



Revenue Ruling No. 03- 001
January 16, 2003
Sales and Use Tax

Exclusion for Digital Television Conversion Equipment

This Revenue Ruling discusses the exclusion provided by Act 61 of the 2002 Regular Legislative Session for the *first purchase* of *digital television conversion equipment*. The Department of Revenue amended Louisiana Administrative Code 61:I.4301 to administer the exclusion and instruct taxpayers in its application. This revenue ruling supplements that regulation to provide additional guidance for taxpayers.

Issues

Louisiana Revised Statute 47:301(16)(i), enacted by Act 61 of the 2002 Regular Legislative Session, excludes from the definition of *tangible personal property* the *first purchase* of *digital television conversion equipment* and *digital radio conversion equipment* by a taxpayer that holds a Federal Communications License issued pursuant to 47 CFR Part 73. The exclusion applies to state sales and use tax and local sales and use tax for those local political subdivisions that elect to provide this exemption. However, the exclusion will not apply to radio equipment until the Federal Communications Commission issues an order mandating radio stations to convert to digital broadcasting. Since this has not occurred, the exclusion provided by Act 61 for radio stations has not taken effect and only television broadcast stations currently qualify for this exclusion.

Revised Statute 47:301(16)(i)(i) lists items that qualify as *digital television conversion equipment*. Some categories are described in the plural and some in the singular. Because the Act excludes the *first purchase* of “each enumerated item,” it was unclear if the exclusion applied to a single item even for the plural categories. The Attorney General’s Office issued Opinion Number 02-0362 stating that the *first purchase* of qualifying equipment applies to the first individual item for categories listed in the singular and multiple items for categories listed in the plural provided they are ordered at the same time.

Because television stations throughout the United States are upgrading to digital broadcasting, it is anticipated that many items purchased under this exclusion will not be available when initially ordered. Therefore, procedures for handling back ordered items are included in this revenue ruling. Also, Act 61 includes a retroactive provision that allows *digital television conversion equipment* purchased after January 1, 1999, and before June 25, 2002, to be eligible for a sales or use tax credit. To administer this credit provision, guidelines for claiming it are included in this ruling.

General Guidelines

The following guidelines apply to the *first purchase* of *digital television conversion equipment*:

- The first purchase order issued for *digital television conversion equipment* from each category listed in R.S. 47:301(16)(i) is the *first purchase*. Subsequent purchase orders for *digital television conversion equipment* from that category do not qualify for exclusion and are subject to sales and use tax.
- For categories that are described in the singular, the purchase of only one piece of equipment qualifies for exclusion. For categories that are described in the plural, purchases of multiple pieces of equipment qualify for exclusion provided all of the pieces are listed on the same purchase order.
- Once a licensee has designated a purchase as the *first purchase of digital television conversion equipment* from a particular category, that licensee may not claim credit or exclusion for any other purchases for that category.
- Multiple purchase orders issued on the same date to different vendors for *digital television conversion equipment* in the same category are considered one purchase for purposes of this exclusion. This is valid only for categories of qualifying equipment listed in the plural in R.S. 47:301(16)(i).
- Back orders due to circumstances beyond the control of the customer are part of the *first purchase* when made on the first purchase order.
- Purchase orders issued for the *first purchase of digital television conversion equipment* must reference the category of equipment being purchased consistent with the terms used in R.S. 47:301(16)(i)(i).
- If a licensee elects to claim a tax credit for the purchase of *digital television conversion equipment* made before June 25, 2002, that will be considered their *first purchase* and exclusion may not be claimed on future purchases. However, license holders are not required to claim purchases made prior to June 25, 2002, as *first purchases*.

Registration

License holders must file form DCE-AP (*Application for Sales Tax Exemptions/Credits on Purchases of Digital Television or Radio Conversion Equipment*) with the Department of Revenue Taxpayer Services Division to make tax-free purchases or claim credit for the sales tax paid on prior purchases of *digital television conversion equipment*. Once approved, license holders will be issued form DCE-EX (*Sales Tax Exemption Certificate for Purchases of Digital Television Conversion Equipment and Digital Radio Conversion Equipment*) allowing them to make *first purchases* of qualifying digital equipment free from state sales and use tax. The certificate must be renewed annually on or before September 1st. The certificate will be renewed when licensees file an annual report of their purchases on form DCE-11 (see Annual Reports below). The exemption certificate will be cancelled after *first purchases* have been claimed for all categories of qualifying equipment. Licensees should contact their central parish tax authority for information about the availability of this exemption at the local level.

Credit for Prior Purchases

License holders may request a credit for the state sales and use tax paid on *digital television conversion equipment* purchased after January 1, 1999, and before June 25, 2002, by submitting form DCE-11 (*First Purchase of Digital Television Conversion Equipment Claimed for*

Exclusion under R.S. 47:301(16)(i) with their applications. Copies of purchase orders, invoices, and any other documentation needed to confirm the amount of taxes paid to vendors must be included with form DCE-11.

After the credit has been approved, license holders will be notified of the total amount of state sales tax credit available and will be registered for state sale tax and allowed to apply the credit monthly against the state sales and use tax paid on purchases to their vendors. To claim the credit, license holders must file a sales tax return listing the amount of tax paid to vendors on line 12 of the state sales tax return, the line that is usually reserved for advance tax credit. Credit may not be claimed on exempt *first purchases of digital television conversion equipment*. If a license holder has made any purchases on which sales or use tax is due and has not been paid, these purchases should be reported on line two of the state sales tax return.

If the use tax reported on line two is less than the sales tax payments credited on line 12, the credit balance will be refunded. License holders must maintain a schedule of the monthly sales tax purchases on which the credit has been claimed on line 12 for verification. The tax payments credited on line 12 will be deducted from the license holder's total sales tax credit due from purchases made after January 1, 1999, and before June 25, 2002 and when the total credit has been fully used, the taxpayer's sales tax account may be closed.

A credit for local sales and use tax is not available in political subdivisions unless the political subdivision adopts the provisions of Act 61 for its local taxes. License holders should contact local authorities to inquire if they have adopted the provision and receive any details about obtaining a credit.

Annual Reports

For fiscal year July 1, 2002, through June 30, 2003, and each subsequent fiscal year, license holders must file Form DCE-11 (*First Purchase of Digital Television Conversion Equipment Claimed for Exclusion under R.S. 47:301(16)(i)*) with copies of purchase orders, invoices, and other documentation detailing the licensee's *first purchases of digital television conversion equipment* made during that year. This report must be filed annually for the July 1 through June 30 fiscal year and show the cost of digital equipment purchases for which exclusion has been claimed for each category of digital television conversion equipment. The report must be mailed to the Department's Taxpayer Services Division at Post Office Box 201, Baton Rouge, Louisiana 70802 no later than September 1st following the fiscal year. The licensee's exemption certificate, Form DCE-EX, will be renewed after the annual report is filed.

For more information regarding this topic, taxpayers should contact the Taxpayer Services Division at (225) 219-7356.

Cynthia Bridges
Secretary

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