labor to alter, improve, or construct real property are not subject to the state's sales tax (except for certain services on property within an oil or gas well site).

Sales of tangible personal property used to repair, alter, improve, or construct real property are taxable, whether sold to the real property owner, a contractor, or a subcontractor.

Contractors performing for exempt entities, such as the state or a religious or charitable organization, are subject to the sales tax on all equipment, materials, fixtures, and supplies purchased to perform the contract.

In this context, "contractor" includes a general or prime contractor or a subcontractor.

Carpenters, Plumbers, and Similar Trades

Because "contractor" includes a general or prime contractor or a subcontractor, the provisions generally applicable to contractors (see "*Construction Contractors*" above) also apply to tradespersons acting as subcontractors.

A subcontractor who contracts with a general or prime contractor is liable for sales taxes as a general or prime contractor, but this provision does not apply to a "subcontractor hired to provide labor only to alter, construct, improve or repair real property."

FINANCIAL SERVICES

Bank Service Charges

Financial institutions are subject to the state's sales tax on tangible personal property purchased (or leased) and used to conduct their business. The institutions also must collect the sales tax on any retail sales of tangible personal property. Federally chartered credit unions and federal land banks are exempt from the tax on property purchased (or leased) and used to conduct their business, but must collect the sales tax on retail sales of tangible personal property or services that are subject to the tax.

Insurance Services

No relevant provisions were located.

PROFESSIONAL SERVICES

Accountants

No relevant provisions were located.

Architects

No relevant provisions were located.

Attorneys

No relevant provisions were located.

Dentists

No specifically relevant provisions were located.

Dentists' purchases of noncapitalized equipment and disposable supplies used on a single patient are exempt from the state's sales tax. Purchases of capitalized equipment and office supplies are subject to the tax.

Engineers

No generally applicable provisions were located.

Sales of professional engineers' services "to real or tangible personal property leading to building location, drilling and all related activities" that must be completed before "setting the production casing" for drilling an oil or gas well or for deepening or extending a previously drilled oil or gas well are explicitly exempt.

Physicians

No specifically relevant provisions were located.

Purchases by "Medicare recognized health care providers" of noncapitalized equipment and disposable supplies used on a single patient are exempt from the state's sales tax. Purchases of capitalized equipment and office supplies are subject to the tax.

Statutory sections 39-15-101, 39-15-105 and 39-15-301 amended 2019; §§ 39-15-103, 39-15-104, and 39-15-303 amended 2014; Regulations dated 2014 to current.

Wyo. Stat. §§ 39-15-101, -103, -104, -105, -301, -303 (LexisNexis 2018); [Wyo. Dep't of Revenue Admin. R. Ref. # 011.004.2.07242014 \(2017\)](#)

Wyoming, Sales tax on commissions

No relevant provisions were located.

Wyoming, Sales tax on related services

APPRAISALS

No relevant provisions were located.

HOME INSPECTIONS

No relevant provisions were located.

MLS SERVICES

No relevant provisions were located.

PROPERTY MANAGEMENT

No relevant provisions were located.

LAND SURVEYS

No generally relevant provisions were located.

Seismographic and geophysical surveying services "calculated to reveal the existence of geologic conditions favorable to the accumulation of oil or gas" are explicitly exempt.

OTHER RELATED SERVICES

No generally relevant provisions were located.

Statutory section amended 2019.

Wyo. Stat. § 39-15-105 (LexisNexis 2019)