



# MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 53

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## REPAIRS AND WARRANTIES

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This bulletin is intended solely as advice to assist persons in determining and complying with their obligations under Maine tax law. It is written in a relatively informal style and is intended to address the tax treatment and responsibilities of retailers and customers regarding product warranty sales and repairs of items of tangible personal property. Taxpayers are responsible for complying with all applicable tax statutes and rules. Although bulletins issued by Maine Revenue Services (“MRS”) do not have the same legal force and effect as rules, justifiable reliance upon this bulletin will be considered in mitigation of any penalties for any underpayment of tax due. This bulletin is current as of the last revision date shown at the end of the document.

The Sales and Use Tax Law is found in Part 3 of Maine Revised Statutes (“M.R.S.”) Title 36. Both Title 36 and all MRS rules may be seen by clicking on “Laws and Rules” at the left side of the MRS website ([www.maine.gov/revenue/](http://www.maine.gov/revenue/)). Bulletins referenced below can be viewed at [www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm](http://www.maine.gov/revenue/salesuse/salestax/bulletinssales.htm).

This bulletin does NOT address the following:

- Automotive service and repair, see Instructional Bulletin No. 1 (“Service Stations and Auto Repair Shops”);
- Installation, maintenance, or repair of telecommunications equipment, see Instructional Bulletins No. 55 (“Service Provider Tax”) and 56 (“Telecommunications”); or
- Repairs to real property, including repairs to “fixtures” such as electrical, plumbing, or heating and air conditioning systems, see Instructional Bulletin No. 28 (“Installing Tangible Personal Property in Real Property”).

### 1. REPAIRS AND MAINTENANCE

**A. Repair Work Generally.** When repairs are made to tangible personal property and the sale of parts and labor are separately stated, sales tax applies only to the sale of parts. If parts and labor are not separately stated on the invoice, the entire amount charged is subject to tax. When repairs do not include the sale of parts, no tax is charged to or due from the customer.

Tools and equipment used in the repair of tangible personal property are subject to tax when purchased by the repair business. Supplies used in repair work may or may not be taxable, depending on the circumstances. For Maine sales and use tax purposes, a distinction is drawn between items that are “used” or consumed by the repairer, and items that are ultimately transferred to the possession of customers.

#### i. Items Used or Consumed by the Repairer

Items that are “used” or consumed in the performance of a service are taxable. If sales tax is not paid at the time of purchase, the repair business must report use

tax on these items when they are used. The following are examples of items that generally fall in this category:

Cleaners	Hand cleaner	Protective eyewear
Compressed gas	Masks	Rags
Gloves	Paper towels	Solvents

**ii. Items Transferred to the Customer**

For Maine sales and use tax purposes, items that are ultimately transferred to the possession of the customer can be handled one of two ways:

- (a) The items can be itemized and billed to the customer as a taxable sale; or
- (b) The items can be maintained together as one “inventory” and billed out to the customer as a percentage of labor or other charge and taxed as a single line item (commonly called “shop supplies”).

In either case, the retailer must charge sales tax to the customer. The following are examples of items that generally fall in this category:

Batteries	Electrical wire	Screws
Electrical Tape	Fasteners	Solder
Electrical terminals	Nuts and bolts	

**B. Taxable sales.** Many repair businesses also sell tangible personal property. A person engaged in repair must be registered as a retailer with MRS if the person sells tangible personal property in the regular course of business and must collect and remit Maine sales tax on those sales. This is true whether or not the sales are made in connection with providing repair service. See Paragraphs D and E below for exemptions.

When repair parts or accessories are installed in an item owned by the customer and the charge for installation or repair labor is separately stated from the charge for the parts or accessories, only the parts portion of the sale is subject to tax. If labor and parts are not separately stated, but invoiced as one “bundled” price, the entire amount charged to the customer is taxable.

