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Circulated for Public Comments
Comments Due by: **February 5, 2026**

SC REVENUE RULING #25-x [PUBLIC DRAFT – 01/15/2026]

SUBJECT: Rental and Leases of Tangible Personal Property with an Operator
(Sales and Use Tax)

EFFECTIVE DATE: Applies to all periods open under the statute.

REFERENCES: Title 12, Chapter 36 of the S.C. Code of Laws (2014 & Supp. 2023)
S.C. Regulation 117-308
S.C. Regulation 117-309.15

AUTHORITY: S.C. Code Ann. Section 12-4-320 (2014)
S.C. Code Ann. Section 1-23-10(4)
Revenue Procedure #09-3

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

PURPOSE:

The purpose of this advisory opinion is to provide the Department's guidance on whether a person (the "Taxpayer") renting or leasing tangible personal property is subject to the State's sales tax or rendering a nontaxable service when accompanying and remaining with the tangible personal property.

OVERVIEW:

The Taxpayer may enter into a contract with a customer to rent or lease tangible personal property (e.g. an inflatable¹ or gaming trailer², construction equipment, or chairs and tables) ("equipment"). As part of the contract, the Taxpayer will deliver and set-up the equipment at a predetermined location. Additionally, the Taxpayer's employee(s) may remain with the equipment for the duration of the customer's event to either monitor the equipment's use or operate or control the equipment. At the conclusion of the contracted event, the Taxpayer will break down and remove the equipment.

¹ Inflatables are tangible personal property inflated with a gas, usually air, and include items such as bounce houses, mazes, bungee runs, wall climbs, movie screens, and other similar items.

² Gaming trailers are enclosed trailers with a gaming station(s) (e.g., video games, virtual reality (VR) machine or game, simulators, etc.) located on the interior and/or exterior of the trailer.

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LAW AND DISCUSSION:

Code Section 12-36-60 defines the term “tangible personal property” to mean:

. . . personal property which may be seen, weighed, measured, felt, touched, or which is in any other manner perceptible to the senses.

Code Section 12-36-910(A) states:

A sales tax, equal to [six]³ percent of the gross proceeds of sales, is imposed upon every person engaged or continuing within this State in the business of selling tangible personal property at retail.

Thus, unless an exemption applies, either sales or use tax is imposed at a rate of 6% on all retail sales of tangible personal property.

The sales and use taxes do not apply to “[r]eceipts from services, when the services are the true object of the transaction... unless the sales and use tax is specifically imposed by statute on such services.” SC Regulation 117-308.

The sales and use taxes also apply to “[t]he gross receipts or gross proceeds proceeding or accruing from the leasing or renting of tangible personal property.” SC Regulation 117-309.15. However, “[i]f the owner of tangible personal property furnishes an operator or crew to operate such property, such owner is not deemed to be renting or leasing the property but is rendering a service and the receipts therefrom are not subject to the sales or use tax.” *Id.* In those cases, “[p]ersons purchasing tangible personal property for use in rendering such service are liable for payment of sales or use tax at the applicable rate on the purchase price.” *Id.*

SC Regulation 117-309.15 provides that a Taxpayer’s use of an operator constitutes a nontaxable professional service. However, neither SC Regulation 117-309 nor Chapter 36 of Title 12 define the term “operator.” In such instances, the “true object” test is helpful. The “true object” test may be used to delineate sales of services from sales of tangible personal property. The “true object” test is best described in 9 Vanderbilt Law Review 231 (1956). It states:

The true test then is one of basic purpose of the buyer. When the product of the service is not of value to anyone other than the purchaser, either because of the confidential character of the product, or because it is prepared to fit the purchaser’s special need – a contract or will prepared by a lawyer, or the accident investigation report prepared for an insurance company – this fact is evidence tending to show that the service is the real purpose of the contract. When the purpose of a contract is to produce an article which is the true object of the agreement, the final transfer of the product should be a sale, regardless of the fact that special skills and knowledge go into its production. Under this analysis, printing work,

³ S.C. Code Ann. § 12-36-910(A) imposes a 5% sales tax. S.C. Code Ann. § 12-36-1110 imposes an additional 1% sales tax rate.

