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Changes Affecting Contractors October 1, 2007

Beginning October 1, 2007, the taxable contractor labor charges related to commercial projects and owner-occupied residential units in a building containing three or more units will once again be exempt from sales and use tax, except for the noted exceptions. The impact of this change on your business operations will depend on your contractor option and is explained in more detail below. As of July 1, 2006, contractor labor charges related to work on residential homes became exempt from tax.

Option 1 Contractors. Beginning October 1, 2007, Option 1 contractor labor charges that are separately stated on the billing invoice are not taxable.

Option 1 contractors must continue to collect sales tax on the amounts billed to other contractors and project owners for building materials they annex to the project. Option 1 contractors who only charge one amount that includes both building materials and contractor labor must continue to collect sales tax on the total amount charged.

Option 2 Contractors. Beginning October 1, 2007, Option 2 contractor labor charges are not taxable.

Option 2 contractors will continue to pay sales tax or remit use tax on their purchases of building materials.

Option 3 Contractors. Beginning October 1, 2007, Option 3 contractor labor charges are not taxable.

Option 3 contractors will continue to remit use tax on building materials withdrawn from inventory. The tax is computed at the rate in effect at the time and place of withdrawal from inventory.

Fixed Price Contracts. Contractors who have entered into fixed-price contracts that extend past October 1, 2007 on commercial property and any owner-occupied residential unit in a building containing three or more units should continue to collect sales tax on their taxable contractor labor charges until the contract is completed. The amount of tax collected or paid which relates to charges for contractor labor on an owner-occupied residential unit in a building containing three or more units is subject to refund. Only the **property owner** may apply for a refund of the tax paid on the labor charges, provided the refund exceeds ten dollars.

Warranties, Guarantees, and Service and Maintenance Agreements. Effective October 1, 2007, sales of warranties, guarantees, and service or maintenance agreements that only cover the repair of items annexed to real estate are not taxable.

For example, warranties, guarantees, and service and maintenance agreements that only cover repairs of a building or fixtures such as hot water heaters, garbage disposals, and central heating and air conditioning units, are not taxable.

Option 1 contractors must remit use tax on all parts and materials purchased or withdrawn from inventory and used to repair the building or replace or repair the fixtures that are covered by the warranty or service agreement. In addition, Option 1 contractors are required to collect sales tax on any charges for parts not covered under the warranty or service agreement.

Option 2 and Option 3 contractors must pay or remit tax on their cost of the parts and materials used to replace or repair the annexed property or fixtures whether or not covered by the warranty or service agreement.

If an agreement that covers both buildings or fixtures and non-annexed appliances is sold for one amount, the entire amount charged for the agreement is taxable. See above paragraphs for the taxability of parts used for repairs to buildings and fixtures. Sales and use tax does not apply to parts and materials used, and services performed in fulfilling the obligations under an agreement to repair or replace non-annexed appliances, provided there is not an additional charge for such items.

Building Cleaning Services. Building cleaning services are not considered contractor labor for sales tax purposes. Option 1, Option 2, and Option 3 contractors providing building cleaning services must continue to collect and remit sales tax on the total amount charged for such services. Examples of building cleaning services include cleaning items such as central air conditioning units, heating and cooling air ducts, furnaces, chimneys, sewers, gutters, and drains. Please refer to Sales and Use Tax Regulation 1-098 for additional information.

Contractors' Purchases of Taxable Services. All contractors will pay sales tax or remit use tax on all taxable services (i.e., building cleaning services, pest control services, and security services) they purchase in completing a construction project. These services are not considered "contractor labor" for sales tax purposes and are deemed to be consumed by the contractor and cannot be purchased tax-free for resale, even on a project for an exempt entity.

Contractor Labor Percentages. Option 2 and Option 3 contractors are reminded to update their records and computer

software programs to remove the contractor labor percentage calculations since contractor labor charges are exempt from tax beginning October 1, 2007.

Sales Tax Permit. Most contractors who already have a sales tax permit cannot cancel their permit because they need to remit use tax on purchases that were not taxed and because some contractors continue to make retail sales that requires them to collect sales tax. Contractors are reminded to review their sales and use tax liability to determine whether their filing frequency needs to be changed. If you need to change your filing frequency, please complete the Nebraska Change Request, Form 22.

Resale Certificates. Beginning October 1, 2007, contractors will no longer be required to obtain a Nebraska Resale or Exempt Sale Certificate, Form 13, when billing other contractors for contractor labor charges because the labor charges are no longer taxable.

Other Information. Contractors interested in additional information regarding contractor issues are encouraged to review the updated information contained in our contractor information guides and the “Frequently Asked Questions” that are posted on our Web site www.revenue.ne.gov, or call 1-800-742-7474 (toll free in Nebraska and Iowa) or 1-402-471-5729 if calling from outside of Nebraska or Iowa.