



# TAX BULLETIN 17-7

## *Virginia Department of Taxation*

June 28, 2017

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### IMPORTANT INFORMATION REGARDING SALES TAX TREATMENT OF AUTOMOBILE REPAIR SHOP SUPPLIES

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The General Assembly enacted [House Bill 1518](#) (2017 Acts of Assembly, Chapter 104) effective July 1, 2017, which changed Virginia law regarding the application of the Retail Sales and Use Tax to separately stated shop supply charges by automobile repair shops. This Tax Bulletin is intended to provide guidance regarding this change in policy.

#### Generally

Effective for transactions occurring on and after July 1, 2017, repair shops will be required to charge and collect the Retail Sales and Use Tax on any separately stated shop supplies charge. Repair shops will also be allowed to purchase the shop supplies exempt from the tax as a sale for resale.

#### **CURRENT LAW AND POLICY**

The Retail Sales and Use Tax is generally levied on all sales of tangible personal property within the Commonwealth, unless specifically exempted. Automobile repairers are required to collect sales tax on their sales of tangible personal property to their customers. Separately stated charges for repair services, however, are not currently subject to the tax.

Under current law, tangible personal property consumed by automobile repairers during the vehicle repair process such as brake cleaner, equipment lubricant, and hand towels are considered to be items used and consumed by the repair shop itself. Accordingly, repair shops are required to pay the Retail Sales and Use Tax on shop supplies at the time they are purchased. Consequently, those shop supplies are not then taxable to the customer. The Department's longstanding policy regarding the sales tax treatment of shop supplies is reflected in Public Document 87-25 (December 23, 1987) and Public Document 01-158 (October 19, 2001).

Many repair shops often charge customers a "shop fee," "shop supply charge," or similar fee which is typically a flat-fee or a percentage of the total amount charged by

the shop for the repair. This charge by the repair shop is a charge to recover the cost for the supplies consumed by the shop during the repair. This amount charged to the customer is not currently subject to the Retail Sales and Use Tax because title or possession of the consumables typically does not pass to the consumer. Thus the consumables are currently treated as being part of the repair service itself. The definition of “retail sale” and “sale at retail” enumerated in *Va. Code* § 58.1-602 did not, prior to the new law, include language that would encompass a charge for shop supplies.

### **CHANGE IN LAW EFFECTIVE JULY 1, 2017**

Effective July 1, 2017, the definition of “retail sale” and “sale at retail” contained in *Va. Code* § 58.1-602 will specifically include any separately stated charge made for supplies used during automotive repairs whether or not there is transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by a repair shop for sale to the customer of such repair services shall be deemed a sale for resale and the repair shop will be allowed to purchase such supplies exempt from the tax. Accordingly, repair businesses will be required to collect the sales tax on separately stated charges for supplies used during the provision of repair services whether or not title or possession of the supplies passes to the customer.

Under existing law, 23 *Va. Adm. Code* § 10-210-3050(B) instructs that, “[r]eplacement parts, materials and supplies that are transferred to the customer may be purchased under certificates of exemption.” Therefore, the separately charged for shop supplies that are transferred to the customer, such as grease, nuts and bolts, and glass cleaner should be purchased by the shop tax-exempt and sold to the customer subject to sales tax. The treatment of these items is unchanged by the new law.

The new law changed the treatment of the separately stated shop supplies that are consumed but not transferred to the customer. Under existing law, these items would be purchased by the repair shop subject to the tax and billed to the customer tax free. Effective July 1, 2017, however, these items should be purchased by the repair shop tax-exempt as goods purchased for resale and sold to the customer subject to the tax. Under the new law, shop supplies that are transferred to the customer are treated in the same manner as those that are not.

#### Example 1

A repair shop provides repair services to a consumer consisting of separately billed taxable parts and non-taxable labor charges. The repair shop is located in a Virginia locality where the retail sales and use tax rate is 5.3%. During the course of the provision of repair services, shop supplies are consumed and separately billed to the customer. These supplies could consist of rags, cleaning chemicals, cleaning supplies, and hazardous liquid bulk debris (cat litter,

sawdust) that do not transfer to the customer and/or items that are consumed during the repair and become part of the vehicle such as grease, lubricants, automotive fluids and chemicals and similar items. A typical invoice could consist of the following:

<u>Item</u>	<u>Cost</u>
Parts	\$100
Labor	\$100
Shop Supplies/Fee	\$ 10

The customer in this scenario should be billed for the following charges:

<u>Item</u>	<u>Cost</u>	<u>Tax (5.3%)</u>	<u>Total</u>
Parts	\$100	\$ 5.30	\$105.30
Labor	\$100	not taxable	\$100.00
Shop Supplies/Fee	\$ 10	\$ 0.53	\$ 10.53
Total			\$215.83

