



**Revenue Ruling
No. 02- 004
Sales and Use Tax
Effective November 28, 2001**

Sales and Use Tax Is Payable on Purchases of Fuel, Repair Services, Supplies, and Laundry Services for Stevedoring Vessels Operating in Louisiana Waters; Exemption Under La. R.S. 47:305.1(B) Not Applicable

The purpose of this Revenue Ruling is to announce a change in the department's position regarding the taxability of purchases of maintenance and operational materials and supplies; repair materials, supplies, and services; and laundry services for stevedoring vessels that operate in Louisiana waters, in accord with the Louisiana Supreme Court decision in *Archer Daniels Midland Company et al. v. The Parish School Board of the Parish of St. Charles*, 01-C-0511 (La. Sup. Ct. 11/28/01). Effective November 28, 2001, the date of this decision, all such purchases will be subject to state sales or use tax.

This judicial decision dealt with the applicability of a local sales tax exemption to Archer Daniels Midland's purchases for its stevedoring vessels. This local exemption ordinance was modeled after Louisiana Revised Statutes, Title 47, Section 305.1(B), which reads as follows:

The taxes imposed by R.S. 47:302 and R.S. 47:321 shall not apply to materials and supplies purchased by the owners or operators of ships or vessels operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon the ship or vessel for use or consumption in the maintenance and operation thereof; nor to repair services performed upon ships or vessels operating exclusively in foreign or interstate coastwise commerce; nor to the materials and supplies used in such repairs where such materials and supplies enter into and become a component part of such ships or vessels; nor to laundry services performed for the owners or operators of such ships or vessels operating exclusively in foreign or interstate coastwise commerce, where the laundered articles are to be used in the course of the operation of such ships or vessels.

In the cases before the Supreme Court, Archer Daniels Midland tugboats were used within Louisiana waters to move barges loaded with grain. The barges arrived from other states and were destined for points outside of the state of Louisiana. Taxpayers' vessels never left Louisiana waters while performing their services. The Louisiana Supreme Court held that whether vessels were "operating exclusively in interstate or foreign commerce" so as to be entitled to the above exemption, was dictated by the movement of the stevedoring vessels themselves, rather than by the movement of the barges or cargo handled by the stevedoring vessels. Because the stevedoring vessels in question operated wholly within Louisiana waters, the Supreme Court held that the vessels were not entitled to the exemption. In so holding, the Louisiana Supreme Court overruled the decision of the Louisiana First Circuit Court

A Revenue Ruling is written to provide guidance to the public and to Department of Revenue employees. It is issued under Section 61:III.101(C) of the Louisiana Administrative Code to apply principles of law to a specific set of facts. A Revenue Ruling does not have the force and effect of law and is not binding on the public. It is a statement of the department's position and is binding on the department until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.

of Appeal in *Cooper Stevedoring Co., Inc. v. Secretary of the Louisiana Dept. of Revenue and Taxation*, 555 So. 2d 32 (La. App. 1st Cir. 1989).

For periods prior to November 28, 2001, the department will abide by the First Circuit Court of Appeal decision in *Cooper Stevedoring* with respect to eligible purchases for those stevedoring vessels handling exclusively interstate cargo, even if the stevedoring vessels operated exclusively in Louisiana waters. However, the department will not for any period of time abide by the First Circuit Court of Appeal decision in *Cooper Stevedoring* with respect to fleeting vessels or to any other type of locally used cargo-handling vessels, other than stevedoring vessels.

Effective November 28, 2001, the Supreme Court decision in *Archer Daniels Midland* will be applied to all purchases for stevedoring, cargo handling or fleeting vessels that operate in Louisiana waters. Such purchases will not be eligible for state sales tax exemption under La. R.S. 47:305.1(B). All purchases for such vessels, including fuel, supplies, repair services, and repair materials, will be subject to the sales or use tax.

Questions concerning this matter can be directed to the Policy Services Division at (225) 219-2780.

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