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done on special order and of significant value only to the particular customer, is still a sale. The purchaser is interested in the product of the services of the printer, not in the services per se. Similarly, it would seem that contracts for custom-produced articles, be they intrinsically valuable or not, should be classified as sales when the product of the contract is transferred.

The Vanderbilt Law Review article, in quoting *Snite v. Department of Revenue*, 398 Ill. 41, 74 N.E.2d. 877 (1947), also establishes the following general rule:

If the article sold has no value to the purchaser except as a result of services rendered by the vendor, and the transfer of the article to the purchaser is an actual and necessary part of the services rendered, then the vendor is engaged in the business of rendering service, and not in the business of selling at retail. If the article sold is the substance of the transaction and the service rendered is merely incidental to and an inseparable part of the transfer to the purchaser of the article sold, then the vendor is engaged in the business of selling at retail, and the tax which he pays... [is measured by the total cost of article and services]. If the service rendered in connection with an article does not enhance its value and there is a fixed or ascertainable relation between the value of the article and the value of the service rendered in connection therewith, then the vendor is engaged in the business of selling at retail, and also engaged in the business of furnishing service, and is subject to tax as to the one business and tax exempt as to the other.

While the above quotations do not establish rigid rules, they do provide general guidance in determining the purpose of a transaction and are particularly helpful in addressing the issue at hand.

Here, the essential element in determining the “true object” of a transaction involving an operator or crew to operate the equipment is the degree of operation and control, including the use of special skills, the Taxpayer’s employee(s) exerts on the equipment. It follows then that an “operator” for purposes of SC Regulation 117-309.15 must exert control of, and operate, the equipment. In the absence of an operator, the transaction simply consists of a transfer of title or possession of tangible personal property for a consideration, which is subject to the sales tax.

It is the Department’s position that an operator is a person who utilizes certain skills or expertise to operate, or exert control over, equipment in the performance of a function or to produce a desired effect over a machine or device (i.e., tangible personal property). An operator is the user and consumer of the tangible personal property used in providing a nontaxable service. Conversely, any charges in conjunction with the rental or lease of equipment without an operator are includable in gross proceeds of sales and subject to state and local sales tax.

CONCLUSION

A person furnished in conjunction with the rental or lease of equipment who utilizes certain skills or expertise to perform a function or produce a desired effect over a machine or device is an operator rendering a nontaxable service.

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A person furnished in conjunction with the rental or lease of equipment who cautions, reminds, or enforces conduct for equipment users or who troubleshoots or maintains the equipment is not an operator. Therefore, any charges in conjunction with the rental or lease of equipment without an operator are includable in gross proceeds of sales and subject to state and local sales tax.

EXAMPLES

Rental of Inflatables

Question

The Taxpayer rents or leases an inflatable for \$500. The Taxpayer will deliver, set-up, break down, and remove the inflatable for an additional charge of \$100. For safety purposes, the Taxpayer will remain onsite to ensure anyone using the inflatable is complying with the rules of use/conduct. All charges may or may not be separately stated.

Answer

The Taxpayer is not an operator. Therefore, the total gross proceeds (\$500 + \$100, or \$600) are in conjunction with the rental or lease of tangible personal property and subject to the sales tax. The separation of costs will not change the taxability of this transaction.

Question

The Taxpayer rents or leases an inflatable movie screen for \$500. The Taxpayer will deliver, set-up, break down, and remove the inflatable movie screen for an additional charge of \$100. For safety purposes, the Taxpayer will remain onsite to ensure the inflatable movie screen is undisturbed. All charges may or may not be separately stated.

Answer

The Taxpayer is not an operator. Therefore, the total gross proceeds (\$500 + \$100, or \$600) are in conjunction with the rental or lease of tangible personal property and subject to the sales tax. The separation of costs will not change the taxability of this transaction.

Rental of Mechanical Bulls

Question

The Taxpayer rents or leases mechanical bull riding equipment (i.e., mechanical bull, safety mat, inflatables, etc.) for \$500. The Taxpayer will deliver, set-up, break down, and remove the equipment for an additional charge of \$100. The Taxpayer will remain onsite to ensure the equipment is powered on, any safety equipment is intact, software updates are applied, and the equipment is operational. Additionally, the Taxpayer will be in direct control or command of the equipment (i.e., the equipment will not work/operate without the Taxpayer's continual control). The Taxpayer will enforce any necessary rules of use or conduct while the equipment is in use. All charges may or may not be separately stated.

