



**Revenue Ruling
No. 04-006
September 14, 2004**

**Sales and Use Tax
Property Taxes invoiced by Lessors to Lessees**

The purpose of this Revenue Ruling is to discuss when the sales tax imposed on leases or rentals of tangible personal property is also due on the payments that lessees of tangible personal property are required to make to their lessors for reimbursement of lessors' property tax liabilities on leased assets.

Facts

The owner and lessor of an item of tangible personal property pays to the parish sheriff the annual property tax assessment on his leased or rented tangible personal property. Thereafter, the lessor collects from his lessee, in a lump sum, an amount to reimburse the property taxes attributable to the assets that were in the lessee's service. The reimbursement of the property taxes is provided for in the lease agreement between the two parties.

Issue

Is the state sales tax due on the amount that the lessor charges to the lessee for reimbursement of the property taxes?

The Law

La. Rev. Stat. Ann. § 47:302(B), 321(B), and 331(B) and the sales tax ordinance of the Louisiana Tourism Promotion District levy the sales tax on "the gross proceeds derived from the lease or rental of tangible personal property ... where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to the said business" or on "the monthly lease or rental price paid by lessee or rentee, or contracted or agreed to be paid by lessee or rentee to the owner of the tangible personal property."

Analysis

Lease and rental assets are subject to property taxes in many jurisdictions throughout the state and the amount of property and other taxes levied on businesses are undoubtedly considered by vendors in setting the sales, rental, and lease prices of the goods and services that they provide. The sales tax law does not allow an exclusion from the taxable base for any amounts that might be included within sales, rental, and lease prices to compensate lessors for their payment of taxes that are levied directly on their businesses. If a leasing business and its customer agree, as an alternative to an increase in periodic lease or rental payments, to a lump-sum reimbursement to lessors for the amount of taxes paid on assets that are on a long-term or extended lease or rental to customers, that lump-sum payment is taxable the same as the other payments for the lease or rental of property.

Ruling

The amount that a lessor charges for reimbursement of property taxes is subject to state sales tax if it is determined that the amount is part of the “gross proceeds” from lease or rental or part of the price “contracted or agreed to be paid” by the lessee of the equipment. Under the facts provided, the “gross proceeds” from lease or rental and the price “contracted or agreed to be paid” by the lessee to the lessor each include the total amounts invoiced by and paid to the lessor, including any amounts for property taxes that were directly payable to the levying governmental authorities by the owner-lessor of the property.

Summary

Lessees are liable for the payment of the state sales tax on the full amount “contracted or agreed to be paid” to lessors for the lease or rental of tangible personal property, including the amounts designated in the lease and rental charges as reimbursement of the property taxes that lessors have paid on the leased tangible personal property.

Questions or comments about this matter can be directed to the department’s Policy Services Division at (225) 219-2780.

Raymond E. Tangney
Senior Policy Consultant

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