

NEBRASKA SALES AND USE TAX GUIDE FOR LANDSCAPERS

OVERVIEW

Landscapers may be engaged in the following types of transactions:

- ❖ Retail sales of tangible personal property and taxable services;
- ❖ Construction contractor projects; and
- ❖ Tax exempt services.

Landscapers making retail sales involving sales of tangible personal property and taxable services must obtain a Nebraska Sales Tax Permit from the Nebraska Department of Revenue (Department) and collect and remit the Nebraska and appropriate local sales tax, unless a specific exemption applies.

A landscaper, who is also a contractor, must elect a contractor option and register in the [Contractor Registration Database](#). This Database is maintained by the Department of Labor.

The Nebraska state sales and use tax rate is 5.5%. Some cities, and one county (Dakota), also have a local option sales and use tax rate that can be 0.5%, 1%, or 1.5%. As a result, you will see the use of different tax rates in the examples below. Generally, the point of delivery will determine the rate of the tax that applies. To verify the correct sales tax rate for a particular delivery address, you may use the [Tax Rate Finder](#) located on our Web site.

This information guide is intended to provide an overview. Nothing in this guide supersedes, alters, or otherwise changes any provisions of the Nebraska tax code, regulations, Department rulings, or court decisions.

This information guide may change with updated information or added examples. The Department recommends you do not print this guide, and instead, check www.revenue.ne.gov periodically for changes.

TERMS

Building Materials. Building materials include any property that will be annexed or attached to the land or to an improvement on the land. Building materials include edging, retaining wall blocks, rocks, boulders, sand, gravel, fencing, and hard-wired 110-120 volt landscape lighting. Live plants are **not** considered building materials.

Contractor. A contractor is any person who repairs property annexed or attached to, or who annexes property to, real estate, including leased property, by attaching building materials to the improvement or annexed property being built or repaired, or who arranges for the annexation or attachment. All contractors doing business in Nebraska must choose a contractor option defining how they will pay Nebraska taxes on building materials and fixtures. Please refer to the “Resource List” on page nine for a description of the three contractor options.

Edging. Edging is a building material which includes, but is not limited to, plastic edging, stone, and extruded concrete.

Fixtures. Fixtures are equipment that must be annexed or attached to a building or structure in order to properly function, yet remains identifiable as a separate item. Fixtures include hard-wired pond pumps.

Live Plants. When the term “live plants” is used throughout this Guide, it means “trees, shrubs, flowers, sod, and other similar plants.” It does **not** include seeds.

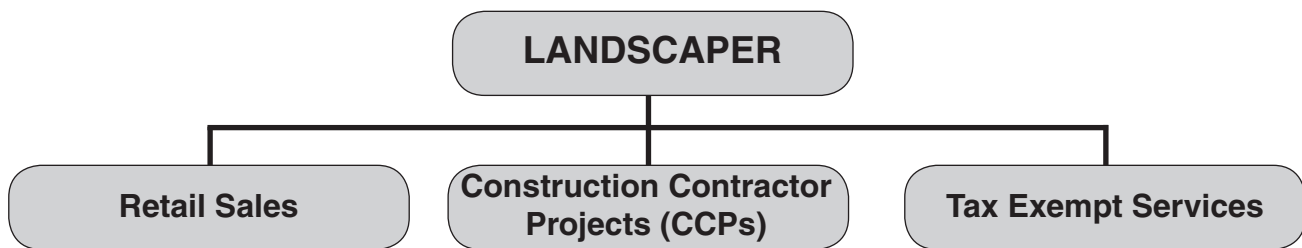
Mulch. Mulch includes, but is not limited to, the following types of hardscape materials: wood chips, gravel, rock, and weed barrier. Mulch may be a building material or tangible personal property depending on its application.

Retail Sales. Sales of tangible personal property (for example, a tree) or taxable services (for example, applying grub control) for a consideration (i.e., payment).

