



STATE OF ARKANSAS
**Department of Finance
and Administration**

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RE: Sales Tax on Lease Payments – Property Tax Reimbursement
Opinion Number 20200710

Dear ██████████

Your July 2, 2020 email 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 email, you state, in pertinent part:

I lease a copier from ██████████. For the last couple of years, I am billed for the personal property tax on the copier. This year I am billed 59.80 and 12.00 (I assume for State and County, respectively). ██████████ then tacks on sales tax on the personal property tax.

I have attached a copy of the bill for your review. I am not aware of a provision in the law that allows for sales tax on property tax payments. Please let me know if this is a legal tax.

You have asked whether ██████████, the lease company, may properly collect sales tax from your business on personal property tax reimbursements of a leased copier?

RESPONSE

Yes. The Arkansas Gross Receipts tax, commonly referred to as “sales tax,” is levied on the “gross proceeds” derived from the sale of tangible personal property. *See* Ark. Code Ann. § 26-52-301 (Supp. 2019). “Sale” is defined to include lease or rentals. *See* Ark. Code Ann. § 26-52-103(26)(B) (Supp. 2019). Arkansas Code Annotated § 26-52-103(19)(A)(Supp. 2019) defines the terms “gross proceeds,” to mean the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- (i) The seller’s cost of the property sold;

- (ii) The cost of materials used, labor or service cost, interest, any loss, any cost of transportation to the seller, any tax imposed on the seller, and any other expense of the seller;
- (iii) Any charge by the seller for any service necessary to complete the sale, other than a delivery charge or an installation charge;
- (iv) Delivery charge;
- (v) Installation charge.

See also Arkansas Gross Receipts Tax Rule GR-3(H).

Here, the lease company properly paid the property tax and sought reimbursement for the amount paid. Because this is part of the total consideration paid by you for leasing the copier, sales tax is due on the full amount. The lessor may not deduct any costs or other expenses incurred for leasing the copiers, such as personal property tax, from the gross proceeds. Sales tax is calculated and must be collected on the full consideration paid on the lease of the copier.

By taxing the full amount of consideration paid, DFA is collecting a tax on the total consideration paid for the lease of the copier.

This opinion is based upon my understanding of the facts as set out in your inquiry and as current Arkansas laws and rules govern those facts. Any changes in the facts or law could result in a different opinion. In accordance with Arkansas Gross Receipts Tax Rule GR-75, this opinion will only be binding upon the Department for three (3) years from the date of issuance.

The Arkansas Tax Rules cited in this opinion may be viewed on DFA's website at http://www.dfa.arkansas.gov/offices/policyAndLegal/Documents/et2008_3.pdf.

Sincerely,

Nina Samuel Carter
Office of Revenue Legal Counsel