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Enumerated Services

Services to other than industrial, commercial or income-producing real property 12-407(2)(i)(BB)-1

Enumerated Services

Sec. 12-407(2)(i)(BB)-1. Services to other than industrial, commercial or income-producing real property

(a) **Definitions.** (1) The term “property other than industrial, commercial or income-producing real property” means real property that is not “commercial, industrial or income-producing real property,” as defined in section 12-407(2)(i)(I) of the general statutes or any regulations promulgated thereunder, and includes but is not limited to real property that is used exclusively for residential purposes, including rental property consisting of three or fewer dwelling units, one of which is owner-occupied. The term “property other than industrial, commercial or income-producing real property” does not include real property over, on or under a right-of-way on public property.

(2) The term “construction contract” means a contract for the repair, alteration, improvement, remodeling or construction of real property. Materials or supplies are considered to be used in fulfilling a construction contract when they are physically incorporated in and become a permanent part of real property.

(3) Services affected. (A)(i) Paving. The term “paving” means covering the ground with a smooth hard surface such as asphalt, tar, macadam or poured concrete. Paving includes but is not limited to the replacement of sections or the complete repaving of such areas as driveways, parking areas, walkways, patios, and tennis or basketball courts. Paving also includes all work performed in preparation for paving, when performed in conjunction therewith, as well as the subsequent sealing or dressing of the pavement.

(ii) Paving does not include covering such areas as driveways, parking areas and walkways with materials such as crushed stone, crushed stone with oil, or gravel. The services involved in the construction of patios or walkways, other than asphalt, tar, macadam or poured concrete patios or walkways, are considered services under section 12-407(2)(i)(V) of the general statutes (landscaping and horticulture services).

(B) Painting or staining. The term “painting or staining” means the painting or repainting and the staining or restaining of interior or exterior surfaces for decoration, protection or preservation purposes. Such services also include all necessary surface and other preparations, when performed in conjunction therewith, prior to the actual painting or staining, such as sanding, planing, puttying, taping and spackling. Painting or staining also includes the application of sealants, waterproofing or other types of protective finishes.

(C) Wallpapering. The term “wallpapering” means the application of materials such as wallpaper or wall fabric to interior walls or ceilings. Such services also include all necessary surface and other preparations prior to the wallpapering, where performed in conjunction therewith, such as removing old wallpaper, steaming, puttying, taping, spackling and sizing.

(D)(i) Roofing. The term “roofing” means the replacement of all or a part of a roof and the repair of or spot replacement on all types of roofs. The repair or replacement of such roof components as roof rafters, plywood or other covering, ventilation work, expansion joints, flashing, valleys, rain and draft deflectors, drip edges, snow guards and snow slides are considered to be integrally related to the roofing service and are taxable whether performed by a roofing contractor or by a carpenter. Roofing services also include all work performed in preparation for roofing, when performed in conjunction therewith. All repair or renovation work

on roofs involving exterior sheet metal work, including metal downspouts and gutters, is taxable. See subdivision (F) of this subsection.

(ii) Roofing does not include the initial installation of new gutters or the replacement of old gutters on existing real property, the repair or cleaning of chimneys, the cleaning of all types of roof systems such as gutters, downspouts and drains, and the repair or replacement of items such as copings, cornices, electric heating tape, gravel stops and fascias, gutters and downspouts, heating cables, louvers and screens, metal ornaments, metal stacks and skylights. (However, some of these services, such as cleaning chimneys, gutters, downspouts and drains, are taxable as services under subparagraph (X) of section 12-407(2)(i) of the general statutes (maintenance services) and any regulations thereunder.)

(E)(i) Siding. The term “siding” means the installation, replacement and repair of all types of siding, including aluminum, vinyl, stucco, brickface, shingles, clapboards, shakes and other wood coverings. The replacement or repair of an outside wall or wall covering, such as insulated board or plywood sheathing, done in connection with siding is considered to be integrally related to siding and is taxable. Siding services also include all work performed in preparation for siding, when performed in conjunction therewith.

(ii) When siding involves the repair or installation of windows, the charge for the work performed on the windows is not taxable as long as it is separately stated on the bill to the customer. Incidental siding work done in connection with window installation, replacement or repair is not taxable.

(F) Exterior sheet metal work. The term “exterior sheet metal work” means the installation or repair of sheet metal, such as tin, aluminum, steel or copper, when used on the exterior of real property, including but not limited to flashing, valleys, drip edges, snow guards, snow slides, sheet metal downspouts and gutters. Exterior sheet metal work also includes all work performed in preparation for exterior sheet metal work services, such as forming sheet metal, when performed in conjunction therewith.

