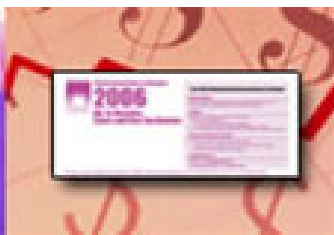


Florida Department of Revenue



Repair of Tangible Personal Property Standard Industry Guide



PURPOSE

This guide provides an auditor with information on the subject industry. This information will assist an auditor in recognizing areas to test for compliance with Florida sales and use tax laws.

After reviewing this guide, an auditor will be better able to understand issues involving:

- Tax implications affecting the subject industry;
- Sales tax issues likely to surface relating to the subject industry; and
- Relevant statutes, rules, court cases and other technical documents

Helpful tax publications provided by the Department of Revenue available online:

Industry Specific:

[Sales and Use Tax on Repair of Tangible Personal Property](#)
[Sales and Use Tax on Tangible Personal Property Rentals](#)

General:

[Guide for Business Owners](#)
[Audit Information](#)
[Florida Sales and Use Tax](#)
[Discretionary Sales Surtax](#)

These reference materials and the technical documents cited herein have been provided as informational guidelines for performing tax audits and are intended to be used as internal management memoranda. They are not rules, orders, or policy statements of general applicability, and as such, do not represent the formal position of the Florida Department of Revenue. No representation is made regarding the Department's opinion of the precedential value of the court cases cited herein. They are provided for informational purposes only. Statutes, rules, court cases, or other technical documents subject to change are current as of the publication date of this document. Refer to the Tax Law Library for an updated listing of such documents. The Tax Law Library can be accessed through the Department of Revenue web site:

<https://dor.myflorida.com/dor/> or directly at <https://taxlaw.state.fl.us/>

TABLE OF CONTENTS

OVERVIEW OF METHODS OF OPERATION 4
 GENERAL OVERVIEW 4
ACCOUNTING SYSTEMS 4
SPECIAL TAX CONSIDERATIONS 4
 SMALL AND LARGE APPLIANCE REPAIR 6
 WARRANTIES AND MAINTENANCE CONTRACTS 6
 MOTOR VEHICLES 6
 REPAIR ORDERS 7
 WARRANTIES 7
 OVERHEAD 8
REPAIRS TO INDUSTRIAL MACHINERY AND EQUIPMENT 8
SPECIAL CONSIDERATIONS 9
OTHER ASPECTS OF THE BUSINESS 9
GLOSSARY OF TERMS 11
TAX STATUTES AND ADMINISTRATIVE RULES 12
COURT CASES IMPACTING THE INDUSTRY 13
TECHNICAL ASSISTANCE ADVISMENTS 13
TAX INFORMATION PUBLICATIONS 13

OVERVIEW OF METHODS OF OPERATION

General Overview

Retail repair businesses provide labor and materials to repair tangible personal property (TPP) and return it to proper operating condition. The size of a repair business may vary from a one man operation to a large factory service center; they all share one central function. Each provides materials and labor to repair property that belongs to others. Billing methods vary between the different types of retail repair businesses. The principal types of TPP repaired by retail repair businesses are appliances, industrial equipment, and motor vehicles. A retail repair shop may be owned and operated by an independent repair person, a dealer, or a manufacturer.

The size of the equipment or appliance and the nature of the repairs may dictate the repair location. A repairer may be dispatched to the owner's location with a van full of tools, parts, and supplies to repair large appliances, industrial equipment, and fixtures on site (See [Section 212.06\(14\)\(b\), F.S.](#), for definition of fixtures). In contrast, the owner may bring small home appliances and motor vehicles to the repair shop's location for repairs.

A registered repair facility's purchase of parts is exempt from tax, if the parts become a component part of the repaired item. The repair shop should extend a resale certificate to the distributor or manufacturer when purchasing these parts. The parts are considered to be resold as part of a taxable repair. Supplies and overhead items are subject to use tax. These items are consumed/expended by the repair shop in performing the repair and do not become a component part of the repaired item.

ACCOUNTING SYSTEMS

The accounting systems used by retail repair businesses are as varied as the industry members. The auditor is just as likely to encounter a complex automated system at a major motor vehicle franchise as a simple cash system of a watch repair booth in the mall. Every repair shop has two main concerns:

- Tracking the TPP to be repaired and returning it to the correct owner
- Charging for the work performed

REGISTRATION

Dealers in this type of business should register to collect and/or report tax via Department of Revenue's Internet site www.myflorida.com/dor and click on e-services or complete a paper Application to Collect and/or Report Tax in Florida (Form DR-1).

