



State of Michigan Issues New Guidance on “Rolling Stock” Exemption for Interstate Motor Carriers

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The Michigan Department of Treasury (“Treasury”) recently issued an important Administrative Bulletin,[1] with important information for interstate motor carriers that seek exemptions from Michigan state sales taxes on their rental or purchase of “rolling stock”, which includes certain trucks, trailers and parts or personal property used with such trucks or trailers. This summary outlines the previous exemptions for state taxes on such rolling stock and discusses the changes that may positively impact clients whose purchases or rental of rolling stock qualify for the expanded exemptions.

Prior Rolling Stock Exemption. The prior exemption available for rolling stock purchases was described in Treasury’s “Internal Policy Directive 2010-1”[2], issued June 28, 2010. The 2010 Policy Directive noted that “rolling stock” was exempt from state sales tax under the General Sales Tax Act, and similarly exempt from use tax under Use Tax Act,[3] but the Policy Directive took a more limited view of the scope of parts that would qualify as exempt from such state taxes.

Specifically, the Directive looked at a Michigan state tax exemption for accessories sold as original equipment on farm tractors (e.g., heaters, air conditioners), and concluded that such original equipment was exempt, as well as replacements for such equipment. Applying the same analysis to rolling stock for trucks or trailers, Treasury then concluded that “parts,” as used in the Michigan Sales and Use tax statutes, refers to “tangible personal property sold as replacements for items which were components of a qualified truck ... [or trailer] as of the time of the sale/purchase of that truck/trailer.” However, Treasury drew a line after replacement parts, saying that equipment added to a qualifying truck or trailer *after* its original purchase is *not* a “part” ... “and does not qualify for exemption under MCL 205.54r(1)(b) or 205.94k(4).”

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Revenue Administrative Bulletin 2023-12. The 2023 Administrative Bulletin provides a more detailed and user-friendly outline of state sales and use tax exemptions than the 2010 Directive. For clients wishing to seek sales and use tax exemptions, the 2023 Bulletin includes a revised and expanded definition of “rolling stock”, and also discusses in greater detail the requirements for a carrier to qualify as an “interstate motor carrier”, and the requirement that rolling stock be used in interstate commerce.

Rolling Stock. One of the most important parts of the 2013 Administrative Bulletin is its expanded definition of “parts” that qualify for sales and use tax exemption. On this issue, Treasury restated its prior position about exemptions for parts added to a truck or trailer at the time of its sale, and for replacements of such parts. Importantly, however, Treasury expanded its definition of rolling stock to include new parts added to a qualifying truck or trailer *after* its original purchase. Treasury stated:

“Parts or other property **do not need to replace** an item that was a component part of the truck or trailer when it was sold or purchased to qualify as rolling stock. Items that may be exempt include, but are not limited to, global positioning systems (GPS), in-cab heaters, alternate power units, straps, chains, and refrigeration units, so long as they are affixed to (or are to be affixed to) and directly used in the operation of a qualified truck or trailer. The term “affixed” is not defined by statute, therefore it is given its common and ordinary meaning. “Affix” means to attach in any way or to attach physically. <http://www.merriam-webster.com/dictionary/affix> (last visited June 5, 2023).” (Boldfacing added).

In addition to the post-sale items mentioned above that are now sales and use tax exempt, Treasury also added several examples of parts added to a qualifying truck or trailer after sale that will also qualify for exemptions. These examples add such items as straps and chains used to secure different types and sizes of loads, tarps and bungee cords, and automated tarpers.

Interstate Motor Carrier Status and Use of Rolling Stock in Interstate Commerce. For motor carriers who believe the expanded definition of rolling stock may offer them additional state sales and use tax exemptions, we note that the new Administrative Bulletin still obligates carriers to prove that they qualify as an “interstate motor carrier” and that the rolling stock for which they seek exemptions must be “used in interstate commerce”.

As described in the Bulletin, a carrier qualifies as an “interstate motor carrier” if it engages in “the business of carrying persons or property, other than themselves, their employees, or their own property, for hire across state lines, whose fleet mileage was driven at least 10% outside of this state in the immediately preceding tax year”[4], and its primary business is to transport persons or property for hire across state lines.[5]

Also, to qualify as rolling stock used in interstate commerce, the rolling stock must physically cross state lines or carry “persons or property that originated from, or are destined for, locations outside of Michigan”.[6]

Conclusion.

The Treasury Department's recent Revenue Administrative Bulletin 2023-12 offers to interstate motor carriers a valuable option to seek state sales and use tax exemptions for a broader array of equipment added to trucks and trailers engaged in interstate commerce, which may provide considerable cost savings to carriers. As a result, carriers should conduct a prompt assessment of their parts purchases or leases to determine which of them qualify for sales and use tax exemptions under the expanded definition of rolling stock.

For additional assistance in reviewing your Company's eligibility for these tax exemptions, please contact:

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[1] Revenue Administrative Bulletin 2023-12, available at

<https://www.michigan.gov/taxes/rep-legal/rab/2023-revenue-administrative-bulletins/revenue-administrative-bulletin-2023-12>

[2] Available at

https://www.michigan.gov/taxes/-/media/Project/Websites/treasury/IPD/IPD_2010_S__U_Equip_Affixed_to_Rolling_Stock

[3] See MCL 205.54r(1)(b) for the exemption from state sales tax and MCL 205.94k(4) for the exemption from state use tax.

[4] MCL 205.54r(2)(a) and MCL 205.94k(6)(d).

[5] *Id.*, citing *Midwest Power Line, Inc. v Dep't of Treasury*, 324 Mich App 444, 447 (2018).

[6] *Id.*, citing *Alvan Motor Freight v. Dep't of Treasury*, 281 Mich App 35, 41-43 (2008).