

Revenue Information Bulletin No. 25-013

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Sales Tax

Taxation of Crane and Other Equipment Leases and Rentals with an Operator 2024 Third Extraordinary Session

Act 11 of the 2024 Third Extraordinary Session of the Louisiana Legislature repealed La. R.S. 47:301(7)(k) effective January 1, 2025. Louisiana Revised Statute 47:301(7)(k) provided a sales and use tax exclusion for the lease or rental of cranes and related equipment with operators. The repeal of La. R.S. 47:301(7)(k) does not automatically result in all leases of cranes with operators being subject to sales and use tax. Rather leases and rentals of cranes with operators will be treated the same as other rentals of tangible personal property with operators.

The taxability of the lease or rental of tangible personal property with an operator is determined using the analysis provided in LAC 61:I.4301"Lease or Rental"(c)(i) and (ii). That regulation provides as follows:

...(c)(i) A lease or rental does not include providing tangible personal property with an operator who provides some additional service for a fixed or indeterminate period of time when the essence of the transaction is the performance of a service. The essence of the transaction is to provide a service when obtaining the tangible personal property is not an end in and of itself but rather furnishes the mechanism through which a service is provided.

(ii) In order to determine the essence of a transaction involving both the performance of a service and the providing of tangible personal property, the facts and circumstances of each must be examined. The following factors suggest, but are not necessarily conclusive, that the essence of the transaction is for the performance of a service:

- (a) In order for the tangible personal property to perform as designed, the owner's operator maintains control over the property. This level of control by the owner's operator involves more than maintaining, inspecting, or setting-up the property;
- (b) The contract between the owner of the property and the person receiving the services and property provides for the performance of a specific

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job that requires services for a certain number of hours or until completion of a specific job;

(c) The performance of the job using the tangible personal property is conducted in a manner determined by the owner of the property;

(d) The owner of the tangible personal property is responsible for choosing the particular piece of property to be used in the transaction; or

(e) The owner of the tangible personal property has a standard business practice of not allowing customers to rent the property separately from the services provided.

If the facts and circumstances indicate the essence of the transaction is the performance of a service, the lease or rental of a crane with an operator will be treated as a non-taxable service.

Questions concerning this Bulletin should be directed by e-mail to sales.inquiries@la.gov.

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Secretary