

Sales Tax on Motor Vehicle Repairs and Oil Changes

There is no sales tax on labor to repair a motor vehicle or change the motor oil.

Single Charge (Lump Sum) for Parts and Labor

A mechanic who charges a single price for parts and labor should not collect sales tax from the customer, but instead pay tax when buying the parts.

Example: A shop that charges \$19.95 for an oil change should not charge the customer any tax, but pays tax when buying oil, filters, and other materials.

***A shop that collects tax in error on the lump-sum repair has to remit the tax to the state and must still pay tax on the parts used in the repair.**

Separate Charge for Parts and Labor

On the other hand, a mechanic who charges separately for parts and labor must collect sales tax on the parts. In this situation, the shop may issue a resale certificate in lieu of paying tax when buying the parts. No sales tax is due on the charge for labor.

Example: A shop that does an oil change for \$10 labor and \$9.95 in materials can buy the oil and filter tax free for resale and collect tax on the separately stated charge for materials. But the invoice **MUST** clearly state the parts and labor amounts.

***A shop that collects tax in error (without stating the parts and labor amount on the invoice) on the separated repair has to remit the tax to the state and must still pay tax on the parts used in the repair.**

CHAPTER 3	TAX ADMINISTRATION
SUBCHAPTER O	STATE SALES AND USE TAX
RULE §3.290	Motor Vehicle Repair and Maintenance; Accessories and Equipment Added to Motor Vehicles; Moveable Specialized Equipment

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Accessories--Nonessential tangible personal property attached to a motor vehicle for the convenience or comfort of the operator or passengers, or to assist or aid in the transportation, loading, or unloading of tangible personal property. Examples include car radio, air conditioner, refrigerator on a meat van, or a concrete mixer.

(2) Agreed contract price for materials--The price specified in the contract for the materials plus any additional charges directly attributable to the materials. For example, the cost of transportation of the materials, profit calculated as a percentage of the cost of materials, or markup or handling charges related directly to the materials charge, is included in the agreed contract price. A charge calculated as a percentage of the total contract cost will not be considered a part of the materials' selling price. The agreed contract price of the materials cannot be less than the price the repairman paid for materials.

(3) Component--A part of a motor vehicle such as tires, batteries, shock absorbers, and mufflers or a motor vehicle system such as the suspension, electrical, or cooling systems necessary to the proper operation of a motor vehicle and including any part of the chassis or body.

(4) Consumable supplies--Tangible personal property, except natural gas and electricity, used directly in a repair operation or in the repair area, which after used for its intended purpose, is completely used up, or which is not retained or reusable by the person providing the service. Consumable supplies do not include office supplies or other tangible personal property used in the general operation of the business.

(5) Equipment attachment--A part attached to a motor vehicle which is neither a component, nor an accessory, but which may be cargo that the vehicle transports, such as a welder, crane, compressor, or other type equipment.

(6) Extended warranty or service policy--This contract is sold to the buyer of the product for an additional amount. The provisions of the contract become effective after the manufacturer's warranty expires.

(7) Install or installation--To set tangible personal property in place for use or service. Install or installation does not include:

(A) the removal and/or replacement of a defective or broken part of a motor vehicle; or

(B) the addition of tangible personal property causing a change in the motor vehicle that constitutes remodeling.

(8) Lump-sum contract--A written agreement in which the agreed price for doing a job is one lump-sum amount and in which the charges for materials are not separate from the charges for skill and labor. Separated invoices issued to the customer will not change a written lump-sum contract into a separated contract unless the terms of the contract require separated invoices.

(9) Maintenance--All work on operational and functioning motor vehicles necessary to sustain or support safe, efficient, continuous operations, or to keep in good working order by preventing the decline, failure, lapse, or deterioration of the motor vehicles.

(10) Manufacturer's written warranty--A guarantee by the manufacturer that the product at the time of sale is operable and will remain operable for a specified period of time. The manufacturer's warranty is provided without additional cost to the buyer.

(11) Motor vehicle--A self-propelled unit designed to transport property separate from itself or persons other than the driver upon the public highways. The term also includes trailers, semi-trailers, and house trailers. A unit which meets the definition of a "motor vehicle" does not lose its identity as a motor vehicle if tangible personal property is added to the vehicle allowing the unit to perform a specialized function but prohibits the vehicle from transporting separate property or persons other than the driver. An example of this would be a flatbed truck upon which oil well servicing equipment is attached. All motor vehicles are subject to the provisions of the Tax Code, Chapter 152.