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Answer

The Taxpayer is an operator providing a nontaxable service. Therefore, the total gross proceeds (\$500 + \$100, or \$600) are not subject to the sales tax. The separation of costs will not change the taxability of this transaction.

Question

The Taxpayer rents or leases mechanical bull riding equipment (i.e., mechanical bull, safety mat, inflatables, etc.) for \$500. The Taxpayer will deliver, set-up, break down, and remove the equipment for an additional charge of \$100. The Taxpayer will remain onsite to ensure the equipment is powered on, any safety equipment is intact, software updates are applied, and the equipment is operational. Additionally, the Taxpayer will select from a preprogrammed list of bull riding levels and difficulties. Once selected, the equipment operates without the Taxpayer's control. The Taxpayer will enforce any necessary rules of use or conduct while the equipment is in use. All charges may or may not be separately stated.

Answer

The Taxpayer is not an operator. Therefore, the total gross proceeds (\$500 + \$100, or \$600) are in conjunction with the rental or lease of tangible personal property and subject to the sales tax. The separation of costs will not change the taxability of this transaction.

Rental of Construction Equipment

Question

The Taxpayer rents or leases construction equipment ("equipment") (e.g., skid steer, backhoe, crane, excavator) for a specific project for \$500. The Taxpayer will deliver and operate the construction equipment for an additional charge of \$100. All charges may or may not be separately stated.

Answer

The Taxpayer is an operator providing a nontaxable service. Therefore, the total gross proceeds (\$500 + \$100, or \$600) are not subject to the sales tax. The separation of costs will not change the taxability of this transaction.

Question

The Taxpayer rents or leases construction equipment ("equipment") for a specific project for \$500. The Taxpayer charges \$100 to deliver, set-up, break down, and remove the equipment. The Taxpayer will not operate the equipment but for safety purposes, the Taxpayer will remain onsite to provide instruction, troubleshoot any operational issues, and ensure that the user is following the rules of use, conduct, or safety. All charges may or may not be separately stated.

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Answer

The Taxpayer is not an operator. Therefore, the total gross proceeds (\$500 + \$100, or \$600) are in conjunction with the rental or lease of tangible personal property and subject to the sales tax. The separation of costs will not change the taxability of this transaction.

Rental of Gaming Trailer

Question

The Taxpayer rents or leases a gaming trailer for \$500. The Taxpayer will deliver, set-up, break down, and remove the gaming trailer for an additional charge of \$100. The Taxpayer will remain onsite. The Taxpayer will ensure the equipment is powered on, any safety equipment is intact, software updates are applied, and the gaming trailer is operational. The Taxpayer will enforce any necessary rules of use/conduct while games are in use. If there is a technical issue (i.e., game buffering, equipment failure or replacement), the Taxpayer will troubleshoot the issue or render the game out-of-order. All charges may or may not be separately stated.

Answer

The Taxpayer is not an operator. Therefore, the total gross proceeds (\$500 + \$100, or \$600) are in conjunction with the rental or lease of the gaming trailer and are subject to the sales tax. The separation of costs will not change the taxability of this transaction.

Question

The Taxpayer rents or leases a gaming trailer for \$500. The Taxpayer will deliver, set-up, break down, and remove the gaming trailer for an additional charge of \$100. The Taxpayer will remain onsite to ensure the equipment is powered on, any safety equipment is intact, software updates are applied, and the gaming trailer is operational. Additionally, the Taxpayer will be in direct control or command of the game (i.e., the game will not work/operate without the Taxpayer's continual control). The Taxpayer will enforce any necessary rules of use/conduct while games are in use. If there is a technical issue (i.e., game buffering, equipment failure or replacement), the Taxpayer will troubleshoot the issue or render the game out-of-order. All charges may or may not be separately stated.

Answer

The Taxpayer is an operator providing a nontaxable service. Therefore, the total gross proceeds (\$500 + \$100, or \$600) are not subject to the sales tax. The separation of costs will not change the taxability of this transaction.