(b) **Construction of new real property.** (1)(A) When the services described in this section are provided in the construction of a new building or in the expansion of an existing building by the addition of new cubic footage, such services are not considered to be renovations or repairs and are not taxable. Where only the external walls and roof of an existing building are left in place, services shall nonetheless be considered to be rendered in the construction of new real property, as long as new floors, new internal walls, new support columns and new electrical and mechanical systems are constructed. Services performed to an unfinished space in an existing building, such as an attic or a room over a garage, after the building has been issued an initial full or partial certificate of occupancy, are new construction only if the unfinished space has not been used previously for any purpose, including storage.

(B) Where a structure is a certified historic structure, as defined in 26 U.S.C. § 47(c)(3)(A), is being substantially rehabilitated, as defined in 26 U.S.C. § 47(c)(1)(C), and the rehabilitation will be a certified rehabilitation, as defined in 26 U.S.C. § 47(c)(2)(C), new floors, new internal walls and new support columns will not be required to be constructed in order to be considered “new construction” under this subparagraph, to the extent that such construction would prevent such structure from being listed in the National Register or certified as a certified historic structure, as the case may be.

(2) When the services described in this section are provided in the making of improvements to real property that put the property affected to a new use, such as

the construction of new walkways (poured concrete or asphalt), driveways, patios (poured concrete or asphalt), or tennis or basketball courts, such services are not considered to be renovations or repairs and are not taxable, whether or not the making of such improvements is directly connected with the construction of a new building (or a new addition that expands the cubic footage of an existing building). Services to real property involved in the repair or renovation of existing site improvements shall not be considered to be rendered in the construction of new real property, whether or not the repair or renovation of such improvements is directly connected with the construction of a new building (or a new addition that expands the cubic footage of an existing building).

(3) When the services described in this section are provided in connection with a project involving both the renovation or repair and the new construction of real property other than industrial, commercial or income-producing real property, the total charge for such services shall be treated as a taxable sale unless the portion of the charge for the services attributable to new construction is separately stated on the bill to the customer. The service provider shall maintain adequate records (e.g., building permits and applications therefor) to substantiate that the portion of the charges attributable to the taxable renovation or repair service has not been understated.

(c) **Services rendered to persons other than the property owner.** Repair or renovation services described in this section that are rendered to a residential tenant who has directly contracted with the service provider for such services and who has no right of reimbursement from the landlord shall be considered services to other than industrial, commercial or income-producing real property.

(d) **Taxability of charges made by service provider to service recipient.** (1) Where a service provider consumes materials or supplies in fulfilling a construction contract, the portion of such provider's charge that is attributable to the cost to such provider of such materials or supplies shall not be treated as a charge for services to other than industrial, commercial or income-producing real property. The service provider shall give a bill or invoice to the service recipient that either separately states the charge for such services and the cost to such provider of such materials or supplies or, in the alternative, states only the total charge, including the charge for the services and the tax thereon, together with the words "tax included."

(2) In the event that a construction contractor, in fulfilling a construction contract, purchases services to other than industrial, commercial or income producing real property from a construction subcontractor for resale to the service recipient, and the subcontractor accepts a resale certificate from such contractor, then the cost of materials or supplies used by the subcontractor in fulfilling the subcontract may be taken into account by the contractor on the bill or invoice to the service recipient as long as the subcontractor gives a bill or invoice to the contractor that separately states the charge for such services and the cost to the subcontractor of the materials or supplies considered to have been consumed in fulfilling the subcontract.

(e) **Taxability of charges made by one service provider to another provider reselling to service recipient.** (1) Where a service provider renders services to other than industrial, commercial or income-producing real property to another service provider who will resell such services to the service recipient, such service provider may either accept a resale certificate from the reseller of such services or, in the alternative, refuse to accept such resale certificate.

(2) If the service provider accepts a resale certificate from the reseller, the bill or invoice to the reseller shall either separately state the charge for the services and

the cost to such provider of the materials or supplies used by such provider in fulfilling a construction contract or, in the alternative, state only the total charge, including the charge for the services, together with the words “tax not included.”

(3) If the service provider refuses to accept a resale certificate from such reseller, the bill or invoice to the reseller shall either separately state the charge for the services and the cost to such provider of the materials or supplies used by such provider in fulfilling a construction contract or, in the alternative, state only the total charge, including the charge for the services and the tax thereon, together with the words “tax included.”

(f) **Where services to other than industrial, commercial or income-producing real property are considered to be rendered.** Services to other than industrial, commercial or income-producing real property are considered to be rendered at the location of the real property affected. If such services are rendered to real property located within Connecticut, they shall be taxable, notwithstanding the fact that the materials consumed in rendering such services were purchased outside Connecticut, the contract for services was negotiated or executed outside Connecticut, some of the work with respect to such services is performed for the service provider outside Connecticut, the bill or invoice for such services is mailed to or from an address outside Connecticut, or the purchaser of such services is a nonresident.

(Adopted effective April 7, 1999)