

## 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 or taxable services;
- ❖ Construction contractor projects; and
- ❖ Tax exempt services.

Landscapers making retail sales involving sales of tangible personal property or taxable services must obtain a Nebraska Sales Tax Permit from the Nebraska Department of Revenue (DOR) 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%. Cities and counties may have also adopted a local sales and use tax with rates that vary from 0.5% to 2% throughout the state. These local rates may change quarterly and are identified on our website at [Local Sales and Use Tax Rates](#). 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 [Sales Tax Rate Finder](#) located on the DOR's website.

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### Terms

**Annexed.** Annexed to real estate means attaching property so that: (1) the property becomes real estate, or (2) the installation or removal of the property requires specialized skills or tools and is performed or supervised by a recognized trade professional.

**Building Materials.** Building materials include any property that will be annexed to real estate or to an improvement on real estate. Examples 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.** Contractor is any person who repairs property annexed to real estate, who annexes building materials and fixtures to real estate, or who arranges for this annexation.

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

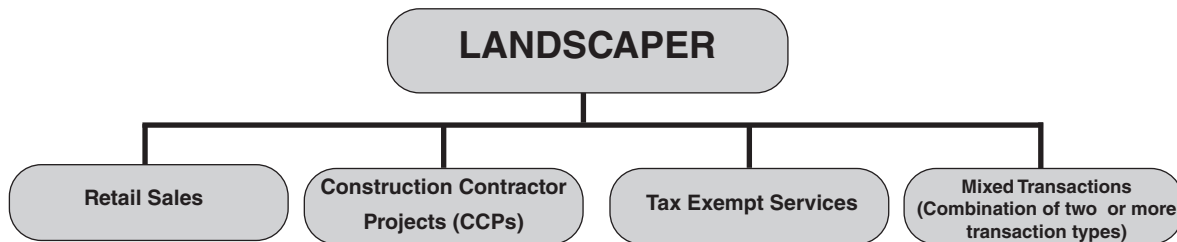
**Live Plants.** When the term “live plants” is used throughout this Guide, it means “trees, shrubs, flowers, sod, and other similar plants.” It does **not** include seeds.

**Recognized Trade Professional.** A recognized trade professional includes any person required to be licensed or certified by the state to practice his or her trade, like a plumber or electrician.

**Retail Sales.** Any sale, lease, or rental for any purpose other than resale, sublease, or subrent.

## 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:

- ❖ Installation of live plants even when the customer provides the plants;
- ❖ Sales of live plants, whether planted or not (always retail sales and taxable);
- ❖ Landscaping material or other property that is not annexed to real estate;
- ❖ Low voltage or solar-powered landscape lighting;
- ❖ Fine or finish grading performed in conjunction with planting live plants;
- ❖ Installation of landscaping fabric and mulch in conjunction with planting live plants;
- ❖ Building cleaning services (for example, gutter cleaning, power washing of siding); or
- ❖ Pest control services (for example, 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 information guide](#).

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.

**Example 1.** A landscaper applies 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 design a landscape plan and plant perennials and annuals, including applying mulch, at the customer's location in York. The **entire** charge is taxable, including charges for design fees, equipment or mileage, regardless of how the charges are stated on the customer's invoice.

Sample Invoice:	Design fees	\$400 - T
	Perennials	500 - T
	Annuals	300 - T
	Planting	350 - T
	Bobcat	250 - T
	Mulch	200 - T
	Mileage	<u>+ 200 - T</u>
	Subtotal	\$2,200
	Sales tax (7.5%)	<u>+ 165</u>
	Total due	\$2,365

**Example 3.** A landscaper sells sod (a live plant) to a homeowner in Lincoln. The landscaper hires a grading company to complete the fine or finish grading. 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 - T
	Grading	800 - T
	Installing the sod	<u>+ 800 - T</u>
	Subtotal	\$4,400
	Sales tax (7.25%)	<u>+ 319</u>
	Total due	\$4,719

**Example 4.** 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	\$80 - T
	Sales tax (7.5%)	<u>+ 6</u>
	Total due	\$86

**Example 5.** A landscaper sells a 5-step lawn program including grub control and chooses not to 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 in Valentine. 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. The landscaper must pay sales or use tax on its cost of the chemicals used in its 5-step lawn program.