**C. Pickup and delivery charges.** When a person is providing the service of repair or maintenance and the transaction does not involve the sale of parts or accessories, pickup and delivery charges are not subject to sales tax. If the transaction does involve taxable sales of parts or accessories, transportation charges are also taxable in certain circumstances; for more information see Instructional Bulletin No. 30 (“Transportation Charges”).

**D. Exempt sales.** Sales made directly to the Federal Government, the State of Maine or any political subdivision of the State of Maine (such as counties, cities or towns), or to any agency or instrumentality of any of the above governments, are exempt from sales tax. The Sales and Use Tax Law also provides exemptions for many, but not all, nonprofit organizations, such as hospitals, schools, regularly organized churches or houses of religious worship, and

certain other organizations. See Rule 302 (“Sales to Government Agencies and Exempt Organizations”) and Instructional Bulletin No. 36 (“Exempt Organizations and Government Agencies”) for information on records required to document sales to exempt organizations.

**E. Exempt items.** Certain repair parts are exempt from sales and use tax, including the following:

- Parts used in the repair or maintenance of machinery and equipment used in manufacturing (sometimes called “production machinery and equipment”), see 36 M.R.S. § 1760(31);
- Items that either become a part of production machinery and equipment, or that are consumed or destroyed in the manufacturing process (for example, oils and lubrication products added to production equipment while being repaired), see 36 M.R.S. § 1760(74);.
- Parts used in the repair or maintenance of certified water and air pollution control facilities, see 36 M.R.S. §§ 1760(29) & (30);
- Parts used in the repair or maintenance of an animal waste storage facility, see 36 M.R.S. § 1760(81);
- Parts used in the repair or maintenance of machinery and equipment used in research and development, see 36 M.R.S. § 1760(32);
- Railroad track materials, see 36 M.R.S. § 1760(52);
- Replacement or repair parts used in the repair of aircraft, see 36 M.R.S. §§ 1760(76) & (88-A);
- In certain cases, repair parts used in the repair of watercraft owned by non-residents, see 36 M.R.S. § 1760(25);
- Repair parts used in the repair of prosthetic devices, positive airway pressure equipment, or wheelchairs, see 36 M.R.S. §§ 1760(5-A) and (8-C);
- Repair parts used in the repair of machinery and equipment used in commercial agricultural production, commercial fishing, commercial aquacultural production, and commercial wood harvesting, see 36 M.R.S. § 2013; and
- Repair parts used in the repair of windjammers, see 36 M.R.S. § 2020

Documentation to support these exempt sales must be provided by the customer to the retailer. Many of the acceptable forms can be seen on the MRS website at [www.maine.gov/revenue/forms/sales/salesforms.htm](http://www.maine.gov/revenue/forms/sales/salesforms.htm).

**F. Purchases.** When purchasing items to be resold to customers, a provider of repair services should purchase those items free of tax by furnishing a resale certificate to the vendor. For more information on sales for resale, see Rule 301 (“Sales for Resale and Sales of Packaging Materials”) and Instructional Bulletin No. 54 (“Resale Certificates”). A provider of repair services should generally pay sales tax to its vendor when purchasing items that it will use in the course of its business but will not resell to customers (such as consumables). If the items are purchased from a vendor located outside of the State and tax is not paid, the service provider/retailer should report and pay use tax on its sales and use tax return. Purchasers who

avoid payment of tax through deliberate misuse of resale certificates may be subject to criminal prosecution.

## 2. MANUFACTURERS' WARRANTIES

**A. Sale.** Items often sold with a manufacturer's warranty include, but are not limited to, automobiles, computers, photocopiers, watches, major appliances, and power tools. Manufacturers' warranties are considered part of the sale price of the item when originally purchased. Sales tax is calculated on the entire sale price.

The following are examples of parts or situations that a warranty typically will not include. Sales of these parts outside of a warranty are subject to tax.

- Photocopier drums;
- Toner cartridges;
- Car batteries, vacuum hoses, windshield wipers, etc.;
- Items that have been misused, handled improperly, or modified;
- Watch batteries; and
- Items where warranty registrations were not completed prior to expiration.

