

280-RICR-20-70-2

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 70 - SALES AND USE TAX

Part 2 - Optional Service, Maintenance and Extended Warranty Contracts

2.1 Authority

These rules and regulations are promulgated pursuant to R.I. Gen. Laws §§ 44-1-4 and 44-19-33. The rules and regulations have been prepared in accordance with the requirements of R.I. Gen. Laws §§ 42-35-1 *et seq.* of the Rhode Island Administrative Procedures Act.

2.2 Optional Service

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

2.3 Optional Contract

- A. 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.
- B. 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.
- C. For the purpose of this regulation, a charge is deemed to be separately stated if:
 - 1. It is itemized as a distinct line item on an invoice, statement or receipt issued by the seller to the purchaser; or

2. It is itemized as a distinct line item on internal records maintained by the seller and which upon request are made readily available to the tax administrator or his or her agents for purposes of audit.
- D. A charge for a service, maintenance or extended warranty contract is taxable whether or not separately stated if it is paid to a licensor or lessor of property. In the instance of a license or lease for taxable property, the charges for any services rendered are deemed not to be optional.
 - E. When repair work is performed under an optional service, maintenance or extended warranty contract providing for the furnishing of parts, materials and labor necessary to maintain the property, any parts or materials used are subject to use tax. The repairer is the end user or consumer of the parts and is thus required to remit use tax on the cost of the parts.
 - F. When additional parts and materials not covered under an optional service, maintenance or extended warranty contract are used by the repairer, there is a retail sale of those additional parts and materials to the customer. The repairer shall charge sales tax on the price of the parts and related fees involved to the customer.

1. EXAMPLES:

- a. 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.
- b. Example 2. X makes a repair under the maintenance contract on the refrigerator which only requires parts covered under the maintenance contract. X must remit use tax on the cost of the parts.
- c. Example 3. X makes a repair under the maintenance contract which requires parts which are not covered by the maintenance contract. X must collect and remit sales tax on the amount charged to the customer for the parts and related fees.
- d. Example 4. 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.

- e. 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.
- f. 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 the dealer is 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.

2.4 Severability

If any provision of these rules and regulations, or the applications thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be impaired or affected thereby.

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