

**Revenue Ruling
No. 07-009
October 25, 2007**

Taxability of Manufactured Homes Immobilized by Dealers

The purpose of this revenue ruling is to clarify the sales tax treatment of manufactured homes immobilized and then sold by dealers.

Facts

A dealer purchases a manufactured home tax-free from the manufacturer as an item for resale. The dealer later places the new manufactured home on a tract of land owned by the dealer and files an act of immobilization with the Parish Clerk of Court by the twentieth of the following month. The dealer then sells the manufactured home with the land to a customer as immovable property.

Issue

The question is whether state sales or use tax is due on the sale of the manufactured home.

Analysis

The retail sale of a new manufactured home as tangible personal property is currently taxed on 46 percent of the sales price as provided by R.S. 47:301(16)(g). Sales of immovable property are not subject to Louisiana sales and use tax.

A dealer is allowed an exemption for the purchase of manufactured homes for resale as tangible personal property. The Department of Revenue issues Form R-1018, Sales Tax Exemption for Mobile Home Dealers, for this purpose.

R.S. 9:1149.4 provides for the immobilization of a manufactured home and upon immobilization, the manufactured home is considered an immovable for sales and use tax purposes. R.S. 9:1149.4 reads as follows:

A. A manufactured home placed upon a lot or tract of land shall be an immovable when there is recorded in the appropriate conveyance or mortgage records of the parish where the said lot or tract of land is situated an authentic act or a validly executed and acknowledged sale or mortgage or sale with mortgage which contains a description of the manufactured home as described in the certificate of title or manufacturer's certificate of origin and a description of the lot or tract of land upon which the manufactured home is placed, and contains a declaration by the owner of the manufactured home and, when applicable, the holder of a mortgage or security interest under Chapter 9 of the Louisiana Commercial Laws on the manufactured home, that it shall remain permanently attached to the lot or tract of land described in the instrument.

B. Upon recordation of the act described above, the manufactured home shall cease to be subject to the application of Chapter 4 of Title 32 of the Louisiana Revised Statutes of 1950 and the taxes applicable to movables and shall thereafter be subject to all laws concerning immovable property; however, nothing herein shall be construed to affect the rights of the holder of a validly recorded chattel mortgage or previously perfected security interest under Chapter 9 of the Louisiana Commercial Laws duly noted on the certificate of title.

The facts presented in this instance, indicate the dealer is removing a manufactured home from its inventory and filing an act of immobilization, thereby transforming an item of tangible personal property into an immovable. By transferring the manufactured home to an immobilized state, the dealer is taking on the responsibilities of a contractor. Generally, a contractor is treated as the ultimate consumer of materials incorporated into an immovable and is taxed on the purchase of those materials. This is evidenced by *American Sign and Indicator Corp. v. City of Lake Charles*, 320 So.2d 234 (La.App. 3rd Cir.1975).

Since the dealer did not purchase the manufactured home for resale as tangible personal property, the dealer is responsible for payment of sales tax on their purchase of the manufactured home. The sale of the immobilized manufactured home by the dealer to the customer as immovable property is not subject to Louisiana sales and use tax.

Conclusion

The dealer is fulfilling a real property contract and owes sales tax on its purchase of the new manufactured home. Currently, 46% of the sales price of a new manufactured or mobile home is subject to tax and 54% of that price is excluded from tax. The sale by the dealer to the customer is not subject to sales tax.

For more information regarding this topic, taxpayers should contact the Taxpayer Services Division at 225.219.7356.

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