



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

October 8, 2019

jwasikowski@paint.org

Jeffrey Wasikowski
General Counsel & Corporate Secretary
Paintcare Inc.
901 New York Avenue NW Suite 300 West
Washington, DC 20001

Dear Jeff Wasikowski:

Thank you for your email inquiry dated August 23, 2019, requesting confirmation that the paint stewardship fee is part of the purchase price and thus subject to retail sales tax.

Response

When a retailer or distributor charges the "architectural paint stewardship assessment" (aka the paint stewardship fee, or the "fee," as described in [SHB 1652, Chapter 344, Laws of 2019](#)) to a consumer as part of the sale of architectural paint and the sale occurs in Washington, the fee is part of the purchase price and is subject to retail sales tax in Washington.

In Washington, all retail sales of tangible personal property are subject to retail sales tax, unless specifically exempt. Sales tax applies to the "selling price" of tangible personal property. In defining "selling price," RCW [82.08.010](#) provides in pertinent part:

"Sales price" means the total amount of consideration, except separately stated trade-in property of like kind, including cash, credit, property, and services, for which tangible personal property, extended warranties, digital goods, digital codes, digital automated services, or other services or anything else defined as a "retail sale" under RCW [82.04.050](#) are sold, leased, or rented, valued in money, whether received in money or otherwise. No deduction from the total amount of consideration is allowed for the following: (A) The seller's cost of the property sold; (B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller; (C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges; (D) delivery charges; and (E) installation charges. (Emphasis added.)

While the legislation provides a business and occupation (B&O) tax exemption (see Section 15) for the fee, there is no provision for an exemption from retail sales tax. Further, the legislation (see Section 4(c)) requires each Washington paint retailer or distributor to add the fee to the purchase price of all architectural paint sold in Washington. Consequently, the fee is part of the selling price of the architectural paint and subject to retail sales tax when charged by the retailer to the end consumer.

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Note: Section 4(c) of the legislation generally requires the fee to apply at the wholesale level, unless the retailer or distributor agrees with the producer and stewardship organization to remit the fee directly to the stewardship organization on behalf of the producer. Sales at this level are not retail sales, therefore, retail sales tax would not apply to the fee when applied at the wholesale level.

If you have further questions, please write again.

Sincerely,

Kurtis W. Sand

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The Washington Administrative Code (WAC), the Revised Code of Washington (RCW), and all cited tax decisions (WTDs) are available on our web site at <http://dor.wa.gov>.