**B. Repair.** Since a manufacturer's warranty has been taxed as part of an item's original purchase price, repair and replacement parts covered by the warranty that a retailer uses to complete repairs are not subject to sales or use tax to the warrantor. Repair and replacement parts that are not covered by the warranty are subject to sales or use tax.

**C. Deductibles.** Certain warranties require an "out of pocket" deductible to be paid prior to warranty coverage for repair or maintenance taking effect. The deductible is paid by the customer at the time of repair or maintenance. Deductibles paid by the customer are first applied to non-taxable labor. If the deductible exceeds the amount charged for labor, the remaining amount is applied to taxable parts. Sales tax applies to the sale of these parts to the customer.

## 3. SERVICE CONTRACTS AND MAINTENANCE AGREEMENTS

**A. Generally.** In most circumstances the stand-alone sale of a service contract or maintenance agreement for tangible personal property is not subject to sales or use tax. Repair and replacement parts covered under these contracts or agreements that are used by the seller in the repair are subject to use tax based on its cost for the parts, even if the customer is an exempt organization. If repair or replacement parts not covered by the agreement are sold to the purchaser/customer, the seller must charge sales tax to the customer, unless the customer is exempt.

**B. Computer software service contracts.** Software updates are not "repairs." The sale of canned computer software is the sale of tangible personal property and is taxable. The sale of updates to software is also taxable. While the sale of a software maintenance agreement itself is not normally taxable, a sale of a maintenance agreement for "canned" computer software that includes updates is taxable. When the value of updates is separately stated, tax applies only to the sale price of the updates. Although the books and records of the seller may provide a breakout of the update and maintenance agreement values, separately stating the price of the updates on the invoice provided to the customer is preferable and will serve to avoid questions on audit.

#### **4. EXTENDED WARRANTIES – ITEMS OTHER THAN AUTOMOBILES AND TRUCKS**

**A. Sale.** The sale of an extended warranty is not taxable, provided the purchase is optional and is separately stated from the sale of the item. An extended warranty is considered an “insurance policy” against the possible future loss of or damage to an item.

**B. Repair.** In cases where the customer is not responsible for any additional payment for repairs under warranty, the warrantor is liable for sales or use tax on the repair parts based on the warrantor’s cost, even if the warranty repair is being performed for a customer that is an exempt entity. If the customer is liable for all or a portion of the repair, the retailer performing the repair work must charge sales tax to the customer on the portion attributable to repair parts, unless the customer is an exempt entity.

#### **5. EXTENDED WARRANTIES – AUTOMOBILES AND TRUCKS**

The sale of an extended service contract on an automobile or truck that entitles the purchaser to specific benefits in the service of the automobile or truck for a specific duration is a taxable service. Parts associated with repairs made pursuant to such a warranty are not taxable, since the parts are considered to be included in the original price of the extended warranty. If a warranty provides for a “deductible” to be paid by the customer at the time of repair or maintenance, the amount paid by the customer is first applied to non-taxable labor. If the deductible exceeds the amount charged for labor, the remaining amount is applied to parts. Sales tax applies to the sale of these parts to the customer.

“Automobile” includes a self-propelled four-wheel motor vehicle designed primarily to carry passengers, an all-terrain vehicle, and a pickup truck or van with a gross vehicle weight rating of 10,000 pounds or less. See 36 M.R.S. § 1752(1-B). “Automobile” does not include a vehicle with more than four wheels, motorcycle, camper or motor home, or a pickup truck or van with a gross vehicle weight rating of more than 10,000 pounds. “Truck” means a self-propelled motor vehicle with at least four wheels designed and used primarily to carry property, not designed to run on tracks and having a gross vehicle weight rating greater than 10,000 pounds; it includes a vehicle used to tow trailers or semitrailers. For more information on automobiles and trucks, see Instructional Bulletin No. 24 (“Vehicle Dealers”).

