

Municipal Wastewater Treatment Plants

Sales and Use Tax Guidance for Cities and Contractors

Introduction

This document is intended to give a brief background on municipal wastewater treatment plants. The document will also provide guidance to contractors on which components of a municipal wastewater treatment plant are subject to Idaho sales or use tax, and which components can be purchased tax exempt for sale to the city that owns and operates the wastewater treatment plant.

Background

With the exception of pond liners, materials incorporated into real property in a municipal wastewater treatment plant are taxable to the contractor. However, if the materials aren't incorporated into real property, the sale or purchase of wastewater treatment equipment is exempt when sold to an Idaho municipality (exempt entity under Idaho law). **Identical equipment sold to a privately-owned company treating wastewater under a contract with a city or some other entity is taxable.** See [Idaho Code section 63-3622X\(3\)\(b\)](#). When making sales of wastewater treatment equipment to an Idaho municipality, the contractor/retailer should obtain an Idaho Resale and Exemption Certificate, [Form ST-101](#), from the city.

What is taxable in a contract to build a wastewater treatment facility for a municipality?

Generally, materials incorporated into real property are considered to be consumed by the contractor and the contractor is responsible for the sales or use tax on the cost of those materials. Materials that retain their identity as tangible personal property are considered to be retail sales to the municipality. As sales to governmental entities are exempt from sales tax, contractors can purchase these items tax exempt from their vendors. The contractors/retailers will need to provide their vendors with properly-executed [ST-101 forms](#) for all equipment purchased for resale to the municipality that owns the wastewater treatment plant.

Are any real property materials exempt from sales or use tax?

Asphalt, plastic, or composite pond linings, regardless of whether the liners are intended to become components of any real property or improvements or fixtures thereto, are exempt. All other real property materials are taxable to the contractor.

What items are considered as real property improvements in a wastewater treatment plant?

Generally, concrete, rebar, fill dirt, buried pipe, or any item imbedded permanently into concrete or dirt, is considered to be a real property improvement. If concrete must be removed or a substantial amount of dirt must be moved to remove an object, that object is generally considered to be an improvement to realty. In addition, any permanent building or structure, regardless of whether the structure is used to house any aspect of the plant, equipment, or administrative functions, is a real property improvement.

Real property improvements in a wastewater treatment plan include but are not limited to:

- Concrete and rebar.
- Metal imbedded into concrete during the pouring processes.
- Concrete ponds, races, and concrete tanks permanently attached to real property.
- Pipes, steel, or composite tanks and related fittings buried in concrete in a way that they can't be removed without destroying the item itself, or a substantial amount of concrete.
- Floors, walls, ceilings, inside wiring, area lighting, windows, doors, catwalks, stairs, floor and ceiling panels or grating, potable water systems, sanitary plumbing, and other components of a building or other structure used to house wastewater treatment equipment or a wastewater treatment facility.
- Electrical generation backup systems that are used to back up the wastewater treatment plant, including outside area lighting; space heating, cooling, and lighting in buildings; security systems, etc., as well as the wastewater treatment equipment in the case of power outages. These large electrical backup systems typically are installed to supply electricity to the whole wastewater treatment plant, and generally tie into the main electrical feed line that comes in from the power company, essentially replacing the main power feed from outside the wastewater treatment plant.

What items are considered as tangible personal property in a wastewater treatment plant?

Wastewater treatment equipment—such as pumps, filters, and similar items that are installed in a way that they can easily be removed for replacement and servicing—are considered as tangible personal property. In the case of a wastewater treatment plant, those items that haven't been altered (and therefore retain their nature as tangible personal property) are considered as retail sales.

- Pumps, valves, pipes, flanges, couplings, fittings and similar devices that are designed and installed specifically to be removable, even if they are bolted to concrete foundations.
- Pipes that pass through walls in a way that the pipe can be removed without destroying the wall. Most modern treatment plants use pass-through technologies when building walls that allow pipe to be installed into the pass-through ports without serious damage to the wall. Usually, a hole somewhat bigger than the pipe, is either a component of the concrete wall, or it is cut through the wall after pouring.
- Head-works, grit filter systems, gate valves, etc., that treat the wastewater or transfer the wastewater between cleaning processes.
- Systems used to remove and recycle filtering grit.
- Membrane filtration systems, such as reverse osmosis, hollow fiber, and similar systems.
- Ultraviolet lights used to kill bacteria in wastewater.

- Aerators, cyclone classifiers, clarifiers, and similar equipment used to remove impurities or inject air into the wastewater. Some types of aerators are free-floating, while others are attached to walls or bolted to the floors of treatment ponds or tanks.
- Steel or composite tanks used in wastewater treatment that are installed in a way that they can be unbolted and removed without substantial destruction of concrete. This includes tanks that are used to store or dispense wastewater treatment chemicals as well as those tanks used to store wastewater being treated.
- Electric motors, motor control centers, and related components including wiring that remain accessible and changeable.
- Backup generators used only to power specific wastewater treatment equipment in case of power outages or interruptions.
- Process control and monitoring systems including sensors, cameras, monitors, computer equipment, and related components and accessible wiring.
- Any other items that are designed to be simply bolted to pipes or concrete foundations so that they can be unbolted, disassembled, and replaced. Most modern wastewater plants are designed to be easily updated without substantial changes to the real estate. The intent that these items remain tangible personal property is demonstrated by the practice of installing modular types of equipment that can be replaced without shutting down the treatment plant for long periods of time. For example, some plants install a number of similar pumps side by side, on manifolds, performing the same function so that some of them can be shut down for servicing or replacement without affecting the operations of the treatment plant. This kind of planning indicates that these pumps are treated as equipment subject to planned servicing and replacement.

Other Information

This document is not intended to cover all aspects of wastewater treatment plant taxation. For more details, please review [Idaho Code section 63-3622X](#), which refers to the tax treatment of pollution control equipment.

For additional help, please contact:

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