

ST 2002-04 - Building Maintenance and Janitorial Services - UPDATED November 2012. UPDATE Supersedes Information Releases Dated November 2004, November 2002 and September 2000

The purpose of this information release is to answer some of the commonly asked questions regarding building maintenance and janitorial services. Ohio Revised Code section (“R.C.”) 5739.01(B)(3)(j) imposes sales tax on the provision of building maintenance and janitorial services. R.C. 5739.01(II) defines building maintenance and janitorial service as follows:

“Building maintenance and janitorial service” means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, “building maintenance and janitorial service” does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year.

The following questions and answers explain how sales tax applies to sales of building maintenance and janitorial services.

1. What kinds of activities are considered a “building maintenance and janitorial service?”

In general, this service includes washing, vacuuming, dusting, polishing, and waxing in offices, houses, and other buildings. Some examples are:

- disinfecting and deodorizing;
- cleaning carpeting and upholstery;
- chimney sweeping;
- cleaning venetian blinds and window shades;
- cleaning windows, walls, ceilings, and indoor pools;
- washing and waxing floors;
- sandblasting, chemically cleaning, power washing or otherwise cleaning building exteriors, including siding, roofs, chimneys, and gutters;
- cleaning grease traps, sludge pits, blast furnaces and other similar industrial cleaning if the trap, pit, blast furnace, etc. is located inside the building;
- snow removal & sweeping dirt off parking garage decks (buildings);
- cleaning ventilating systems, including furnace and ductwork;
- emptying waste baskets and picking up trash for the immediate or eventual removal from a building; and
- housekeeping (maid) service.

NOTE: Cleaning includes the removal of soil, dirt, wax, grease, or other pollutants or contaminants from exterior and interior surfaces of a building or from personal property located in the building. However, the intentional removal of a permanent finishing or coating such as

paint, varnish, stain, sealers, wallpaper, tile or carpet adhesives, etc., in conjunction with refinishing the surface, is not “cleaning” and is not a taxable janitorial service.

2. Following are examples of activities that are not a taxable building maintenance and janitorial service, but may be associated with the service.

- applying a stain repellent to carpeting;
- repairing chimneys, carpeting, roofs, ceilings, walls, floors, and other forms of real property;
- painting exterior and interior building surfaces;
- miscellaneous maintenance;
- plumbing, electrical, and heating, ventilating, and air conditioning repair or maintenance;
- snow and ice removal from parking lots, driveways and sidewalks; (see note 1)
- cleaning outdoor pools;
- unclogging drains and pipes;
- clearing leaves, grass, and other debris from lawns, sidewalks, patios, etc.; (see note 2)
- removing unwanted articles from buildings (only in connection with the service of hauling them away);
- off-site cleaning of building contents such as draperies and venetian blinds; stripping wallpaper, paint, varnish, etc. off walls, floors, and ceilings. (see note 3)

NOTE 1: Snow removal is a taxable service if sales exceed \$5,000 in a calendar year under R.C. 5739.01(B)(3)(t).

NOTE 2: Clearing leaves and other debris from lawns is a taxable landscaping and lawn care service if sales exceed \$5,000 in a calendar year under R.C. 5739.01(B)(3)(g)

NOTE 3: Cleaning draperies and other fabrics is a taxable laundry and dry cleaning service under R.C. 5739.01(B)(3)(d).

3. If I provide a building maintenance and janitorial service, must I have a license, and if so what type of license is required? How do I obtain one?

Yes. Anyone providing building maintenance and janitorial services must be licensed as a vendor, unless they are an employee of the person using the service (e.g. paid a wage, has income tax withheld, covered by unemployment insurance, etc.)

A vendor’s license may be obtained through the Ohio Business Gateway at business.ohio.gov, or at the county auditor’s office. There is a \$25 application fee for a vendor’s license.

4. If I sell cleaning supplies outright, as well as provide taxable services, can I report both types of sales on the same license?

Yes.