#### **6. GOODWILL REPAIRS**

A repair made at no charge to the customer within the 30-day period immediately following the initial purchase is considered to be made pursuant to an implied warranty and is considered part of the original purchase price of the item. Repair or replacement parts used in such a repair are not subject to use tax.

#### **7. MERCHANDISE RETURNS**

**A. Generally.** The definition of “sale price” excludes certain allowances made on returns of merchandise. A retailer may claim a sales tax credit for previously reported taxable sales if:

- i. A refund or credit is allowed to the purchaser pursuant to warranty; or
- ii. The full purchase price is refunded to the purchaser upon return of the merchandise.

**B. Returns Pursuant to Warranty.** When a price adjustment is made by a retailer on merchandise returns covered under warranty, the adjustment, or allowance, is deductible on the retailer's subsequent sales tax return if the original sale was reported as taxable and documentation shows that the sales tax was credited or refunded to the customer. The deduction may be taken on the next return or within three years from the date of adjustment.

*Example: A tire is sold with a 30-month warranty with a refund provision based upon period of use. The tire was sold for \$30.00. The warranty has a use allowance of \$1.00 per month if the tire fails before the warranty expires. If the tire is returned for failure after 24 months, the allowance would be \$6.00. The purchaser would be entitled to a refund of \$6.00 plus sales tax. The retailer would deduct \$6.00 from taxable sales on its next sales tax return.*

The warranty may be written or "implied". A typical implied warranty would be a general guarantee that goods are not defective for the purpose for which they are designed. While an adjustment of sales tax liability may be made for allowance by warranty, whether written or implied, an adjustment cannot be made if the merchandise is returned because the purchaser finds it is not suited to his or her particular purpose. In the following example, unless the **full** purchase price is refunded, a sales tax adjustment cannot be made.

*Example: A customer purchases a snow blower with a manufacturer's warranty. After using it for a short time, the customer finds that it is not powerful enough to meet his or her needs. The customer returns the snow blower for a refund. The machine is not defective and there is no failure to meet a written or unwritten warranty. The retailer refunds only 85% of the original purchase price. A sales tax adjustment is not permitted.*

**C. Return of Merchandise and Refund of Full Purchase Price.** Where merchandise is returned by the customer and the full purchase price is refunded, either in cash or by merchandise credit, the retailer may deduct the original purchase price of the item on a subsequent sales tax return if the original transaction was reported as taxable and documentation shows that the sales tax was credited or refunded to the customer. The deduction may be taken on the next return or within three years from the date of adjustment.

A retailer may apply a standard service charge stated as either a flat fee or a percentage of the sale price (sometimes called a "restocking fee") to the return. The transaction will still be considered a refund of the full purchase price if the service charge is separately shown and identified on the invoice to the customer or in the retailer's records. The customer would be entitled to a refund of the entire sales tax paid on the original transaction.

*Example: A retailer applies a standard service charge of \$1.00 to all merchandise returned for a refund. The invoice or credit memo to the customer indicates "purchase price refunded \$30.00, less service charge \$1.00 – net \$29.00". The retailer should treat this as a refund of the full purchase price and also refund the sales tax originally paid on the \$30.00 sale.*

If an item has been used by the customer and the retailer refunds less than the full purchase price (the transaction not involving an express or implied warranty), a sales tax adjustment cannot be made.

## **8. ADDITIONAL INFORMATION**

The information in this bulletin addresses some of the more common questions regarding repairs, warranty, and extended warranty issues faced by your business. It is not intended to be all-inclusive. Requests for additional information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to:

**MAINE REVENUE SERVICES  
SALES, FUEL & SPECIAL TAX DIVISION  
P.O. BOX 1060  
AUGUSTA, ME 04332-1060  
TEL: 207-624-9693  
TTY: 7-1-1**

Or visit our website at [www.maine.gov/revenue](http://www.maine.gov/revenue)

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