Site Preparation. Site preparation is preparing the ground before or during the planting of live plants or construction of a structure. Site preparation includes hauling in additional fill material, grading, contouring, removing unwanted material or vegetation, and digging holes. Site preparation may be either part of the installation of live plants or a construction contractor project.

TRANSACTIONS WITH CUSTOMERS

Landscapers must determine the taxability of the various types of transactions they engage in with their customers.



Retail Sales

Charges for retail sales are generally taxable. Examples of retail sales include, but are not limited to:

- ❖ Sales of live plants, whether planted or not (always retail sales and taxable);
- ❖ Landscaping material or other property that is not annexed or attached to real estate;
- ❖ Low voltage or solar-powered landscape lighting;
- ❖ Site preparation performed in conjunction with planting live plants;
- ❖ Installation of landscaping fabric and mulch in conjunction with planting live plants;
- ❖ Building cleaning services (e.g., gutter cleaning, power washing of siding); or
- ❖ Pest control services (e.g., grub, bag worm or other insect control, and deer, rabbit or other animal control). For more information on what is included in pest control, see the [Pest Control Notice](#) on our Web site.

Charges for retail sales are generally taxable, unless the customer is exempt **and** the landscaper has obtained a properly completed [Nebraska Resale or Exempt Sale Certificate, Form 13](#). Please see the “Transactions with Exempt Entities” section of this guide for additional information.

Please Note: There are landscaping projects where more than one transaction is billed on the same invoice.

Example 1: A landscaper applies a round of grub control for a customer in Omaha. The **entire** charge is taxable, including charges for equipment, mileage, or fuel surcharges, regardless of how the charges are stated on the customer’s invoice.

Sample Invoice:	Grub Control	\$125 - Taxable (T)
	Spreader	50 - T
	Mileage	25 - T
	Subtotal	\$200
	Sales Tax (7%)	14
	Total Due	\$214

Example 2: A landscaper is hired to plant perennials and annuals, including applying mulch, at the customer's location in Beatrice. The **entire** charge is taxable, including charges for equipment or mileage, regardless of how the charges are stated on the customer's invoice.

Sample Invoice:	Perennials	\$500 - Taxable (T)
	Annuals	300 - T
	Planting	350 - T
	Bobcat	250 - T
	Mulch	200 - T
	Mileage	<u>100</u> - T
	Subtotal	\$1,700
	Sales Tax (7%)	<u>119</u>
	Total Due	\$1,819

Example 3: A landscaper sells sod (a live plant) to a homeowner in Beatrice. The landscaper hires a grading company to grade the ground prior to laying the sod. The grading company bills the landscaper for the grading. The landscaper bills the homeowner for the sod and all installation charges, including the amount paid to the grading company.

Sample Invoice:	Sod	\$2,800 - Taxable (T)
	Grading	800 - T
	Installing the Sod	<u>500</u> - T
	Subtotal	\$4,100
	Sales Tax (7%)	<u>287</u>
	Total Due	\$4,387

Please Note: Charges to plant live plants are taxable even when the live plants are provided by the customer. This includes any other charges associated with planting live plants, such as mileage or equipment charges.

Example 4: A landscaper sells sod to a homeowner in Beatrice. Initially, the landscaper must purchase additional dirt to obtain the proper grade. The landscaper spreads the dirt prior to performing the fine or finish grading and installation of the sod.

Spreading the purchased dirt to obtain the proper grade is considered "contractor labor" because the dirt is being annexed to real estate. The contractor will pay or remit the Nebraska tax on the dirt based on his/her contractor option. The fine or finish grading is part of the installation charge related to installation of the sod and is considered part of the retail sale. If the landscaper charges one amount for the dirt, sod, and associated labor charges, sales tax must be collected on the total amount charged. If the charges are itemized, the landscaper will only collect tax on the retail sale of the sod and associated installation charges as set forth in the following examples. Contractor labor charges that are separately itemized are tax exempt.

The landscaper bills the homeowner for the sod, contractor labor, and installation charges.

