



**Sales and Use Tax Division
North Carolina Department of Revenue
Post Office Box 25000
Raleigh, North Carolina 27640-0001
www.dornrc.com**

IMPORTANT NOTICE: FORM E-589CI, AFFIDAVIT OF CAPITAL IMPROVEMENT

Form E-589CI, Affidavit of Capital Improvement, is generally required to substantiate that a contract, or a portion of work to be performed to fulfill a contract, is to be taxed for sales and use tax purposes as a real property contract with respect to a capital improvement to real property. Failure of a person to issue Form E-589CI, other than for the permitted exceptions discussed herein, to substantiate that a transaction is for a real property contract with respect to a capital improvement subjects the transaction to tax as a retail sale of repair, maintenance, and installation services for real property in accordance with N.C. Gen. Stat. § 105-164.4(a)(16).

- Form E-589CI is not an affidavit of tax paid on building materials, other tangible personal property, or digital property purchased or used to fulfill a real property contract.
- Form E-589CI is not to be used to purchase building materials, other tangible personal property, or digital property to fulfill a real property contract exempt from sales and use tax.
- A person that issues Form E-589CI in error is liable for use tax on the sales price of or the gross receipts derived from the transaction if it is determined that the contract is not a real property contract with respect to a capital improvement to real property.

For additional guidance on the application of sales and use tax to real property contracts and repair, maintenance, and installation services to real property, refer to [Directive SD-16-3: Real Property Contracts](#) and [Directive SD-16-4: Repair, Maintenance, and Installation Services](#), respectively, published November 15, 2016 and available on the Department's website.

Exceptions to the Requirement to Issue Form E-589CI

The following are exceptions for transactions where Form E-589CI is not required to be issued to substantiate that the transaction is taxed, as applicable, for sales and use tax purposes as a real property contract with respect to a capital improvement to real property.

- Painting or wallpapering real property, or parts thereof.
- Landscaping service.

Form E-589CI is not required to be issued by the specific person for a transaction noted below. The exceptions do not apply to transactions between a general contractor hired to oversee the entire contract and one of its subcontractors (See "Blanket Use" of Form E-589CI (Section II) for possible exceptions.). **The following exceptions do not apply to remodeling.**

- A real property owner or other person hires a "general contractor" to oversee the entire contract and the contract is for "new construction" as defined in N.C. Gen. Stat. § 105-164.4H(e)(2).
- A real property owner or other person hires a "general contractor" to oversee the entire contract and the contract is to rebuild or construct again a prior existing permanent building, structure, or fixture on land ("reconstruction" as defined in N.C. Gen. Stat. § 105-164.4H(e)(3)).
- A general contractor that purchases all tangible personal property and digital property and provides the employee labor to fulfill the real property contract.

A “general contractor” is generally any person who is engaged in the business of general contracting in the State of North Carolina and for a fixed price, commission, fee, or wage, undertakes to bid upon or to construct any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is thirty thousand dollars (\$30,000.00) or more and who undertakes to superintend or manage, on his own behalf or for any person that is not licensed as a general contractor pursuant to Article 1 of Chapter 87 of the General Statutes, the construction of any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is thirty thousand dollars (\$30,000.00) or more, or who undertakes to erect a North Carolina labeled manufactured modular building meeting the North Carolina State Building Code, shall be deemed to be a “general contractor” engaged in the business of general contracting in the State of North Carolina.

“Single Use” of Form E-589CI (Section I)

A person must complete “Section I - Single Use” of Form E-589CI for a one time use to ensure that a transaction that otherwise meets the definition of repair, maintenance, or installation services to real property is taxed for sales and use tax purposes as a real property contract with respect to a capital improvement for real property. The single use section will generally apply for the following:

1. When a homeowner remodels and oversees the entire activity, including: obtaining bids, selection of subcontractors, and payment of all invoices or billings issued by any real property contractor. The homeowner must complete Section I of Form E-589CI and issue the form to each subcontractor to give notice that the transaction is for a real property contract with respect to a capital improvement.

Example: A homeowner remodels a kitchen in which the homeowner oversees the project. The remodel includes the installation of new countertops, a new sink, a tile floor, and new cabinets. The homeowner will hire all subcontractors and coordinate the performance of work. The homeowner must issue Form E-589CI to each subcontractor who performs any portion of the remodel project in order to substantiate that the respective work by each subcontractor is a portion of a real property contract with respect to a capital improvement for real property. Sales and use tax is due on the purchase price of tangible personal property (building materials and other items) used to fulfill the real property contract, regardless of who purchases such tangible personal property.

2. When a real property contractor hires a subcontractor to perform a portion of the overall real property contract and there is not a recurring business relationship between the two parties. For purposes of Form E-589CI, a recurring business relationship exists when a period of no more than 12 months elapse between transactions between two parties.

Example: A general contractor is hired to build a new house. The electrical contractor that the general contractor typically uses for new construction projects is unable to perform the electrical rough-in, so another electrical contractor is hired by the general contractor. The general contractor should complete “Section I - Single Use” of Form E-589CI for a one time use and issue to the subcontractor.

3. When a real property contractor hires another subcontractor for the performance of work that requires the issuance of a permit under the State Building Code, **other than new construction or reconstruction**. Form E-589CI should not be issued for the repair or replacement of electrical components, gas logs, water heater, and similar individual items no matter that a permit is required where such are not part of new construction, reconstruction, or remodeling and are subject to tax as repair, maintenance, and installation services on the sales price of or the gross receipts derived from such per N.C. Gen. Stat. § 105-164.4(a)(16).

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4. When a business entity hires another person to perform part, or all, of the 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 one or more of the following: the Internal Revenue Code, Generally Accepted Accounting Principles or International Financial Reporting Standards.

“Blanket Use” of Form E-589CI (Section II)

A real property contractor (general contractor) may complete “Section II - Blanket Use” of Form E-589CI and issue the form to a real property contractor (subcontractor) who is used exclusively to perform part, or all, of real property contracts with respect to capital improvements to real property. A blanket use affidavit continues in force, so long as the real property contractor named in “Box C” and the (subcontractor) named in “Box D,” maintain a recurring business relationship (when a period of no more than 12 months elapse between transactions between the two parties) or until withdrawn or otherwise notified by the issuer of the form. This will generally apply for the following:

- A builder who hires the same real property contractor(s) only for new construction;
- A real property contractor who hires the same subcontractor(s) only for reconstruction;
- A real property contractor who hires the same subcontractor(s) for remodeling and the activities performed by the subcontractor(s) are never repair, maintenance, and installation services for real property;
- A real property contractor who exclusively hires the same subcontractor(s) to perform part, or all, of its real property contracts with respect to capital improvements for real properties.

Additional guidance pertaining to blanket use of Form E-589CI is available on page twelve (12) of [Directive SD-16-3: Real Property Contracts](#).

Assistance

General questions regarding this notice should be directed to the Taxpayer Assistance and Collection Center at telephone number 1-877-252-3052 (toll-free).

To the extent that there is any change in the rate or amount of tax, change to a statute or regulation, or new case law subsequent to the date of this notice, the provisions in this important notice may be superseded or voided. To the extent that any provisions in any other notice, directive, technical bulletin, or published guidance issued prior to the date of this notice conflicts with this important notice, the provisions contained in this important notice supersede.