

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

RELATES TO: KRS 139.010, 139.200, 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. (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) 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 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. Fishing rods;
3. Jewelry;
4. Tires;
5. Tubes; or
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 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 transac-

tion. 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) 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. (SU-31; 1 Ky.R. 466; eff. 3-12-1975; 33 Ky.R. 2344; 3151; eff. 5-4-2007; TAm eff. 5-20-2009; TAm eff. 6-22-2016.)