

RAB-88-36

SUW Storage Facilities

(Replaced by RAB 89 -5 & RAB 90-2)



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SALES AND USE TAXES - STORAGE FACILITIES

(Replaces Position Paper SUW 84-002)

RAB-88-36. The application of Sales and Use Tax on the purchases of bins, tanks, or storage facilities (grain bins, water tanks, oil tanks, silos) are outlined below:

Storage Facility

A storage facility is a structural part of real estate:

1. When it is considered to be an improvement to realty and is assessed for property taxes [William Esper v Lenox Township, MTT Docket 32106, June 14, 1979], or
2. When it is bolted or fastened to and/or imbedded in a concrete slab or foundation [Miedema Metal Building Systems v Department of Treasury, 127 Mich A.pp 533 (1983)].

Contractor

Sales to or purchases by a contractor are subject to sales or use tax on tangible personal property used by the contractor to construct, alter, improve or repair the storage facilities that become a structural part of real estate. [Sales Tax Act, MCL 205.51(c); Use Tax Act, MCL 205.92(g)]

A contractor will be allowed an exemption on the purchase of tangible personal property that becomes a structural part of real estate for a qualified nonprofit hospital or nonprofit housing. [Sales Tax Act, MCL 205.51(c); Use Tax Act, MCL 205.94(l); Specific Sales and Use Tax Rules, 1979 AC, R 205.71, respectively]

A contractor will be allowed an exemption on the purchase of tangible personal property:

1. When purchased for and installed as a component part of a water or air pollution control facility (for private industry only, does not include governmental facilities), and



2. A tax exemption certificate is issued from the State Tax Commission. [Sales Tax Act, MCL 205.54a(p); Use Tax Act, MCL 205.94(v); Act No. 222 of the Public Acts of 1966, as amended, being sections 323.351 to 323.358 of the Michigan Compiled Laws; Act No. 250 of the Public Act of 1965, as amended, being sections 336.1 to 336.8 of the Michigan Compiled Laws]

Retailer/Installer (Installs Tangible Personal Property That Remains Tangible After Installation)

A retailer/installer is liable for sales tax on the total selling price of the storage facility that remains tangible personal property after installation when purchased by an industrial processor. This does not include in-process storage facilities. [Sales Tax Act, MCL 205.54a(g); Use Tax Act, MCL 205.94(g)]

Note: Selling price shall include the fabrication or assembly charge of the tangible personal property (regardless of whether it occurs at the job site or location of the purchaser or elsewhere). Separately itemized installation charges are exempt from the Sales Tax Base. [Sales Tax Act, MCL 205.51(g); Use Tax Act, MCL 205.92(F)]

Industrial Processor

Sales to or purchases by an industrial processor are subject to sales or use tax on tangible personal property purchased by the industrial processor to construct, alter, improve or repair storage facilities whether considered to be tangible personal property or real property after installation. This does not include in-process storage facilities. [Sales Tax Act, MCL 205.54a(g); Use Tax Act, MCL 205.94(g)]

An industrial processor may apply to the State Tax Commission for tax exemption for the construction of a storage facility when purchased and installed as a component part of a water or air pollution control facility.

1. If granted, industrial processor may purchase supplies tax exempt or give exemption claim to contractor for their purchases of tangible personal property for the storage facility.
2. If certificate is received after installation of facility, a refund request may be submitted by the certificate holder to the Department of Treasury's Sales, Use, Withholding Tax Division, submitting proof of tax paid on the purchases of tangible personal property.

Agricultural Producer

Sales to or purchases by an agricultural producer are subject to sales or use tax on tangible personal property purchases by the agricultural producer to construct, alter, improve or repair storage facilities that become a structural part of real estate. [Sales Tax Act, MCL 205.54a(f); Use Tax Act, MCL 205.94(f)]