

Excise Tax Advisory

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Retail Sales and Use Tax on Goodwill Vehicle Repairs - Labor and Parts

Introduction and Scope

The purpose of this Excise Tax Advisory (ETA) is to describe how Washington's retail sales and use tax laws apply to "goodwill" repairs of vehicles.

Generally, when customers purchase vehicles from dealers, some form of standard or limited warranty is included as part of the purchase. During a warranty period, dealers undertake appropriate repairs or services per terms of the warranty. Customers may also have the opportunity to purchase additional warranty protection in the form of an extended service plan.

"Goodwill repairs" means repairs or services performed on a vehicle by a dealer or manufacturer when those repairs or services are not covered by any warranty. They generally carry the following characteristics:

- Unlike warranty repairs, dealers or manufacturers have no contractual obligation to the customer to provide the repairs, and customers have no legally enforceable right to receive them.
- Goodwill repairs are authorized at the sole discretion of the dealer or manufacturer on a case-by-case basis. Upon authorization, dealers perform the repairs and services, and the manufacturer reimburses some or all of the costs to the dealer. There may be instances where the dealer gratuitously provides goodwill repair to customers, but in either scenario, the customer receives the repair for free.
- Dealers and manufacturers do not advertise the availability of goodwill repairs.

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- Goodwill repairs may be performed to generate or maintain customer satisfaction and goodwill and improve brand loyalty.
- Goodwill repairs generally consist of both a tangible personal property (parts) component and a labor component.

Relevant Laws and Definitions

For purposes of this ETA, the following laws and definitions apply:

Retail sales tax is imposed on the selling price on each retail sale in Washington. RCW 82.08.020(1).

- **“Retail sale”** includes the sale of or charges made for tangible personal property consumed and/or for labor and repair services rendered to or for consumers. RCW 82.08.010; RCW 82.04.050.
- **“Sale”** means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a “retail sale” under RCW 82.04.050. RCW 82.04.040.
- **“Selling price”** means the total amount of consideration for which tangible personal property, extended warranties, or other services or anything else defined as a retail sale under RCW 82.04.050 are sold. RCW 82.08.010; WAC 458-20-108.

In general, use tax is imposed when a person uses, as a consumer, in Washington, tangible personal property or services, if the sale or use was not already subject to retail sales tax. RCW 82.12.020.

- **“Consumer”** includes any person who purchases, acquires, or uses tangible personal property and/or any service defined under RCW 82.04.050(2)(a) other than for resale or for the purpose of satisfying an obligation under an extended warranty. RCW 82.12.010; RCW 82.04.190. In addition, “consumer” also means any person who distributes, or causes to be distributed, any article of tangible personal property, the primary purpose of which is to promote the sale of products or services. RCW 82.12.010(1).
- **“Use”** has its ordinary meaning and means, with respect to tangible personal property and services defined under RCW 82.04.050(1)-(2):
 - The first act within Washington by which a taxpayer takes or assumes dominion or control over the tangible personal property (as a consumer); or
 - The first act after the service has been performed by which a taxpayer takes or assumes dominion or control over the article of tangible personal property upon which the service was performed (as a consumer).

Use also includes acts preparatory to subsequent actual use or consumption as these acts also indicate dominion or control. RCW 82.12.010(6)(a)-(b); WAC 458-20-178.

- **“Dominion or control”** is defined broadly and includes acts by which a business reimburses a third party supplier as a part of a contractual undertaking.
- **“Manufacturer”** as used in this ETA, means the vehicle manufacturer and also refers to its affiliate, designee, or other functionally similar entities.

Furthermore, this ETA assumes that, if use tax may be imposed on certain items, the user had not previously paid retail sales tax on those items.

Summary of Taxability of Goodwill Repairs

Goodwill repairs of vehicles differ from repairs performed under warranties in a number of ways, and tax implications can vary between the relationship of parties involved and circumstances.

