

Taxable Status Of Supplies Used By Auto Body Repair Shops

The following has been prepared as a guideline to assist persons engaged in the Auto Body Repair Industry in determining which auto body repair products are or are not transferred to a customer in connection with the rendering of a taxable service. Those products listed below as nontaxable become a physical component part of the automobile repaired, and as such, are considered to be for resale by the person making the repair. They may be purchased by him, without payment of tax, by issuing a properly completed Resale Certificate (ST-120) to his supplier.

Those items listed below as taxable, are supplies which do not become a physical component part of the repaired automobile, and as such, are not considered to be for resale. They are, therefore, subject to the appropriate New York State and local sales and use tax rates.

Taxable

Abrasives--sandpaper	Masking tape
emery paper	Masking paper
grinding wheels	Mechanics tools
Acetylene	Metal conditioners
Applicators	Oxygen
Body work tools	Painters tools
Brushes, rollers, spray guns	Polishing and buffing pads
Cleaners	Removers--liquid and paste
Compound pads	Respirators and goggles
Drop cloths	Rubbing compound
Face masks	Stencils
Filters	Strainers
Hand cleansers	Wipers (both disposable and reusable types)

Nontaxable

Acrylic finishes	Rustproofing liquid
Body putty	Sealants
Enamels	Sheet metal
Flux	Shellacs
Hardware--screws, rivets, nuts, bolts, clips	Side molding kit
Lead	Solder
Lacquers	Stain
Paint	Thinners and solvents-- petroleum spirits
Plastic filler	solvent naphtha reducers
Primers	Undercoating
Replacement panels or parts	Varnish
Resin--epoxy	Waxes
polyester	Welding rods
fiberglass cloth	
fiberglass matting	

Although this list is not all inclusive, when used in conjunction with the principles outlined in this memorandum, it should serve as a general guideline for determining the taxable status of unlisted products.

When a purchaser furnishes his supplier with a properly completed Resale Certificate, the supplier is not liable for sales or use tax unless he has actual knowledge that the articles purchased were not for resale. A properly completed resale certificate requires the following entries:

1. Name and address of vendor.
2. Date of resale certificate.
3. Check mark indicating "Single Purchase" or "Blanket" Certificate.
4. Name and address of purchaser.
5. Identification number of purchaser, as shown on Certificate of Authority.
6. Signature of purchaser.
7. Principal activity (nature of business).
8. Check mark in appropriate box or boxes designating that the purchase is for resale.

It should be noted that a vendor is not under a duty to investigate or police his customer when he receives a properly completed resale certificate, nor does he have a duty to debate with his customer as to which items are not eligible for resale. Where there is no actual knowledge, mere suspicion or belief that the sales are taxable is insufficient to make a vendor liable for the collection of sales or use tax when he is presented with a properly completed resale certificate.

Illegal use of a resale certificate by a purchaser will subject the purchaser to payment of the tax, plus interest and penalties. Furthermore, a purchaser who files a willfully false resale certificate shall also be subject to criminal penalties.