



LOUISIANA UNIFORM LOCAL SALES TAX BOARD

Policy Advice No. 23-001

August 10, 2023

Taxability of Repairs Made to Component Parts of Buildings and Other Structures – Response to Inquiries Received from Multiple Local Tax Collectors

Re: Response to multiple inquiries on the taxability of repairs made to component parts of Buildings and other structures

Dear Collectors,

You have requested policy advice from the Louisiana Uniform Local Sales Tax Board (“LULSTB”) regarding the taxability of repairs made to component parts of buildings and other structures. 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 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 the law as to local sales tax. Any inquiries regarding the application and operation of the law regarding state sales taxes should be directed to the Louisiana Department of Revenue.

Factual Background

You have requested policy advice regarding the taxability of repairs made to component parts of buildings and other structures. Specifically, the Executive Director has asked the LULSTB to issue guidance regarding when are repairs to component parts of a building or other construction subject to sales tax.

Brief Answer

Once a thing is incorporated into a building or other construction in such a manner as to meet the definition of a “component part”, it loses its separate identity as tangible personal property and becomes part of an immovable. Generally, the furnishing of repairs to immovables is not subject to sales tax. If repairs are furnished to the component part of an immovable while it is still attached to the building or other construction, or if the component part is removed and the repairs

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are made on the customer's immediate property, the thing has not lost its identity as a component part for sales tax purposes and the repairs are not subject to sales tax. If the component part is removed and repairs are made off the customer's immediate property or at a vendor's facility (even if the vendor's facility is on property owned, leased, or rented by the customer), it is considered repairs made to tangible personal property and is subject to sales tax.

Analysis and Discussion

The first step of the analysis is to examine what is considered tangible personal property regarding things attached to a building or other construction. Louisiana Revised Statutes 47:301(16)(q) provides that for purposes of sales and use taxes imposed by the state, any statewide taxing authority, or any political subdivision, the term "tangible personal property" shall not include any property that would have been considered immovable property prior to the enactment on July 1, 2008, of Act 632 of the 2008 Regular Session of the Legislature.

Prior to July 1, 2008, Louisiana Civil Code Article 466 provided the following regarding when a thing (such as tangible personal property) becomes a component part of a building or other construction so as to become part of an immovable:

Things permanently attached to a building or other construction are its component parts.

Things such as plumbing, heating, cooling, electrical, or other installations are component parts of a building or other construction as a matter of law.

Other things are considered to be permanently attached to a building or other construction if they cannot be removed without substantial damage to themselves or to the building or other construction or if, according to prevailing notions in society, they are considered to be its component parts.

So the following categories of items will be considered component parts of a building or other construction (immovable) and thus not tangible personal property for sales tax purposes: (1) things such as plumbing, heating, cooling, electrical, and "other installations"; (2) other things that cannot be removed without substantial damage to themselves or to the building or other construction to which they are attached; and (3) things deemed to be component parts by societal expectations (i.e., "prevailing notions in society" concerning the status of those things).¹

When a thing is classified as a component part of an immovable, it ceases to be a distinct thing; it becomes a part of a composite thing. 2 La. Civ. Law Treatise, Property §7:17. This classification carries significant legal consequences in various fields of law, including sales tax law.

¹ This guidance is not intended to address whether certain things are or are not considered component parts for the purposes of sales tax. This guidance addresses situations where it has already been determined that a thing is a component part of a building or other construction.

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Louisiana Revised Statutes 47:301(14)(g)(i) includes the furnishing of repairs to tangible personal property as one of the services specifically identified in the definition of “sales of services” and thus subject to state and local sales tax. If repair services are furnished to a component part of a building that was previously considered tangible personal property, that service is not subject to sales tax since the component part is no longer considered a distinct and separate piece of tangible personal property, but rather it has become part of a composite immovable thing (the building or other construction).

The question has arisen as to what the sales tax implications are when repairs are performed on a component part that has been separated from the building or other construction. Louisiana Revised Statutes 47:301(14)(g)(ii) provides that tangible personal property, for purposes of sales of services, “shall include...things which have been separated from land, buildings, or other constructions....” See also LAC 61:I.4301.C.*Tangible Personal Property.c.i*. This means that repairs to things that have been separated from buildings or other constructions are treated as taxable repairs of tangible personal property. LAC 61:I.4301.C.*Tangible Personal Property.c*. While Louisiana Revised Statutes 47:301(14)(g) does not provide a definition of “separated”, the Louisiana Department of Revenue has provided more guidance on that term as part of its Uniform State and Local Sales Tax Definitions.² The regulations provide:

- i. Things are considered separated from an immovable when they are detached and repaired at a location off the customer's immediate property where the immovable is located or at the repair vendor's facility, even if that facility is on property owned, leased, or occupied by the customer. If the thing is detached from the immovable and repaired on the customer's immediate property, it is not considered separated from the immovable and the repair would not be subject to tax.
- ii. The customer's immediate property is the tract of land that is owned, leased, or occupied by the customer where the immovable is located.
- iii. Tracts of land owned, leased, or occupied by the customer that are separated only by a public road or right-of-way from the land where the immovable is located are also considered the customer's immediate property.
LAC 61.I.4301.C.*Tangible Personal Property.c.i-iii*.

Accordingly, for repairs to a component part removed from a building or other construction to be subject to sales tax, the thing must be detached from the building or other construction, moved to a location off of the customer's immediate property (i.e. the tract of land that is owned, leased or occupied by the customer)

² The Louisiana Department of Revenue's Uniform State and Local Sales Tax Definitions are found at LAC 61.I.Chapter 43. 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 in La. R.S. 47:301, exempt to the extent expressly limited in that Section. La. R.S. 47:337.6(B). The LDR regulations are applicable to common sales tax law issues which are applicable to state and local taxing authorities. La. R.S. 47:337.2(C). As the definitions of “tangible personal property” and “sales of services” which are determinative of the issue of the taxability of repairs to component parts are found in La. R.S. 47:301, the LDR regulations are applicable to this issue.

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or to a vendor's facility, and then repaired. If the detached component part is repaired on the customer's immediate property, it is not considered as "separated" and thus it is considered to have retained its identity as a component part rendering the transaction a non-taxable repair to an immovable (i.e. not tangible personal property).

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