

## **Sales Tax Relief for Louisiana Interstate Truckers**

Governor Kathleen Blanco has signed House Bill No. 35 (Rep. Billy Montgomery) (La. Acts 2004, No. 10 (1st Ex. Sess.) making the sales tax exemption for interstate trucks and buses permanent. Under the law (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. The sales tax exemption is applied for at the time of registering the vehicle. La. R.S. 47:305.50 applies primarily to trucks and trailers that are **purchased or imported** 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 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 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 property for lease tax free, for most types of property, the lessor is still required to charge sales tax on the rental payments. Special rules apply to property that 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 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 at least ninety percent of the time for interstate activities, the lease is considered totally non-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 total 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 remit lease taxes directly to the state on Department of Revenue form R-1066-L. Once direct pay authority is granted 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 the forms and other important documents can be gotten on the Department of Revenue's web site: [www.rev.state.la.us](http://www.rev.state.la.us).

#### **About the Author:**

- ❖ *Chris Dicharry is a partner in the Louisiana law firm of Kean Miller. He leads the firm's Governmental Affairs and Tax Team. A Board Certified Tax Attorney by the Louisiana Board of Legal Specialization, Chris represents local, state and national clients in the area of Louisiana state and local taxation. He has particular experience representing taxpayers concerning tax issues being considered by the Louisiana Legislature, and actively lobbies its members. He serves on the Board of Directors of the Louisiana Association of Business and Industry, and is a member of the Tax Sections of the American and Louisiana State Bar Associations. Chris is also a representative to the American Property Tax Council, an association of property tax law firms with members throughout the US and Canada. Chris can be reached at 225.382.3492 or [chris.dicharry@keanmiller.com](mailto:chris.dicharry@keanmiller.com)*