

THE RETAIL SALES TAX ACT

SERVICE, MAINTENANCE AND WARRANTY CONTRACTS

This bulletin provides information to help you understand the Retail Sales Tax (RST) application on contracts that provide for service, maintenance or warranty of tangible personal property.

Section 1 – DEFINITIONS

Tangible personal property (TPP)

- Tangible personal property (TPP) is generally;
 - Goods that can be seen, weighed, measured, felt or touched, or that are in any other way perceptible to the senses, such as clothing, vehicles, furniture, equipment and generally all other moveable goods.
 - Machinery, equipment, an apparatus, or a storage structure that is installed in, or attached to, buildings or land and that are used in the manufacturing, producing, processing, storing, handling, packaging, displaying, measuring, monitoring, transporting, transmission or distribution of tangible personal property, or in providing a service.
 - Plumbing, heating, cooling, electrical, electronic and telecommunication systems and components installed on, under or in, or attached to, land, buildings or structures (known as mechanical and electrical systems).
 - Computer software as defined in the Act, including any document or manual designed to facilitate the use of the software.

Services to TPP taxable

- The following services are generally subject to RST when performed in respect of TPP: repairing, maintaining, inspecting, testing, cleaning, washing, polishing, painting, decorating, refitting, refinishing, reconstituting, remodelling, altering, adjusting, modifying, updating, upholstering, re-upholstering, processing, assembling, disassembling, installing, or uninstalling.

For example: The charges to repair motor vehicles, power tools, household appliances, computer hardware and software (other than custom software) and manufacturing equipment are subject to RST. The charge for services is not taxable when performed in respect of buildings, roads and other real property.

- The total amount billed for parts, supplies, labour and any other charges related to the provision of the above services to TPP is subject to RST.

Note: Revisions to content of previous Bulletin (March 2003) have been identified by shading ().

Certain travel and living expenses related to the supply of services can be charged to the customer on a recovery basis exempt of RST if they are segregated on the invoice and any applicable RST has been paid - including 3rd party transportation charges (e.g., airfare, bus, train or taxi), meals & accommodation, including per diems or living allowance charges.

Section 2 – SERVICE, MAINTENANCE AND WARRANTY CONTRACTS

What is a service, maintenance and warranty contract?

- A service, maintenance or warranty contract (hereinafter referred to as a service contract) is a contract for which a customer pays an amount in advance, and in return receives future services without charge or for a nominal charge.

RST application on taxable service contracts

- RST applies to service contracts for taxable TPP, whether they are purchased:
 - Together with new or used TPP;
 - Separately (or at a later date); or
 - As a condition of the sale or lease of TPP.
- RST must be collected on the total selling price of the contract at the time of billing. However, service contracts in certain situations and to exempt TPP as discussed further below are not taxable.
- RST applies on the amount charged for a service contract, whether the service is provided on a scheduled basis or on an as-needed basis. For example, the RST applies to the purchase of an extended warranty even though the purchaser may never make a claim under it.

Additional charges subject to RST

- When a repair/maintenance service is provided and the customer is required to pay a deductible fee, or pay for parts, labour, supplies, etc. not covered by the service contract or that are above a coverage limit, the amount charged to the customer is subject to RST.
- Where the customer is responsible for the normal maintenance of TPP under a warranty contract, the purchases the customer makes to maintain the article are subject to RST.
- The charge to transfer a service contract to another person is subject to RST.
- Stand-by charges for service and maintenance personnel to be available in case of a breakdown of the equipment are subject to RST.

Cancellation of a service contract

- Where a service contract is cancelled prior to the expiry date and a portion of the purchase price relating to the unexpired period is refunded to the purchaser, the tax that corresponds to the unexpired period may also be refunded.

Status Indians and Indian Bands

- RST does not apply on a service contract sold to an Indian or Indian Band when purchased at the same time as TPP that the vendor delivers directly or by a common carrier to a reserve,
 - The vendor must record on the invoice all of the information as outlined in the *Information Notice – Sales Tax Exemption for Status Indians and Indian Bands*.
- If a service contract is sold to an Indian or Indian Band subsequent to the purchase of the TPP, the service contract is subject to RST.
- RST applies on service contracts purchased by corporations held by Status Indians and Indian Bands regardless of whether the service contract is purchased at the same time or subsequent to the purchase of the TPP.

