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Sales of Taxable Services to Builders and Contractors

The Department of Revenue has received recent inquiries requesting clarification of the provision found in Section 21 of House Bill (HB) 354 allowing the purchase of certain enumerated services exempt from sales tax when purchased for resale. These inquiries seek to clarify whether the purchase of taxable landscaping or janitorial services by a builder or general contractor of real property are exempt from sales tax when there is a resale of the real property.

According to the provisions of Kentucky Regulation 103 KAR 26:070, all sales to contractors, subcontractors, or builders of tangible personal property to be incorporated or fabricated into any structure or improvement to real property are subject to sales tax. This same treatment applies to sales of landscaping, janitorial or other taxable services to contractors. The liability for the sales tax associated with the purchase of the property or services is on the contractor as the consumer.

Therefore, contractors may not claim a resale exemption on the purchase of taxable landscaping and janitorial services performed on their construction projects because they are not reselling the landscaping and janitorial services. Furthermore, the sale of the finished construction project is realty that is not a retail sale subject to sales and use tax.

If you have further questions regarding HB 354 changes related to sales tax, please contact the Department at the email address below.

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