

THE COMMONWEALTH OF MASSACHUSETTS

AUTO DAMAGE APPRAISER LICENSING BOARD

DIVISION OF INSURANCE

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July 7, 1998

TO ALL CONCERNED PARTIES

Re: Advisory Ruling 97-98-1(Revised).

The Auto Damage Appraiser Licensing Board ("the Board") at its June 24, 1998 meeting passed a motion to revise Advisory Ruling 97-98-1 that was approved at the Board's October 22, 1997 meeting. The revised Advisory Ruling 97-98-1 is as follows:

Advisory Ruling 97-98-1(Revised)

Regulation 212 CMR 2.04 (1)(e) provides in part:

"with respect to refinishing materials, if the formula of dollars times hours does not adequately reflect the cost of a particular repair a published manual or other form of documentation shall be used."

The Board's intent while writing this provision is clear and unambiguous. If with respect to refinishing material, the formula does not adequately reflect the cost of a particular repair, a published manual or other form of documentation shall be used. The regulation requires that a manual or other form of documentation shall be used to determine only the cost of refinishing materials. Thus, if the manual used in preparing the overall estimate which includes parts and labor to perform a repair does not include the cost of paint and body materials, a separate manual or other form of documentation shall be used for that purpose.

The Board reiterates that use of published Paint & Materials Guides is one accepted manner of determining paint and materials costs.

The Board notes that 212 CMR 2.04 (1)(e) requires an appraiser to itemize, among other things, all materials required to restore a vehicle to pre-accident condition. Further, that section of the regulation requires an appraiser when computing the total cost

of repairing the damage to add "any applicable sales tax payable on the cost of replacement parts and other materials." With respect to applicability of sales tax to refinishing materials, the Board recognizes the position of the Department of Revenue in a Letter Ruling issued December 27, 1996.

Therefore, if an appraisal separately states the charges for labor, the charges for materials, and there is a lump sum item listed that is entitled "Paint & Materials" then the entire amount shown for Paint & Materials is subject to a sales tax. If the appraisal separately lists any paint, materials and supplies that are needed to effectuate the repair and such items are transferred to the vehicle during the repair process then the amount shown for such items is subject to sales tax. If the appraisal separately lists any materials and supplies that are needed to effectuate the repair but such items are not transferred to the vehicle during the repair process then the amount shown for such items is not subject to sales tax and no tax shall be charged to the vehicle owner for such items. In general, auto body repairers must pay the sales tax when they purchase materials that they use in the repair process but do not transfer to the vehicle.

This Advisory Ruling shall be in effect upon receipt and should be distributed accordingly. Failure to comply with this ruling could result in a fine and/or other penalty to involved parties.

Should you require more information please contact my office (617) 521-7453.

For the Board,



Stephen A. Veiga
Executive Secretary

Division of Insurance

(DOI)

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