

PROTECTION PLAN PROVISIONS (SERVICES)

Rental companies offer additional services such as a protection plan. The protection plan under Illinois law cannot be insurance as that is a violation of the Insurance Code, nor can it be an independent warranty transaction apart from transferring a manufacturer's warranty, because that also is a form of insurance.

A protection plan payment is not a part of the rental of the item and is not subject to the collection of sales tax.

The Department of Revenue has on occasion during audits, taken the position that such proceeds may be sale proceeds depending on how it is characterized and seek to have rental companies collect a sales tax.

It is my opinion that sales tax is not due on a protection plan service and that the charging of sales tax to the renter may impose liability on the rental company for the improper charge and collection of sales tax. The better practice is to continue not to charge sales tax to the renter on this type of service. Note: The protection plan service must be optional and separately stated on the rental agreement.