

**Revenue Ruling
No. 02- 003
March 11, 2002
Sales and Use Tax**

Magnetic Resonance Imaging Scanners

The purpose of this Revenue Ruling is to discuss the classification, for state sales and use tax purposes, of magnetic resonance imaging (MRI) scanners as movable or immovable property.

Classification of Property as Movable or Immovable under the Louisiana Civil Code

Louisiana sales and use taxes are imposed on transfers of tangible personal property for consideration. Determining whether property is tangible personal property requires an understanding of the classification of property provided in the Louisiana Civil Code. The Code divides property into movables and immovables. Items that are not specifically described as immovable property in the Code are classified as movable.¹ The Louisiana Supreme Court equated the term “tangible personal property” to the Civil Code concept of “corporeal movable property” in *South Central Bell v. Barthelemy*, 94-C-0499 (La. 10/17/94), 643 So.2d 1240. Therefore, if an item meets the definition of corporeal movable property (tangible personal property) and is transferred for a consideration, then the sales, leases, rentals, and repairs of those items are taxable. Conversely, sales, leases, rentals, and repairs of immovable property, such as land or buildings; movable things incorporated into immovables; and component parts of buildings or other constructions, are not taxable.²

Correctly classifying property as movable or immovable is a fact-intensive analysis. Each item of property must be evaluated separately and categorized on its own facts and circumstances and in reference to past court decisions.

The Louisiana Civil Code creates several categories of immovable property.

1. Tracts of land, such as portions of the surface of the earth. (Civil Code Article 462)
2. Component parts of a tract of land when they belong to the owner of the ground, such as buildings, other constructions permanently attached to the ground, standing timber, and unharvested crops or ungathered fruits of trees. (Civil Code Article 463)
3. Buildings and standing timber when they belong to a person other than the owner of the ground. (Civil Code Article 464)
4. Component Parts
 - a. Movables that have been fully *incorporated* (merged so as to lose their identity) with a tract of land, a building, or other construction belonging to the owner of the ground and that have become integral parts of the immovable. An example is building materials. (Civil Code Article 465)

¹ Civil Code Article 475

² However, prior to incorporation into an immovable or becoming a component part of the building, sales transactions involving the movable remain subject to the sales tax. It is only after incorporation or becoming a component part of an immovable that the movable takes on the status of immovable property.

A Revenue Ruling is issued under the authority of LAC 61III.101(C). A Revenue Ruling is written to provide guidance to the public and to Department of Revenue employees. It is a written statement issued 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.

- b. Movable that have been *permanently attached* to a building or other construction, such as plumbing, heating, cooling, electrical and other installations (Civil Code Article 466, first paragraph)
 - c. Movable that have been *permanently attached* to a building or other construction so that the thing cannot be removed without substantially damaging it or the immovable to which it is attached (Civil Code Article 466, second paragraph);
5. Machinery, appliances, and equipment that have been declared immovable by the owner in the parish conveyance records (Civil Code Article 467).

Application of the Civil Code to MRI Scanners³

MRI is an imaging technique used primarily in medical settings to produce high quality images of the inside of the human body. MRI scanners are usually located within a hospital or medical facility in an imaging room that has been designed and built especially to house the equipment. These rooms are typically lined with lead or concrete. The MRI scanner can be a large tube or cylinder or can be of an open or “C” shaped design. However, some MRI scanners are designed to be transported to different locations.

The major issue in classifying MRI scanners as movable or immovable property is whether or not these machines become component parts of a building or other construction through permanent attachment. Permanent attachment, as described in Civil Code Article 466, can occur in one of two methods.

1. The first method of attachment involves the types of items illustrated in the first paragraph of Civil Code Article 466 (plumbing, heating, cooling, electrical and other installations). These items are deemed permanently attached as a matter of law, and facility of removal is immaterial. However, the language “other installations” indicates that the categories specifically listed in the first paragraph are not exclusive and could be expanded by analogy.

