

Paving cuts

Construction contractors and utility companies sometimes need to gain access to areas beneath a road. This usually requires the removal and subsequent replacement of a portion of the road surface – a “paving cut.”

The taxability of persons making paving cuts depends upon the nature of the contract under which the paving cuts are made, and also on who owns the road.

- State-owned road: Construction and repair, including paving cuts, of a state-owned road is always a retail sale. The person performing such work is subject to B&O tax under the retailing classification, and must collect sales tax from the customer.
- Federal, city or county-owned road: If the paving cut is made in connection with a contract to build or repair a city, county, or federal road, such as a contract to install or repair storm drains, then the income received is subject to B&O tax under the public road construction classification and the contractor is not required to collect sales tax. The contractor owes sales or use tax on the materials incorporated in the roadway.
- If the paving cut is made as an inseparable part of a contract that is itself a retail sale, then the entire charge is subject to B&O tax under the retailing classification and the contractor must collect sales tax on the full contract amount. For example, a paving cut made as part of a contract to install or repair underground utilities under a private, state, city, or county road is a retail sale.
- A contract to install or repair underground utilities under a federal road, including any necessary paving cuts, is subject to the B&O tax under the government contracting classification and the contractor is not required to collect sales tax. The contractor owes sales or use tax on the materials incorporated into the roadway.