



## Warranties and Maintenance Agreements

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### GENERAL INFORMATION

This FYI addresses the sales tax obligations of vendors who offer warranties and maintenance agreements. For the purposes of determining Loveland sales tax applicability, there are two types of warranties for maintenance agreements (also referred to as service contracts): mandatory agreements that are part of the purchase price of the item, and optional agreements which are sold to the customer as a separate item.

### MANDATORY CONTRACTS

For warranties and maintenance agreements which are mandatory and part of the purchase price of the item the warranty covers, in most cases the seller must collect sales tax on the total purchase price. When the warranty is taxed in this manner, no additional sales or use tax is due from the seller or buyer on the materials used in performing the maintenance.

### OPTIONAL CONTRACTS

If the maintenance agreement is optional, and is sold to the customer as a separate item, tax is not normally charged on the contract at the time of sale. The seller responsible for the warranty work must then pay sales tax on the cost of the materials used in performing the maintenance. However, a warranty seller may elect to charge sales tax on the warranty contract to avoid having taxable and nontaxable warranty parts.

If the warranty seller contracts with a third party to perform the maintenance work, it is the subcontractor who is responsible for charging and remitting any tax on the materials used. The third party maintenance contractor would normally bill the warranty seller for actual maintenance costs, including sales tax on parts, supplies and materials.

Regarding which local jurisdictions are owed sales tax for the parts used in performance of a warranty agreement: sales tax is due to the local jurisdictions where the warranty work is **being performed**, regardless of where the original warranty contract was purchased. Warranty contracts taxed at point of sale with the tangible personal property are subject to the same rate as the personal property, including all applicable local taxes.

### ADDITIONAL EXPENSES

If, in the performance of a maintenance contract, the seller incurs additional expenses (such as travel, lodging, meals, telephone calls, etc.) which are not covered in the agreement and which are charged to the customer, such charges are not taxable to the customer if they are separately itemized on the bill.

## LEASED PROPERTY

All above rules also apply to warranties and maintenance contracts on leased tangible personal property.

THE ABOVE INFORMATION IS A SUMMARY IN LAYMAN'S TERMS OF THE RELEVANT LOVELAND TAX LAW FOR THIS INDUSTRY OR BUSINESS SEGMENT. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE LMTC (LOVELAND MUNICIPAL TAX CODE) AND APPLICABLE RULES AND REGULATIONS.

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