



Guideline

Sales Tax Welding and Machine Shops

Cory Fong
Tax Commissioner

July 2004

Services

Welding and machine shops primarily are engaged in the repair, alteration, restoration or cleaning of tangible personal property belonging to others as well as manufacturing or fabricating articles of tangible personal property which they sell to others.

Receipts derived from services performed in the repair, alteration, restoration or cleaning of tangible personal property are not subject to sales tax. However, the welding or machine shop operator is the final user of all tangible personal property used in rendering the service and, therefore, the blacksmith or operator is liable for tax based on the cost of goods used to provide the service.

If the welding or machine shop also is engaged in the business of selling materials and supplies at retail, the shop operator is permitted to purchase the property tax free on the theory of resale when purchasing materials and supplies, since part will be sold at retail and part will be consumed by the shop while rendering service or fabricating articles made to order. When the materials and supplies purchased for retail are sold, the goods are subject to sales tax. Goods that are taken out of inventory and used by the shop must be reported on the *Items Subject To Use Tax* line of the sales and use tax return and use tax must be paid directly to the Office of State Tax Commissioner.

Articles Made To Order

When welders or machine shop operators agree to furnish material and fabricate articles of tangible personal property for sale for a fixed price to a final user or consumer, the total receipts from the sale of the articles are subject to sales tax. Welders or machine shop operators may not deduct labor or service costs of fabrication or production from the sales tax base even though such charges may be billed separately from the charges for materials.

For example, a welder may agree to manufacture a tool box for a total price of \$200.00. The \$200.00 charge includes materials used to manufacture the tool box and the labor required to assemble the tool box. In this example, sales tax is due on the total charge of \$200.00; the welder may not exempt the manufacturing labor from sales tax even though the charges may be itemized separately.

Another example is that of a machine shop operator who agrees to fabricate several threaded iron rods for a customer. The machine shop operator is required to charge North Dakota sales tax on the entire selling price of the iron rods, even if the charge for cutting and threading the rods is itemized separately on the invoice to the customer. The machine shop has created and sold a finished product.

22084

Farm Machinery Repair Parts

All farm machinery repair parts are exempt from sales tax. This exemption applies only when the farm machinery repair parts are for farm machinery used exclusively for agricultural purposes. These units include machines typically referred to as *farm machinery* or *farm implements* and include balers, combines, cultivators, tractors, plows, etc. Parts sold to contractors, livestock yards or other customers who will not use them for agricultural purposes are subject to sales tax at 5 percent.

Motor vehicles including vehicles such as trucks, pickups, cars, snowmobiles, all terrain vehicles and motorcycles do not qualify as farm machinery. Repair or replacement parts for motor vehicles are subject to sales or use tax at the rate of 5 percent.

Farm machinery repair parts include any durable goods (except tires) used to repair a qualifying farm machine. Durable goods do not include fluids, gases, oils, greases, lubricants, paints and waxes. Because farm repair parts must be for qualifying farm machines, they do not include items like tools, lumber, twine, fencing material or storage tanks.

The sale of raw iron or metal to a farmer may or may not constitute a sale of a farm machine repair part. If the welding or machine shop does not believe the defined use of the material is reflective of a repair or replacement part for farm machinery or does not consider themselves to be a retailer of farm repair parts, the retailer is correct in charging the 5 percent state tax. A welding or machine shop that uses metal to perform nontaxable repair services must accrue use tax at 5 percent on any goods or metal used in providing the service even though the work may have been performed on qualifying farm machinery or equipment.