

SECTION 41 - WARRANTIES, FABRICATED ARTICLES, INSTALLATION LABOR, REPAIRS AND ALTERATIONS AND CERTAIN SERVICES**41-1 WARRANTIES, AFTER-WARRANTY ADJUSTMENTS, AND RECALLS****A. Manufacturer's Warranty**

A manufacturer's warranty is an explicit warranty the manufacturer of an item extends to the purchaser of the item as part of the purchase price of the item. If the item is defective, the warranty allows the purchaser to return the item and receive either a replacement for the defective item or the repair of the defective item.

The application of sales and use tax to the cost of the replacement item or to the cost of any parts used to repair the defective item depends on whether the manufacturer charges the purchaser for the replacement item or the repair parts. If the manufacturer charges the purchaser for the replacement item or the repair parts, sales or use tax is due on the amount paid for the replacement item or repair parts. If the manufacturer does not charge the purchaser for the replacement item or the repair parts, no tax is due on the cost of the replacement item or on the cost of repair parts. This applies when the manufacturer makes the repairs and when the manufacturer contracts with a dealer or another person to make the repairs on behalf of the manufacturer.

A small, fixed deductible fee a manufacturer charges a purchaser who receives a replacement item or the repair of a defective item is not considered a charge for the replacement item or the parts used to repair the defective item. This fee is unrelated to the cost of the replacement item or repair part and is a service fee that is not subject to sales or use tax.

B. Dealer's Warranty

A dealer's warranty is an explicit warranty the seller of an item extends to the purchaser of the item as part of the purchase price of the item. If the item is defective, the warranty allows the purchaser to return the item and receive either a replacement for the defective item or the repair of the defective item. This type of warranty normally occurs when there is no manufacturer's warranty.

The same principles that apply to a manufacturer's warranty apply to a dealer's warranty. Thus, the application of sales and use tax to the cost of the replacement item or to the cost of any parts used to repair the defective item depends on whether the dealer charges the purchaser for the replacement item or the repair parts. If the dealer charges the purchaser for the replacement item or the repair parts, sales or use tax is due on the amount paid for the replacement item or repair parts. If the dealer does not charge the purchaser for the replacement item or the repair parts, no tax is due on the cost of the replacement item or on the cost of repair parts.

C. After-Warranty Adjustment

An after-warranty adjustment is an arrangement between a customer, a dealer, and a manufacturer. Under the arrangement, the dealer and the manufacturer agree to replace or repair an item that is of the type made by the manufacturer and sold by the dealer for a percentage of the amount they would charge in the absence of the arrangement. The arrangement can apply to charges for labor as well as for parts and materials.

If a replacement is made under the arrangement, the dealer supplies the replacement from the dealer's inventory. If a repair is made under the arrangement, the dealer supplies the parts from its inventory and performs the required labor needed to accomplish the repair. The manufacturer then reimburses the dealer for the agreed-upon portion of the total charges, and the dealer absorbs the remaining unpaid amounts the dealer incurred. For either a replacement or repair,

the dealer uses tangible personal property withdrawn from its inventory and is liable for sales or use tax on the dealer's cost of the property used.

D. Manufacturer Recall

A manufacturer recall is an action by a manufacturer of an item or a component part of an item to replace the item or component part for all customers who have purchased the item due to a defect or other problem notwithstanding that a manufacturer's warranty has expired. A recall is generally made due to health or safety reasons.

The same principles that apply to a manufacturer's warranty apply to a manufacturer recall. If a charge is made for the replacement item or part, sales or use tax is due on the amount paid for the replacement item or part. If no charge is made for the replacement item or part, no tax is due on the cost of the replacement item or part. This application applies when the manufacturer makes the repairs or contracts with a dealer or another person to make the repairs on behalf of the manufacturer. These principles apply for both mandatory and voluntary recalls.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;
Issued: June 1, 1996;
Revised: February 1, 2004; August 1, 2000.

41-2 FABRICATED ARTICLES AND INSTALLATION LABOR

A. Fabricated Articles

1. Sales of fabricated articles of tangible personal property to users or consumers are subject to the sales or use tax unless specifically exempt by statute. Examples of such items are aluminum awnings, Venetian blinds, draperies, seat covers, slipcovers, storm doors, storm windows and any other fabricated articles. When the sale is made by the person who fabricated the article from materials which he furnished, either directly or indirectly, the total sales price, including the charge for labor performed and services rendered in producing such article, is subject to the tax. All persons making such sales must register with the Department and collect and remit all tax due. When a customer provides materials which are fabricated into tangible personal property, the charge is for labor only and no sales tax is due.
2. When a vendor of materials contracts to furnish fabricated articles to its customer and subcontracts such fabrication, the entire charge is taxable notwithstanding that the fabrication labor may be separately charged to and collected from the vendor's customer and in turn remitted to the vendor's subcontractor. When a vendor contracts to install tangible personal property owned by a customer, the installation charge represents labor only and is not subject to sales tax.

B. Installation Labor

Sales to users or consumers of tangible personal property, including articles fabricated by the vendor, which the vendor contracts to install are subject to the sales or use tax and persons making such sales must register with the Department and collect and remit all tax due. If the vendor makes a charge for installing articles of tangible personal property which he sells, the charge for installation will not be subject to tax provided it is in addition to the sales price of the property and is stated separately on the customer's invoice and in the vendor's records. If the installation charge is not separately stated, the entire amount will be taxable.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;
Issued: June 1, 1996.

