

## SALES TAX RELIEF FOR LOUISIANA TRUCKING INDUSTRY

The Louisiana Legislature has recently enacted La. Acts 2004, No. 10 (1st Ex. Sess.) making the sales tax exemption for interstate trucks and buses (La. R.S. 47:305.50) permanent. Previously the exemption contained sunset language and had to be reenacted by the Louisiana Legislature every few years. Under La. R.S. 47:305.50, trucks with a gross weight of twenty-six thousand pounds or more and trailers if the trucks and trailers are used at least eighty percent of the time in interstate commerce are not subject to state or local sales taxes. Certain buses are also eligible for the exemption. The sales tax exemption is applied for at the time of registering the vehicle with the Louisiana Department of Public Safety. The person registering the vehicle must execute Louisiana Department of Revenue Form R-1367-L, certifying that the vehicle is subject to the jurisdiction of the United States Department of Transportation and will be used more than eighty percent of the time in interstate commerce in order to take advantage of the exemption. Eligibility for the exemption will be audited by the Louisiana Department of Revenue; accordingly, vehicle usage records must be maintained. If the vehicle mileage in the first year is not at least eighty percent interstate commerce mileage, the exemption will be retroactively lost back to the date of purchase and interest and penalties will be imposed. Additionally, if the vehicle mileage in any later year is not at least eighty percent interstate commerce mileage, the exemption will be lost retroactively back to the beginning of the year in which the mileage was not at least eighty percent interstate commerce mileage. La. R.S. 47:305.50 applies primarily to trucks and trailers that are **purchased or im-**

**ported** for use in interstate commerce. Other provisions of Louisiana law, however, provide substantial sales tax relief associated with leasing trucks that will be used in interstate commerce.

Lessors of property, including trucks, trailers, and other transportation equipment, are not subject to the state or local sales tax on the purchase of property for lease. The relief from state sales tax for lessors of all types of property became available in 1996. Similar relief from local sales taxes was phased in beginning in 1999. Since July 1, 2002, lessors of property have been able to buy property for lease or rental without paying state or local sales tax on the purchase of the property. Lessors of motor vehicles apply for a lessor's exemption number on Louisiana Department of Revenue Form R-1370-L, and use a lessor's exemption certificate (Form R-1310) to make tax free purchases of motor vehicles for lease or rental. The purchases must be for lease or rental in an arm's length transaction. That is, lease agreements that are not based on fair market value are not eligible for sales tax relief.

While the lessor can purchase, tax free, property for lease, for most types of property, the lessor is still required to charge sales tax on the rental payments. Special rules apply to property that is used in interstate commerce, however, and all companies that have leased trucks that they use in interstate operations, should take steps to receive the benefits of these special rules.

Regulations adopted by the Louisiana Department of Revenue recognize that only the intrastate operations of leased transportation property are subject to sales tax on the lease payments. La. Administrative

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## INTERSTATE TRUCKING OPERATIONS, cont.

Code 61:I.4303.B.2.d. The regulations provide:

If the lessee used the leased tangible personal property both in bona fide interstate commerce (whether within or without Louisiana) and in intrastate commerce in Louisiana, the lease tax is due only on the portion of the lease payments attributable to operational usage in Louisiana in intrastate commerce. What constitutes operational usage shall be based on industry custom and the type of property at issue (e.g., flight time, vehicle miles). If average operational usage in Louisiana intrastate commerce is equal to or less than 10 percent of total operational usage during a lease payment billing period, the leased property shall be deemed to be used exclusively in interstate commerce, and no lease tax shall be due for that period. Average operational usage in Louisiana intrastate commerce shall be determined by a ratio, the numerator of which is total Louisiana intrastate operational use, and the denominator of which is total operational use (both intrastate and interstate). If average operational usage in Louisiana intrastate commerce is equal to or greater than 90 percent of total operational usage during a lease payment billing period, the leased property shall be deemed to be used in Louisiana intrastate commerce, and lease tax shall be due on the entire lease payment for that period. Average operational usage in bona fide interstate commerce shall be determined by a ratio, the numerator of which is total bona fide interstate operational use, and the denominator of which is total operational use (both intrastate and interstate). Nothing in this Subparagraph shall be construed to prohibit the department from imposing a lease tax on leased property stored in Louisiana for use in intrastate commerce in Louisiana.

Under the regulations, if your leased transportation equipment is used ninety percent or more for interstate activities, the lease is considered fully non-taxable. If the interstate usage of the equipment is less than 10%, the Louisiana Department of Revenue regulations treat the lease as fully taxable. If your leased transportation equipment is used more than 10% in interstate commerce and less than 90% in interstate commerce, only a percentage of the lease is taxable. The percentage is determined by multiplying the lease payment by the percentage of the intrastate activities of the leased equipment to the total activities of the leased equipment. Do not compute the percentage based on Louisiana miles to to-

tal miles or you will overstate the taxable portion of the lease. The following example will help you see how the regulations could help your company.

Big Tiger Trucking Company leases five trucks. Four of the trucks are used exclusively for operations between Alexandria, Louisiana and Dallas, Texas. Those operations are totally interstate operations and no sales tax is due on the lease payments. The fifth truck makes runs between Baton Rouge and Houston three times a week. Twice a week this truck is used to make runs between Baton Rouge and New Orleans. The runs between Baton Rouge and Houston are interstate. The runs between Baton Rouge and New Orleans are considered intrastate by the Department of Revenue. For each month, the intrastate mileage is 1,440 miles and the total mileage is 7,872. The taxable percentage of the lease is 18.29% ( $1,440/7,872$ ). Thus, only 18.29% of each monthly lease payment will be taxable.

In order to use the tax relief regulations for leasing trucks that will be used in interstate commerce, the lessee must apply for authority to pay lease taxes directly to the state on Department of Revenue Form R-1066-L. Once direct pay authority is granted by the Department of Revenue and an exemption certificate is provided to the lessor, the lessor will stop collecting lease tax on the lease payments and your company will remit the proper amount of lease tax each month directly to the Department of Revenue.

Companies that have paid taxes on their lease payments for trucks and trailers that have been used in interstate commerce may be eligible for a refund by filing form R-20127-L

Copies of many of the forms and other important documents referred to in this newsletter are available on the Department of Revenue's web site: [www.rev.state.la.us](http://www.rev.state.la.us) or by contacting the Louisiana Department of Revenue.



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