



## **Auto Body Association of Connecticut**

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“Pulling together for a better future”

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**TESTIMONY OF  
AUTO BODY ASSOCIATION OF CONNECTICUT  
BY  
ANTHONY FERRAILO, PRESIDENT  
SUPPORTING  
SB-335, AAC DOUBLE TAXATION OF BUSINESS-TO-BUSINESS TRANSACTIONS  
FINANCE, REVENUE & BONDING COMMITTEE  
MARCH 9, 2016**

*The Auto Body Association of Connecticut (ABAC), a statewide trade association of professionals dedicated to the advancement of the collision repair industry, through safe quality repairs for Connecticut consumers, respectfully submits the following comments regarding SB-335:*

The ABAC is supportive of SB-335, “An Act Concerning Double Taxation Of Business-To-Business Transactions”. During the 2015 state legislative session, the ABAC was very supportive of the intent behind House Bill 5655, “An Act Concerning The Taxation Of Paint Used In Motor Vehicle Repair.” We advocated for reform because auto body repairers have been unfairly penalized by a recent Department of Revenue Services interpretation that paint and materials used in auto repair should be taxed twice: once at wholesale purchase and again at retail sale. In addition to being inequitable from a tax policy perspective, it is inconsistent with reasonable regulatory interpretations to the contrary and years of industry practice to the contrary. We believe that this bill before the Committee, SB-335, which simply exempts the application of the sales tax to “*sales of, and the storage, use or other consumption of, any products purchased by a business at wholesale prices which products are then resold to a consumer or otherwise included in a taxable consumer good*”, would apply to the situation our industry is faced with and help clarify that the paint purchased at wholesale by an auto body repairer which is then used by the repairer in applying the paint to a customer vehicle as part of the repair process is not taxable at the wholesale level. On behalf of our member shops and the collision repair industry at large in Connecticut, the ABAC would like to continue to ensure that when paint is purchased from a wholesaler, that purchase would be considered a “sale for resale”, as it has been in the past.

The auto body repair industry has dramatically evolved and modernized since the applicable regulation<sup>1</sup> was last updated in 1999. Years ago, auto body shops would order paint from a supplier (wholesaler) specifically for use on a certain vehicle. That purchase was considered a sale for resale and nontaxable to the shop; the sales tax would be charged to and collected from the end user customer. The paint used in today's repair process is purchased very differently than it was over 15 years ago. Most, if not all, auto body repair facilities purchase paint related materials in bulk form. The product is computer mixed as needed *for each individual repair job*. The totals are recorded and *billed to each specific repair job*. The sales tax is then to be charged to end user customer. The purchase of liquid paint related materials at the wholesale level should be likewise be nontaxable to the repair shop (sale for resale), and when product is mixed for each specific customer's job, taxes should be collected on final invoice to the end user customer. This scenario is already governed by subsection (c)(2) of the Regulation which exempts from taxation at the wholesale level: "Property purchased solely for a particular customer, as long as the charge for such materials will be separately stated on the bill to the customer and tax collected thereon." This modern system of purchasing paint and related materials and mixing only what is needed not only saves the consumer money, but also saves the environment from hazardous waste storage.

Accompanying this testimony, you will also find an opinion letter from Thomas J. Valentino, CPA, of the accounting firm Myers, Harrison & Pia, LLC, which goes into more detail regarding this situation and the applicable sales tax treatment.

On behalf of the Auto Body Association of Connecticut, thank you for your time and attention to this important matter, not only for repair shops, but also for consumers. The ABAC is ready and willing to work with the leaders and members of the Finance Committee, and the Department of Revenue Services to address our concerns.

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<sup>1</sup> Regulations of Connecticut State Agencies, Department of Revenue Services, Section 12-407(2)(i)(M)-1



MEYERS, HARRISON & PIA, LLC  
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Thomas J. Valentino, CPA  
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March 8, 2016

Mr. Anthony Ferraiolo  
Auto Body Association of Connecticut  
104 Cheshire Road  
Prospect, CT 06712

Re: Sales and Use Tax for items purchased for resale

Dear Mr. Ferraiolo,

Attached please find our interpretation of the sales and use tax regulations as they refer to the taxation of paint and supplies used in and billed to customers in the auto body and collision repair business. Our firm provides accounting and tax services to business entities in your industry.

Under current law paint toner system materials are taxed to the auto repair shop when purchased. When the material is mixed at the shop and used for a particular customer's car it is once again taxed by the shop to the consumer. By way of example; when the shop purchases \$ 100.00 of toner mixtures the shop is charged with sales tax of 6.35% for a total of \$ 106.35. If the shop uses that same quantity on a customers' car they must collect sales tax. The bill to the consumer would state "paint" and the charge would be \$ 106.35 and tax would be collected on \$ 106.35 for a total of \$ 113.10. It appears the Department of Revenue Services would be collecting tax twice on the same item. The purchase of the product should be for resale by the auto repair shop so that the final consumer pays a tax just one time. I believe this is what was originally intended by the law but the method by which this particular item is purchased has changed over time and the law needs to address these current circumstances.

