



Calcasieu Parish Sales/Use Tax Department
P.O. Drawer 2050
Lake Charles, LA 70602-2050
337-217-4280 (telephone) 337-217-4281 (fax)

March 3, 2013

REVISION TO TECHNICAL ASSISTANCE BULLETIN 2004-003

**Issue: Treatment of Repairs to Rental Property and Rent for Re-rent
November 2004**

A recent opinion issued by the Louisiana Department of Revenue, Revenue Ruling No. 13-003, addresses the taxable status of parts and materials purchased by lessors/renters for the purpose of repairing or maintain their own lease or rental property. The opinion also covered the repair of leased/rented property that is repaired by a third party. Thus, this new local interpretation is prompted as a guideline for use by local field auditors while on audit assignments.

Background: A previous opinion handed down in November 2004 on a local level suggested material and parts consumed during routine servicing and maintenance were not taxable when such events were performed by the lease or rental dealer on equipment they owned. However, the administration did hold out that repairs by third parties were taxable. Prior opinions were based on the erroneous interpretation of LA R.S. 47:301(10)(a)(iii) which led to broadening the scope of the exclusion to envelope the questionable parts and materials consumed during routine service of rental equipment by owners.

Issue: Owners of tangible personal property who are in the business of leasing and renting the same property will occasionally repair or service their own property or have a third party perform the services necessary. The question arises on whether or not the repairs are taxable and/or whether parts and materials added/consumed are taxable when the owners of the equipment perform required services on their own property.

The Law: There are key definitions that lead to reaching a local decision which includes LA R.S. 47:301(16)(a) the definition of "tangible personal property" and LA R.S. 47:301(7)(a) the definition of "lease or rental." However, the really defining statute is in LA R.S. 47:301(10)(a)(iii) which provides an exclusion from sales tax for every item of tangible personal property that is sold with a purpose of lease or rental. Initially it was not realized, but as affirmed in the court case of International Paper Company v. East Feliciana School Board, the statute did not intend to exclude repair parts or materials necessary for the repair or maintenance of lease or rental equipment exposed by the exclusion. Also determined was that repair parts and materials installed as part of a repair service even when separately billed by a third party do not qualify for the exclusion provided by LA R.S. 47:301(10)(a)(iii).

Conclusion: The initial acquisition of equipment for "lease or rental" is not taxable as provided by LA R.S. 47:301(10)(a)(iii), **but repair services to the equipment, parts and labor are taxable, effective March 1, 2013.** Also, any parts or materials purchased to service or maintain lease/rental property by the owner shall be taxable as well, regardless of the rental classification, rent or re-rent.