

Sec. 12-407(2)(i)(DD)-1. Repair or maintenance services to tangible personal property and contracts of maintenance, repair or warranty

(a) Definitions.

(1) The term “repair” means to mend or bring back to working order or operating condition an item of tangible personal property that is broken, damaged, malfunctioning or defective. The term “repair” does not include the service of installing new parts or accessories that are not replacements for existing parts or accessories.

(2) (A) The term “maintenance” means to sustain or maintain safe, efficient or continuous operation of tangible personal property, or to keep tangible personal property in good working order by preventing its decline, failure, lapse or deterioration. Some examples of maintenance include cleaning, oiling, sharpening or polishing tangible personal property.

(B) Because car washing services were separately enumerated as taxable services under subparagraph (N) of section 12-407(2)(i) of the general statutes until the repeal of the tax on such services by 1993 Conn. Pub. Acts 74, § 23, the term “maintenance” excludes the washing of motor vehicles as defined in section 14-1(a)(47) of the general statutes, as from time to time amended. However, the term “maintenance” does include the washing of other types of vehicles not considered “motor vehicles” under said section 14-1(a)(47).

(C) Dry cleaning, laundry and tailoring services are not considered repair or maintenance services to tangible personal property as described in this section.

(3) The term “maintenance contract” means a contract that provides for maintenance service to be performed on an item of tangible personal property in the future. Maintenance service is not contingent upon the malfunctioning of the tangible personal property covered under the contract. Gross receipts from the sale of maintenance contracts are taxable.

(4) The term “repair contract” means a contract that provides for repair service to be performed on an item of tangible personal property which is broken, damaged, defective or malfunctioning at the time the parties enter into the contract. Gross receipts from the sale of repair contracts are taxable.

(5) The term “warranty (or guarantee) contract” means a contract that provides for repair service only in the event of a future malfunctioning of an item of tangible personal property. Gross receipts from the sale of warranty contracts are taxable.

(6) The term “integral part” means a part, such as a spring, gear or lens used in photocopier repair, heels or soles used in shoe repair, or chains used in repairing bicycles, that retains its separate identity even after being incorporated into property undergoing repair or maintenance. The term “integral part” does not include a material, such as lubricant, stain, paint, varnish, polish, wire, solder or glue, that does not retain its separate identity after being used to repair or maintain tangible personal property but is consumed by such service provider in rendering maintenance or repair services.

(b) Charges by repair or maintenance service providers.

(1) Providers of repair or maintenance services shall separately state the charge attributable to the sale of integral parts and the charge attributable to rendering maintenance or repair services on the bill to the customer. Any fees, such as “service call” charges, minimum charges, hourly or flat rates, mileage charges, or pick-up or delivery charges, are taxable as charges for repair or maintenance services.

(2) The fact that tangible personal property was exempt from tax when it was purchased

by a recipient of repair or maintenance services does not mean that repair or maintenance services rendered to it are not taxable. Thus, for example, repair services to a manufacturing machine are taxable, even though the purchase of the machine and the repair parts therefor were exempt under section 12-412(34) of the general statutes.

(c) **Use of resale certificates by providers of maintenance or repair services.** Because providers of maintenance or repair services are considered to be consumers of supplies used in rendering their services, sales of tangible personal property, other than integral parts, to a repair service provider who uses such property in repairing tangible personal property are retail sales to such provider and are taxable.

(d) Retailers of tangible personal property who purchase repair or maintenance services for tangible personal property that such retailers are holding for sale, lease or rental in the normal course of business may purchase the repair or maintenance services and the integral parts, as described in this section, on resale.

(e) **Where repair or maintenance services to tangible personal property are deemed to be rendered.**

(1) Repair or maintenance services to tangible personal property shall be taxable if the repairs to the tangible personal property are made in Connecticut. If the repairs are made within Connecticut, the sale of repair services to an item of tangible personal property shall be taxable, notwithstanding the fact that the materials consumed in rendering such services were purchased outside Connecticut, the contract for services was negotiated or executed outside Connecticut, some of the work with respect to such services is performed for the service provider outside Connecticut, the bill or invoice for such services is mailed to or from an address outside Connecticut, or the purchaser of such services is a nonresident. However, when a Connecticut repairer picks up, or is shipped, from outside Connecticut an item of tangible personal property to be repaired, repairs it in Connecticut, and then delivers the item or ships it to the customer at an out-of-state location, the repair service, and any integral parts sold in connection therewith, shall not be taxable in Connecticut.

(2) Persons purchasing repair or maintenance services to tangible personal property from out-of-state retailers shall pay Connecticut use tax on such purchases if the item to which such services are rendered is intended for use and is used within Connecticut.

(f) **Taxability of sales, renewals or extensions of maintenance, repair and warranty contracts.**

(1) Sales of maintenance, repair or warranty contracts are taxable, including the original sale, a renewal or the exercise of an option to extend the term, either automatically or by the action of either party to the contract. With respect to contracts entered into prior to October 1, 1991, the gross receipts from any renewal or exercise of an option to extend the term made on or after October 1, 1991 are taxable.

(2) Where repair services to an item of tangible personal property are exempted, the sale, renewal or exercise of an option to extend the term of a maintenance, repair or warranty contract is also exempt. For example, the sale of a maintenance contract for hearing aids is exempt because repair services to hearing aids is exempted by section 12-412(19) of the general statutes. Similarly, where repair services to an item of tangible personal property are taxable at a reduced rate, the sale, renewal or exercise of an option to extend the term of a maintenance, repair or warranty contract is taxable at the reduced rate. For example,

the sale of a maintenance contract for a vessel is taxable at the reduced rate of tax in effect at the time of such sale, because the tax on repairs to vessels is being phased out pursuant to section 12-408(1)(F) of the general statutes.

