State of Rhode Island - Division of Taxation

Sales and Use Tax

Regulation SU 00-126

Optional Service, Maintenance and Extended Warranty Contracts

Optional service, maintenance and extended warranty contracts provide for the maintenance of property sold beyond the period set forth in a manufacturer's warranty.

These contracts generally provide that for a fixed charge a repairer will furnish labor and parts needed to repair property during the period set forth in the agreement. The fixed charge is payable at the time the contract is made.

OPTIONAL CONTRACT

A contract is optional within the meaning of this regulation if the buyer is not required to purchase the contract from or through the seller of the property but is free to contract with anyone for the repair or maintenance of the property sold.

The charge for the optional service, maintenance or extended warranty contract is not subject to tax when such charge is separately stated by the retailer to the purchaser.

The charge for an optional service, maintenance or extended warranty contract paid to a lessor under a **lease contract** is subject to tax whether or not separately stated (Re: Regulation SU 92-62 "Rentals and Leases of Tangible Personal Property).

When repair work is performed under an optional contract providing for the furnishing of parts, materials and labor necessary to maintain the property, any parts or materials used are subject to tax.

When additional parts and materials not covered under the optional contract are used by the repairer, there is a retail sale of those additional parts and materials to the customer and accordingly a tax shall be charged to the customer.

EXAMPLE 1: X sells a refrigerator for five hundred dollars ($500) and a two-year maintenance contract for an additional fifty dollars ($50). The maintenance contract is optional and is segregated on the billing from the cost of the refrigerator. Sales tax is due on the five hundred dollars ($500) but is not due on the fifty dollar ($50) maintenance contract.

(A) X makes a repair under the maintenance contract on the refrigerator which requires parts covered by the maintenance contract. X must pay the tax on the cost of the parts.

"Small business concern" means any eligible company which has a base employment level of less than one hundred (100).

(B) X makes a repair under the maintenance contract which requires parts which are not covered by the maintenance contract. X must collect sales tax on the amount charged for the parts.

EXAMPLE 2: A car dealer sells an automobile to a buyer for ten thousand dollars ($10,000) which includes as part of the purchase price a manufacturer's warranty. In addition, the dealer sells the buyer an optional extended warranty for five hundred dollars ($500). The purchaser would owe a use tax on the cost of the automobile which includes the cost of the manufacturer's warranty but would not owe tax on the five hundred dollar ($500) cost of the extended warranty if stated or billed separately.

(A) There is no tax owed on parts used in the performance of the manufacturer's warranty. These parts are considered sold along with the car.

(B) A tax is due on any parts used in the performance of the extended warranty. The dealer would owe a use tax on the cost of the parts if responsible for the repairs under the extended warranty contract. In those instances where a warranty company or insurance company is billed for the repairs, said billing shall be subject to tax the same as any other repair billing.

R. GARY CLARK
TAX ADMINISTRATOR
EFFECTIVE: January 1, 2000

THIS REGULATION AMENDS AND SUPERCEDES REGULATION SU 89-126 PROMULGATED MARCH 1, 1989.