41-3 CABINETMAKERS**A. Sale and Installation**

Cabinetmakers who fabricate and sell cabinets to homeowners, contractors and others for use in this State are liable for collecting and remitting the general rate of State tax and any applicable local sales or use tax on the sales price of such property, including charges for any services that go into the fabrication, manufacture or delivery of such tangible personal property without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest charged, losses or any other expenses whatsoever. Any cost of labor or services rendered in installing or affixing such property when separately stated on sales invoices given to customers at the time of sale and in the vendor's records shall not be included as a part of the sales price.

In determining if a transaction constitutes a sale and installation, the tenor of the agreement is for the sale or purchase of cabinets and generally involves the sale or purchase of a specific quantity of cabinets. The vendor may install or affix the cabinets for an additional charge.

B. Performance Contracts

Cabinetmakers who, pursuant to a construction or performance-type contract with or for the benefit of the owner of real property, install or affix tangible personal property, including cabinets, in or to real property are liable for tax on the cost or purchase price of materials and other such property used in performing the contract.

In determining if a transaction constitutes a performance contract, the tenor of the agreement is for the contractor to perform a job, retaining the right to control the means, the method, and the manner of accomplishing the desired result. A performance contract does not provide for a sale of specific items; rather, the contractor agrees to furnish the necessary materials, labor, and expertise to accomplish the job. With a performance contract, responsibility for the job and title to the materials purchased by the contractor remain with the contractor until the job is completed and accepted by the purchaser/owner. The contractor is liable for accidents or injury at the job site and loss or damage due to vandalism, neglect, theft, and fire.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;
Issued: June 1, 1996;
Revised: July 1, 2007; June 1, 2002.

41-4 SIGN FABRICATION AND SIGN PAINTING

- A.** Retail sales of electrical, neon or other made-to-order signs are subject to the general rate of State tax and any applicable local sales or use tax. If the vendor makes a separate charge for installing signs which he makes and sells, the charge for installation will not be subject to tax provided it is in addition to the sales price of the sign and is separately stated on the customer's invoice and in the vendor's records. If the vendor enters into a separate contract to furnish maintenance or repair service subsequent to the sale of the sign, charges for such services are not subject to the sales or use tax, but receipts from the sale of all tangible personal property used in making the repairs are taxable.
- B.** Persons engaged in the business of painting signs on buildings or other real or personal property belonging to others are rendering services, and their gross proceeds are not subject to sales or use tax. Sales of paint, brushes and other tangible personal property to such sign painters for use or consumption are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;
Issued: June 1, 1996;
Revised: June 1, 2002.

41-5 REPAIRS AND ALTERATIONS

- A. Sales of tangible personal property by persons engaged in the business of making repairs or alterations for users or consumers are subject to the general rate of State tax and any applicable local sales or use tax. Any charges for labor or services rendered in installing or applying such repair or alteration parts are not subject to tax provided such charges are segregated from the charge for the tangible personal property sold on the invoice given to the customer at the time of the sale and in the vendor's records; otherwise, the total amount is subject to tax.
- B. Sales of tangible personal property to those engaged in the business of making repairs or alterations are sales for the purpose of resale if the property is to be attached to or is to become a part of the property which is being repaired or altered. Sales of tools, equipment and similar items to persons who use said property in making repairs or alterations are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.5; 105-164.6; 105-264;
Issued: June 1, 1996;
Revised: June 1, 2002.

41-6 CLOTHING ALTERATIONS

Charges to customers for alterations in connection with the sale of clothing are exempt from tax when the alteration charges are separately stated from the sale of the clothing in the seller's records and on the invoice given to the customer at the time of the sale. If the charge for alterations is not separately stated, the total charge is subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6;
105-264;
Issued: June 1, 1996;
Revised: June 1, 2002.

41-7 REUPHOLSTERING

Persons who reupholster property for users or consumers are liable for collecting and remitting the general rate of State tax and any applicable local sales or use tax on charges for taxable tangible personal property sold in connection with the reupholstering. Charges for labor or services rendered in reupholstering the customers' property are not subject to tax provided such charges are segregated from the charges for tangible personal property on invoices given to the customers at the time of the sale and in the vendor's records; otherwise, the total amount is subject to the tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6;
105-264;
Issued: June 1, 1996;
Revised: June 1, 2002.

41-8 LAMINATING SERVICES

Receipts derived from laminating tangible personal property for the owner of such property are not subject to sales or use tax. Persons performing laminating services on property belonging to others are liable for payment of sales or use tax on all purchases of taxable tangible personal property for use in the performance of such services. Sales of laminating materials to persons who will use the materials to laminate their property for use are subject to the general rate of State tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6;
105-264;
Issued: June 1, 1996;
Revised: June 1, 2002.

41-9 BULLETS AND SHELLS - RELOADING

Vendors who reload shell or bullet casings which belong to customers are liable for collecting and remitting tax on the sale of the shot, pellet, powder, wadding and other such items. No tax is due on reloading charges if such charges are separately stated on the customers' invoices and in the vendors' records.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-264;
Issued: June 1, 1996.

41-10 FIRE EXTINGUISHERS - RECHARGING

Chemicals and other tangible personal property sold in connection with refilling fire extinguishers are subject to the general rate of State tax and any applicable local sales or use tax. Any labor charges in connection with the refilling of fire extinguishers belonging to others are exempt from tax provided such charges are stated separately on the invoice given to the customer. In the absence of such separation the entire charge is taxable.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-264;
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Revised: June 1, 2002.