
NEVADA DEPARTMENT OF TAXATION

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Tax Bulletin SUT 16-0002 **Issue Date: June 27, 2016** **Specialized Components for Public Work Projects**

Introduction

This bulletin discusses Assembly Bill (AB) 332, §7 and specialized components that are specific to a particular project and are not commonly used in public work projects.

Statutes and/or Regulations referenced

AB 332 (2015), §7; NRS 332; NRS 333; NRS 338

Specialized components sales tax exemption in public work projects

Although Nevada imposes a sales tax on the purchase of tangible personal property, sales to a governmental entity are exempt from the imposition of sales and use tax.

However, when a contractor buys tangible personal property or stores, uses or otherwise consumes tangible personal property in fulfilling a contract for a governmental entity, the contractor must pay taxes on these purchases unless the contractor is a constituent part of that entity.

Assembly Bill 332

In the 2015 legislative session, the Legislature passed AB 332, which prohibits in certain cases a public body or government entity from entering into a public works contract which provides that any construction materials or goods to be used on the public work will be purchased by the public body or a constituent part of the public body, thus avoiding taxation.

Requirements

Most public bodies contract with entities outside the public body to complete the construction project. Pursuant to AB 332, the contract must comply with section 1, subsection 2 of AB 332 which provides that 1) the contract requires the payment of any state or local taxes that would have been due for the purchase and use of the construction materials or goods if purchased and used by a contractor not part of the constituent part of the public body; and 2) the public body sends to the Department of Taxation (Department) an itemized list of the construction materials or goods to be purchased including the amount paid for each item.

If the public body is going to perform the public work itself in accordance with NRS 338.13864, the public body does not have to meet these two requirements.

Exceptions

Section 7 of AB 332 provides that the provisions of section 1 do not apply to a contract for a public work if the contract is for 1) devices, equipment or hardware purchased in compliance with chapter 332 or 333 of NRS which are needed on a recurring basis and used to protect the health, safety or welfare of the public; or 2) the purchase of **specialized components** pursuant to NRS 332 or 333 which are specific to a particular project and are not commonly used in public works projects. If the public body enters into a contract in which materials are purchased by the public body that fall under these two categories, the public body must provide annually to the Department an itemized list of these materials and the amount paid for each item.

When submitting the list of specialized components used in a public work project to the Department the public body should:

- 1) provide detailed information about the specialization of the component and
- 2) provide an explanation specifically illustrating how that component is not a commonly used item both in the type of project and in widespread use.

The Department will review the list and the detailed information provided and notify the public body whether or not the construction material qualifies as a specialized component or whether more information is needed to make a determination.

If the construction material qualifies as a specialized component, that material is exempt from sales tax. However, if the construction material does not meet the exemption criteria, sales tax must be remitted.