

RULE

Department of Revenue Policy Services Division

Collection of Tax on Vehicles (LAC 61:I.4307)

Under the authority of R.S. 47:303 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4307 relative to the collection of sales and use tax on the sale of vehicles.

This amendment repeals LAC 61:I.4307.B.4. h.ii.(a) through (d)(ii), which pertain to the Local Sales Tax Recovery Surcharge. This surcharge, provided for under R.S. 47:303(B)(6), allows automobile lessors or renters subject to the Automobile Rental Tax levied by R.S. 47:551 to transfer the cost of local sales and use tax paid on automobiles purchased for lease or rental to their customers by allocating the local taxes to each automobile rental contract. Previously, the Rule accomplished this by allowing dealers to charge \$2 per rental day per contract as reimbursement for the local sales and use tax paid on their rental fleet. Since 1996, automobiles have been excluded from local sales and use tax when purchased for subsequent lease or rental and therefore the Local Sales Tax Recovery Surcharge is obsolete.

The repealed Subclauses have been replaced with LAC 61:I.4307.B.5. This amendment also renumbered the remainder of Subsection B as LAC 61:I.4307.B.6 through 9.b.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4307. Collection

A. - B.4.h.ii. ...

5. R.S. 47:303(B)(6) allows automobile lessors or renters that are subject to the Automobile Rental Tax imposed by R.S. 47:551 to transfer to their customers any local sales or use tax paid on automobiles purchased for their rental fleet. However, since July 1, 1996, R.S. 47:301(10)(a)(iii) has excluded automobiles purchased for subsequent lease or rental from local sales or use tax. Therefore, the transfer of local sales and use tax allowed by R.S. 47:303(B)(6) is obsolete and automobile lease or rental dealers are no longer allowed to collect this surcharge.

6. The sales tax exemption for isolated or occasional sales of tangible personal property provided by R.S. 47:301(10)(c)(ii) does not apply to sales of motor vehicles. R.S. 47:303(4) provides that isolated or occasional sales of vehicles are specifically defined to be sales at retail and subject to the sales tax.

7. The vehicle commissioner may require any dealer engaged in the business of selling motor vehicles, automobiles, motorcycles, trucks, truck-tractors, trailers, semi-trailers, motor buses, house trailers, or any other

vehicle subject to the vehicle registration license tax law or the title registration law to furnish information relative to their sales on any periodic basis designated by the vehicle commissioner. The statements shall include the serial number, motor number, type, year, model of the vehicle sold, the total sales price, any allowance for trade-in, a description of the trade-in, the total cash difference to be paid by the purchaser, and any sales or use taxes to be paid. The vehicle commissioner is also authorized to secure whatever other additional information is necessary for proper administration of this Subsection.

8. R.S. 47:303(A)(3) allows a credit against the use tax for taxes paid to another state provided the other state allows a similar credit for taxes paid to Louisiana.

9. a. Generally, a certificate of title or vehicle registration will not be issued to any purchaser for any vehicle on which the sales taxes have not been paid. However, R.S. 47:303(B)(5) provides an exception for purchasers who paid the proper taxes due to the vehicle dealer at the time the vehicle was purchased, but the dealer did not remit the taxes to the vehicle commissioner. Under this provision, a motor vehicle purchaser who has not been issued a certificate of title or vehicle registration license within six months after the date of the sale, may submit a written request to the secretary showing that:

i. all state and local sales taxes and fees due by the purchaser were paid in good faith to the motor vehicle dealer at the time of purchase;

ii. the motor vehicle dealer has not yet remitted the taxes and fees to the vehicle commissioner;

iii. the motor vehicle dealer has refused or is unable to respond to a written demand by the purchaser for payment of the taxes and fees to the vehicle commissioner; and

iv. the certificate of title or vehicle registration license has not been issued within the six months after the date of the sale.

b. If the purchaser's request appears reasonable and the facts represented are found to be accurate, the secretary may authorize the vehicle commissioner to issue a certificate of title or a vehicle registration license. If the secretary denies the purchaser's request, the denial will be in writing and the purchaser may file an appeal with the Board of Tax Appeals within 60 days after the date of denial by the secretary.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:303 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 20:316 (March 1994), amended by the Department of Revenue, Policy Services Division, LR 29:2116 (October 2003).

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