

CHAPTER 12 – SALES TAX CODE

Sec. R12-460.1 Distinction between retail sales and certain other transfers of tangible personal property.

- (a) Charges for transfer of tangible personal property included in the gross income of the business activity of persons engaged in the following business activities shall be deemed only as gross income from such business activity and not sales at retail taxed by Section 12-460:
 - (1) tangible personal property incorporated into real property as part of reconstruction or construction contracting, per Sections 12-415 through 12-418.
 - (2) (Reserved)
 - (3) job printing, per Section 12-425.
 - (4) mining, timbering, and other extraction, but not sales of sand, gravel, or rock extracted from the ground, per Section 12-430.
 - (5) publication of newspapers, magazines, and other periodicals, per Section 12-435.
 - (6) rental, leasing, and licensing of real or tangible personal property, per Sections 12-445 or 12-450.
 - (7) restaurants and bars, per Section 12-455.
 - (8) food for home consumption, per section 12-462.
 - (9) telecommunications services, per Section 12-470.
 - (10) utility services, per Section 12-480.
 - (11) wastewater removal services, per section 12-485.
- (b) Distinction between construction contracting, retail, and certain direct customer service activities.
 - (1) When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.
 - (2) Items attached or installed on tangible personal property are retail sales.
 - (3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscape maintenance).
 - (4) Demolition, earth moving, and wrecking activities are considered construction contracting.

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- (c) The sale of sand, rock, and gravel extracted from the ground shall be deemed a sale of tangible personal property and not mining or metallurgical activity.
- (d) Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.
- (e) Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.

(1) "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.

(2) Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.

(3) Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.

(4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

(Ord. 2014-17, 4/22/14, Amended) SUPP 2014-2