Revenue Ruling
No. 04- 005
August 16, 2004
Sales and Use Tax

Definition of "Interstate Commerce" As Used in La. Rev. Stat. Ann. §47:305.50(A)

The purpose of this Revenue Ruling is to discuss the definition of the term "interstate commerce" as that term is used in La. Rev. Stat. Ann. §47:305.50(A), and to apply the term to various scenarios.

Facts

Typical fact patterns concerning the application of the term "interstate commerce" within the exemption provided in §47:305.50(A) include:

1. A cargo-carrying container, which can be easily interchanged between trucks, trains, and ships without rehandling the contents, is filled with goods at a point outside of Louisiana and shipped to a Louisiana port. A Louisiana truck engaged in hauling cargo-carrying containers picks up the container at the Louisiana port and delivers it to a location in Louisiana.
2. A Louisiana truck transports equipment originating in Louisiana to a Louisiana port. The goods are subsequently transferred to a ship for delivery in federal waters past the territorial limits of Louisiana.
3. Liquid chemicals are loaded onto a barge at a point outside of the state of Louisiana. The product arrives at a port within Louisiana and is transferred to a special insulated transportation vessel. A Louisiana truck subsequently picks up the vessel containing the liquid chemicals and delivers the product to a site within Louisiana.
4. A Louisiana truck picks up a shipment of gravel severed from a Louisiana source and delivers it to a Louisiana site. Although the truck travels on a section of an interstate thoroughfare, it never leaves the physical boundaries of Louisiana.

Applicable Law

Section §47:305.50(A) provides a sales and use tax exemption for trucks with a gross weight of twenty-six thousand pounds or more and to trailers used with qualifying trucks if the truck and trailer are used at least eighty percent of the time in interstate commerce and whose activities are subject to the jurisdiction of the United States Department of Transportation.

The United States Department of Transportation defines interstate commerce as "trade, traffic, or transportation in the United States: 1) between a place in a state and a place outside of such state (including a place outside of the United States); 2) between two places in a state through another state or in a place outside of the United States; or 3) between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States."[1]

Interpretation of the term "Interstate Commerce"

"Interstate commerce," as this term is utilized in §47:305.50(A), and as further defined by the United States Department of Transportation, includes the movement of goods from a place outside of the state of Louisiana to a place within the state of Louisiana, or vice versa. The movement of goods is also in interstate commerce if the goods are passing through the state and the goods have either originated outside of the state or have a final destination outside of the state. "Interstate commerce" ends when the transportation of the goods is broken and the property has come to rest in the state.

Goods have not come to rest in the state when the delay in the continuity of the journey is necessary to provide for a change in the mode of transportation. In example one, the containers may sit in a Louisiana port awaiting transfer to a truck or train. The delay of the goods at the port is a necessary delay in the interstate movement of the goods. Similarly, in example two, the goods transported from a point within Louisiana to a Louisiana port for subsequent shipment to federal waters have also not come to rest within the state. The interruption of the journey that occurs at the port is necessary in order to deliver the equipment to its ultimate destination outside of the territorial limits of Louisiana. Example three also illustrates when the stream of commerce continues despite the fact that the movement of goods is temporarily disrupted; the liquid must undergo an "inter-modal" change in its movement, as it is necessary to convert from one mode of transportation to another in order to conclude the continuous stream of interstate commerce and deliver the product to its ultimate destination.

In contrast, when the property becomes part of inventory of a distributor or retailer, the break in transit is not for the purpose of furthering the movement of goods within interstate commerce. Instead, the property has come to rest in this state and any subsequent transportation within the state is intrastate commerce.

Intrastate commerce also includes shipments from one point within the state to another point within the state when the goods do not leave the physical boundaries of Louisiana. In example four, the gravel severed from Louisiana ground and transported to another point within Louisiana along a section of an interstate thoroughfare that passes solely within Louisiana is in intrastate commerce. The goods do not leave the state and even though the truck may pass on an interstate roadway, the property never enters the stream of interstate commerce.

Conclusion

In summary, "interstate commerce," as this term is used in §47:305.50(A), means the movement of goods from a place outside of the state of Louisiana to a place within the state of Louisiana (or vice versa), or through the state of Louisiana when the origination point or ending point of the shipment is from or to a place outside of Louisiana. "Interstate commerce" includes goods that remain within the stream of commerce even if the shipment is temporarily delayed in order to change the mode of transportation. The interstate stream of commerce ends, however, when

[1] 49 C.F.R. § 390.5 (2003).

goods come to rest in the state, such as when the goods become part of inventory. “Interstate commerce” never begins when goods remain solely within the state and never pass through a point outside of the state.

The above determinations of what constitutes interstate mileage apply only for purposes of the sales tax exemption under §47:305.50(A), and are not applicable to the determination of interstate mileage under any other tax statute.

Owners or operators of trucks and trailers for which exemption is claimed under §47:305.50(A) must maintain contemporaneous records to document each vehicle’s percentage of commercial interstate mileage. Truck and trailer transportation that is included in the interstate mileage factor, solely on the basis of interstate movement of the goods by other transporters, must be documented by origin and destination information for that property. Failure to maintain contemporaneous records may cause the exemption to be denied.

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