In the case of ambiguity over whether or not a thing is included in these categories of the Article’s first paragraph, the “societal expectations” test should be consulted⁴. Louisiana courts have used this “prevailing societal standards” test for over 20 years in helping to determine if an item is a component of an immovable. This test, as it was first enunciated in *Lafleur v. Foret*, 213 So.2d 141 (La. App.3d Cir. 1968), has two parts: (i) the contemporary view of what is a component under current construction practices and (ii) the degree of connection or attachment to a building.

Under the first part of the *Lafleur* test, the inquiry revolves around whether or not society considers the item to be included in the categories under paragraph one of Civil Code

³ This Revenue Ruling specifically addresses the MRI scanner, not the equipment associated with the operation of the MRI Scanner. Accessories needed to operate the scanner, such as computer equipment, need to be analyzed independently, depending on their degree of attachment to the MRI Scanner or the hospital structure.

⁴ In a June 1999 decision by the U.S. 5th Circuit Court of Appeals, *The Prytania Park Hotel v. General Star Indemnity Co.*, the federal court criticized the “societal expectations” test in a footnote, calling the pedigree of the “societal expectations” test “murky at best.” Several law review articles following the *Prytania* decision defended the legal and historical validity of the “societal expectations” test, and the Louisiana Supreme Court upheld the test’s validity in the April 2001 decision, *Showboat Star Partnership v. Slaughter*. The Louisiana Supreme Court’s statements are important because that court is the final authority on the proper interpretation of Louisiana law.

Article 466. For example, as discussed in *Equibank v. I.R.S.*, 749 F.2d 1176 (5th Cir. 1985), when determining if a chandelier is a component of a house, the question would be: What does society expect to see when entering a house? A hole in the ceiling with loose wires? Or, is it expected that a fixture will illuminate when turning on the light switch? Under the second part of the *Lafleur* test, degree of attachment would be considered, with an electrical device that is hard-wired into the house meeting the requisite attachment while an appliance that is merely plugged into the wall not meeting the requisite level of connection.

2. The second method of permanent attachment, “substantial damage,” involves those items not already addressed by the analysis under the first paragraph. If these objects cannot be removed without substantially damaging the items or the items to which they are attached, then they are considered component parts of an immovable. However, the attachment does not need to be for perpetuity, nor does the attachment need to be made through the use of cement or permanent fasteners. What is required is that, if the items are damaged, that this damage is “substantial” such that the items involved are injured in some way. The second paragraph of Civil Code Article 466 provides an objective test; the intent of the parties to the transaction is not determinative of movability or immovability of the attached item.

Determining if an MRI is a component part through permanent attachment to an immovable can only be answered through an analysis of all facts surrounding the attachment. Thus, one universal rule on the classification of MRI scanners is not possible. Instead, guidelines based on the degree to which the unit is attached or placed in the building in which it is housed can be provided to determine if the MRI is movable or immovable.

MRI Scanners Housed in Imaging Rooms

MRI Scanners installed in imaging rooms are surrounded by magnetic shields that prevent the magnetic field from extending too far into the hospital or the area outside of the hospital. In newer units, the magnet shield is an integral part of the scanner. The imaging rooms are usually surrounded by radio frequencies (RF) shields. These shields prevent the high power RF pulses from radiating out through the hospital and prevent RF signals from television and radio stations from being detected by the imager. The MRI scanners are operated from a computer console that is located outside of the imaging room.

Under the analysis of paragraph one of Civil Code Article 466, the inquiry is not on facility of removal but whether or not the MRI scanner fits one of the categories of plumbing, heating, cooling, or electrical or is sufficiently analogous to these categories to fit the classification of “other installations.” MRI scanners installed in imaging rooms would be wired into the electrical system of the hospital and would fit the “electrical” category. The wiring of the scanner is often concealed underneath raised platforms upon which the scanner rests or runs through channels in the floor or ceiling.

