



**Sales and Use Tax Division
North Carolina Department of Revenue
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www.ncdor.gov**

IMPORTANT NOTICE: Updated Form E-589CI, Affidavit of Capital Improvement

[Form E-589CI](#), Affidavit of Capital Improvement, is updated due to legislative changes enacted by the 2017 Session of the General Assembly. The revision date on the form is 3-18 and the updated form is effective immediately.

Generally, services to real property are retail sales of or the gross receipts derived from repair, maintenance, and installation services, unless a person substantiates that a transaction is subject to sales and use tax as a real property contract, a mixed transaction contract, or the transaction is not subject to sales and use tax. Form E-589CI, may be issued to substantiate that a contract, or a portion of work performed to fulfill a contract, is a capital improvement to real property and subject to sales and use tax as a real property contract.

The receipt of an affidavit of capital improvement, absent fraud or other egregious activities, establishes that the subcontractor or other person receiving the affidavit should treat the transaction as a capital improvement, and the transaction is subject to tax in accordance with subsection (a) of N.C. Gen. Stat. § 105-164.4H. A person that issues an affidavit of capital improvement is liable for any additional tax due on the transaction, in excess of tax paid on related purchases under subsection (a) of N.C. Gen. Stat. § 105-164.4H, if it is determined that the transaction is not a capital improvement but rather the transaction is subject to tax as a retail sale. A person who receives an affidavit of capital improvement from another person, absent fraud or other egregious activities, is not liable for any additional tax on the gross receipts from the transaction if it is determined that the transaction is not a capital improvement.

In lieu of issuing an affidavit of capital improvement, a person may substantiate by other records that a transaction is a real property contract or a mixed transaction contract subject to tax as a real property contract for a capital improvement to real property. Where an affidavit of capital improvement is not used to establish a transaction is subject to sales and use tax as a real property contract, but rather other records are used to substantiate that a transaction is a real property contract, the real property contractor, the retailer-contractor, the subcontractor, the lessee, and the owner are jointly and severally liable for the sales or use tax due on the tangible personal property purchased that becomes a part of real property. The liability of a real property contractor, a retailer-contractor, a subcontractor, a lessee, or an owner who did not purchase the tangible personal property is satisfied by receipt of an affidavit, other than an affidavit of capital improvement, from the purchaser certifying that the tax has been paid on the purchased tangible personal property.

To the extent that there is any change in statute or regulation, or new case law subsequent to the date of this notice, the provisions in this important notice may be superseded or voided. To the extent that any provisions in any other notice, directive, technical bulletin, or published guidance regarding sales and use tax issued prior to the date of this notice conflicts with this important notice, the provisions contained in this important notice supersede.