Real property service contracts

- Repair/maintenance and installation services to real property are not taxable services. Therefore, RST does not apply to service contracts that provide services, such as cleaning, painting, repairing, maintaining, etc., of buildings, roads and other real property (**but** service contracts in respect of mechanical and electrical systems in buildings, etc. are taxable). However, the service provider must pay tax on all parts, materials and supplies that they purchase to perform the service for the customer. See Bulletins No. 005 – *Information for Contractors* and No. 008 – *Installation, Repairs and Improvement to Real Property*, for additional information.

Other exempt service contracts

- Services to the following exempt TPP are not taxable:
 - Dental and optical appliances, when sold on prescription of a dentist, optometrist, or physician;
 - Artificial limbs, orthopaedic appliances, hearing aids and dentures;
 - Qualifying farm implements and farm machinery*;
 - Granaries*;
 - Equipment designed solely for the use of blind persons, the physically handicapped, or chronic invalids;
 - Qualifying commercial fishing boats, fishing nets, and other apparatus used solely for commercial fishing when purchased by a person holding a commercial fishing licence issued under the *Fisheries Act* (Canada)*;
 - Qualifying traps, snares, pelt stretchers and other apparatus that, are used solely in commercial trapping of fur bearing animals by a person holding a licence or permit for the purpose issued under *The Wildlife Act**;
 - Qualifying state or commercial aircraft

Parts and

- **Please note:** An asterisk (*) following an item means a use-certificate must be obtained from the farmer/fisher/trapper by the seller.
- The provider of a TPP service contract is not required to pay RST on their

services purchased by the provider of a service contract

purchases of parts, labour and supplies used directly to perform the repairs and maintenance.

- To purchase these items RST exempt, the service provider must quote their RST number to the supplier.

Please note: Only parts, labour and supplies installed into the TPP qualify for the exemption. That is, purchases such as tools, machinery and equipment, uniforms, stationery and other miscellaneous supplies used to provide the service are subject to RST.

Manufacturer's recall

- Replacement parts or services required to perform a service under a manufacturer's recall are not taxable.
- To purchase these parts or services RST exempt, the service provider must quote his/her RST number to the supplier.

Insurance policy vs. extended warranty

- For purposes of RST, an insurance policy is a contract that covers repairs or loss due to an **accidental occurrence**, such as fire, theft, vandalism, collision, hail and third party liability. In this case, the premium or fee to purchase the policy is not subject to RST. But in the event of a claim, the insurance company must pay RST on the cost of materials and labour to replace or repair taxable TPP.
- A service, maintenance or extended warranty contract is a contract that covers repair or replacement of TPP required due to the **regular use of an article or failure of a part**. Where this type of contract is marketed as an "insurance policy," the tax must be collected on the total selling price of the contract at the time of billing; for RST purposes, it is a service contract.

Manufacturer's and retailer's warranty

- Where the value of a manufacturer's or retailer's basic warranty is not specified on the bill of sale, it's value is considered to be factored into the total selling price of the TPP that is subject to tax.
- The parts or labour provided to the customer without charge under a manufacturer's or retailer's warranty may be purchased by the manufacturer/retailer, RST exempt.

Unwritten or implied warranties

- A vendor may choose to perform a repair to TPP at no charge, as part of an unwritten or implied warranty. The parts or labour used to perform unwritten or implied warranty services may be purchased by the vendor RST exempt - the repair must be recorded by the vendor as being done under warranty.

Extended warranty provided by credit card companies

- Some credit card companies will automatically extend the manufacturer's warranty on an article that is purchased with their credit card. Since the credit card companies generally do not have a specific charge for this feature, RST does not apply to any of their service charges. In this case, the credit card companies must pay the RST on their purchases to repair or replace an article for a credit card holder in Manitoba.

FURTHER INFORMATION

This bulletin is intended to serve as a guideline and is not all-inclusive. For the specific wording of the law, please refer to the *Retail Sales Tax Act and Regulations*. Further information may be obtained from:

Winnipeg Office

Manitoba Finance
Taxation Division
101 - 401 York Avenue
Winnipeg, Manitoba R3C 0P8
Telephone (204) 945-5603
Manitoba Toll-Free 1-800-782-0318
Fax (204) 948-2087

Westman Regional Office

Manitoba Finance
Taxation Division
314, 340 - 9th Street
Brandon, Manitoba R7A 6C2
Fax (204) 726-6763

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ONLINE SERVICES

Our Web site at manitoba.ca/finance/taxation provides tax forms and publications about taxes administered by Taxation Division, and a link to Manitoba's laws and regulations. Forms and publications can also be obtained by contacting the Taxation Division.

Our online service at manitoba.ca/TAXcess provides a simple, secure way to apply for, and to file, pay and view your Taxation Division tax accounts.