

**TABLE OF CONTENTS**

**Enumerated Services**

Landscaping and horticulture services . . . . . 12-407(2)(i)(V)-1



## Enumerated Services

### Sec. 12-407(2)(i)(V)-1. Landscaping and horticulture services

(a) **Landscaping and horticulture services.** (1)(A) The term “landscaping services” means such services as the planting of trees, shrubs, flowering and nonflowering plants, and sod; landscape planning; lawn and garden installation; and constructing, remodeling or repairing irrigation or lawn sprinkler systems, patios (other than asphalt, tar, macadam or poured concrete), walkways (other than asphalt, tar, macadam or poured concrete) and driveways (other than asphalt, tar, macadam or poured concrete).

(B) The construction, remodeling or repair of ponds, fences, gates, and walls (other than walls that are part of the structure of a building) are presumed to be landscaping services until the contrary is established. This presumption may be rebutted only if the service provider clearly establishes that the services rendered are not intended to be landscaping services, such as when an action is mandated by statute. For example, a service provider installing a fence that encloses a swimming pool and that is installed to comply with a law requiring that swimming pools be enclosed may establish that the services rendered are not intended to be landscaping services. In addition, the installation of any chainlink fencing and the installation of any fencing used to contain livestock on a farm are not considered to be landscaping services. The installation of outdoor lighting, poured concrete or asphalt patios, sidewalks and parking lots, any chainlink fencing and any fencing used to contain livestock on a farm are taxable under section 12-407(2)(i)(I) of the general statutes when rendered to existing industrial, commercial or income-producing real property. The installation of outdoor lighting and poured concrete or asphalt patios, sidewalks and parking lots are taxable under section 12-407(2)(i)(BB) of the general statutes when rendered to real property other than industrial, commercial or income-producing real property.

(2) **Horticulture services.** The term “horticulture services” means such services as tree trimming, tree removal, spraying, arborist services, lawn inspection and analysis services, ornamental tree, bush and flower planting, pruning, maintenance, removal and surgery, whether rendered to exterior or interior plants, as well as providing horticultural advice.

(3) Also included in landscaping and horticulture services are lawn and garden services, such as weeding, mulching, fertilizing, raking, watering and mowing. For purposes of this section, the term “lawn” means lawns on both residential and nonresidential property, golf courses, and any other areas requiring mowing or maintenance. Lawn and garden services provided on a “casual sale” basis are not taxable. For purposes of this section, a “casual sale” means providing lawn and garden services to three or fewer residences per season by an individual who is not otherwise engaged in the trade or business of providing such services.

(4) Persons engaged in tree trimming and removal are rendering taxable landscaping and horticulture services.

(b) **Landscaping and horticulture services as contrasted with civil engineering and landscape architecture.** The functions normally involved in landscaping or horticulture services are considered to be services enumerated under section 12-407(2)(i)(V) of the general statutes, no matter by whom provided. However, services performed by a licensed civil engineer or landscape architect are not taxable as landscaping and horticulture services if those services are normally considered to be part of civil engineering or landscape architecture.

Examples of services that are considered to be part of civil engineering or landscape architecture services and that are not taxable as landscaping and horticulture services when performed by a licensed civil engineer or landscape architect include site assessment and analysis, environmental impact studies, master planning, preparation of wetland approval packages, hydraulic or hydrologic analysis, preparation of site layout or utility layout, preparation of storm water management plans, preparation of design development drawings, preparation of site plan approval packages, preparation of site construction drawings, and meetings with regulatory agencies governing design parameters.

(c) **Charges by service providers.** (1) Landscaping and horticulture services are taxable in all instances, whether rendered with respect to new construction or existing property, to industrial, commercial or income-producing real property (as defined in Conn. Agencies Regs. § 12-407(2)(i)(I)-1) or to property other than industrial, commercial or income-producing real property (as defined in Conn. Agencies Regs. § 12-407(2)(i)(BB)-1).

(2) The total charges for landscaping and horticulture services are subject to tax, inclusive of charges for tangible personal property installed, such as gravel, sod or loam, as well as charges for services provided as an integral part of the landscaping job, such as excavating, land clearing and grading.

(d) **Purchases by service providers.** (1) Because providers of landscape and horticulture services are considered the consumers of supplies that are used by them in providing their services, sales to a landscape or horticulture service provider of tangible personal property that such provider uses in rendering landscape and horticulture services are retail sales and are taxable, except as otherwise provided in subdivision (2) of this subsection.

(2) Section 12-410(2)(B) of the general statutes permits landscapers to purchase items such as soil, mulch, gravel, bolts, cables, lags, trees, bushes and other plants to be used in rendering landscaping services, which will be physically incorporated on or physically applied to the premises of the service recipient, for resale in the regular course of business without payment of tax. Landscaping service providers shall issue valid resale certificates to their suppliers, separately state such items on the bill or invoice for landscaping services and charge tax thereon. Similarly, horticulturists may purchase items such as fertilizer, insecticide, herbicide, trees, bushes and other plants to be used in rendering horticulture services for resale in the regular course of business without payment of tax. Horticulture service providers shall issue valid resale certificates to their suppliers, separately state such items on the bill or invoice for horticulture services and charge tax thereon.

(e) **Where landscaping and horticulture services are deemed to be rendered.** Landscaping and horticulture services are deemed to be rendered at the location of the real property affected. If the landscaping and horticulture services are rendered with respect to real property located within Connecticut, such services shall be taxable, notwithstanding the fact that the materials consumed in rendering such services were purchased outside Connecticut, the contract for services was negotiated or executed outside Connecticut, work with respect to such services is performed for the service provider outside Connecticut, the bill or invoice for such services is mailed to or from an address outside Connecticut, or the purchaser of such services is a nonresident.

(Adopted effective April 7, 1999)