



**Statement of Acquiescence**  
**No. 04-002**  
**September 2, 2004**  
**Individual and Corporation Income Tax and Corporation Franchise Tax**

**Southlake Development Company v. Secretary of the Department of Revenue and Taxation, 745 So.2d 203 (La. App. 1<sup>st</sup> Cir. 1999)**

Purpose: This Statement of Acquiescence addresses the definition of inventory for purposes of the inventory tax credit.

Authority: La. R. S. 47:6006

La. R. S. 47: 1511

LAC 61:V.1701

Analysis/Discussion: La. R.S. 47:6006 provides guidance as to whom is eligible for the inventory tax credit. However, it does not define the term “inventory”.

The issue in *Southlake Development Company v. Secretary of the Department of Revenue and Taxation*, 745 So.2d 203 (La App. 1<sup>st</sup> Cir. 1999) is whether or not immovable property held by a group of real estate developers for resale constitutes inventory under La. R.S. 47:6006. A group of real estate developers purchased and subdivided parcels of real estate into lots for resale to builders and individuals. Relying on federal tax law the developers viewed the real estate held for resale as inventory and claimed the inventory tax credit for ad valorem taxes paid.

The Department took the position that real estate is not inventory as used in La. R.S. 47:6006 and that real estate developers are not manufacturers, distributors, or retailers pursuant to the statute. Both the Board of Tax Appeals and the 22<sup>nd</sup> Judicial District Court ruled in favor of the taxpayer. The First Circuit Court of Appeals found that the Board of Tax Appeals was legally wrong in its findings and reversed the judgment of the trial court.

Because La.R.S. 47:6006 does not define inventory, the court looked to the Louisiana Administrative Code for its regulations on ad valorem taxes to make its determination that inventory encompasses only personal property and does not include immovable property. LAC 61:V:1701 defines inventory as follows:

A Statement of Acquiescence or Nonacquiescence (SA/SNA) is issued under the authority of LAC 61:III.101(C). It is a written statement to provide guidance to the public and to Department of Revenue employees. An SA/SNA is a written statement issued to announce the Department’s acceptance or rejection of specific unfavorable court or administrative decisions. If a decision covers several disputed issues, and SA/SNA may apply to just one issue, or more, as specified. An SA/SNA is not binding on the public, but is binding on the Department unless superceded by a later SA/SNA, declaratory ruling, rule, statute, or court case.

The term “inventory” is defined as the aggregate of those items of tangible personal property, which are:

1. held for sale in the ordinary course of business;
2. are currently in the process of production for subsequent sale;
3. are ultimately to be consumed in the production of goods and services to be available for sale; or
4. are utilized in marketing or distribution activities.

The term “inventory” embraces the following:

1. goods awaiting sale—goods or commodities awaiting sale include, but, are not limited to: the merchandise of a retail or wholesale concern; the finished goods of a manufacturer; commodities from farms, mines and quarries; goods which are used or trade-in merchandise and by-products of a manufacturer.
2. work in process—goods or commodities which are in the course of production, i.e., work in process.
3. raw materials and supplies—goods which will be consumed or used in either the Louisiana manufacturing process or in any other manner by the taxpayer, directly or indirectly. This category would include, but not be limited to: raw materials, supplies, repair parts, expendable tools and samples.

Conclusion: While the court in *Southlake* addresses only one type of inventory item, it provides the definition of inventory to be that as defined in LAC 61:V:1701. Therefore, ad valorem taxes paid by manufacturers, distributors, or retailers on inventory items as defined in LAC 61:V:1701 are eligible for the tax credit provided in La. R. S. 47:6006.

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