A. Option 1 Contractors' Sample invoice:		B. Option 2 or Option 3 Contractors' Sample Invoice:	
Sod	\$2,800 - Taxable (T)	Sod	\$2,800 - Taxable (T)
Fill Dirt	300 - T	Contractor Labor (fill dirt, sales tax, and rough grading)*	750 - Tax Exempt (E)
Contractor Labor (rough grading)*	500 - Tax Exempt (E)	Fine or Finish Grading**	800 - T
Fine or Finish Grading**	800 - T	Sod Installation	<u>500</u> - T
Sod Installation	<u>500</u> - T	Subtotal	\$4,850
Subtotal	\$4,900	Sales Tax (7% on \$4,100)	<u>287</u>
Sales Tax (7% on \$4,400)	<u>308</u>	Total Due	\$5,137
Total Due	\$5,208		

* Separately stated contractor labor charges are tax exempt.

** Fine or finish grading is the grading that is performed to: cut down the dirt around the sidewalk, driveway, and walkway edges; and to loosen the soil with a soil pulverizer for better root penetration.

Example 5: A landscaper sells sod to a homeowner in Beatrice. Prior to installing the sod, the landscaper hires an Option 2 contractor who purchases additional dirt and spreads it to obtain the proper grade. This Option 2 contractor charges the landscaper \$750 for this contracted work. The landscaper performs the fine or finish grading and bills the homeowner for the sod itself, the installation of the sod, and contractor labor.

Sample Invoice:	Sod	\$2,800 - Taxable (T)
	Fine or Finish Grading	800 - T
	Sod Installation	500 - T
	Contractor Labor (fill dirt, sales tax, and rough grading)	<u>750</u> - Tax Exempt (E)
	Subtotal	\$4,850
	Sales Tax (7% on \$4,100)	<u>287</u>
	Total Due	\$5,137

Example 6: A landscaper sells fertilizer, grub control, weed control, grass seed, or other products to customers who will apply the product themselves. The customers pick-up the product at the landscaper's store in Grand Island.

Sample Invoice:	50 lb. Bag of Fertilizer	\$100 - Taxable
	Sales Tax (7%)	<u>7</u>
	Total Due	\$107

Example 7: A landscaper sells a 5-step lawn program including grub control. The landscaper will apply the crab grass preventer, weed and feed, grub control, lawn food, and fall lawn food. The landscaper itemizes the charges for each step of the program as part of the contract and issues an itemized invoice to the customer for the total amount owed. The amount charged for the application of grub control is taxable as "pest control services." The contract or invoice must show the amount of sales tax related to the amount charged for the grub control application.

Sample Invoice:	Crab Grass Preventer	\$75 - Tax Exempt (E)
	Weed and Feed	75 - E
	Grub Control	100 - Taxable
	Lawn Food	75 - E
	Fall Lawn Food	<u>75</u> - E
	Subtotal	\$400
	Sales Tax (7% on \$100)	<u>7</u>
	Total Due	\$407

CAUTION: If the entire lawn program is billed in one lump sum and not itemized similar to the Example 7 above, the total amount charged is taxable (see Example 8 below).

Example 8: Sales taxes are higher if the landscaper does not itemize the taxable and tax exempt portions of the lawn program.

A landscaper sells a 5-step lawn program including grub control and does not itemize the taxable and tax exempt charges on the invoice. The landscaper will apply the fertilizer, weed and feed, grub control, lawn food, and fall lawn food. The landscaper is required to collect sales tax on the total amount charged for the 5-step program since the application of grub control is taxable pest control services and the charges were not itemized on the invoice.

Sample Invoice:	5-Bag Lawn Program	\$400 - Taxable (since not itemized)
	Sales Tax (7% on \$400)	<u>28</u>
	Total Due	\$428

Example 9: A landscaper is hired to install low voltage/solar landscape lighting for a homeowner in Curtis (0.5% local tax rate). The entire charge is taxable, including any separately stated charges for the lights, wire, and installation labor.

