

**Illinois Department of Revenue  
Regulations**

**Title 86 Part 140 Section 140.141 Warranty Repairs**

**TITLE 86: REVENUE  
PART 140  
SERVICE OCCUPATON TAX**

**Section 140.141 Warranty Repairs**

- a) Transfers of repair parts, repair materials and other tangible personal property by persons who repair tangible personal property belonging to others as an incident of furnishing repair services are generally subject to tax under the Service Occupation Tax Act. (See Section 140.140(l).)
  
- b) However, where a seller/warrantor (e.g., a retailer or a manufacturer) is required to make a repair to an item under the terms of a warranty included in the retail selling price of that item, the repair parts and materials transferred incident to the repair are not subject to tax. This is because the warranty (and the work to be done under the warranty) was included as part of the retail selling price of the item and, as such, was subject to Retailers' Occupation Tax and Use Tax when the item was sold at retail. The warranty constitutes an agreement, included in the retail selling price of the item, that the item is free from defects in materials and workmanship and, if any such defect exists, it will be cured. The warranty may be express or implied. So long as the seller/warrantor is obligated to make a repair under the terms of a warranty that was included in the retail selling price of the item, the repair is not subject to tax. The following situations are examples.
  - 1) **Manufacturer's Express Warranty.** When an item of tangible personal property is sold at retail, an express warranty from the manufacturer is often included in the selling price. This express warranty obligates the manufacturer to correct defects in materials and workmanship during a specified timeframe. When repairs are made under the terms of an express warranty, no tax is due and this is true whether the manufacturer makes the repairs or whether the manufacturer pays someone else to make the repairs.
  
  - 2) **Safety Related Recall.** Sometimes, a particular product line is recalled by a manufacturer to correct a manufacturing defect that relates to product safety. Such recalls can be made on the manufacturer's own initiative or as the result of a recommendation by a governmental agency such as the National Highway Traffic Safety Administration or the U.S. Consumer Product Safety Commission. In either event, when repairs are made in this situation, no tax is incurred as a result of those repairs even if the repairs are not required by the manufacturer's express warranty. This is so because manufacturers make an implied warranty that the items they sell are free from safety-related manufacturing defects. Repairs made under safety related recalls are not taxable and this is true

whether the manufacturer makes the repairs or pays someone else to make the repairs.

- 3) Non-safety Related Recall. Sometimes, a particular product line is recalled by a manufacturer to correct a non-safety related defect in materials and workmanship. So long as the manufacturer is required to correct the defect as the result of an enforceable agreement included in the retail selling price of the item that the item was being purchased free of manufacturing defects and the repairs are necessary to correct a manufacturing defect, no tax liability is incurred as a result of the repair. Again, this is true whether the manufacturer makes the repairs or pays someone else to make the repairs. It is also true even if the repairs are required to be made outside the time limits contained in the manufacturer's express warranty.
- c) Repairs made by a seller (e.g., retailer or manufacturer) who is not obligated to make the repair under a warranty included in the retail selling price of the item result in tax liability. The following situations are examples.
- 1) Maintenance Agreements. Maintenance agreements are contracts to provide repairs for a particular item within a stated time period and for a pre-determined fee. The party agreeing to provide service under a maintenance agreement may or may not be a seller of the item. However, the maintenance agreement is not included in the retail selling price of the item covered by the maintenance agreement and, for that reason, the selling price of the maintenance agreement is not subject to Retailers' Occupation Tax and Use Tax liability when the item is sold at retail. Consequently, repairs made under a maintenance agreement result in tax liability. (See 86 Ill. Adm. Code 140.301(b)(3); 35 ILCS 105/3-75 and 35 ILCS 120/2-55.)
  - 2) Extended Warranties. Extended warranties are contracts to provide repairs for a particular item for a stated period of time after a manufacturer's express warranty has expired. An extended warranty is not included in the selling price of the item covered by the extended warranty and, for that reason, the selling price of the extended warranty is not subject to Retailers' Occupation Tax and Use Tax liability when the item is sold at retail. Consequently, repairs made under an extended warranty result in tax liability. Extended warranties are a form of maintenance agreement and are subject to tax just as maintenance agreements are subject to tax. (See 86 Ill. Adm. Code 140.301(b)(3); 35 ILCS 105/3-75 and 35 ILCS 120/2-55.)
  - 3) Goodwill Repairs. Goodwill repairs are repairs made by a seller for no charge that a seller is not obligated to make.
    - A) If the seller makes the goodwill repair himself, no service situation exists. This is so because the seller makes the repair for no charge and cannot be said to be making a sale of service. Rather, in this situation, the seller is using repair parts to maintain the goodwill of a customer. For that reason, the seller making the goodwill repair himself incurs a Use Tax liability based on his cost price of all tangible personal property used in making the repair, including the repair parts transferred to the customer.

- B) If the seller pays another person to make the goodwill repair, a service situation exists in which the person making the repairs is the serviceman and the seller is the service customer. In this situation, the tax liabilities depend on the nature of the serviceman.
- i) If the serviceman is de minimis and is not required to be registered under Section 2a of the Retailers' Occupation Tax Act, the serviceman incurs a Use Tax liability based on his cost price of the parts transferred in making the repair. (See 86 Ill. Adm. Code 140.108.) In this situation, the seller (as the service customer) incurs no tax liability and the serviceman cannot charge "tax" to the seller. (See 86 Ill. Adm. Code 140.108(a)(3).)
  - ii) If the serviceman is de minimis and is required to be registered under Section 2a of the Retailers' Occupation Tax Act or is de minimus and is registered under the Service Occupation Tax Act, the serviceman incurs a Service Occupation Tax liability based on his cost price of the parts transferred incident to the repair. (See 86 Ill. Adm. Code 140.109.) In this situation, the seller (as the service customer) incurs a Service Use Tax liability that is to be collected by the serviceman. The serviceman may show this Service Use Tax as a separate item on his billing to the seller (the service customer) but is not required to do so unless the seller (as the service customer) requests that it be so shown. (See 86 Ill. Adm. Code 140.109(a)(4).)
  - iii) If the serviceman incurs Service Occupation Tax on his selling price and separately states the selling price of the parts transferred in making the repair, the tax is based on the separately stated selling price of the parts (but not less than the serviceman's cost price of those parts). (See 86 Ill. Adm. Code 140.106(a)(1).) If the serviceman incurs Service Occupation Tax on his selling price and does not separately state the selling price of the parts, then the tax is incurred on 50% of the serviceman's entire service billing (but not less than the serviceman's cost price of the parts transferred). (See 86 Ill. Adm. Code 140.106(a)(2).) In these situations, the seller (as the service customer) incurs a Service Use Tax liability that is to be collected by the serviceman. The serviceman may show this Service Use Tax as a separate item on his billing to the seller (the service customer) but is not required to do so unless the seller (as the service customer) requests that it be so shown. (See 86 Ill. Adm. Code 140.106(e).)

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