SPECIAL TAX CONSIDERATIONS

The definition of sales price in [Section 212.02 \(16\), F.S.](#), ". . . includes the consideration for a transaction which requires both labor and materials to alter, remodel, maintain, adjust and repair tangible personal property." [Rule 12A-1.006\(1\), F.A.C.](#), states in part that, where parts are furnished by the repairer, the entire charge he makes to his customer for repairing tangible personal property is taxable.

Material actually incorporated into property being repaired is not taxable to the repair shop when the material is purchased. Any materials and supplies used by the repair person that do not become a component part of the property repaired are taxable to the repair shop as overhead items (See [Rule 12A-1.006\(1\)\(c\), F.A.C.](#)).

Charges for repairs requiring labor or service only are exempt, if the repair shop can establish by evidence in its records that tangible personal property was not incorporated into the repair. If it is unable to do so, the charges for the repairs are taxable (See [Rule 12A-1.006\(4\), F.A.C.](#)).

Further analysis of the taxability of most repair transactions emphasizes; where so much as a drop of oil for lubrication is added to the property repaired, or a minute amount of wire and solder is used to repair a circuit, the entire charge made to the owner of the property for such repair or service is taxable. The taxation of the entire charge is not affected by the manner of billing for any repair which isolates parts from labor, even if separately stated on an invoice or billed on separate invoices. Charges for repairs that require parts or supplies that are incorporated into the repaired item are taxable even when no separate charge is made for the parts or supplies.

Repair shops may perform a partial or total repair of an appliance for another repairman incapable of doing the necessary work. The first repair shop should furnish a properly executed resale certificate to the repair shop that actually performs the work and tax the total repair charges made to the customer.

Repair shops may generate separate invoices for labor and materials when they are actually part of the same repair. Billings may also contain travel expenses incurred for a repair crew. All expenses, including travel, motel, restaurant charges, etc., are taxable as part of the repair whether stated separately or as a lump sum.

When a single repair of tangible personal property takes days, weeks, or even months to complete, the dealer may bill or invoice the customer several times while the repair is being performed and again upon completion of the repair. Multiple billing for a single job is normally referred to as "phase billing." Phase billings are single transactions, regardless of the number of invoices or date billed. If the transaction is taxable, tax is due when the job is completed. Large repairs are usually performed under a written contract or purchase order.

Retail repairs to residents of other states are exempt, if the item being repaired is shipped into Florida by common carrier and returned immediately upon completion of the repairs ([See Rule 12A-1.006\(8\), F.A.C.](#)).

Industry specific fees are taxable components of a transaction when a taxable repair of tangible personal property occurs. For example, service charges, technical fees, travel expenses, truck charges, minimum fee charges, service calls, and standard repair charges are taxable components of a transaction.

Small and Large Appliance Repair

Smaller home appliances may be returned for repair to the store where they were purchased. Some of these stores may operate a small repair facility of their own, usually at a central warehouse, or the appliance may be sent to a manufacturer's authorized repair shop. Larger home appliances may be serviced by a mobile repair unit or transported to the shop.

The charges made for repairing TPP depend on the type of work done and the location where such work is performed. Repairs performed at a shop will usually result in charges for parts, transportation, and labor for the item for repaired. There may be a minimal charge when the repair, labor, or parts used are minor. In cases where a very common type of repair is performed, a standard repair charge may be billed to the owner in lieu of itemizing parts and labor. Mobile repairs may have service call charges or technical fees as well as itemized billings for parts and labor. The repair shop may operate under a combination of all of these circumstances.

Major repairs made to large equipment may be conducted and invoiced in phases. An estimate of repair time and parts required may be prepared upon the repairer's initial investigation of the damaged equipment. A parts requisition may then be completed. The parts may be recorded as part of the total repair or invoiced to the customer on a separate invoice. The repairs may be conducted during numerous visits to the equipment site and recorded on separate invoices.

Warranties and Maintenance Contracts

Repair shops may be authorized by one or more manufacturers to perform warranty work. The contract for warranty work outlines the cost to be assumed by the involved parties. Maintenance contracts for TPP may be offered to customers by the repair facility, the manufacturer, or the dealer. The contracts specify the TPP, the repair work, and the time frame covered. See [TAA03A-025R](#) and [ITA 05A-026](#).

Repair shops normally maintain an inventory of the standard parts used in repair activities. Uncommon or more costly parts are usually ordered from a distributor or the manufacturer, due to the cost of maintaining an inventory. Shop supplies, tools, and service vehicles are other purchases commonly made by these types of businesses.

