

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.

General information

- The following services are generally subject to RST when performed in respect of tangible personal property (TPP): repairing, maintaining, testing, cleaning, washing, polishing, painting, decorating, refitting, refinishing, reconstituting, remodelling, altering, adjusting, modifying, updating, upholstering or re-upholstering and installing. 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.

Please note: Effective October 1, 2002, plumbing, heating, cooling, electrical, electronic, and telecommunication systems (known as M&E systems) installed on, under or in, or attached to, buildings or land are deemed to remain TPP. Therefore, the charge for services provided on air conditioners, furnaces, hot water tanks, lighting fixtures, alarm systems, etc. is subject to RST.

- 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. However, the provider of these taxable services may purchase the parts and supplies installed as part of the service RST exempt.
- A contract that provides for the future service, maintenance or warranty of TPP is subject to RST.

Taxable service, maintenance and warranty contracts

- 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. Therefore, when a service contract provides for a taxable service to TPP (as described above), the RST must be collected on the total selling price of the contract at the time of billing.
- RST applies to all taxable service contracts for TPP, whether they are purchased together with new or used TPP, or are purchased separately (or at a later date), or are purchased as a condition of the sale or lease of TPP.

Note: Revisions to contents of previous Bulletin (March 2002) have been identified by shading ().

- 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.
- The RST is payable on a service contract sold to an Indian or Indian Band with respect to TPP, even if it pertains to property based on a reserve (unless the provider has the facilities to provide the service on the reserve). For example, a dealer located off-reserve sells a vehicle and an extended warranty for the vehicle to an Indian living on a reserve. The dealer is not required to collect RST on the vehicle if the sale is documented as outlined in Bulletin No. 012 – Motor Vehicle and Trailer Dealers. However, the dealer is required to collect the RST on the additional charge for the extended warranty contract.

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, 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.

Parts and services purchased by the provider of a service contract

- The provider of a TPP service contract is not required to pay RST on his/her purchases of parts, labour and supplies used directly to perform the repairs, maintenance, etc. to the TPP for the customer. To purchase these items RST exempt, the service provider must quote his/her 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.

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., on buildings, roads and other real property **(but service contracts in respect of M&E systems in buildings, etc. are taxable as described on page 1)**. However, the provider of the contract must pay tax on all parts, materials and supplies he/she purchases 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

- Service contracts for farm machinery are not taxable. To allow the exemption, a farm-use certificate must be obtained from the purchaser.
- Service contracts for equipment designed solely for the use of blind

persons, physically handicapped or chronic invalids are not taxable.

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, 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 the TPP. For example, MPIC premiums on motor vehicles are not taxable, but MPIC pays the RST on the vehicle repair charges.
- 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.

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 Act and Regulation stated below. Further information may be obtained from:

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Westman Regional Office

Manitoba Finance
Taxation Division
311, 340 - 9th Street
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Principal References In Legislation:

The Retail Sales Tax Act of Manitoba (C.C.S.M. c. R130), Section 1(1), definition of “purchase price or sale price,” “service,” “tangible personal property” and Sections 2, 3(1)(h) and (i), 3(1)(v) and (w), 4(1)(d) and 4(1)h. Manitoba Regulation (75/88R).