### Items That Constitute "Shop Supplies"

The types of items that are considered shop supplies shall be limited to items that are either transferred to the vehicle as a result of the service being performed or those items that are consumed by the repairing serviceman in direct preparation for, during the course of, or immediately following the repair service performed on vehicles. For instance, shop supplies would include items such as grease, lubricants, sealants, solvents, starting fluid, paper or plastic protecting materials, gasket/weatherproofing materials, solder, drill bits, tape, sanding/grinding/cutting discs and blades, welding rods, oxygen/acetylene for welding, glass cleaner, parts cleaner, fabric cleaner, air tool oil, wheel weights, disposable gloves, single-use garbage bags, shop rags/towels, and degreasing/cleansing soap.

Any items of tangible personal property that are not consumed in the repair service or that are consumed by non-repairman employees or customers of the repair shop such as office supplies, service forms, toiletries, reusable cleaning supplies like spray bottles, and waiting room items offered for the customer's convenience are not considered shop supplies.

### Example 2

A repair shop performs repair services on a customer's highway vehicle. Before beginning the repair work, the shop places protective disposable mats and seat covers on the vehicle to be repaired. During the course of the repairs, the repairman consumes rubber gloves, disposable shop towels, grease, and brake cleaner. After completing the repair, the serviceman cleans up the spilled fluids

and chemicals with sawdust and rags and throws the used sawdust and rags in a plastic garbage bag and washes his hands with a degreasing soap.

In the repair shop's customer lounge area, the customer may consume coffee and snacks while watching television or taking advantage of the shop's free wifi. There is also a lavatory for use by the customer or employees, including the repairman.

All of the items consumed by the repairman directly attributable to the repair service performed would constitute shop supplies so long as the shop supply charge is separately stated on the invoice. Conversely, the items available to the customer in the lounge area or lavatory are NOT considered shop supplies. The fact that the repairman may make use of the facilities does not change the character of the items that may be consumed. For instance, the degreasing soap used by the repairman could constitute a shop supply but not the regular handsoap used by the repairman or anyone else in the lavatory.

### Flat-fee Automobile Repair Services

Generally, services are not subject to the Retail Sales and Use Tax. However, services, other than separately stated repair services, rendered in connection with the sale of tangible personal property become taxable services. This general rule is unchanged by the new law. The new law does, however, affect a scenario where a repair shop bills a flat-fee for the provision of parts and labor, as is commonly seen in the automobile oil-change scenario.

Under the new law, a repair shop is required to collect the tax on its separately stated shop supplies. The taxability of the underlying repair services has no effect on the tax treatment of the shop supplies. Rather, under the new law, the taxability of shop supplies depends solely on whether or not those charges are separately stated. The repair shop is able to purchase these shop supplies tax-exempt by presenting their vendor with a properly executed exemption certificate.

### Example 3

An automobile repair shop does an oil change for a consumer and charges a flat-fee for parts and labor. The repair shop is located in a Virginia locality where the retail sales and use tax rate is 6%. In addition, shop supplies are consumed and separately billed to the customer.

<u>Item</u>	<u>Cost</u>	<u>Tax (6.0%)</u>	<u>Total</u>
Oil-change service	\$ 30	\$ 1.80	\$ 31.80
Shop Supplies/Fee	\$ 10	\$ 0.60	\$ 10.60
Total			\$ 42.40

Under the new law, the repair shop is required to collect sales tax on the separately stated shop supplies because the taxability of those shop supplies depends solely on whether or not those charges are separately stated. In this example, the shop supplies are separately stated and thus taxable. The repair shop would be able to purchase these shop supplies tax-exempt by presenting their vendor with a properly executed exemption certificate.

### Shops That Repair Highway and Off-road Vehicles

The Department of Taxation will apply the new tax treatment of shop supplies to shops that service both highway and off-road vehicles. Such shops will be required to collect sales tax on any amounts billed as separately stated shop supplies charged in connection with the provision of repair services for both highway and off-road vehicles.

### Environmental Fees and Waste Tire Disposal Fees

The Retail Sales Tax treatment of Environmental Fees and Waste Tire Disposal Fees charged by automobile repair shops is unaffected by the law change. These types of fees are for services rendered in connection with the sale of tangible personal property and therefore these fees continue to be subject to the tax. For more information, please refer to Public Document 06-115 (October 16, 2006) and Public Document 94-241 (August 10, 1994).

### Implementation of New Law

Beginning July 1, 2017, repair shops will be required to collect sales tax on any amounts billed as separately stated shop supplies charged in connection with the provision of automobile repair services.

Retailers purchasing tangible personal property tax-exempt must present a valid Form [ST-10 Exemption Certificate for Certain Purchases by Virginia Dealers](#) to the seller of those goods at the time of purchase.

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