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MAINTENANCE AGREEMENTS

This tax guide is prepared and published for the information of the general public and all persons in business pursuits who would be required to make payment of Sales Tax or Use Tax under provisions of Chapter 25, Article III of the Code of the City of Fort Collins (the "Tax Code"), as well as for the guidance of the City employees whose responsibility it is to collect the taxes imposed by the Tax Code and the enforcement thereof. The following guide is exactly as it says, a GUIDE, and not to be relied upon as an official interpretation of the Tax Code applicable in all circumstances. Instead, specific reference should be made to the Tax Code and related ordinances for what is required in any particular circumstance.

Agreements or contracts to furnish labor and/or parts to maintain a specific piece of equipment beyond the manufacturer's original warranty are often referred to as maintenance contracts, extended warranties, or service contracts.

TAXABILITY

Mandatory Maintenance Agreements

A mandatory charge for maintenance as part of a sale, lease or rental agreement is taxable as part of the sales or purchase price paid.

Optional Maintenance Agreements

If the vendor sells an optional extended warranty or maintenance agreement, the price charged to the customer for that agreement is not taxable. However, replacement parts, materials, and supplies used or consumed in Fort Collins in the fulfillment of the agreement are taxable, either to the party performing the work, or to the purchaser of the maintenance contract as follows:

- a. If the tangible personal property consumed or used in order to fulfill the agreement is not separately stated on an invoice for work performed, itemized, or segregated at a fixed or retail price, the party performing the service is subject to Fort Collins tax on the purchase price of the material used.
- b. If the tangible personal property is separately stated, sales tax must be charged on the tangible personal property and collected from the customer.

EXAMPLES

1. A retailer of home appliances has a repair facility in connection with its retail business. At the time of the sale, the retailer offers an extended maintenance contract beyond the manufacturer's warranty. The agreement covers parts and labor. An annual charge is made to keep the agreement in force. At the time of performing repairs, there is no charge to the customer. The retailer is responsible to report and pay use tax based on the cost of the parts and materials used to perform the service.
2. A vendor/repair facility that represents several manufacturers of copier equipment offers a preventive maintenance program for the copiers. This program includes periodic inspection, cleaning, and adjusting of the copiers. If any parts are needed, a separate charge is made. The vendor/repair facility must collect and remit sales tax on the sale of the parts. There is no tax on the charge for the maintenance program.

3. A manufacturer of computer systems enters into a leasing agreement with its customer. A maintenance contract is required as part of the lease agreement. This mandatory charge is considered part of the lease payment and is subject to sales tax.

CITY OF FORT COLLINS SALES AND USE TAX ORDINANCE

Section 25-71 Definitions.

Section 25-73 Imposition of the sale tax.

Section 25-74 Imposition of the use tax.

June 21, 2018