The charge for a service warranty covering tangible personal property is taxable. Repairs performed under a service warranty are exempt, as long as no additional charge is made to the customer (i.e., minimum charge, deductible, etc.). Charges made to the customer for the repair, such as a deductible or items not covered by warranty, are taxable. Materials used in the performance of a manufacturer's warranty are exempt, if no charge is made to the customer. Deductibles charged to the customer for warranty repairs are taxable.

Motor Vehicles

Motor vehicle repair shops most frequently operate from fixed locations. They frequently provide towing services and sell parts in addition to their repair operations. Most New car dealers operate repair facilities specializing in repairs to the brands of cars they sell, but they may perform repairs on any make of car. Many department stores operate auto centers

offering a wide range of repair services and parts sales. Specialty garages work only on specific parts/components/systems of vehicles, such as radiators, brakes, transmissions, paint and body, or electrical systems. Some of the work may be performed on behalf of another repair facility, creating a resale situation. Speed shops modify vehicles to increase performance.

The method of billing employed depends on the repair shop. Many garages separately state parts, labor, and tax, while others quote a price to the customer for the entire contract, which often becomes the total price.

As with appliance repairmen, motor vehicle repairmen are involved in the repair of tangible personal property belonging to another for a consideration. The instructions concerning taxation of repairs, which have already been covered under Rule 12A-1.006, F.A.C., also apply to motor vehicle repairs.

There are additional considerations involved with motor vehicle repairs:

- [Rule 12A-1.006\(17\), F.A.C.](#), states that wrecker or towing charges are exempt if separately stated on the customer's invoice.
- Repairs to vehicles for rental or resale are exempt, including polishes and lubricants;
- Insurance companies must pay tax on vehicle repairs in settlement of a claim;
- Most accessories and special equipment for motor vehicles are fully taxable, including installation charges (See Rule 12A-1.016, F.A.C.).

Repair Orders

The repair shop receives the property needing repair and tags it for identification. Each portion of the tag has matching numbers. One portion of the tag attaches to the repair item, with the other given to the customer as a claim check. The tags may also be used as a receipt, with a third matching part for the repair shop. The tag numbers should be traceable to the sales journal.

Repair orders are also used to determine the profit/loss of each repair. The cost of the materials and labor used are matched for each repair. The chart of accounts is especially important for repair shops to identify the accounts to which inventory items are charged and sales are recorded. The motor vehicle industry has standardized accounting systems, including charts of accounts. A review of the repair orders with the chart of accounts determines if the correct tax was collected, the types of repairs, and the accounting method.

Warranties

The accounting for warranty repair work is usually kept separate by using different colors of invoices, numbering systems, and accounts. The repair shop may do extended warranty work for a major manufacturer, or it may be a general repair facility for any type of warranty repair of personalty.

Overhead

Overhead charges for variable and fixed expenses, such as administrative cost, may be charged to the customer as a separate line item. The charges may be prorated or a flat fee. Sometimes these charges are called shop supplies, materials used, etc. Even though “shop supplies” are added as a separate line to a repair invoice, the purchase of the shop supplies is taxable to the repairer, since they are not being resold to the customer.

Repair shop personnel may be company employees or independent contract employees who purchase supplies to perform repairs. The auditor should determine if the repair staff is independent contractors or employees, because sales of supplies made to these individuals are taxable.

REPAIRS TO INDUSTRIAL MACHINERY AND EQUIPMENT

Industrial equipment is classified as tangible property, see [TIP 02A01-04](#). The operation of industrial equipment repair is basically the same as small appliance repair. The major differences occur in billing methods and the type of equipment repaired.

Major repairs to large equipment may be conducted and invoiced, in phases. An estimate of repair time and parts may be prepared upon the repair shop’s initial investigation of the damaged equipment. A parts requisition may then be completed. The parts may be recorded as part of the total repair, or invoiced to the customer on a separate invoice. The repairs may be conducted during numerous visits to the equipment site and recorded on separate invoices. This method of invoicing is called phase billing.

Such phased billings are normally when a single repair of tangible personal property takes days, weeks or even months to complete the dealer may bill or invoice the customer several times while the repair is being performed and again upon completion of the repair. Multiple billings are single transactions, regardless of the number of invoices or date billed. If the transaction is taxable, tax is due when the job is completed. Large repairs are usually performed under a written contract or purchase order.

The legislative intent to tax every sale of tangible personal property, including the fabrication or processing of such property, also applies to large industrial repairs. [Rule 12A-1.006, F.A.C.](#), also serves as the guideline for applying sales and use tax to these kinds of repairs.

