

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF TAX AND REVENUE



April 17, 2019

OTR NOTICE 2019-03

**TAXATION OF PAINT STEWARDSHIP ASSESSMENT
IN THE DISTRICT OF COLUMBIA**

The District enacted the Paint Stewardship Act of 2014 ([D.C. Law 20-2005 effective March 11, 2015](#)), codified in Subchapter II of Chapter 2A of Title 8 of the D.C. Code, to require manufacturers of architectural paint to establish and implement a paint stewardship program in the District for the disposal of paint not used and no longer wanted by a purchaser.

Beginning September 1, 2016, paint manufacturers are prohibited from selling or offering for sale any paint to any person in the District unless the manufacturer (or a representative organization of which the producer is a member) submitted a paint stewardship plan to the Mayor on or before April 1, 2016 or is implementing an approved paint stewardship plan.¹

The Paint Stewardship Act of 2014 established a funding mechanism to allow paint manufacturers to recover the cost of implementing a paint stewardship program in the District. Specifically, a paint stewardship assessment is required to be added to the cost of all paint sold to retailers and distributors in the District. *See* D.C. Code § 8-233.02 (b)(1). Retailers and distributors of the paint are then required to add the paint stewardship assessment to the purchase price of all paint sold in the District. The paint stewardship assessment is collected by the retailer or distributor and is remitted to PaintCare, Inc., a non-profit 501(c) organization created to operate the paint stewardship program in the District.

Under District law, a sales tax is imposed under D.C. Code § 47-2002(a) upon all vendors for the privilege of making a “retail sale” or “sale at retail” of tangible personal property and certain selected services. For sales tax purposes, “tangible personal property” means corporeal personal property of any nature. D.C. Code § 47-2001(s). The applicable rate of sales tax is imposed on the gross receipts from sales of or charges for such tangible personal property and taxable services. D.C. Code § 47-2002(a). “Gross receipts” means the total amount of the sales prices of the retail sales of vendors, valued in money, whether received in money or otherwise. D.C. Code § 47-2001(h). “Sales price” means the total amount paid by a purchaser to a vendor as

¹ The District of Columbia Architectural Paint Stewardship Program Plan submitted to the District (revised on July 22, 2016) at https://doee.dc.gov/sites/default/files/dc/sites/ddoe/page_content/attachments/PaintCare%20District%20of%20Columbia%202016%20Program%20Plan-July.pdf.

consideration for a retail sale, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

- (A) The cost of the property sold;
- (B) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses;
- (C) The cost of transportation of the property prior to its sale at retail. The total amount of the sales price includes all of the following:
 - (i) Any services that are a part of the sale; and
 - (ii) Any amount for which credit is given to the purchaser by the vendor; or
- (D) Amounts charged for any cover, minimum, entertainment, or other service in hotels, restaurants, cafes, bars, and other establishments where meals, food or drink, or other like tangible personal property is furnished for a consideration.

D.C. Code §47-2001(p)(1).

Pursuant to the Paint Stewardship Act of 2014, the paint stewardship assessment, by definition, means the amount added to the purchase price of paint sold in the District necessary to cover the paint stewardship program's cost of collecting, transporting, and processing used paint District-wide. D.C. Code § 8-233.01. Further, the paint stewardship assessment must be added to the cost of all paint sold to retailers and distributors in the District. D.C. Code Ann. § 8-233.02. Most significantly, retailers and distributors are required to add the assessment to the purchase price of all paint sold in the District. Id.

Accordingly, paint stewardship assessments are included in the sales price of the paint sold to purchasers in the District and are, therefore, included in the gross receipts of the retail sales of vendors which are subject to District sales tax.

Questions should be directed to the Office of the General Counsel at (202) 442-6500.