

**Revenue Ruling
No. 13-003
February 27, 2013
Sales Tax**

Parts and Materials Purchased for Repair or Maintenance of Lease or Rental Equipment

Purpose: The purpose of this Revenue Ruling is to address whether parts and materials purchased by equipment lease or rental dealers to repair and maintain their lease or rental equipment is excluded from the payment of sales tax under La. R.S. 47:301(10)(a)(iii).

Analysis/Discussion: La. R.S. 47:301(10)(a)(iii) provides an exclusion from sales tax for purchases made for the purposes of lease or rental. La. R.S. 47:301(10)(a)(iii) provides in pertinent part, “Retail sale” or “sale at retail” for purposes of...state sales and use taxes imposed on transactions involving the lease or rental of tangible personal property...means a sale to a consumer or to any other person for any purpose other than for...lease or rental in an arm’s length transaction in the form of tangible personal property...”

La. R.S. 47:301(7)(a) defines the term “lease or rental,” in pertinent part, as “the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter, for a consideration, without transfer of the title of such property.”

La. R.S. 47:301(16)(a) defines the term “tangible personal property,” in pertinent part as “...personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses.”

In *International Paper Company v. East Feliciana School Board*, 2002-0648 (La.App. 1 Cir. 3/28/2003), 850 So.2d 717, writ denied, 2003-1190 (La. 6/20/2003), 847 So.2d 1235, International Paper argued that when its machinery was repaired in East Feliciana Parish and subsequently delivered back to its paper mill in Mobile, Alabama, a different tax consequence resulted to its separately billed labor/service component from its parts/materials component. While International Paper conceded the labor/service component was clearly taxable, it argued the parts/materials component was not because the parts/materials constituted tangible personal property delivered outside of the taxing jurisdiction (Mobile, Al).

In rejecting this argument, the Court reasoned that parts are of no use to a customer without the service provided and that the service cannot be completed without the parts. As such, the Court held that regardless of whether the labor/service and parts/materials were separately billed, the two components constituted a repair to equipment subject to sales tax. The Court held, in pertinent part, “It appears to me that these two items, labor and materials or parts, go hand in hand. I do not think that they’re divisible...”

Finally, the Court summarizes its analysis of the taxability of the separately stated repair parts. It states, in pertinent part, “IP sent its paper-making equipment to WYESCO to be repaired. In order to fix or restore the equipment, WYESCO necessarily had to replace broken parts with new parts. The equipment could not have been repaired without them, and therefore the furnishing of

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new parts was incidental to and a part of the repair contract...Consequently, WYESCO was not selling parts to IP, but was consuming them in making the requested repairs.”

La. R.S. 47:301(10)(a)(iii) provides an exclusion from sales tax for items of tangible personal property which are sold for the purpose of lease or rental. The statute does not provide an exclusion for repair parts or materials necessary for the repair or maintenance of lease or rental equipment subject to the exclusion found in La. R.S. 47:301(10)(a)(iii). As such, regardless of whether such items are purchased and installed by the owner of the lease or rental equipment or installed as a repair service which is separately billed by a third party, repair parts and materials for lease or rental equipment do not qualify for the exclusion found in La. R.S. 47:301(10)(a)(iii).

Conclusion:

Repair parts and materials purchased for the repair or maintenance of lease or rental equipment does not qualify for the exclusion found in La. R.S. 47:301(10)(a)(iii).

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