

Revenue Ruling No. 14 - 002
December 17, 2014
Sales Tax

Repair Parts Purchased for Lease or Rental Property

Purpose: The purpose of this Revenue Ruling is to address whether repair parts purchased by lease or rental dealers to repair their lease or rental property is excluded from the payment of sales tax under La. R.S. 47:301(10)(a)(iii).

Analysis/Discussion: La. R.S. 47:301(10)(a)(iii) provides an exclusion from sales tax for purchases made for the purposes of lease or rental. La. R.S. 47:301(10)(a)(iii) provides in pertinent part, “Retail sale” or “sale at retail” for purposes of...state sales and use taxes imposed on transactions involving the lease or rental of tangible personal property...means a sale to a consumer or to any other person for any purpose other than for...lease or rental in an arm’s length transaction in the form of tangible personal property...”

La. R.S. 47:301(7)(a) defines the term “lease or rental,” in pertinent part, as “the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter, for a consideration, without transfer of the title of such property.”

La. R.S. 47:301(16)(a) defines the term “tangible personal property,” in pertinent part as “...personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses.”

LAC 61:I.4303(B)(1)(e) provides that “gross proceeds derived from the lease of tangible personal property within Louisiana are subject to the lease tax...and that...operating expenses and maintenance costs for keeping leased property in repair cannot be deducted from gross proceeds in arriving at the taxable base.”

The exclusion under La. R.S. 47:301(10)(a)(iii) does not extend to the purchase of repair services for tangible personal property that is leased or rented. In *International Paper Company v. East Feliciana School Board*, 2002-0648 (La.App. 1 Cir. 3/28/2003), 850 So.2d 717, writ denied, 847 So.2d 1235, International Paper argued that since the invoices used in billing the repair service it received from WYSECO for its equipment separately stated the taxable labor component from the otherwise nontaxable repair parts, the repair parts were not subject to sales tax.

The Court held that the repair parts were an integral and inseparable component of providing the taxable labor service to International Paper’s equipment and that, as such, WYSECO was not selling repair parts to International Paper, but was consuming them in making the requested repairs. Accordingly, both the repair labor and the repair parts used in making the repairs were subject to sales tax regardless of how the repair parts were billed to International Paper.

La. R.S. 47:301(10)(a)(iii) provides an exclusion from sales tax for items of tangible personal property which are sold for the purpose of lease or rental. Accordingly, repairs parts purchased by a lessor which become part of the leased or rented property are excluded from lease tax. Qualifying lessors may present to their vendors a Louisiana Exemption Certificate (R-1344)

covering purchases of tangible personal property for lease or rent. However, such items may not be deducted by a lessor from the gross proceeds of the lease. Further, pursuant to *International Paper Company v. East Feliciana School Board*, 2002-0648 (La.App. 1 Cir. 3/28/2003), 850 So.2d 717, writ denied, 847 So.2d 1235, when such repair parts are consumed in the service of performing a taxable repair to a lessor's lease or rental property, both the repair parts and the labor are subject to sales tax regardless of how such items are invoiced. The purchase of repair parts for lease or rental property by a lessee is subject to sales tax regardless of whether the item(s) are purchased separately or consumed in the service of rendering a taxable repair to the lease or rental property. Below are several examples of how the exclusion for repair parts would apply.

Scenario 1

A lessor purchases a repair part which will become a part of an item of tangible personal property which is held for lease or rental by the lessor. The purchase of the repair part does not include the purchase of taxable labor charges for repairs to the lease or rental property. Instead, the lessor plans to perform the repair him/herself. Such a transaction would qualify as a sale for lease or rental under La. R.S. 47:301(10)(a)(iii) and would not be subject to sales tax. However, any charges for repair or maintenance which are passed on to the lessee may not be excluded from the gross proceeds of the lease and are subject to lease tax.

Scenario 2

A lessee purchases a repair part which will become a part of an item of tangible personal property it is renting or leasing from the lessor. Here, the lessee is not purchasing the repair part for subsequent "lease or rental in an arm's length transaction" but for his/her own personal use. As such, the transaction would not qualify as a sale for lease or rental under La. R.S. 47:301(10)(a)(iii) and would be subject to sales tax.

Scenario 3

A lessor of tangible personal property brings the lease or rental property to a repair shop to be serviced. The service of repairing the lease or rental property requires a replacement part. In such a scenario, the repair part is an integral and inseparable component of providing the taxable labor to perform the repair. The repair shop is deemed to have consumed any repair parts used in rendering the taxable labor component of servicing the lease or rental property. Regardless of how the repair parts and labor are billed by the repair shop, both the repairs parts and the labor for repair to the lease or rental property will be subject to sales tax as neither would qualify as a sale for lease or rental under La. R.S. 47:301(10)(a)(iii).

Scenario 4

A lessee of tangible personal property brings the lease or rental property to a repair shop to be serviced. The service of repairing the lease or rental property requires a replacement part. As discussed in Scenario 3, the replacement part is deemed to have been consumed by the repair shop in providing the taxable labor for repairing the lease or rental equipment. Further, as discussed in Scenario 2, even were the lessee able to purchase the repair part separate and apart from the taxable labor for repair of the lease or rental equipment, which he/she can't, the lessee

would not be purchasing the repair part for subsequent “lease or rental in an arm’s length transaction”. As such, for the foregoing reasons, the transaction will not qualify as a sale for lease or rental under La. R.S. 47:301(10)(a)(iii) and both the repair parts and the labor for the repair to the lease or rental property will be subject to sales tax.

Conclusion:

Repair parts purchased separate and apart from taxable repair services for tangible personal property which is leased or rented by a lessor of such property are excluded from sales tax. However, such items may not be excluded from the gross proceeds of the lease. Repair parts for lease or rental property consumed in the service of a taxable repair or otherwise purchased by a lessee of such lease or rental property are subject to sales tax.

Tim Barfield

Secretary

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