Sample Invoice:	Lights and Wire	\$750 - Taxable (T)
	Installation Labor *	<u>1,000</u> - T
	Subtotal	\$1,750
	Sales Tax (6% on \$1,750)	<u>105</u>
	Total Due	\$1,855

*The installation labor charge includes a \$250 mileage charge. The mileage charge could have been separately stated; however, the mileage charge would be taxable in either case. The lights and wire are not considered “annexed to real property” because a licensed electrician is not required to perform or supervise the installation of the low voltage wire.

Construction Contractor Projects (CCPs)

Charges for contractor labor performed in connection with the CCPs are tax exempt. Examples of CCPs include, but are not limited to:

- ❖ Building or repairing a fence, retaining wall, pond, water collection system, fountain, sidewalk, path, or berm;
- ❖ Site preparation for construction of a structure (e.g., pond, berm, retaining wall, fence);
- ❖ Installing edging;
- ❖ Installing hard-wired 110-120 volt landscape lighting;
- ❖ Hydroseeding;
- ❖ Applying or reapplying mulch to existing garden beds;
- ❖ Building a rain water collection system; or
- ❖ Installing or repairing an underground sprinkler system.

Please Note: The taxability of building materials is determined by the contractor option the landscaper has elected. For additional information, please see the “Resource List” below and review the appropriate contractor information guide based on your contractor option.

Option 1

Option 1 contractors are retailers and are required to collect sales tax on the total amount charged for building materials. Separately stated charges for contractor labor performed in connection with CCPs, equipment, and mileage are tax exempt.

Example 10: A landscaper who is an Option 1 contractor is hired to build a retaining wall in Ashland.

Sample Invoice:	Retaining Wall Stone	\$2,000 - Taxable
	Labor	2,500 - Tax Exempt (E)
	Bobcat	1,000 - E
	Mileage	<u>200</u> - E
	Subtotal	\$5,700
	Sales Tax (6.5% on \$2,000)	<u>130</u>
	Total Due	\$5,830

CAUTION: Option 1 contractors who charge one amount for both the building materials and labor are required to collect sales tax on the total amount charged.

Example 11: A landscaper who is an Option 1 contractor is hired to build a berm and install stone edging around it in Lincoln.

The Option 1 contractor can purchase the building materials (e.g., dirt, fabric, mulch, and edging material) tax exempt. The contractor is required to collect sales tax on the total amount charged for the building materials. The contractor is not required to collect sales tax on labor charges, provided these charges are separately stated. If only one amount is invoiced, tax must be collected on the total amount charged.

Example 12: A landscaper who is an Option 1 contractor is hired to reapply mulch to a customer's existing flower bed and berm located in Chadron.

The landscaper is considered a contractor when applying or reapplying mulch not associated with planting live plants. The Option 1 contractor is required to collect sales tax on the total amount charged for the mulch. The Option 1 contractor's labor charges are tax exempt, provided they are separately stated.

Option 2 and Option 3

Option 2 and Option 3 contractors are the consumers of all building materials and fixtures they annex or attach to real estate. They will pay sales or use tax on their cost of all such items. They **cannot** collect sales tax on any portion of the invoice when performing work as a contractor, regardless of how the charges are stated on the customer's invoice.

Example 13: A landscaper who is an Option 2 or Option 3 contractor is hired to build a retaining wall in Lincoln. The contractor will not collect sales tax on any amount charged to build the retaining wall.

Sample Invoice:	Retaining Wall Stone	\$1,500 - Tax Exempt (E)
	Labor	2,500 - E
	Bobcat	1,000 - E
	Mileage	<u>200 - E</u>
	Total Due	\$5,200

Example 14: A landscaper who is an Option 2 or Option 3 contractor is hired to build a berm and install stone edging around it.

The Option 2 or Option 3 contractor will pay or remit tax on the building materials (e.g., dirt, edging material) purchased and used to build the berm. The contractor will not collect sales tax on the amount charged to build the berm.

Example 15: A landscaper who is an Option 2 or Option 3 contractor is hired to apply or reapply mulch to a customer's existing flower bed and berm located in Chadron.

