

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(As Amended at ARRS, October 12, 2021)

103 KAR 27:150. Repairers and reconditioners of tangible personal property.

RELATES TO: KRS 139.010, 139.200, 139.215, 139.260, 139.270, 139.280, 139.290, 139.310, 139.330

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations to administer and enforce Kentucky's tax laws. This administrative regulation establishes the sales and use tax requirements for parts and materials used by repairers and reconditioners of tangible personal property.

Section 1. Definitions. (1) "De minimis" is defined by KRS 139.215.

(2) "Extended warranty services" is defined by KRS 139.010(13).

Section 2. (1) A repairer or reconditioner of tangible personal property shall be classified as a retailer of taxable tangible personal property sold (including repair parts, replacement parts, and materials) along with all service, installation, and repair charges associated with installing or applying the taxable tangible personal property sold.

(2) Examples of repairers or reconditioners shall include repairers or reconditioners of:

(a) Airplanes;

(b) Bicycles;

(c) Boats;

(d) Cellular phones;

(e) Computers;

(f) Furniture;

(g) Machinery;

(h) Motor vehicles;

(i) Musical instruments;

(j) Radios; or

(k) Television sets.

Section 3. Taxable and Nontaxable Service and Installation Labor for Repairers or Reconditioners of Tangible Personal Property. (1) Charges for labor or services provided in installing or applying taxable tangible personal property, digital property, and services sold shall be subject to sales and use tax. For example, an appliance repair shop that sells and installs a new drain pump on a washing machine shall collect and remit sales tax on the sale of the drain pump and any service, installation, or labor charge associated with the installation of the drain pump. Since the drain pump sold is subject to sales and use tax, the service, installation, or labor charges associated with the installation of the drain pump also shall be subject to sales and use tax.

(2) Service, installation, or labor charges made to tangible personal property where there is no sale of taxable tangible personal property, digital property, or service shall not be subject to sales and use tax. For example, the charge for an appliance repair shop to merely reconnect a loose drain hose shall not be subject to sales and use tax. If the appliance repair shop only reconnects a loose drain hose with no sale of taxable property or services, then the service,

installation, or labor charge associated with the repair shall not be subject to sales and use tax.

(3) If tangible personal property, digital property, or services sold are not subject to sales and use tax, the charges for labor or services provided in installing or applying the property or services sold also shall not be subject to sales and use tax. For example, an appliance repair shop that sells and installs a washing machine electronic control panel receives a fully completed Resale Certificate, Form 51A105, **Streamlined [Steamlined]** Sales and Use Tax Agreement—Certificate of Exemption, Form **51A260 [51A206]**, or Multistate Tax Commission's Uniform Sales and Use Tax Exemption/Resale Certificate—Multijurisdictional, for the purchase of the electronic control panel. Since the electronic control panel is exempt from sales and use tax, the service, installation, or labor charge associated with the sale and installation of the electronic control panel also shall not be subject to sales and use tax.

Section 4. De Minimis Parts and Materials.~~(1) A repairer or reconditioner of tangible personal property shall be classified as a retailer of parts and materials furnished in connection with repair work in which the value of the parts and materials is substantial in relation to the total charge.~~

~~(2) Examples of a repairer or reconditioner shall include: repairers of motor vehicles, airplanes, bicycles, machinery, farm implements, musical instruments, computers, radios, television sets, boats, and furniture.~~

~~(3) The repairer or reconditioner shall segregate on the invoices to their customers and in their books and records the price of the parts and materials from the charges for labor of repair, reconditioning, installation and other services. The tax shall be applicable to the sales price of the property.~~

~~(4) If the labor and other services are not separately stated from the price of the property furnished as required by subsection (3) of this section, it shall be presumed that the entire charge represents the sale price of the property and the tax shall apply to the entire charge.~~

Section 2.] (1) According to the provisions of KRS 139.215, if the value of the parts and materials used in the repair or reconditioning of tangible personal property is less than ten (10) percent of the total value of the parts and materials, labor, and [charges for the labor or] other services performed and if no separate charge is made for the property, the repairer or reconditioner shall be classified as the consumer of the property, and the suppliers of parts and materials shall be classified as retailers subject to the tax with respect to the property which they sell to the repairer or reconditioner.