Please refer to my correspondence dated March 18, 2015, which offers a more detailed explanation with proper sites of the Connecticut General Statute listed. I have attached a copy of the correspondence for your convenience. Please feel free to call me if you have any questions.

Very truly yours,

Thomas J. Valentino, CPA

akd  
Enclosure



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March 18, 2015

Mr. Anthony Ferraiolo  
Auto Body Association of Connecticut  
104 Cheshire Road  
Prospect, CT 06712

As CPAs in the State of Connecticut who are familiar with reading and interpreting laws and regulations, we have been asked for our interpretation of the laws regarding sales tax on paint for the auto repair business.

The written laws under CGS § 12-407(2)(i)(M)-1 are outdated as to how the auto repair business conducts its business. Even still, with that being said the statutes state under § 12-407(2)(i)(M)-1 the following:

§12-407(2)(i)(M)-1(c)(3) Since providers of motor vehicle repair services are considered to be consumers of supplies used in rendering their services, sales of tangible personal property, other than integral parts, to a motor vehicle repair services provider that uses such property in repairing, restoring, rebuilding, replacing parts of or maintaining motor vehicles are retail sales to such provider and are subject to tax.

§ 12-407(2)(i)(M)-1 (a)(1)(A)-(B) An "integral part" means a part, such as an air or oil filter, alternator, battery, belt, hose, muffler, spark plug, tire or windshield wiper blade, that retains its separate identity even after being incorporated into a repaired motor vehicle.

The term "integral part" does not include materials that do not retain their separate identity after being used to repair a motor vehicle, but are consumed by the service provider in repairing the motor vehicle, such as abrasives (e.g., sandpaper, emery paper and grinding wheels), acetylene, acrylic finishes, applicators, body putty, body work tools, brushes, cleaners, compound pads, drop cloths, enamels, flux, hand cleansers, lacquers, lead, masking tape, masking paper, mechanics' tools, metal conditioners, oxygen, paint, painting tools, plastic filler, polishing and buffing pads, primers, removers (liquid and paste), resins (e.g., epoxy, polyester, fiberglass cloth and fiberglass matting), rollers, rubbing compound, rust proofing liquid, sealants, shellacs, solder, spray guns, stain, stencils, strainers, thinners and solvents, undercoating, varnish, waxes, welding rods and disposable or reusable wipes.



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§12-407(2)(i)(M)-1(c)(2) Providers of motor vehicle repair services may purchase certain materials on resale where such property is purchased solely for a particular customer, as long as the charge for such materials will be separately stated on the bill to the customer and tax collected thereon. Examples of such materials include acrylic finishes, enamels, lacquers and paint.

The obstacle in this statute is that the auto repair business has changed the way it services its customers when it comes to painting autos. Prior to law being written, paint was purchased specific to a car and so the language above represents that. Today, toner is purchased and mixed to exact specifications to a specific color for an auto and applied.

By reading the statute, it stands clear to us that an integral part does not consist of consumables, as the list clearly identifies several items that are consumables in the ordinary course of business for an auto repair shop. We feel, the reason the statute states that paint purchased specific for a particular customer may be purchased for resale and not for consumption. i.e. paying sales tax when purchased by the repair shop, is because this level of paint is not considered a consumable once it is specific to a customer's needs. We imagine the intent of this law was to charge sales tax to the repair shop when paint is considered a consumable, keeping in line with the list of items presented as "not an integral part." In the current day, paint is not purchased as a unit, as it was when the law was first written, it is now purchased as toner and mixed. When paint is mixed for a specific customer and applied to the body of the auto it is not a consumable when the repair shop is charging the customer separately for that item on the invoice, which at times can be a large dollar amount. Keeping in line with what appears to be the intent of the statute, it reasons to be that this paint mixture should fall within the meaning of paint being purchased specific to a car and therefore be purchased on resale.

We believe the original intent of the statute was to differentiate between consumable paint used by the auto repair shop versus paint used to finish an auto specifically for a customer. By meeting the other aspects of the statute, i.e. separately stating the charge for customers, etc. we believe the auto repair business should be allowed to include its paint mixtures under this law and the law should be rewritten to conform with current approaches to repairs without losing the intent of the law.

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Under current law, paint toner system materials are taxed to the auto repair shop when purchased. When the material is mixed at the shop and used for a particular customer's car it is once again taxed by the shop to the consumer. By way of example; when the shop purchases \$ 100.00 of toner mixtures, the shop is charged with sales tax of 6.35% for a total of \$ 106.35. If the shop uses that same quantity on a customer's car they must collect sales tax. The bill to the consumer would state "paint" and the charge would be \$ 106.35 and tax would be collected on \$ 106.35 for a total of \$ 113.10. It appears the Department of Revenue Services would be collecting tax twice on the same item. The purchase of the product should be for resale by the auto repair shop so that the final consumer pays a tax just one time. We believe this is what was originally intended by the law but the method by which this particular item is purchased and applied has changed over time and the law needs to address these current circumstances.

Very Truly Yours,



Thomas Valentino, CPA



Jeffrey Cheney, CPA