When applying or reapplying mulch that is not associated with planting live plants, the landscaper is a contractor. The Option 2 or Option 3 contractor will pay or remit tax on its cost of the mulch. The contractor will not collect sales tax on the amount charged for contractor labor performed in connection with applying or reapplying the mulch.

Please Note: There are landscaping projects where more than one transaction is billed on one invoice:

- ❖ Retail sales;
- ❖ Construction contractor projects; or
- ❖ Tax exempt services.

Example 16: A landscaper is hired to plant live plants (retail sale), and trim a tree (tax exempt service) at the customer's location in North Platte.

This transaction consists of both a retail sale and a tax exempt service.

Sample Invoice:

Perennials and Annuals	Perennials	\$500 - Taxable (T)
	Annuals	300 - T
	Planting Labor	250 - T
	Mulch	100 - T
	Bobcat	450 - T
	Mileage	<u>100 - T</u>
	Subtotal for Live Plants and Planting Charges	\$1,700 - T
Tree Trimming	Tree Trimming	\$300 - Tax Exempt (E)
	Boom Truck	200 - E
	Mileage	<u>100 - E</u>
	Subtotal for Tree Trimming	\$600
	Sales Tax (7% on \$1,700)	<u>119</u>
Total Due	\$2,419	

Important: The tax exempt portion of the invoice must be separately stated from the taxable portion. Otherwise, the **total** amount charged for all portions of the invoice is subject to sales tax.

Example 17: A landscaper is hired to install 110-120 volt outdoor lighting for a customer in Fremont. The landscaper is an Option 1 contractor and separately states charges for the contractor labor. Separately stated contractor labor charges are tax exempt.

Sample Invoice:	Lights and 14/2 Wire	\$1,500 - Taxable (T)
	Contractor Labor	<u>2,250 - Tax Exempt (E)</u>
	Subtotal	3,750
	Sales Tax (7% on \$1,500)	<u>105</u>
	Total Due	\$3,855

Please Note: In Example 17, if the landscaper was an Option 2 or Option 3 contractor, the invoice could state only one amount as seen below. The lights and wire are considered "annexed to real property" because a licensed electrician is required to perform or supervise the installation of the electrical wire.

Sample Invoice:	Materials and Contractor Labor	<u>\$3,800 - E</u>
	Total Due	\$3,800

Tax Exempt Services

Services performed by landscapers which are tax exempt include, but are not limited to:

Tree trimming; lawn mowing; applying fertilizer or weed control to live plants; aeration; raking; snow removal and de-icing; and dethatching.

Example 18: A landscaper is hired to trim trees at a customer's location in Kearney. This is a tax exempt service and sales tax does not apply. The entire charge is tax exempt, regardless of how the charges are stated on the customer's invoice.

Sample Invoice:	Tree Trimming	\$300 - Tax Exempt (E)
	Boom Truck	200 - E
	Mileage	<u>100 - E</u>
	Total Due	\$600

Please Note: A Form 13 is **not** required in this scenario to document why tax was not collected on tax exempt services.

TRANSACTIONS WITH EXEMPT ENTITIES

Documentation is necessary to support transactions with exempt entities. This includes issuance of a [Purchasing Agent Appointment, Form 17](#). Please see the “Resource List” at the end of this Guide for additional information on which types of entities are exempt from tax.

Retail Sales. When making tax exempt retail sales to entities that are exempt from tax, landscapers must obtain a properly completed Form 13, Section B.

Construction Contractor Projects. Landscapers, who are performing work as a contractor and enter into a construction contract with an entity that is exempt from tax, should review the information in the paragraph titled “Contracts with Exempt Entities” in the appropriate contractor information guide:

- ❖ Option 1 contractors: [Nebraska Taxation of Contractors – Option 1](#);
- ❖ Option 2 contractors: [Nebraska Taxation of Contractors – Option 2](#); and/or
- ❖ Option 3 contractors: [Nebraska Taxation of Contractors – Option 3](#).

PURCHASES FROM VENDORS/SUPPLIERS

Taxable Purchases. Landscapers must pay sales or use tax on any tools, equipment, or other supplies they use in performing their services.

