



LOUISIANA UNIFORM LOCAL SALES TAX BOARD

Policy Advice No. 23-002

August 10, 2023

Application of La. R.R. 47:301(7)(b) on Lease or Rental for Re-lease or Re-rental of Tools in Connection with Wells – Response to Inquiry Received from Multiple Local Tax Collectors

REDACTED VERSION

Re: Response to multiple inquiries on the application of La. R.S. 47:301(7)(b) on lease or rental for re-lease or re-rental of tools in connection with wells regarding local sales and use taxes for current and past tax periods

Dear Collectors,

You have requested policy advice from the Louisiana Uniform Local Sales Tax Board (“LULSTB”) regarding the application of the sales and use tax exclusion found in La. R.S. 47:301(7)(b) on the lease or rental for re-lease or re-rental of casing tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, or other drilling or related equipment used in connection with the operating, drilling completion, or reworking of oil, gas, sulfur, or other mineral wells. The purpose of this correspondence is to provide a response to your request in the form of a Board Tax Advisory pursuant to La. R.S. 47:337.102(C)(1) and (5) and LULSTB Policy and Procedure Memoranda 50.1 and 50.3.

A Board Tax Advisory is issued under the authority of R.S. 47:337.102(C)(1) and (5) to provide guidance to the public and local sales and use tax collectors on matters concerning the imposition, collection, and administration of local sales and use taxes authorized under the constitution and laws of this state. It applies principles of law to a specific set of facts and is an expression of the position of the Louisiana Uniform Local sales Tax Board regarding particular issues. A Board Tax Advisory does not have the force and effect of law, is not binding on the public or local collectors and is not subject to appeal to the Louisiana Board of Tax Appeals.

Please note that this Board Tax Advisory only discusses the application and operation of La. R.S. 301(7)(b) as to local sales tax. Any inquiries regarding the application of La. R.S. 47:301(7)(b) to state sales taxes should be directed to the Louisiana Department of Revenue.

Factual Background

You have requested policy advice regarding the application of the sales tax exclusion on lease or rental for re-lease or re-rental of casing tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other drilling or related equipment used in connection with the operating, drilling, completion, or reworking of oil, gas, sulphur, or other mineral wells found in

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La. R.S. 47:301(7)(b). Specifically, the Executive Director has asked the LULSTB to issue guidance regarding the applicability of the exclusion found in La. R.S. 47:301(7)(b) to local sales and use taxes, for both current and past tax periods.

Analysis and Discussion

Louisiana Revised Statutes 47:301(7)(b) currently provides as follows:

(b) Soley for purposes of the state sales and use taxes imposed under R.S. 47:302, 321, and 331, the term “lease or rental”, as herein defined, shall not mean or include the lease or rental made for the purposes of re-lease or rental of casing tolls and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other drilling or related equipment used in connection with the operating, drilling, completion, or reworking of oil, gas, sulfur, or other mineral wells.

The exclusion found in La. R.S. 47:301(7)(b) has been in its current form since it was last amended by Act 26 of the 2016 First Extraordinary Session of the Louisiana Legislature (“Act 26”). Prior to the amendment in Act 26, La. R.S. 47:301(7)(b) provided as follows:

(b) The term “lease or rental”, however, as herein defined, shall not mean or include the lease or rental made for the purposes of re-lease or re-rental of casing tolls and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other drilling or related equipment used in connection with the operating, drilling, completion, or reworking of oil, gas, sulfur, or other mineral wells.

As can be seen in a comparison of the two versions of the statute, Act 26 added the phrase, “*Solely for purposes of the state sales and use taxes imposed under R.S. 47:302, 321, and 331,...*” as a qualifier to the exclusion. (Emphasis added.) Act 26 became effective on April 1, 2016, and is applicable to all taxable periods beginning April 1, 2016. See Act 26, §2 and §3.

The words, terms, and phrases used for local sales and use taxes in the Uniform Local Sales Tax Code, La. R.S. 47:337.1, *et. Seq.*, have the same meaning ascribed to them as provided under La. R.S. 47:301, except to the extent expressly limited in that Section. La. R.S. 47:337.6(B). This means that prior to April 1, 2016, the definition of “lease or rental” for state and local sales tax purposes excluded the lease or rental made for the purposes of re-lease or re-rental of casing tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other drilling or related equipment used in connection with the operating, drilling completion, or reworking of oil, gas, sulphur, or other mineral wells no long applied to local sales tax.

The Legislature may enact an exclusion applicable only to state sales taxes and not to local sales taxes. La. Constitution, Art. VI, §29(D); see also *Anthony Crane Rental, L.P. v. Fruge*, 02-0635 (La. App. 3 Cir. 12/11/02), 833 So.2d 1070, reversed in part on other grounds, 03-0115 (La. 10/21/03), 859 So.2d 631. In this instance, the amendment of the statute by Act 26 made the exclusion in La. R.S. 47:301(7)(b) applicable to state sales tax only and is no longer applicable to sales taxes levied by any local sales tax authority. Accordingly, a lease or rental made for the

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purposes of re-lease or re-rental of casing tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, and other drilling or related equipment used in connection with the operating, drilling, completion, or reworking of oil, gas, sulphur, or other mineral wells is subject to local sales tax for all taxable periods beginning April 1, 2016.

Please feel free to contact LULSTB Executive Director, Clarence Lymon, if you would like to discuss this topic further. It is LULSTB's hope that this guidance provides taxpayers, local sales and use tax collectors, and the public with the information needed on this issue.

Sincerely,

Louisiana Uniform Local Sales Tax Board