In general, the customer (i.e., vehicle owner) owes no retail sales tax on the repair because there is no sale being made to the customer. Instead, depending on the nature of the transaction, retail sales tax or use tax is imposed on the dealer or manufacturer.

(1) Customer

Between customers and dealers or manufacturers, there is no sale as there is no valuable consideration exchanged for goodwill repairs. Dealers or manufacturers do not have any contractual obligation to provide goodwill repairs to customers, and customers do not have any legally enforceable right to receive them. Also, goodwill repairs are not repairs performed under an extended warranty as there is no agreement for a specified duration. Finally, there is no selling price in the case of a goodwill repair as the repair is performed gratuitously under the dealer or manufacturer’s discretion. Therefore, since there is no sale of goodwill repairs to the customer, retail sales tax is not due from the customer nor does the customer owe use tax.

(2) Manufacturer reimburses dealer

In cases where dealers must receive authorization from the manufacturer to provide goodwill repairs to customers and receive reimbursement for the cost of repairs from the manufacturer, there is a sale between the dealer and the manufacturer: the dealer promises to perform goodwill repairs for a customer and the manufacturer promises monetary compensation. Thus, the dealer is obligated to collect retail sales tax from the manufacturer on the selling price of the repair.

Use tax is due in instances where tangible personal property and retail services used to perform goodwill repairs were not previously subjected to retail sales tax. If

the dealer does not collect retail sales tax from the manufacturer, use tax is imposed on the manufacturer because the manufacturer, by granting dealers permission to perform goodwill repairs and agreeing to reimburse the dealer for the related costs, asserts dominion or control over the tangible personal property and/or labor required. Furthermore, tangible personal property and/or labor is used by the manufacturer, in the ordinary sense of the word, to generate or maintain customer satisfaction and goodwill towards its products and improve brand loyalty. Therefore, as a user and consumer of tangible personal property and labor in Washington, manufacturers are subject to, and required to pay use tax on the value of the goodwill repairs (including value of labor and tangible personal property) if the manufacturer has not paid retail sales tax on those costs.

(3) Manufacturer does not reimburse dealer

If a dealer, without involvement of a manufacturer, provides goodwill repairs to a customer there is no retail sales tax due for this transaction because there is no sale between the dealer and customer. However, if the dealer paid no retail sales tax when it acquired the tangible personal property used in the repair, use tax is due on the value of the tangible personal property because the dealer used and consumed the tangible personal property to perform the repair. No use tax is due from the dealer on the value of any labor it provides to effectuate the repair.

Examples

The following examples identify a number of facts and then state a conclusion. These examples should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

Example 1

Facts:

- Manufacturer A authorizes Dealer B to perform a goodwill repair of Customer C's vehicle, which is not covered by a warranty.
- Dealer B has the parts and labor necessary to carry out the repair.
- Dealer B purchased the parts using a reseller permit, and paid no retail sales tax on the purchase.
- After the repair, Manufacturer A reimburses Dealer B for the parts and labor costs associated with the goodwill repair.

Result:

- Here, Manufacturer A is required to pay, and Dealer B is required to collect, retail sales tax on the selling price of the repair because the transaction is a retail sale between Dealer B and Manufacturer A.
- If Manufacturer A does not pay retail sales tax to Dealer B, Manufacturer A is liable for use tax on the value of tangible personal property, labor, and

other costs associated with the repair because Manufacturer A is the user of tangible personal property and labor associated with the repair.

Example 2

Facts:

- Same facts as Example 1, except Dealer B gratuitously performs vehicle repairs for Customer C, without any payment from Manufacturer A.

Result:

- Here, Dealer B is not obligated to collect retail sales tax from Manufacturer A on the selling price of the repair because there is no retail sale.
 - Instead, Dealer B is subject to and is required to pay use tax on the value of the parts because Dealer B is the user of tangible personal property associated with the repair.
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