(12) Moveable specialized equipment--A unit designed and built specifically to perform a specialized function which does not include transporting property separate from itself or persons other than the driver is not a motor vehicle. Examples of moveable specialized equipment meeting these criteria are motorized cranes, motorized oil well servicing units, and mobile auto crushers. Moveable specialized equipment is subject to the provisions of the Tax Code, Chapter 151.

(13) Remodel--To modify the style, shape, or form of motor vehicles belonging to another.

(14) Repair--To mend or restore to working order or operating condition a motor vehicle that was broken, worn, damaged, defective, or malfunctioning.

(15) Repairman--For the purposes of this section, any person who, operating under a lump-sum or separated contract, restores, repairs, or replaces an inoperable or malfunctioning component of a motor vehicle.

(16) Separated contract--A written agreement which is divided into a separately stated price for materials and a separately stated price for skill and labor. If prices of materials and labor are separately stated, the fact that the charges are added together and a sum total given is irrelevant. When the contract itself does not contain specific amounts for materials and labor, but provides that all invoices will separate the charges for materials from the charges for skill and labor, the contract will be regarded as a separated contract.

(b) Sale and installation. Except when replacing a defective or inoperative component or accessory, a person engaged in the sale and installation of motor vehicle component parts and accessories must collect sales tax on the price charged for the parts, accessories, and installation. The removal and replacement of defective, worn, or unsafe accessories or components is a repair and not a sale and installation.

(1) Except when replacing a defective or inoperative component or accessory, the total charge for the sale and installation of an accessory or a component is subject to tax regardless of whether the charge is lump-sum or separated.

(2) The replacement of a defective or inoperative component or accessory is a repair of a motor vehicle. The tax responsibility of the persons repairing motor vehicles is covered in subsections (g) and (h) of this section. The repair of a motor vehicle component or of an accessory is considered the repair of a motor vehicle.

(3) The repair of equipment attachments is considered the repair of tangible personal property and is taxed according to §3.292 of this title (relating to Repair, Remodeling, Maintenance, and Restoration of Tangible Personal Property).

(c) Manufacturing. The repair and rebuilding of motor vehicle component parts to be sold is manufacturing and the labor charged is subject to tax whether included in the selling price or stated separately.

(d) Repair of motor vehicle components or accessories. A person may repair a motor vehicle component or accessory for the general repairman who is performing general repair work on a motor vehicle.

(1) If the person repairing the component or accessory separates the price charged for parts from the repair labor, the general repairman may issue a resale certificate for the parts. The repair labor is not taxable.

(2) If the person repairing the component or accessory charges one lump-sum amount for the repair of the component or accessory, the person is a lump-sum repairman under subsection (g) of this section.

(e) Federal excise tax. The sales price upon which the tax is based must include any manufacturer's federal excise tax.

(f) Fuels. Gasoline, LP gas, diesel, and kerosene are exempt from the sales tax.

(g) Responsibilities of repairman of motor vehicles operating under lump-sum repair contracts.

(1) Labor to repair motor vehicles is not taxable. A person repairing a motor vehicle for a lump-sum price is not a retailer of a taxable item and may not issue a resale certificate for parts or material used or consumed in such repair.

(2) Under a lump-sum contract, the repairman is the ultimate consumer of consumable supplies, tools, equipment, and all materials incorporated into the motor vehicle being repaired. The lump-sum repairman must pay the tax to suppliers at the time of purchase. The repairman will not collect tax from customers on the lump-sum charge or any portion of the charge. Under this type of contract, the repairman will pay the tax on materials even when the property is repaired for an exempt customer.

(3) A lump-sum repairman may use materials from inventory that were originally purchased tax free by use of a resale certificate. In those instances, the repairman incurs a tax liability based upon the purchase price of the materials and must report and remit the tax to the comptroller.

(h) Responsibilities of repairman of motor vehicles operating under separated repair contracts.