5. What price should I use in calculating the amount of tax to be charged?

The total amount billed to the customer for a taxable service is the “price,” even though you may choose to itemize certain parts of the bill, such as cleaning supplies consumed in the service or mileage charges to travel to the building being cleaned. If you provide nontaxable services with a taxable building maintenance and janitorial service, you must separate the charges otherwise the entire invoice is subject to tax.

Example 1: A power washing company is hired to clean the exterior of a house. While there, the customer requests that the driveway also be washed. If the power washing company separately states the charge for cleaning the driveway, no tax is due on that part of the bill. If it does not separately bill the charge associated with driveway cleaning, the entire amount is taxable.

Example 2: A pool cleaning company contracts with a hotel to clean and maintain pools. There are two pools, one indoor and one outdoor. Cleaning the indoor pool is taxable. Cleaning the outdoor pool is not taxable since it does not meet the definition of a building maintenance and janitorial service. If the pool cleaning company separately states the charge for cleaning the outside pool, no tax is due on that part of the price. If the charges are not separately stated, the entire charge is taxable.

6. Am I required to register as a vendor based upon the total amount of sales made of the building maintenance or janitorial service?

Yes. You must register and collect the sales tax if your sales of this service equals or exceeds \$5,000 in a calendar year. Once you reach the \$5,000 threshold, you are required to collect and remit sales tax on all sales until you cease business.

7. When is the tax to be reported?

The sale is made when the service is provided or when the price for the service is paid, whichever comes first. You must report your sales and tax liability on the return that covers the period in which sales are made regardless of when the price is paid. Returns are due on the twenty-third day of the month following the close of the reporting period.

8. What rate of tax should be charged?

The sales tax rate for a service is determined by the county where the customer receives the benefit of your service; that is, where the building is located. If you provide a building maintenance and janitorial service for a customer with buildings in more than one county, you must separate the charges for each county and bill the tax based on the appropriate rate for each county. The sales tax rate applicable to a particular location can be found on the Department’s website at <https://thefinder.tax.ohio.gov/StreamlineSalesTaxWeb/Default.aspx>. If you’d like to be automatically notified of any sales tax rate changes please register for the Department’s Tax Alert notification service at <http://tax.ohio.gov/OhioTaxAlert/isUserInfo.asp>.

9. How do I report the tax collected on this service?

All vendors must file sales tax returns electronically via the Ohio Business Gateway or using the Department's Telefile service. You must file a sales tax return even if you made no sales during the period. If you temporarily suspend business for a time longer than your return period, the Department suggests that you file your return(s) early or have a responsible person file them on time in order to avoid delinquent filings and possible penalties.

You are entitled to a 3/4 of 1% (.0075) discount on the tax to be paid, if tax returns are timely filed with full payment of the amount due.

10. Am I entitled to claim exemption on the purchase of equipment, tools, or supplies used in providing a building maintenance and janitorial service?

Your purchases of equipment tools and supplies used in providing building maintenance and janitorial service generally are not exempt. However, you are entitled to claim exemption on your purchases in two circumstances.

You may claim the "resale" exemption for those products that are sold outright. You may also claim exemption on the purchase of personal property used to perform the building maintenance or janitorial service if the property will be permanently transferred to the customer of the service as an integral part of the performance of the service.

Example 1: A building maintenance and janitorial service company uses products and equipment to clean and wax floors. It sells some of the products directly to customers for the customers' own care of their floors. The company may claim exemption for any products sold outright to customers as personal property "purchased for resale."

Example 2: The company may also claim exemption for the floor wax it uses to polish the floors because the wax is "permanently transferred to the consumer of the janitorial service." The company may not claim exemption for other products, which it does not permanently transfer to the consumer of the service, such as soaps, cleaning solutions, mops and brooms. Other exempt items include, but are not limited to: furniture polish, stain or water repellants and trash can liners. Taxable items include, but are not limited to: mops, rags, brooms, trash carts, vacuum cleaners, floor polishing equipment, sponges, pails, cleaning/stripping solutions and other chemicals.

11. Am I entitled to claim exemption on the purchase of any other service that is considered "sale" and "selling" under the Ohio Revised Code?

If you purchase another "building maintenance and janitorial service" for the purpose of reselling that service to a customer, you may claim "resale" from that service supplier. However, you must charge tax on the total price of all the building maintenance and janitorial service provided.

