



**Revenue Information Bulletin**  
**No. 05-009**  
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**Sales Tax**

**Sales Tax Policy and Procedure Memoranda Repealed**

Louisiana Administrative Code 61:III.101, adopted February 20, 2001, provides for the types of policy statements to be issued by the Department of Revenue to provide guidance on tax matters. Policy statements include Revenue Rulings, Private Letter Rulings, Informal Advice, and Revenue Information Bulletins. Previously, Policy and Procedure Memoranda were issued for this purpose. Under LAC 61:III.101, Policy and Procedure Memoranda are defined as internal documents providing administrative or management guidance to employees. Since adoption of the policy statement rule, Policy and Procedure Memoranda previously issued that provide guidance on tax matters have been converted to appropriate policy statements or repealed as needed.

The following Policy and Procedure Memoranda (PPM) are being repealed because of changes in the law, decisions rendered in court cases, or the issuance of other policy statement documents:

**1. Policy and Procedure Memorandum Tax Administration No. 30.13—Definition of Tangible Personal Property as it Relates to Repair Services for Periods Prior to September 1, 1984** (Issued November 18, 1985)

This PPM provided the criteria used to distinguish tangible personal property from immovable property for repair services performed prior to September 1, 1984. Repairs to tangible personal property are subject to sales tax but repairs to immovable property are not although damaged components of immovable property are often removed for repair at an offsite location. The memorandum was adopted to resolve the confusion created by conflicting interpretations of the law. In 1984, R.S. 47:301(14)(g) was amended to provide that items removed from immovable property for repair are considered tangible personal property for sales tax purposes.

Another dispute involved the concept of “other constructions” under Louisiana’s Civil Code. When other constructions are attached to land belonging to another they are considered movable property, which the courts have determined to be equivalent to tangible personal property under sales tax law. In 2004, R.S. 47:301(16) was amended to provide that the term “tangible personal property” shall not include “other constructions” permanently attached to the ground. Since the statutes redefined the appropriate treatment of these transactions, this memorandum is no longer valid.

**2. Policy and Procedure Memorandum Sales Tax Administration No. 70.1—Sales Tax on Contracts Involving Payments for Future Services** (Issued March 1, 1985)

This PPM explained the sales tax treatment of contracts involving payments for future services and was directly associated with membership contracts sold by health and fitness clubs. After the PPM was issued, the legislature enacted R.S. 47:303(F), which describes how health and physical fitness clubs must collect the tax on their memberships.

**3. Policy and Procedure Memorandum Sales Tax Administration No. 70.3—Sales Tax Treatment of Gas Compression Contracts** (Issued November 18, 1985)

This PPM described the treatment of gas compression services for sales tax purposes. On December 1, 2004, the Department of Revenue issued Revenue Ruling Number 04-009, which supersedes this PPM.

**4. Policy and Procedure Memorandum Sales Tax Administration No. 70.6—Treatment of Transactions Under R.S. 47:305.22** (Issued July 1, 1986)

This PPM provided information on the sales tax exemption under R.S. 47:305.22 for self-propelled vehicles removed from inventory to promote a sale. The exemption allowed dealers to withdraw self-propelled vehicles that are not subject to titling under Title 32 of the Louisiana Revised Statutes from their inventory and to lease or rent the vehicle without paying sales tax or accruing use tax on the purchase or cost price. The legislature later amended the definition of “retail sale” under R.S. 47:301(10) to exclude all tangible personal property purchased for lease or rental and the exemption provided by R.S. 47:305.22 became obsolete since self-propelled vehicles are tangible personal property.

**5. Policy and Procedure Memorandum Sales Tax Administration No. 70.8—Taxability of Barges and Vessels Over 50 Ton Load Displacement** (Issued February 16, 1987)

This PPM described the criteria used to determine what constitutes a ship, vessel, or barge under R.S. 47:305.1(A), which provides an exemption for the sale or construction of ships, barges, or vessels of at least 50-ton load displacement. The PPM was issued in response to *Shirley McNamara, Secretary of the Department of Revenue and Taxation, State of Louisiana v. Production Management Industries, Inc.*, No. 304-161, Division "M" (24th Judicial District Court Jan. 13, 1986) in which the court determined that production barges qualified as vessels under R.S. 47:305.1(A) even though these barges were not primarily used to transport people or property. The Department amended LAC 61:I.4403 to provide a definition of “ship, barge, or vessel” that was consistent with this decision.

**6. Policy and Procedure Memorandum Sales Tax Administration No. 70.11—Rental of Hotel Rooms to Permanent Guests** (Issued October 1, 1987)

This PPM provided the criteria used to distinguish between transient and permanent hotel guests. On December 8, 2003, Revenue Ruling 03-007 was issued to succeed PPM 70.11.

**7. Policy and Procedure Memorandum Sales Tax Administration No. 70.13—Demurrage Charges by Compressed Gas Vendors** (Issued February 1, 1989)

This PPM addresses demurrage charges by compressed gas vendors. Demurrage charges were considered a penalty for the undue retention of the tanks used to contain the gas and not a lease or rental of tangible personal property. Revenue Ruling 04-009, issued December 2, 2004, to clarify the sales tax treatment of contracts involving the furnishing of gas compression services, determined that a lease or rental exists whenever a lessee detains the property at a location of their choosing. That opinion conflicts with this PPM.

**8. Policy and Procedure Memorandum Sales Tax Administration No. 70.14—Transportation Charges in the Sales Taxable Base** (Issued August 22, 1991)

This PPM explains which transportation charges must be included in the taxable base for sales tax purposes. This issue was addressed in Revenue Ruling 01-007, issued October 10, 2001 and succeeds PPM 70.14.

**9. Policy and Procedure Memorandum Sales Tax Administration No. 70.16—Sales Tax on Cleaning Services** (Issued September 1, 1991)

This PPM was issued in response to the decision of the court in *Intracoastal Pipe Service Co., Inc. v. Assumption Parish Sale and Use Tax Department, et al*, 558 So.2d 1296 (La. App. 1 Cir. 1990). In this case, the court invalidated LAC 61:4301.C.Sales of Services.g, which at that time provided that all cleaning services were taxable under R.S. 47:301(14)(e). The court ruled that the taxable cleaning services in R.S. 47:301(14)(e) were limited to the cleaning of tangible personal property made of fabric, fur, or similar materials and that the cleaning of pipe is not a taxable service under the statute. The PPM informed taxpayers that the regulation was invalid and that tax should not be collected on cleaning services except in the transactions specifically referenced by the court. In June 2004, the Department amended the regulation to concur with the decision of the court.

**10. Policy and Procedure Memorandum Sales Tax Administration No. 70.17—Taxable Value of “Coke on Catalyst”** (Issued September 6, 1994)

This memorandum addressed the method that would be applied in determining the taxable value of “coke-on-catalyst” for sales and use tax purposes. In *State v. BP Exploration & Oil, Inc.*, Sup. 1997, 96-0716, 96-2218 (La. 1/14/97), 686 So.2d 823, the Louisiana Supreme Court negated this memorandum when it ruled that, although coke-on-catalyst is subject to tax, no use tax was due on the product since it had no reasonable market value.

For additional information, please contact the Taxpayer Services Division of the Department of Revenue at (225) 219-7356.

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