(2) The list in this subsection shall serve as examples of repairs or alterations in which the parts and materials used are less than ten (10) percent in relation to the charges for labor or other services performed:[:;]

(a) Repairs of:

1. Clothing;

2. Dental prosthesis;

3. Eyeglass frames;

4.[2.] Fishing rods;

5.[3.] Jewelry;

6.[4.] Tires;

7.[5.] Tubes; or

8.[6.] Watches; or

(b) Alterations performed by the retailer to refit clothes and other garments for the use for which they were originally produced.

Section 5. Extended Warranty Services. (1)(a) Effective July 1, 2018, receipts from the sale of extended warranty services, including the sale of optional service, maintenance, or extended warranty contracts related to taxable tangible personal property, shall be subject to sales and use tax.

(b) The person performing repair work under the provisions of an extended warranty service agreement or contract subject to tax sold on or after July 1, 2018, may purchase the repair parts used in fulfilling the contract exempt from sales and use tax using the Resale Certificate, Form 51A105, the Streamlined Sales and Use Tax Agreement- Certificate of Exemption, Form ~~51A260~~ **51A206**, or the Multistate Tax Commission's Uniform Sales and Use Tax Exemption/Resale Certificate-Multijurisdictional pursuant to KRS 139.270.

(c) Charges by an entity to perform repair labor under the provisions of an extended warranty service agreement or contract sold on or after July 1, 2018, where the provided repair parts are covered as part of the contract, shall not be subject to sales and use tax.

(d) Charges by a third party to perform repair work for an extended warranty service agreement provided under the provision of an extended warranty service agreement or contract sold on or after July 1, 2018, where the provided repair parts are covered as part of the contract, shall not be subject to sales and use tax.

(e) Charges for repair work made outside the provisions of an existing extended warranty service agreement or contract that include taxable service, installation, or repair labor are included in gross receipts pursuant to KRS 139.010(15)(a)(6) and **shall be** subject to sales tax.

(f) Deductibles charged as part of the provision of a taxable extended warranty service contract shall be subject to sales and use tax.

(2) (a) Receipts from the sale of optional service, maintenance, or extended warranty contracts sold prior to July 1, 2018, not required as part of the sale of taxable tangible personal property, shall not be subject to sales and use tax if the retailer separately itemized the charge for the sale of the service, maintenance, or extended warranty contract on the customer's invoice and in the retailer's books and records.

(b) The person performing the repair work under a contract described in subsection (2)(a) of this section sold prior to July 1, 2018, shall report and pay the tax on the purchase price of all tangible personal property used in the fulfillment of the contract.

Section 6. Forms. The forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

(1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40601;

(2) A Kentucky Taxpayer Service Center, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(3) The Department or Revenue Web site at <http://revenue.ky.gov>.

~~Section 7. [Section 3. If the method of repairing or reconditioning tangible personal property involves commingling property delivered to a repairer or reconditioner with similar property so that the customer receives repaired or reconditioned property which may not be the identical property delivered to the repairer or reconditioner but which is exactly the same kind of property or derived from exactly the same kind of property as that delivered, tax shall apply to the entire amount charged by the repairer or reconditioner for the exchange of property, and a deduction shall not be allowed for services involved since the exchange and other acts incidental to it constitute an integral transaction. This shall apply, for example, to the exchange of a reconditioned vehicle motor for a worn motor.~~

~~Section 4. (1) Receipts from the sale of optional service, maintenance, or extended warranty~~

~~contracts offered but not required as a part of the sale of taxable tangible personal property shall not be subject to sales and use tax if the retailer separately itemizes the charge for the sale of the service, maintenance, or extended warranty contract on the customer's invoice and in the retailer's books and records. The person performing the repair work under the contract shall report and pay the tax on the purchase price of all tangible personal property used in the fulfillment of optional service, maintenance, or extended warranty contracts.~~

~~(2) Receipts from the sale of service, maintenance, or extended warranty contracts that are included as part of the sale of taxable tangible personal property shall be included in the sales price subject to tax as provided in KRS 139.010.~~

~~Section 5.1(1) This administrative regulation shall replace Revenue Circular 51C020 and Revenue Policy 51P190.~~

~~(2) Revenue Circular 51C020 and Revenue Policy 51P190 are hereby rescinded and shall be null, void, and unenforceable.~~

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