



Self-Review – Landscapers & Related Industries

Q: What is use tax?

A: Use tax is a tax on the purchase of items used or consumed in Utah on which sales tax was not already paid. Any item brought into Utah, the purchase of which would normally be subject to sales tax in Utah, and on which no sales tax was paid, creates a use tax liability, which the purchaser has the responsibility of reporting and paying to the Utah State Tax Commission.

Q: Who is required to pay use tax and how is it to be paid?

A: Use tax applies to both businesses and individuals. All purchasers who have not paid sales tax on taxable items they used in Utah are required to pay use tax. Purchasers who have a sales tax license must report these purchases as “Goods purchased tax free and used by you” on the Sales and Use Tax Return (Form TC-62S or TC-62M).

Purchasers with no sales tax account must report the use tax on either a Utah Individual Income Tax Return (Form TC-40) or a Utah business income tax return (Form TC-41, TC-65, TC-20, TC-20S, or TC-20MC), whichever applies.

Q: What is tangible personal property?

A: Tangible personal property is property that can be seen, weighed, measured, felt or touched, or is perceptible to the senses in any manner. Tangible personal property includes electricity, water, gas, steam and prewritten software, but does **not** include real property. Purchases of tangible personal property are subject to sales and use tax.

Q: What is real property?

A: Real property is any right, title, estate or interest in land, including all structures on the land. Purchases of real property are not subject to sales and use tax. An item of tangible personal property is considered converted to real property when it is affixed to real estate and installed in a manner that suggests it will remain in place over the useful life of the item, at which time it loses its separate identity as personal property and becomes part of the real property.

Q: Why are landscapers responsible for tax on the purchase of items that get incorporated into the customer’s property?

A: Materials used by the landscaper are tangible personal property at the time the landscaper purchases them. The landscaper installs the materials and converts them to real property as a service. The landscaper is considered the consumer of the materials because the landscaper is the last person to own the items as tangible personal property.

If the real property owner personally purchases landscaping materials, then contracts with a landscaper to install the materials, the real property owner must pay the sales and use tax on the purchase of the items as the last person to own them as tangible personal property.

Q: Are landscaping services taxable?

A: No. Services to real property are not taxable. Sales tax should not be collected on services such as landscaping, construction, planting, mowing, pruning, trimming, snow removal, etc. Landscapers **may not** show the tax due on their purchase of consumed materials as a separate item on the customer’s contract or invoice.

Sales tax should only be collected if you make direct sales of tangible personal property, or any repairs or cleaning of tangible personal property, in addition to performing services on real property.

Q: Which use tax rate should be used?

A: The use tax rate is determined by the location in Utah where you take delivery of the merchandise. If you had items shipped to your place of business, use the tax rate in effect there. If any materials you purchased were shipped directly to a job site by an out-of-state seller, use the tax rate in effect at the job site for those purchases. Please see the **Instructions** page for help determining tax rates.

Q: What if I was charged another state’s sales tax on purchases brought to Utah?

A: You may take a credit for sales and use tax paid to another state. If the other state’s tax rate is lower than the Utah rate, you must pay the difference. If the other state’s tax rate is higher than the Utah rate, no credit or refund is given for the difference.