



# Guideline

## Sales Tax Repair Services

Cory Fong  
Tax Commissioner

February 2005

### Repair Services

Persons engaged in the business of repairing, altering or restoring tangible personal property belonging to others render a service. Although repair service is not taxable, tangible personal property sold or used in connection with a repair is subject to sales or use tax.

### Itemized Repair Charges

A person in the business of repairing, altering or restoring tangible personal property owned by others must collect sales tax on the itemized parts or materials used in repair, unless the services are performed on items that become an addition or capital improvement to real property. Separately stated charges for repair labor are not subject to sales tax.

### Lump-Sum Repair Charges

If labor and parts are not itemized or the parts are attached to real property, the repairer must pay tax on the cost of the repair parts and may not charge tax to the customer.

### Billing Method

Persons providing repair service to tangible personal property must consistently use the same method of invoicing customers for services provided (separately itemize parts and labor charges or lump-sum all charges).

### Location of the Repair

Title (ownership) to the repair parts transfers to the owner of the property under repair when the parts are attached, with the exception of repair parts sold in interstate commerce. The applicable state and local sales taxes will apply on separately stated charges for repair parts at the repair location.

### Interstate Commerce

An itemized charge for repair parts installed on tangible personal property in North Dakota, which is shipped to a location outside North Dakota by the repair person, is exempt from North Dakota sales and use taxes. If a lump-sum charge is made by the repair person for repair parts and labor, the repair person is subject to sales or use tax based on the cost of the repair parts.

### Out of State Repair

Property transported outside of North Dakota for repair will not be subject to state sales or use tax if the repair billing reflects a lump-sum charge for parts and labor. If the repair billing reflects an itemized charge for parts and labor, use tax will apply on the parts charge if no sales or use tax was legally paid to another state for the itemized part charge. If tax was paid to another state at a rate equal to North Dakota's rate, no additional tax is due.

21983

When a business transports property to a location outside North Dakota for repair by an employee, use tax will apply on the cost of the repair parts when the property is transported back to North Dakota upon completion of the repair. If the repair parts have been subjected to sales or use tax by another state, use tax will apply after providing credit for the sales or use taxes legally paid to the other state.

### **Sublet or Third-Party Repair**

If a retailer (repair service provider) does not repair tangible personal property, but instead authorizes a third-party repairer to perform the service, the third-party repairer's gross receipts from the sale of the repair parts to the retailer are not subject to tax if the retailer gives the third-party repairer a properly completed *certificate of resale*.

If a completed certificate of resale is not provided and the third-party repairer itemized the charges for parts and labor, the itemized charge for repair parts to the retailer is subject to sales tax.

If a lump-sum charge is made by the third-party repairer for the *sublet repair*, the third-party repairer will be responsible for paying sales or use tax on the cost of the repair parts and may not charge sales tax on the sublet repair charge to the retailer.

### **Manufacturer's or Retailer's Warranty Repair**

When the price of the manufacturer's or retailer's warranty contract is included as part of the sale of the tangible personal property, all parts replaced by the manufacturer or retailer under the warranty contract are not subject to sales or use tax.

### **Extended Warranty, Maintenance or Service Repair**

When an optional warranty, maintenance or service contract is sold to a customer with the sale of tangible personal property, no sales or use tax will apply to the separately stated charge for the extended warranty, maintenance, or service contract. Mandatory service contracts required by the seller are part of the retail selling price of the tangible personal property being sold, rented or leased and, therefore, are taxable if the product sold is subject to tax.

When a separately stated charge for a warranty, maintenance, or service contract is taxable, no additional tax is due on the cost of the parts used under performance of the contract. However, if the separately stated charge for the contract is exempt from sales tax, the seller of the contract is responsible for the payment of sales or use tax upon the cost of the parts and materials used to repair the tangible personal property.

If a third-party repair service invoices a warranty, maintenance, or service contract company for a repair made under the contract and the parts are subject to tax, the repairer has the option of billing sales tax on the separately stated charges for the repair parts like other repair billings. If the repairer does not itemize the repair parts from the repair labor, the repairer is responsible for the payment of sales or use tax upon the cost of the repair parts.

### **Contractors: Carpenters, Plumbers, Electricians, Etc.**

Where tangible personal property is installed into or attached to real property, the tangible personal property becomes realty upon installation. Because the title to property being passed to a customer by the installer is now regarded as real property, the installer is regarded as the final user of the materials and parts installed. The installer, as the final user, is responsible to pay sales or use tax on the cost of the materials or parts and may not charge tax to the customer.