INTERNAL POLICY DIRECTIVE 2010-1

June 28, 2010

SALES AND USE TAX - TAXABILITY OF EQUIPMENT PURCHASED AND AFFIXED TO "ROLLING STOCK" AFTER PURCHASE OF THE "ROLLING STOCK"

POLICY ISSUE

Does equipment purchased and affixed to "rolling stock" following the sale/purchase of the "rolling stock," which does not replace an item that was a component of the "rolling stock" as of its sale/purchase, qualify for exemption from sales and use tax under MCL 205.54r(1)(b) and 205.94k(4)?

POLICY DETERMINATION

Equipment purchased and affixed to "rolling stock" following the sale/purchase of the "rolling stock," which does not replace an item that was a component of the "rolling stock" as of its sale/purchase, does not qualify for exemption from sales and use tax under MCL 205.54r(1)(b) and 205.94k(4).

DISCUSSION

MCL 205.54r(1)(b) exempts from sales tax the sale of "rolling stock" purchased by an interstate motor carrier or for rental or lease to an interstate motor carrier and used in interstate commerce. MCL 205.94k(4) exempts from use tax the storage, use, or consumption of "rolling stock" used in interstate commerce and purchased, rented, or leased by an interstate fleet motor carrier. Both the General Sales Tax Act and the Use Tax Act define "rolling stock" as:

> a qualified truck, a trailer designed to be drawn behind a qualified truck, and parts affixed to either a qualified truck or a trailer designed to be drawn behind a qualified truck.

See MCL 205.54r(2)(d) and 205.94k(6)(i). Neither the General Sales Tax Act nor the Use Tax Act define the term "parts."

LR 1979-16 addressed a similar issue: the taxability under the General Sales Tax Act of accessories sold as original equipment with farm tractors used by farmers. The agricultural exemption now found in MCL 205.54a(e) is substantially similar to the agricultural exemption that was in MCL 205.54a(f) at the time LR 1979-16 was issued. LR 1979-16 determined that accessory equipment sold with farm tractors as original equipment, such as heaters, air conditioners, radios, and padded seats, were exempt under

the agricultural exemption then found in MCL 205.54a(f). Only accessories sold with the original farm tractor or equipment would qualify for exemption under former MCL 205.54a(f).

Applying the holding of LR 1979-16 to this situation, it is logical and reasonable to conclude that "parts" referenced in MCL 205.54r(2)(d) and 205.94k(6)(i) are replacements for tangible personal property that were components of a qualified truck or trailer at the time the truck/trailer was sold/purchased, i.e., replacements for "original equipment." This conclusion is consistent with definitions of "part" found in Black's Law Dictionary (6th ed) (an integral portion, something essentially belonging to a larger whole; that which together with another or others makes up a whole) and in The American Heritage Dictionary of the English Language (New College Edition, 1980) (a component that can be separated from a system: *a machine part*).

The term "parts," as used in MCL 205.54r(2)(d) and 205.94k(6)(i), is deemed to refer to tangible personal property sold as replacements for items which were components of a qualified truck (or a trailer designed to be drawn behind a qualified truck) as of the time of the sale/purchase of that truck/trailer. Equipment added to a qualified truck (or a trailer designed to be drawn behind a qualified truck) after the time of the sale/purchase of that truck/trailer, which is not a replacement for an item that was a component of the truck/trailer when the truck/trailer was sold/purchased, is not a "part" within the meaning of MCL 205.54r(2)(d) or 205.94k(6)(i), and does not qualify for exemption under MCL 205.54r(1)(b) or 205.94k(4).