The substantial difference between appliance repair and large industrial equipment repair in applying sales tax involves the concept of real property. [Rule 12A-1.006\(3\), F.A.C.](#), notes that “the provisions of this rule do not apply to contracts covering a combination of work on both real and personal property. Such contracts are governed by the provisions of [Rule 12A-1.051, F.A.C.](#)” The most important determination in deciding the taxability of repairs is to determine whether the item being repaired is realty or tangible personal property.

In addition, sometimes repair shops generate separate invoices for labor and materials when they are actually part of the same repair. Billings may also contain travel expenses incurred for a repair crew. All expenses, including travel, motel, restaurant charges, etc., are taxable as part of the repair whether stated separately or as a lump sum.

A 100% exemption applies to certain industries for parts, materials, and labor used and incorporated into the repair of machinery and equipment. To qualify for this exemption, the industrial machinery and equipment being repaired must be used to manufacture, process, compound, or produce tangible personal property at a fixed location. It also includes machinery and equipment used to prepare tangible personal property for shipping by such industries. See [Section 212.08\(7\)\(xx\), F.S.](#) This exemption applies to repairs, not to replacement machinery and equipment. Therefore, only expensed repairs qualify (not capitalized repairs).

Additionally, the industry's SIC Code must be within the following Industry Major Group numbers: 10, 12, 13, 14, 20, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39, and Industry Group Number 212..

SPECIAL CONSIDERATIONS

Retail repairs to residents of other states are exempt, if the item being repaired is shipped into Florida by common carrier and returned immediately upon completion of the repairs (See [Rule 12A-1.006\(8\), F.A.C.](#)).

A resale certificate per Rule 12A-1.039, F.A.C., should support repairs for resale between dealers and specialty subcontractors. Subcontracted repairs billed to the dealer's customer (owner of the property) are taxable.

Materials and supplies used for factory (manufacturer) warranty repairs are exempt if the customer is not charged and the manufacturer pays the cost of the materials and supplies (See [Rule 12A-1.006\(6\), F.A.C.](#)).

Deductibles charged to the customer for warranty repairs are taxable (See [Rule 12A-1.105\(5\) \(a\), F.A.C.](#)).

Industry-specific fees are taxable components of a transaction when a taxable repair of tangible personal property occurs. For example, service charges, technical fees, travel expenses, truck charges, minimum fee charges, service calls, and standard repair charges are taxable components of a transaction.

OTHER ASPECTS OF THE BUSINESS

A major issue in auditing repair shops is classifying real property versus tangible personal property. The following criteria should be used to determine if appliances are real property or TPP:

- **Size** – The physical dimensions of an improvement help in determining its classification. This is particularly true for such items as buildings, storage tanks, and boilers. In general, if the structure is so large that it has to be constructed on the site, it is probably realty. Items that are small enough to be manufactured in one location and transported to the place of use may very well be personalty.

- **Installation** – The manner in which the property is attached to the land or building helps to classify it. Items such as piping and wiring installed within the walls of a building are usually classified as realty.

Example: Air conditioning units that are sitting on the roof of a building or on the ground and are connected to the building via duct work, wiring, etc., are normally classified as real property.

Example: Satellite dishes attached to, but not part of, a building is classified as personalty. The total charge for repairing television satellite dishes, including installation, is therefore subject to sales tax, per [Rule 12A-1.016\(3\)\(b\)14., F.A.C.](#)

- **Function** – The purpose of the property and its relationship to other items in a system helps to classify it. When property that would normally be classified as “personalty” becomes part of a system that is classified as realty, the property assumes the classification of the system, if the property does not function without the system. A major area of confusion is determining when certain household appliances/equipment is “**realty**” or “**personalty**”.

Caution and good judgment must be exercised when using the criteria. The criteria are to be considered together and if the property is determined to be personalty, any charge made by the repairman to the customer is taxable. If the property is determined to be realty, the repairman must accrue or pay to the vendor use tax on all materials used to repair/install the appliance/equipment. The Department has addressed this issue in [TAA 83A-050 and TAA 89A-066 \(See also Rule 12A-1.051\(1\)\(c\), \(17\), and \(18\), F.A.C.\)](#).