Example 1: Company A has a contract to clean an office building daily. The contract also calls for a periodic carpet cleaning every six months. Company A does not have the personnel or

equipment to adequately clean carpeting, so it contracts with Company R. Company A may claim exemption from tax on its transaction with Company R based on its resale of R's service.

Example 2: Company C has the same contract as Example 1, except when it is time to clean the carpet it hires temporary help from an employment agency [employment services are taxable under R.C. 5739.01(B)(3)(k)] and rents the equipment needed for the job. Since Company C is consuming both the employment service and the rental of the equipment and not reselling either, it is not entitled to claim exemption.

12. If a building maintenance and janitorial service is provided for a customer and that customer claims to be nontaxable, what proof does the law require?

If the customer is never subject to tax (such as the U.S. government; the state of Ohio; a city, county or other political subdivision of this state), a copy of the sales invoice is all that is needed, provided that the name and address of the customer are clearly identified. (Note: Leasing to an exempt organization does not entitle the owner of a building to claim exemption from tax.)

If the customer is claiming that the use of the service is not subject to tax (see example) or that it is a nonprofit charitable organization or a qualifying state veterans' organization headquarters, obtain a fully-completed exemption certificate from the customer and keep it in your files. If the customer claims to hold a direct payment permit with Ohio, the customer must furnish evidence of the permit. (A direct payment permit number is always 98 + six digits.)

Example: Retailer A sells and cleans carpeting. Rather than use its own employees to clean carpeting, it subcontracts the cleaning service to company B. Since A is considered to be the retail seller, it is responsible for collecting tax from its customers on both types of sales. B is selling its service to A and does not charge A tax, if B obtains from A a fully-completed exemption certificate (claiming "sale for resale" as a reason.) For more information regarding exemption certificates please refer to R.C. 5739.03 and Ohio Admin. Code 5703-9-03.

13. What are my responsibilities if the consumer refuses to pay tax?

As a provider of a taxable service, you are responsible for charging, collecting and remitting the tax. If the purchaser of your service is not exempt, you may pursue collection as you would any unpaid debt. R.C. 5739.26 reads, "No consumer shall refuse to pay the full and exact tax as required by ...[Chapter 5739.], or refuse to comply with such sections and the rules and regulations of the tax commissioner, or present to the vendor a false certificate indicating that the sale is not subject to tax." See also R.C. 5741.19.

14. If my company is hired by a construction contractor to clean a building, am I providing a building maintenance service and, if so, who must pay the tax?

Yes. You are providing a building maintenance and janitorial service and the construction contractor is the consumer of the service provided. You must charge the tax and the contractor must pay the tax based on the total price of the service you provide.

To determine if the cleaning service you are performing is a taxable building maintenance and janitorial service ask the following questions:

1. Am I cleaning tangible personal property that is located inside a building? or
2. Am I cleaning the interior or exterior of the building itself?

If the answer to either question is yes, you are performing a taxable building maintenance and janitorial service.

Please note that taxable building maintenance and janitorial services includes services one may typically consider to be industrial cleaning, such as removing the excess mortar from brick and cleaning grease or sludge from pits or traps located inside a building.

15. As a heating and air conditioning company, we perform many yearly “clean and check” multi-point tune-ups on residential and commercial building systems. These service calls involve adjustments, calibrations, lubrication, efficiency tests, checking for leaks, and cleaning of components when necessary. Since this service includes cleaning are the tune-ups subject to the tax?

No. The service provided is more than mere cleaning of the systems. The cleaning is incidental to the overall scope of the service provided. However, if a vendor makes a service call for the sole purpose of cleaning a system (e.g. ductwork cleaning), the sale would be taxable.

Caution: The actual services performed determine whether or not tax must be charged. The tax cannot be avoided by merely calling the service something other than the work that is actually performed. The Department suggests that the records of service providers be sufficiently clear to reflect the actual work done to avoid problems in the event of a sales or use tax audit.

If you have additional questions, contact Taxpayer Services at 1-888-405-4039, or e-mail us through our website at tax.ohio.gov.

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