(1) Materials. Under a separated repair contract, the repairman of a motor vehicle is a retailer and may issue a resale certificate in lieu of tax to suppliers for materials that will be incorporated into the motor vehicle of the customer; the repairman must then collect tax from the customer on the agreed contract price of the materials, which must not be less than the amount the repairman paid to suppliers. The repairman must obtain a tax permit to be able to issue a resale certificate in lieu of tax when materials are purchased. The repairman may also use materials from inventory upon which tax was paid to the supplier at the time of purchase. In these instances, tax will be collected from the customer on the agreed contract price of the materials as if the materials had been purchased with a resale certificate; however, the repairman will remit tax to the comptroller only on the difference between the agreed contract price and the price paid to the supplier. See §3.338 of this title (relating to Multistate Tax Credits and Allowance of Credit for Tax Paid to Suppliers).

(2) Labor. Labor to repair motor vehicles is not taxable.

(3) Consumable supplies. A repairman of motor vehicles may issue a resale certificate in lieu of tax to suppliers for consumable supplies as well as materials incorporated into the motor vehicle. The repairman of a motor vehicle must then collect sales tax from customers on the charge for consumable supplies as well as the charge for materials.

(4) Tools and equipment. A repairman of a motor vehicle is the ultimate consumer of tools and equipment used which are not incorporated into the motor vehicle being repaired. The repairman must pay tax to suppliers of these items at the time of purchase. The repairman may not collect tax from customers on any charges for these items.

(5) Exempt customers. In repairing a motor vehicle belonging to an exempt customer under a separated contract, the repairman may accept an exemption certificate in lieu of collecting tax on materials incorporated into the motor vehicle.

(i) Responsibilities of remodelers. Remodelers of motor vehicles are providing taxable services and should refer to §3.292 of this title (relating to Repair, Maintenance, and Restoration of Tangible Personal Property).

(j) Manufacturer's warranties.

(1) No tax is due on parts or labor furnished by the manufacturer to repair a motor vehicle under a manufacturer's warranty or recall campaign.

(2) Records must be kept by the repairman that show that the service and parts were used in repairing an item under a manufacturer's warranty or recall.

(3) The repairman may purchase parts to be used in repairs under a manufacturer's warranty or recall tax free by issuing an exemption certificate to the supplier.

(k) Extended warranties and service contracts. A repairman performing services under an extended warranty covering a motor vehicle must collect tax on the parts as required under subsection (h) of this section.

(l) Maintenance. Tax is not due on the labor to maintain motor vehicles. Refer to subsections (g) and (h) of this section for the repairman's responsibilities for tangible personal property used in maintenance.

(m) Accessories and equipment added to motor vehicles.

- (1) The purchase of a motor vehicle and all accessories and equipment attached thereto at the time of sale is subject to the provisions of the Tax Code, Chapter 152 (motor vehicle sales and use tax).
- (2) The purchase of accessories and equipment for a motor vehicle attached after the time of sale of the motor vehicle is subject to the provisions of the Tax Code, Chapter 151 (limited sales, excise, and use tax).
- (3) The purchase of tangible personal property is subject to the provisions of the Tax Code, Chapter 151 (limited sales, excise, and use tax), if no item can be identified as a motor vehicle even if the combination of items of tangible personal property becomes a motor vehicle. If items of tangible personal property are combined to produce a motor vehicle, the initial titling of the motor vehicle in the name of the person who produced the motor vehicle is not subject to the provisions of the motor vehicle sales and use tax. If, however, the motor vehicle is titled in any other person's name, the transfer is subject to the provisions of the motor vehicle sales and use tax.
- (4) For this purpose, the terms "accessories" and "equipment" include, but are not limited to, bodies, cement mixers, refrigeration units, fertilizer spreaders, and oil well servicing equipment.
- (n) Use of resale certificate. For the purposes of this section, the words "leased" and "rented" are defined by the Tax Code, Chapter 152 (motor vehicle sales and use tax law).
- (1) Items combined into a motor vehicle. A limited sales tax resale certificate may be used in purchasing tangible personal property to be combined into a motor vehicle held for sale, lease, or rental in the purchaser's regular course of business.
- (2) Accessories and equipment attached to rental or lease motor vehicles. A limited sales tax resale certificate may be used in purchasing accessories and equipment that are attached to a motor vehicle held for sale, rental, or lease in the purchaser's regular course of business.