There is also ample room to argue that the MRI scanners meet the “other installations” test. This is because in a hospital or medical clinic environment, the presence of medical equipment such as MRI scanners, heart catheter labs, or nuclear cameras, are sufficiently similar to electrical installations so as to justify the acknowledgement of an industry standard. Just as plumbing, heating, cooling, and electrical are universally considered to be items that should pass with a building, so could these standard medical items be considered component parts of the hospital that houses them.

Any ambiguity over whether the MRI scanners are properly classified under “electrical” or “other installations” should be resolved through resorting to the “societal expectations” test. Because the imaging rooms involved are designed and constructed for this special equipment, one would not expect to walk into the imaging room and find a large empty space where the MRI scanners are designed to be housed. One would not expect to walk into the computer console area and not have an MRI scanner available to perform magnetic resonance imaging.

The second part to the societal expectations test involves an analysis of the degree of connection or attachment to a building. Sometimes MRI scanners are arranged for eventual replacement as technology advances; for example, some imaging rooms may be housed in special wings of hospitals with removable roofs. This design feature does not negate the fact that the MRI unit is wired into the hospital electrical system and attached to the structure in a secure manner to shield outside sources from the powerful magnetic fields emitted from the scanners. Thus, the degree of connection is more analogous to a chandelier that is wired into a home’s electrical system and less analogous to an appliance that is merely plugged into the wall.

Since the first paragraph of Civil Code Article 466 is satisfied, the second paragraph of Civil Code Article 466 need not be consulted. However, the second paragraph would also be satisfied because the MRI scanner or the hospital would be “substantially damaged” if it were removed. The imaging rooms are often shielded by several inches of steel and copper and magnets and the unit would have to be recalibrated if the scanner were moved or replaced. Additionally, the presence of a removable roof would not alone prove “substantial” damage to the unit or the building. Possible damage to the floors and walls of the hospital upon replacing the MRI unit would have to be considered, in addition to analyzing how the MRI unit itself might be damaged upon removal.

In conclusion, MRI scanners housed in specially designed imaging rooms that have been wired into the hospital electrical system would meet the requirements under the first paragraph of Civil Code Article 466. Even under the more stringent test of “substantial damage” provided in paragraph two of Civil Code Article 466, a MRI unit removed from a hospital building would likely meet this test, as well. Thus, these scanners have become component parts of the hospital or equipment through permanent attachment.

MRI Scanners That Can Be Transferred To Different Locations

Technological advances have led to two types of MRI scanners that have significantly different degrees of attachment to a building than the traditional MRI scanner that is housed in an imaging room. Some MRI scanners have been developed that are specifically designed to be mobile and transported to different locations on the bed of an enclosed trailer. Similarly, smaller scanners, which scan individual body parts, such as arms, feet, or knees, have been developed. These new designs may allow the scanner to be moved around a room or from room to room. These scanners would no longer fit the “electrical” category or “other installation” of the first paragraph of Civil Code Article 466 because the units are not connected to an immovable or wired into the electrical system and instead are more analogous to an electrical appliance that can be plugged into the wall. This leads to a different analysis under paragraph one of Civil Code Article 466. Under these standards, these smaller and portable MRI units would be movable property for sales tax purposes.

Sales Tax Consequences

The traditional MRI scanner that features a central bore or a more open, or “C” shaped, design and that has been installed in an imaging room will be considered immovable for sales tax purposes. In such cases, sales tax will not be collectible by the sellers, lessor, and repair dealers on sales and

leases of or on repair services rendered to the unit. Sellers, lessors, and repair dealers will owe the state sales or use tax on their acquisition prices of the units that they sell or lease, and on the repair parts that they use in making repairs to the units.

Conversely, the state sales tax is collectible by dealers who sell, lease, rent, or provide repair services to portable or repositionable MRI units. Dealers will be able to acquire such units and associated repair parts tax-free as tangible personal property for resale.

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