The following items are considered real property:

- Built-in dishwashers, stoves, microwaves, ovens, and refrigerators
- Stovetop drop-in ranges
- Central vacuum systems
- Garage door openers
- Water heaters
- Central air conditioning units
- Storm doors
- Heat pumps
- Water softeners
- Garbage disposals

GLOSSARY OF TERMS

- After Market Parts:** Discount parts that are copied from factory original parts. These parts may be of lower quality and may be lower in price by as much as one-third the original equipment manufacturer's price.
- Deductible:** For repairs covered by insurance or by a service warranty, the portion of the repair cost for which the customer is personally responsible.
- Estimate:** Process whereby the repairer or the insurance company projects the cost of the parts, labor, and other supplies needed to repair the customer's property. The projections, which are based on previous studies performed under optimum conditions, are also known as competitive quotations.
- Extended Warranty:** Agreement between a warranty provider and a customer whereby the warranty company agrees to pay the cost of covered repairs on the customer's property during the term of the contract for a set one-time fee.
- Maintenance Contract:** Agreement between a repairer and a customer whereby the repairer will perform covered maintenance and repairs on the customer's property during the term of the contract for a set fee (either a single or periodic charge.)
- Manufacturer's Warranty:** A promise by a manufacturer of TPP (often, time limited) that the TPP is reasonably fit for the general purpose for which it was sold. (See Warranty Work.)
- Mechanic's Lien:** A creditor's lien on property that has been increased in value by the creditor through the application of the creditor's labor and materials.
- Minimum Fee Charge:** The minimum amount the repairer will charge, regardless of the time necessary to perform the repair.
- Repair Order:** Document describing the work to be done and often containing the total charges for parts, labor, and other cost. The customer usually approves it before actual work is performed on the customer's property.
- Service Charge:** A set fee charged for each service call. The charge for time incurred or materials used will be in addition to this charge.
- Service Warranty:** Any contract or agreement which indemnifies the owner of the TPP for the cost of maintaining, repairing, or replacing TPP whether or not parts are included (See Extended Warranty, Manufacturer's Warranty, and Maintenance Contract)
- Standard Repair Charges:** In cases where a very common type of repair is performed, a fixed charge in lieu of separate charges for parts and labor.
- Sublet Expenses:** Specialized services not ordinarily performed by the repairer, like radiator repair or milling, which the repairer subcontracts to others.
- Travel Expenses:** Fee charged to recoup the cost of the repairer's travel to the job site, including charges for motels, restaurants, etc. These expenses are taxable to the repairer as the consumer, and to the repairer's customer when added to the charge for the repair.
- Warranty Work:** Work performed on the customer's TPP to conform the TPP to the warranty. The manufacturer or service warranty issuer is responsible for the cost, or the repairer is responsible for the cost of necessary rework.

TAX STATUTES AND ADMINISTRATIVE RULES

Topic	Statutes (F.S.)	Rules (F.A.C.)
Deductibles for warranty repairs		12A-1.105(5)(a)
Definitions	212.02(2),(14)(b),(16)	
Exemption certain repair and labor charges	212.088(7)((xx)	
Fabrication labor incurred at the job site		12A-1.051(17)(18) 12A-1.051(1)(5)
Factory (Manufacturer) warranty repairs		12A-1.006(6)
Impact of “labor only” repairs		12A-1.006(4)
Installation classified as RP or TPP		12A-1.051(17),(18) 12A-1.016(3)(b)14 12A-1.051(1)(c)
Materials consumed by repairperson		12A-1.006(1) (c)
Motor vehicles		12A-1.006(17) 12A-1.016
Parts furnished by repairperson		12A-1.006(1) (a)
Repairs for residents of other states		12A-1.006(8)
Repairs to industrial machinery/equipment	212.08(7)(xx)	12A-1.051 12A-1.006(3)
Resale between dealers and subcontractors		12A-1.039
Sales and installation charges		12A-1.016
Service warranty	212.0506	12A-1.105(5)(a)
Special tax considerations	212.02(16)	12A-1.006(4), (8) 12A-1.006(1), (1) (c)
Tax each sale	212.05	

COURT CASES IMPACTING THE INDUSTRY

Blackshears II Aluminum v. Department of Revenue

19FLW, D1674, 641 So. 2d 928, 1994 Fla. 5256

Issue: Courts ruled that tax collected by a dealer became state funds at the moment of Collection...regardless if the tax was erroneously billed and collected.

Sears Roebuck & Co. v. Florida Department of Revenue

Issue: Courts ruled on the issue(s) of what constitutes a 12A-1.051(2) (d), F.A.C., (specifically itemized sale of tangible personal property) type contract v. Lump Sum.

TECHNICAL ASSISTANCE ADVISMENTS

	<i>TAA</i>
Repair and Maintenance of Machinery/ Equipment	10A-003
Exemption on Repairs to Industrial Machinery/Equipment	07A-030
Service Warranties	03A-025R
Repairs to Tangible Personal Property	83A1050 89A1066

TAX INFORMATION PUBLICATIONS

	<i>TIP</i>
Industrial Machinery	02A01-04