Example 19: Landscapers must pay sales or use tax on their purchase or rental of equipment (e.g., dethatching equipment, product spreading equipment, tree-spades).

Example 20: Landscapers who make retail sales of lawn care products (e.g., fertilizer, grub control, and weed control) can purchase these products tax free for resale purposes and maintain a tax-free inventory. The landscaper must pay use tax on those products withdrawn from inventory and used in the course of their lawn care business.

Example 21: Landscapers who are Option 2 contractors must pay the sales tax on their purchase of all building materials (i.e., retaining wall blocks) and fixtures (i.e., hard-wired pond pumps) that will be annexed or attached to real estate. Landscapers who are Option 3 contractors will accrue and remit consumer’s use tax on these building materials and fixtures when they are withdrawn from inventory.

Tax Exempt Purchases. Landscapers may purchase tax exempt those items they will resell. In addition, landscapers who are Option 1 or Option 3 contractors may also purchase tax free any building materials and fixtures that will be annexed or attached to real property.

Example 22: Landscapers may purchase live plants tax exempt if they will resell them to their customers.

Example 23: Landscapers who are Option 1 or Option 3 contractors may purchase building materials (i.e., retaining wall blocks) and fixtures (i.e., hard-wired pond pumps) tax free.

Option 1 contractors are considered retailers and will collect sales tax on the total amount charged for building materials, provided their labor charges are separately stated on the invoice.

Option 3 contractors will not collect sales tax on the amount charged to their customers. They will remit consumer’s use tax on their cost of all building materials and fixtures at the rate in effect at the time and place these items are withdrawn from inventory. In most instances, this will be the Option 3 contractor’s business location.

When making tax exempt purchases, landscapers who are Option 1 or Option 3 contractors must provide a properly completed Form 13, Section C, number 1 to their vendors and suppliers.

GENERAL TAX INFORMATION

Obtaining A Permit. A Nebraska Sales Tax Permit is obtained by filing a [Nebraska Tax Application, Form 20](#). This form is available on our Web site. A sales tax permit is required for each separate retail location. Landscapers who are also contractors, MUST register in the Department of Labor's [Contractor Registration Database](#).

Collecting the Tax. Landscapers must collect the Nebraska and appropriate local option sales tax on the gross receipts from all retail sales unless a specific exemption applies. Please see the section titled "Transactions with Exempt Entities" for additional information.

Remitting the Tax. Landscapers must remit the sales tax collected on the [Nebraska and Local Sales and Use Tax Return, Form 10](#). Returns are due monthly, quarterly, or annually depending on the amount of sales tax collected during the course of the year. Please see [Information Guide - Nebraska and Local Sales and Use Tax Return, Form 10](#) for additional information.

RESOURCE LIST

If you need additional information, see the resources listed below that are available on the Department's Web site:

- ❖ [Nebraska Taxation of Contractors – Option 1 Information Guide](#)
- ❖ [Nebraska Taxation of Contractors – Option 2 Information Guide](#)
- ❖ [Nebraska Taxation of Contractors – Option 3 Information Guide](#)
- ❖ [Contractor Registration Database](#)
- ❖ [Information Guide for Governmental Entities](#)
- ❖ [Information Guide for the Taxation of Nonprofit Organizations](#)

Nebraska Sales and Use Tax Regulations:

- ❖ [1-006 Retail Sale or Sale at Retail](#)
- ❖ [1-007 Gross Receipts Defined](#)
- ❖ [1-013 Sale for Resale, Resale Certificate](#)
- ❖ [1-014 Exempt Sale Certificate](#)
- ❖ [1-017 Contractors](#)
- ❖ [1-082 Labor Charges](#)
- ❖ [1-090 Nonprofit Organizations](#)
- ❖ [1-091 Religious Organizations](#)
- ❖ [1-092 Educational Institutions](#)
- ❖ [1-093 Governmental Units](#)
- ❖ [1-098 Building Cleaning and Maintenance](#)
- ❖ [1-100 Pest Control Services](#)

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