



STATE OF ARKANSAS

**Department of Finance
and Administration**

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August 17, 2016



RE: Sales tax treatment of vehicle leased in [REDACTED] and later registered in Arkansas
Opinion No. 20160406

Dear [REDACTED],

Your March 24, 2016 letter to the Department of Finance and Administration (DFA), Revenue Legal Counsel, requesting a legal opinion has been referred to me for a response. In your letter, you stated that you previously leased and registered a 2014 vehicle while you were a resident of [REDACTED]. Since then, you have moved to Arkansas and have registered the leased vehicle here. You have requested an “opinion as to the proper handling of sales taxation of a leased vehicle previously registered in another state and that vehicle being relocated to Arkansas.” The answer is that lease payments made on a vehicle registered in Arkansas are taxable.

Arkansas Code Annotated § 26-52-301 imposes an excise tax on the gross receipts or gross proceeds (“gross receipts”) derived from the sale of tangible personal property and certain enumerated services. *See also* Ark. Gross Receipts Tax Rule GR-3(M). A “sale” is defined as “any transaction resulting in the transfer of either the title or possession, for a valuable consideration, of tangible personal property or taxable services regardless of the manner, method, instrumentality, or device by which such transfer is accomplished.” *Id.* The term “sale” “includes the exchange, barter, *lease*, or rental of tangible personal property.” *See* Ark. Code Ann. § 26-52-103(19)(B)(i)(Repl. 2014); *see also* Ark. Code Ann. § 26-63-102(9)(B)(i)(Supp. 2015) (emphasis added). A lease of tangible personal property, such as a vehicle, meets the definition of a taxable sale.

With regards to motor vehicle leases, as in your case, Ark. Code Ann. § 26-52-103(19)(D)(ii)(b) states that in the case of a lease or rental of a motor vehicle for thirty (30) days or more, the tax shall be paid on the basis of rental or lease payments made to the lessor of the motor vehicle during the term of the lease or rental. Each lease payment on a motor vehicle is subject to gross receipts tax. *Id.*

For a lease or rental that requires recurring periodic payments, periodic payments made after the first payment are sourced to the primary property location for each period covered by the payment.

See Ark. Code Ann. § 26-52-521(d)(Repl. 2014). Because your vehicle is now registered in Arkansas, the subsequent lease payments made on that vehicle are sourced to Arkansas and are based on Arkansas' tax laws.

In your letter, you referenced Act 1164 of 2013. Prior to October 1, 2013, lessors of motor vehicles had the option to: (1) purchase the motor vehicle tax free as a sale for resale and collect sales tax on the subsequent lease payments, or (2) pay sales tax on the purchase of the motor vehicle and lease to consumers tax free. Act 1164 of 2013 repealed the second option, leaving only the first option that lessors must collect tax on the long term rental payments regardless of whether sales/use tax was paid at registration. Because your vehicle was leased after October 1, 2013, your lessor does not have the second option and tax must be collected on each lease payment.

Your letter states "I do not believe my move to the State of Arkansas is interpreted as a sale under this act." The act of moving to Arkansas while under an ongoing lease of a vehicle now registered in Arkansas subjects the subsequent lease payments to tax. Once you registered your vehicle in Arkansas, the lease payments on that vehicle became taxable.

This opinion is based upon my understanding of the facts as set forth in your letter, as current Arkansas law, rules and regulations govern those facts. Any change in the facts or law could result in a different opinion. Please be advised that this opinion may only be binding upon DFA for three (3) years from the date of issuance. *See GR-75.*

Sincerely,

David W. Parker, Attorney at Law
Revenue Legal Counsel