Sample Invoice:	5-step lawn program	\$400 - T (since not itemized)
	Sales tax (7%)	<u>+ 28</u>
	Total due	\$428

**Example 6.** A landscaper is hired to install low voltage/solar landscape lighting for a homeowner in Manley. The entire charge is taxable, including any separately stated charges for the lights, wire, and installation labor.

Sample Invoice:	Lights and wire	\$750 - T
	Installation labor*	<u>+1,000 - T</u>
	Subtotal	\$1,750
	Sales tax (6%)	<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

“annexed to real property” and remain tangible personal property after installation.

## Construction Contractor Projects (CCPs)

Charges for contractor labor performed in connection with the CCPs are tax exempt. Design fees are contractor labor when the design is created in conjunction with a contractor project. 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;
- ❖ Rough grading for construction of a structure (for example, 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.

**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 7.** A landscaper who is an Option 1 contractor is hired to design and build a retaining wall in Niobrara.

Sample Invoice:	Retaining wall stone	\$2,000 - T
	Design fees	300 - E
	Labor	2,500 - E
	Bobcat	1,000 - E
	Mileage	+ 200 - E
	Subtotal	\$6,000
	Sales tax (6.5% on \$2,000)	+ 130
	Total due	\$6,130

**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 8.** A landscaper who is an Option 1 contractor is hired to aerate and oversee a yard in Scottsbluff.

The seed applied by a contractor to real property is considered a building material. The Option 1 contractor is required to collect sales tax on the total amount charged for the seed. The Option 1 contractor’s labor to apply the seed is tax exempt, provided it is separately stated.

Sample Invoice:	Aeration	\$40 - E
	Seed	100 - T
	Labor	+ 40 - E
	Subtotal	\$180
	Sales tax (7% on \$100)	+ 7
	Total due	\$187

**Example 9.** A landscaper who is an Option 1 contractor is hired to build a berm and install stone edging.

The Option 1 contractor can purchase the building materials (for example, dirt, fabric, mulch, and edging material) tax exempt from its supplier by issuing the supplier a properly completed Nebraska Resale or Exempt Sale Certificate, Form 13, Section C, Part 1. 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 10.** A landscaper who is an Option 1 contractor is hired to reapply mulch to a customer's existing flower bed and berm.

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 to real estate. Option 2 contractors will pay sales tax to their supplier on their cost of building materials and fixtures. Option 3 contractors issue a properly completed Form 13, Section C, part 1, to their supplier and will not pay sales tax on the stone but must remit use tax on their cost of all such items. Option 2 and Option 3 contractors **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 11.** A landscaper who is an Option 2 or Option 3 contractor is hired to build a retaining wall. Option 2 contractors will pay sales tax to their supplier on their cost of the retaining wall stone. Option 3 contractors issue a properly completed Form 13 to their supplier and will not pay sales tax on the building materials and fixtures but must remit use tax on the retaining wall stone. The contractor will not collect sales tax on any amount charged to build the retaining wall.

Sample Invoice:	Retaining wall stone	\$1,500 - E
	Labor	2,500 - E
	Bobcat	1,000 - E
	Mileage	+ 200 - E
	Total due	\$5,200

**Example 12.** A landscaper who is an Option 2 or Option 3 contractor is hired to aerate and overseed a yard.

Sample Invoice:	Aeration	\$40 - E
	Seed	100 - E
	Labor	+ 40 - E
	Total due	\$180

**Note.** Option 2 and Option 3 contractors owe sales or use tax on the seed.

**Example 13.** 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 sales tax or remit use tax on the building materials (for example, 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 14.** 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.

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 sales tax or remit use 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.

**Example 15.** 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 - T
	Contractor labor	<u>+2,250</u> - E
	Subtotal	3,750
	Sales tax (7% on \$1,500)	<u>+ 105</u>
	Total due	\$3,855

Note. In Example 15, 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</u> - E
	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 16.** A landscaper is hired to trim trees at a customer’s location. 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 - E
	Boom truck	200 - E
	Mileage	<u>+100</u> - E
	Total due	\$600

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

## Mixed Transactions

There are landscaping projects where more than one type of transaction is billed on one invoice:

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

See below for examples of mixed transactions and how they are taxed.

**Example 17.** A landscaper sells and installs sod for a homeowner in Norfolk. Sod is a live plant. The landscaper purchased additional dirt. The landscaper spreads the dirt during both the rough grading and the fine or finish grading. The sod is installed after the fine or finish grading.

