

§ 1991. Definitions.

For the purposes of this Chapter:

- (a) “General Contractor” means the primary entity that contracts for the completion of an entire construction project and is typically responsible for the hiring and coordinating the work of subcontractors; ensuring that the project is completed on time, within budget, and according to the agreed-upon specifications; acting as the main point of contact between the client and the various subcontractors; purchasing of materials; and ensuring that the project adheres to all applicable local and federal laws.
- (b) “Qualifying Construction Project” means any construction project, other than construction of Residential Housing, with a total project cost of three hundred fifty thousand dollars (\$350,000.00) or more, inclusive of executed change orders, amendments, and modifications. A construction project is a Qualifying Construction Project if any additions or modifications resulting in changes to the total project cost cause that cost to meet or exceed the threshold of three hundred fifty thousand dollars (\$350,000.00).
- (c) “Residential Housing” means single-family homes or other standalone dwellings designed for individual households and excludes multi-family units, such as apartments, condominium complexes, commercial residential developments, or other similar shared living structures.
- (d) “Subcontractor” means a person or company hired by a General Contractor to perform tasks or services as part of a larger construction project. “Subcontractors” operate under a separate contract from the one between the General Contractor and the client.

Source: PL 23-31, § 2 (Jan. 10, 2025).

Commission Comment: PL 23-31 contained, in addition to savings and severability clauses, a Findings and Purpose section:

Section 1. Findings and Purpose:

The Legislature finds that a 3% surtax on gross revenues derived from non-residential construction projects that cost three hundred fifty thousand dollars (\$350,000.00) or more should be imposed.

This tax mitigates the costs to the Commonwealth that are attributable to large scale construction activities, including waste generation, pollution and emission from heavy equipment, damage and stress on roads and infrastructure, erosion and pollution control, and the added costs at the ports of entry associated with increased customs activities to ensure that materials and supplies are not comingled with contraband.

This tax applies specifically to the revenues derived from construction activities with a total project cost of three hundred fifty thousand dollars (\$350,000.00) or more. Construction projects below this threshold are not subject to the tax. Moreover, this tax does not apply to residential construction projects.

In addition, construction contractors subject to this tax are entitled to a non-refundable credit against the tax imposed on Commonwealth source income under Subtitle A of the Northern Marianas Territorial Income Tax. The tax shall also be imposed on the total project cost paid by the general contractor, meaning subcontractors are not required to pay the tax.

In summary, this Act implements a 3% surtax on gross revenue derived from non-residential construction projects exceeding three hundred fifty thousand dollars (\$350,000.00). As set forth in Section 102, any change orders or modifications initiated, executed, or effective after January 16, 2025 shall subject the amended or modified contracts to this provision if the change order or modification brings the contract within the scope of the Qualifying Construction Project. This includes but is not limited to retroactively applying to all contracts executed prior to January 16, 2025 even if the original contracts did not originally fall within the definition and scope of the contract Qualifying Construction Project absent the change order or modification.

By focusing on these larger developments, this Act ensures that projects placing greater strain on public services and the environment contribute their fair share toward mitigating those impacts. Additionally, by excluding the residential construction, this Act preserves affordability of homes for local residents. Last, the inclusion of a non-refundable credit for contractors subject to this surtax offers some relief from the financial burden.