Title 35 Mississippi State Tax Commission

Part IV Sales & Use

Sub Part 05 Services

Chapter 03 Renting or Leasing Tangible Personal Property

100 Levy

101 Miss. Code Ann. Section 27-65-23 taxes the gross income received from renting or leasing personal property used in this state. The tax due on the lease or rental is at the same rate as the sale of the property. Under these circumstances, a service is rendered other than the renting of property.

102 (Reserved)

200 Definitions

201 Rental or Lease means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Mississippi Code of 1972, or other provisions of the federal, state or local law.

202 Lease or rental does not include providing tangible personal property furnished with an operator or crew for its operation. An operator or crew must do more than maintain, inspect or set-up the property.

203 Miss. Code Ann. Section 27-65-3 (i) defines gross income to include the total charge for service or the total receipts derived from the rental or lease of tangible personal property without any deduction for rebates, cost of property sold, cost of materials used, labor costs, interest paid, losses or any expense whatever. Gross income also includes any charges made to the lessee for damages to, loss of or excessive use of the property.

204 Charges to lessees which represent a recovery of expenses (repairs, transportation, hotel, meals, supplies, etc.) are in reality an allocation of the selling price to this cost of operation and cannot be excluded from the measure of tax imposed upon the gross income.

205 Rentals for re-rental by a lessor engaging in the renting or leasing business are wholesale sales and are not considered to be taxable income.

206 Motor Vehicle is defined as any self-propelled, wheeled conveyance that does not run on rails. The term includes all private carriers of passengers and any light carriers of property having a gross vehicle weight of 10,000 pounds or less.

207 (Reserved)

300 Purchases and Sales

301 Persons qualified to do business in this State of renting or leasing tangible personal property are considered retailers and may purchase property to be rented exempt from sales or use tax. The tax, likewise, shall not apply to repair and repair parts of such property.

302 All purchases of tools, supplies, machinery and equipment which are purchased for use in operating the business and not for rental are taxable at the regular retail rate of sales or use tax.

303 Sales of property to consumers which has been rented or leased are considered to be retail sales and are taxable on the gross proceeds of such sales.

304 Owners or other persons receiving benefit from use of tangible personal property in this State are liable for use tax on the property.

305 (Reserved)

400 Tax on Motor Vehicle Rentals

401 In addition to the 5% sales tax due on the rental of motor vehicles, a 6% motor vehicle rental tax is due on the gross income from the short term rental of motor vehicles. Therefore, the total tax due on short term rentals of these motor vehicles is 11%. Short term rentals are defined as rental agreements with a term of 30 or less continuous days. The total tax due on the long term (rental agreements in excess of 30 continuous days) rental or leasing of motor vehicles is 5%.

402 The income received from renting or leasing of truck-tractors and semi trailers used in interstate commerce and registered under the International Registration Plan (IRP) or any similar reciprocity agreement is taxed at the rate of 3% of the portion of the rental or lease that is attributable to the usage of such truck-tractor or semi trailer in Mississippi. The Mississippi portion of the rental or lease is the rental or lease payment of the truck-tractor or semi trailer multiplied by the percentage of the total miles traveled by the vehicle that are traveled in Mississippi.

403 The total amount charged for rental of "you-drive-it" or "you-haul-it" vehicles is taxable income to the lessor, even though the lessee may use the property in multiple cities in Mississippi or in other states, and even though the charge may be collected by or with

another person. The tax rate on these vehicles is 4% for vehicles with a gross vehicle weight (GVW) in excess of 10,000 pounds. Vehicles with a GVW of 10,000 pounds or less are subject to tax at the rate of 5% for sales tax and the additional 6% motor vehicle rental tax.

404 Motor fuel charges are not considered to be taxable rental income when separately invoiced from the charge for rental or lease. Sales of motor fuel by lessor are not subject to sales tax.

405 Rental cars provided under a new car warranty either from a dealer's own fleet or through a car rental agency are considered part of the warranty repair and not subject to sales tax or the motor vehicle rental tax.

406 (Reserved)

500 Reporting Requirements

501 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

502 Income received from the rental or lease of transportation equipment between cities and counties in this state is not subject to city diversion. Any business renting or leasing transportation equipment and other items of tangible personal property must report the income from these activities separately.

503 (Reserved)