The rough grading is a construction contractor project type of transaction. The labor to spread the dirt is contractor labor. The contractor labor is tax exempt if separately stated from the retail sale type transaction. An Option 2 or 3 contractor will pay sales tax or remit use tax on its cost of the dirt. The Option 1 contractor will purchase the dirt tax exempt for resale.

The rest of the project is a retail sale type of transaction. The landscaper must collect sales tax on all amounts charged for the retail sale type transaction.

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

**A. Option 1 Contractor’s Sample invoice:**

**B. Option 2 or Option 3 Contractor’s Sample**

Invoice:			
Sod	\$2,800 - T	Sod	\$2,800 - T
Fill Dirt	300 - T	Contractor labor (fill dirt, sales tax, and rough grading)	750 - E
Contractor labor (rough grading)*	500 - E	Fine or finish grading	800 - T
Fine or finish grading**	800 - T	Sod installation	+ 500 - T
Sod installation	+ 500 - T	Subtotal	\$4,850
Subtotal	\$4,900	Sales tax (7% on \$4,100)	+ 287
Sales tax (7% on \$4,400)	+ 308	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 prepare the site for planting, seeding, or sodding. This includes finishing the final contour of the project, adding dirt, removing dirt, rock and other undesirable debris and pulverizing the soil.

**Example 18.** A landscaper is hired to sell and install sod for a homeowner in Hastings. Prior to installing the sod, the landscaper hires an Option 2 contractor who purchases additional dirt and spreads it to obtain the proper grade (rough grading). 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 - T
	Fine or finish grading	800 - T
	Sod installation	500 - T
	Contractor labor (fill dirt, sales tax, and rough grading)	+ 750 - E
	Subtotal	\$4,850
	Sales tax (7% on \$4,100)	+ 287
	Total due	\$5,137

**Example 19.** 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. The landscaper must pay sales or use tax on its cost of the chemicals used in its 5-step lawn program.

Sample Invoice:	Crab grass preventer	\$75 - E
	Weed and feed	75 - E
	Grub control	100 - T
	Lawn food	75 - E
	Fall lawn food	+ 75 - E
	Subtotal	\$400
	Sales tax (7% on \$100)	+ 7
	Total due	\$407

**Caution:** If the entire lawn program is billed in one lump sum and not itemized similar to the Example 19 above, the total amount charged is taxable.

**Example 20.** 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 - T
	Annuals	300 - T
	Planting labor	250 - T
	Mulch	100 - T
	Bobcat	450 - T
	Mileage	+ 100 - T
	Subtotal for live plants and planting charges	\$1,700 - T
Tree Trimming	Tree trimming	\$300 - E
	Boom truck	200 - E
	Mileage	+ 100 - E
	Subtotal for tree trimming	\$600
	Sales tax (7% on \$1,700)	+ 119
	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.

## Transactions With Exempt Entities

Documentation is necessary to support transactions with exempt entities. This includes issuance of a [Purchasing Agent Appointment, Form 17](#), which only applies to a CCP. 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 sales and use 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 21.** Landscapers must pay sales or use tax on their purchase or rental of equipment (for example, dethatching equipment, product spreading equipment, tree-spades).

**Example 22.** Landscapers who make retail sales of lawn care products (for example, 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 23.** Landscapers who are Option 2 contractors must pay the sales tax on their purchase of all building materials (for example, retaining wall blocks) and fixtures (for example, hard-wired pond pumps) that they will annex to real estate. Landscapers who are Option 3 contractors will accrue and remit use tax on these building materials and fixtures they annex 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 they will annex to real property.

**Example 24.** Landscapers may purchase live plants tax exempt if they will resell them to their customers.

**Example 25.** Landscapers who are Option 1 or Option 3 contractors may purchase building materials (for example, retaining wall blocks) and fixtures (for example, 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 for building materials. They will remit 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. If the building materials are delivered to the job site, the tax rate at the job site is the rate to use.

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 the DOR's website. Retailers are encouraged to [register their business](#) and submit the Form 20 electronically. 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 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.** Sales tax collected from customers is remitted using the [Nebraska and Local Sales and Use Tax Return, Form 10](#). Information on filing and paying electronically can be found on the DOR's [website](#).

## Resource List

If you need additional information, see the resources listed below that are available on the DOR's website:

- ❖ [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](#)
- ❖ [Governmental Entities Information Guide](#)
- ❖ [Taxation of Nonprofit Organizations Information Guide](#)

Nebraska Sales and Use Tax Regulations:

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

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