(g) Taxability of services rendered under maintenance, repair or warranty contracts. Retailers who perform repair or maintenance work, including temporarily providing customers with tangible personal property while the customer's property is being serviced, without charge to the customer under the maintenance, repair or warranty contract of a manufacturer or other person are not taxable on the amount of the reimbursement received for such services from the warrantor. The tax is deemed to have been paid at the time of the purchase of such contract. Similarly, where the warrantor will reimburse the consumer for repair or maintenance services rendered under a maintenance, repair or warranty contract, the charges for the repair or maintenance services shall not be taxable, provided the consumer furnishes the service provider with evidence of the maintenance, repair or warranty contract (such as a copy of the contract covering the repair or maintenance services). However, any other charge that the consumer is obligated to pay under the terms of the maintenance, repair or warranty contract, such as a deductible, or a charge for labor or parts that is not covered under such contract, such as for an upgrade, is taxable.

(h) Taxability of parts and services purchased by retailers performing services under maintenance, repair or warranty contracts.

(1) (A) Purchases by retailers under nonexempt maintenance, repair or warranty contracts. Retailers performing repair or maintenance services under taxable maintenance, repair or warranty contracts may purchase integral parts to be used in performing such services on a resale basis. A retailer need not charge or self-assess tax at the time the retailer uses the integral parts in repairing or maintaining tangible personal property, unless the retailer makes a separate charge for the parts on the bill to the customer, because the tax is deemed to have been paid at the time of the purchase of the maintenance, repair or warranty contract. Integral parts may be purchased on a resale basis whether or not the original contract was entered into prior to October 1, 1991 or whether or not the original sale occurred in Connecticut. Tangible personal property that is not an integral part used in performing services under maintenance, repair or warranty contracts may not be purchased on a resale basis.

(B) When a retailer of repair or maintenance services does not itself repair or maintain tangible personal property but instead contracts with a third party repairer to perform such obligations, the retailer may purchase the services of the third party repairer on a resale basis. Such repairs may be purchased on resale whether or not the original contract was entered into prior to October 1, 1991 and whether or not the original sale occurred in Connecticut. The retailer need not charge tax at the time it renders repair or maintenance services (unless the retailer makes a separate charge for the services on the bill to the customer) because the tax is deemed to have been paid at the time of the purchase of the maintenance, repair or warranty contract.

(2) Exception for purchases by retailers under nontaxable maintenance, repair or warranty contracts. Where the purchase, renewal or extension of a maintenance, repair or warranty contract either is exempt or is taxable at a rate which has been phased out to zero percent, the retailer of services under such contract may purchase integral parts or the

services of a third party repairer on resale, but shall charge tax on such parts or services to the customer.

(i) Where maintenance, repair or warranty contracts are deemed to be sold.

(1) The sale of a maintenance, repair or warranty contract in the same transaction with the tangible personal property covered by such contract is deemed to take place at the location where such property is sold. Thus, a transaction in which tangible personal property and a maintenance, repair or warranty contract for such property is sold is taxable when it takes place in Connecticut.

(2) If a maintenance, repair or warranty contract is sold after the sale of the tangible personal property to which it relates, the transaction shall be treated as having occurred at the location where the benefit of such contract is realized, which is where the property that is covered by the maintenance, repair or warranty contract is located. Absent evidence of where such property is located, the benefit of the services is deemed to occur, in the case of a business purchaser, at its principal place of business, and, in the case of any other purchaser, at his or her billing address.

If the location where a maintenance, repair or warranty contract is deemed to be sold is within Connecticut, the sale of such contract shall be treated as having occurred within Connecticut, notwithstanding the fact that the contract was negotiated or executed outside Connecticut, some of the work with respect to such contract is performed for the service provider outside Connecticut, the bill or invoice for such contract is mailed to or from an address outside Connecticut or the service recipient is a nonresident.

A person purchasing a maintenance, repair or warranty contract from an out-of-state retailer shall pay Connecticut use tax on such purchase if the item to which such contract pertains is intended for use and is used within Connecticut.

(3) A maintenance, repair or warranty contract purchased for a motor vehicle, aircraft or vessel at the same time as the motor vehicle, aircraft or vessel is purchased is deemed to be sold at the location of such purchase. A maintenance, repair or warranty contract purchased in Connecticut shall be taxable at the tax rate that applies to sales of services described in section 12-407(2)(i) of the general statutes, even if the motor vehicle, aircraft or vessel is purchased exempt or at a reduced rate of tax by a nonresident of Connecticut. A maintenance, repair or warranty contract that is purchased after the motor vehicle, aircraft or vessel to which it relates was purchased, or that is renewed, is considered to be sold at the location where the motor vehicle, aircraft or vessel is registered.

(j) Cross-references. For specific provisions regarding repair or maintenance services to motor vehicles, see subparagraph (M) of section 12-407(2)(i) of the general statutes and any regulations thereunder. For radio or television repair services, see subparagraph (O) of said section 12-407(2)(i) and any regulations thereunder. For furniture reupholstering and repair services, see subparagraph (P) of said section 12-407(2)(i) and any regulations thereunder. For repair services to any electrical or electronic device, see subparagraph (Q) of said section 12-407(2)(i) and any regulations thereunder. For locksmith services rendered to an item of tangible personal property, see subparagraph (T) of said section 12-407(2)(i) and any regulations thereunder. For swimming pool cleaning and maintenance services rendered with respect to tangible personal property, see subparagraph (AA) of said section 12-407(2)(i) and any regulations thereunder.

Regulations of Connecticut State Agencies

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