



Maintenance Contracts

Maintenance contracts differ from extended warranties in that they generally provide for routine, periodic repairs to property (including software) in order to keep such property in a continuous state of good working order. When maintenance contracts provide for repair parts, supplies or software updates, the purchaser intends to acquire such property as an object of the contract. Warranties are indemnities against defect, where property is used only if a defect is discovered.

Equipment Maintenance Contracts

Agreements to provide ongoing repairs and maintenance to computer hardware, office equipment such as copiers and fax machines or other tangible personal property are taxable based on where the equipment is located. Parts used to fulfill the agreement are not taxable.

Vehicle Maintenance Contracts

Agreements to provide ongoing repairs and maintenance to vehicles are taxable based on the point of purchase. Parts used to fulfill the agreement are not taxable.

Software Maintenance Contracts

While many software maintenance agreements include provisions for technical support and troubleshooting, these maintenance agreements frequently include the right to future releases, upgrades, updates, security patches or other modifications or improvements. As such, most software maintenance agreements are subject to City sales/use tax based on where the software is used.

Service-Based Maintenance Contracts

Items purchased by a business for use under a maintenance or service contract are subject to tax at the time the items are purchased. Such service businesses include landscapers, painters, wall paper hangers, cleaning and other similar services.

Materials should not be separately stated on the invoice to the customer. If separately stated, the materials will become taxable.

Examples

1. Company A leases a copy machine from Seller B. In addition, Company A purchases a 12-month, optional maintenance contract. Seller B must collect sales tax on the price of the maintenance contract at the time of sale. The monthly charge for the lease of the equipment is also subject to tax. Parts sold to Company A to repair the copy machine, as covered under maintenance contract, will not be subject to tax, since the contract was taxed at the time of purchase.
2. Company C purchases accounting software from Seller D for \$10,000. Company C is required to pay an annual maintenance fee of \$1,500 per user, for which it receives 24-hour technical support and monthly updates from Seller D. Seller D is not a licensed Lakewood retailer and does not collect tax on the charge for the software or the annual maintenance fees. Company C must, therefore, report and pay use tax on the \$10,000 software charge and the \$1,500 annual maintenance fee on its periodic City sales/use tax return.
3. Company E purchases a support plan from Seller F for software it purchased from Seller F. The support plan entitles Company E to call Seller F Monday through Friday from 8:00AM to 5:00PM and receive technical support for up to three hours per month. Company E does not receive any upgrades, updates, patches, or other additional software from Seller F unless it purchases them separately. The support plan is not subject to Lakewood sales/use tax.
4. Ms. Smith, a Denver resident, purchases a car from a Lakewood dealership and opts to buy a maintenance contract. The maintenance contract would be subject to the Lakewood sales tax of 3% and the purchase price of the car would be subject to the Denver sales tax.

Related Topics

Automotive Service & Repair
Sales Tax
Software
Warranties

Citations

Lakewood Municipal Code

- § 3.01.120(I) Property and Services Taxed
- § 3.01.120(L) Property and Services Taxed
- § 3.01.130 Collection of Sales Tax

Regulations

- § 3.01.120(12) Warranty & Maintenance Contracts

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