Question

The Taxpayer rents or leases a gaming trailer for \$500. The Taxpayer will deliver, set-up, break down, and remove a gaming trailer provided at no cost to the customer. Set-up includes making sure games are powered on, any safety equipment is intact, software updates are applied, and other tasks to ensure the gaming trailer is operational. The Taxpayer is in direct control or command of

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the game (i.e., the game does not work/operate without the Taxpayer's continual control). The Taxpayer also enforces any necessary rules of use or conduct while games are in use.

Answer

The Taxpayer is primarily serving as an operator, while also providing monitoring services, since the gaming trailer games are not playable without the Taxpayer's continual control over the games. Therefore, the total gross proceeds of \$500 are charges for a nontaxable service.

Question

The Taxpayer provides the gaming trailer to his customer at no cost. The Taxpayer will deliver, set-up, break down, and remove a gaming trailer provided at no additional cost to the customer. Set-up includes making sure games are powered on, any safety equipment is intact, software updates are applied, and other tasks to ensure the gaming trailer is operational. The Taxpayer is in direct control or command of the game (i.e., the game does not work/operate without the Taxpayer's continual control). The Taxpayer also enforces any necessary rules of use or conduct while games are in use. Additionally, the customer will charge each person a separate fee of \$10 to enter into or use the gaming trailer.

Answer

The Taxpayer is primarily serving as an operator, while also providing monitoring services, since the gaming trailer games are not playable without the Taxpayer's continual control over the games. Therefore, such charges in conjunction with an operator are charges for a nontaxable service.

The charge (\$10) to enter or use the gaming trailer is subject to the admissions tax⁴ unless specifically exempted by statute.

Rental of Mobile Simulator

Question

The Taxpayer rents or leases a mobile simulator for \$500. The Taxpayer will deliver, set-up, and break down a mobile simulator (e.g., golf, airplane, motorcycle, car, etc.) for an additional charge of \$100. The Taxpayer will ensure the simulator is powered on, any safety equipment is intact, software updates are applied, and the simulator is operational. The Taxpayer will remain onsite to ensure the safe use of the simulator and enforce rules of use/conduct. If there is a technical issue (i.e., simulator buffering, failure, or replacement), the Taxpayer will troubleshoot the issues and make any necessary adjustments to make the simulator playable or render it out-of-order. All charges may or may not be separately stated.

Answer

The Taxpayer is not an operator. Therefore, the total gross proceeds (\$500 + \$100, or \$600) are in conjunction with the rental or lease of tangible personal property and subject to the sales tax. The separation of costs will not change the taxability of this transaction.

⁴ S.C. Code Ann. § 12-21-2420 imposes an admissions tax on paid admissions to places of amusement.

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Mobile Laser Tag

Question

The Taxpayer rents or leases laser tag equipment and a laser tag course for \$500. The Taxpayer will deliver, set-up, break down, and remove the laser tag equipment, the laser tag course, which may include inflatables, and may serve as a referee or group instructor for an additional charge of \$100. If there is a technical issue (i.e., laser tag equipment malfunction, defect in inflatable, first aid, etc.), the Taxpayer will troubleshoot the issues and make any necessary adjustments to allow the customer to resume use of the laser tag equipment. All charges may or may not be separately stated.

Answer

The Taxpayer is not an operator. Therefore, the total gross proceeds (\$500 + \$100, or \$600) are in conjunction with the rental or lease of tangible personal property and subject to the sales tax. The separation of costs will not change the taxability of this transaction.

Tables and Chairs

Question

The Taxpayer rents or leases tables and chairs for \$500. The Taxpayer will deliver, set-up, break down, and remove the tables and chairs for an additional \$100. The Taxpayer may remain onsite during the event.

Answer

The Taxpayer is not an operator. Therefore, the total gross proceeds (\$500 + \$100, or \$600) are in conjunction with the rental or lease of tangible personal property and subject to the sales tax. The separation of costs will not change the taxability of this transaction.

Note: A Taxpayer's statement that the Taxpayer is operating equipment does not automatically guarantee that the Taxpayer is providing a nontaxable professional service.