NC Sales Tax Rules Summary:
Repair, Maintenance and Installation (RMI) Services and Real Property Contracts

Summary
Effective January 1, 2017, generally all RMI services and service contracts will be taxable unless specifically exempted. Many RMI services were taxable starting March 1, 2016, but the following reflects significant changes effective January 1, 2017. The following is merely an overview of the applicable rules – the Statutes as well as multiple directives issued by NCDOR should be read carefully in applying these rules.

Exempt Services
It is simplest to express what is not taxable under the new laws than it is to express what is taxable. Following is a list of services specifically exempted from sales tax:

- Legally required inspection services.
- Services provided to certain affiliated parties.
- Services related to real property punch-list items.
- Cleaning services with respect to real property. Exemption does not apply to cleaning services related to the taxable rental of an accommodation or to pools, fish tanks, and similar aquatic features.
- Services on roads, driveways, parking lots, and sidewalks.
- Removal services such as waste, grease and snow. Exemption does not apply to removal of waste from portable toilets.
- Home inspection services to prepare real property for sale.
- Landscaping services (including mowing and fertilizing).
- Clothing alteration and repair services. Exemption does not apply to alteration or repair to rental clothing, nor does it apply to alteration and repair of belts and shoes.
- Pest control services.
- Moving services.
- Self-service car washes.
- Services performed under a manufacturer’s or dealer’s warranty. Note that generally the warranty was taxable at the time it was sold.

Service contracts on the above exempt services are also exempt.

Some of the examples given of taxable services include services performed on vehicles and small engines, computer installation and repair, installation of an appliance, knife sharpening, equipment repair or calibration, cleaning of office machines, reupholstering furniture, shoe polishing, jewelry cleaning, troubleshooting prewritten computer software and re-gripping of golf clubs and tennis rackets. Note there are special rules for taxability involving real property as well as tangible personal property that is installed on real property.
**Real Property Contracts**
Additional considerations apply to determine if real property services should be taxed. These changes in the law will result in many real property contract services being taxable and the creation of many new tax collectors in the contractor community.

If real property services are performed under a real property contract, they are not taxable RMI services – i.e. the consumer of the services is not charged sales tax. Instead, the contractor is taxed as the consumer of goods purchased for completion of the work.

A real property contract involves “construction”, reconstruction, or remodeling with respect to a “capital improvement” (specifically defined) to real property. An “Affidavit of Capital Improvement” (Form E-589CI) must generally be issued to the contactor to document qualification as a capital improvement. This requirement will present significant complexity in some situations. Real property services that do not meet the criteria to be considered a “capital improvement” are considered RMI services or service contracts and are generally subject to tax.

Note that home warranties are considered taxable service contracts.

**Real Property Services Presumed To Be Taxable As RMI Services**
- HVAC repair for an air conditioning or heating unit that is not working properly.
- Rekey locks for real property by a locksmith.
- Repair of a water pump motor.
- Repair to correct a jammed garage door.
- Electrical repair due to a light switch or receptacle not working properly.
- Plumbing services to unclog a drain.
- Plumbing services to identify and repair a leak in a pipe.
- Services by a roofing company to identify and repair a roof leak.
- Replace damaged exterior bricks.
- Replace or repair of a storm door or garage door.
- Repair or replace countertops.
- Replace or reface kitchen cabinet doors.
- Repair or replace a water heater.
- Repair of a liner for a swimming pool.
- Repair or replace a single light fixture.
- Carpet or linoleum installation for a single room.
- Repair or replace a single plumbing fixture (i.e. toilet or sink).
- Replacement of plate glass window.
- Cleaning services related to the taxable rental of an accommodation.
- Cleaning services to pools, fish tanks, and similar aquatic features.

Note that home warranties are considered taxable service contracts.
Services Taxed As Real Property Contracts
Real property services presumed to meet the definition of “capital improvement” (and thus not taxable as RMI services):

- Removal of items from real property, such as debris, construction materials, asbestos, or excavation activities, including the removal of items from a structure such as a dumpster.
- Performance of work that requires the issuance of a permit under the State Building Code.
- Installation of underground utilities.
- Installation of equipment or fixture that is attached to real property so that removal of the item would cause physical, functional, or economic damage to the property and that is capitalized under the IRC, GAAP or IFRS.
- Painting or wallpapering.
- Replacement or installation of a roofing, septic tank, plumbing, electrical, commercial refrigeration, irrigation, sprinkler, or other similar system.
- Replacement or installation of a heating, ventilation, and air conditioning unit or system.
- Replacement or installation of roads, driveways, parking lots, and sidewalks.
- A service where the internal structure of a single room is substantially changed and property is installed or applied and becomes part of real property.

Also, security and similar monitoring services for real property are not considered RMI services and are thus not taxable as such.

Special rules exist for consideration of improvements made for or by a lessee or tenant, as well as for mixed transaction contracts (contracts that include real property contract and RMI services).

Contact JPS to determine how you and your business can best navigate changing tax regulations.

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