

May 12, 2011

Stanley R. Kaminski, Esq.  
Duane Morris LLP  
190 South LaSalle Street  
Suite 3700  
Chicago, IL 60603  
[SRKaminski@duanemorris.com](mailto:SRKaminski@duanemorris.com)

Re: Private Letter Ruling Request on [REDACTED] Rental Contract

Dear Stan:

Your letter of April 12, 2011 (copy attached) has been referred to us for response. By your letter, you request a private letter ruling that paragraph 24 of the rental agreement employed by [REDACTED] satisfies the adequate proof requirement of Personal Property Lease Transaction Tax Second Amended Ruling #11 ("Ruling 11"), concerning vehicles that will be used primarily outside the City of Chicago, to support a claim of exemption for use in the event of an audit. Paragraph 24 reads as follows:

For those rental transactions and vehicle deliveries that occur outside of the City of Chicago, unless the renter expressly notifies the Owner otherwise, the renter represents and certifies that the vehicle will be primarily used (more than 50% of total aggregate time driven, parked and garaged) outside of the City of Chicago. If the renter believes that the vehicle may be used primarily in the City of Chicago, the renter should request a Personal Property Lease Transaction Tax return from Owner to facilitate renter's payment of the applicable tax. The Owner will assist the renter in filing [*sic*] out such return, if requested.

Our principal concern with paragraph 24 is that it does not require any express response by the customer. Instead, it assumes that the customer's *silence* means that he or she is claiming the exemption for vehicles that will be used primarily outside of Chicago. By contrast, we note that other subjects treated in the agreement require an express response by the customer. For example, on the subject of the collision damage waiver, there is one box for the customer to initial if he or she *declines*, and another box for the customer to initial if he or she *accepts*. The same is true for both personal accident insurance and supplemental liability protection: there is one box to *decline* coverage and another to *accept*. This approach ensures that the customer is aware of the provision and has made a conscious selection. For the same reason, the example used in Ruling 11 includes two boxes: one for the customer to initial if he or she plans to use the vehicle primarily in Chicago, and another for the customer to initial if he or she plans to use the vehicle primarily outside Chicago.

Another approach that serves the same purpose is to have a single box that the customer must initial if he or she wishes to exercise an option that may enure to his or her benefit, at present or at some time in the future. For example, there is a single box in which the customer must identify any additional authorized driver(s), and the agreement provides that the failure to do so will affect the customer's liability and rights. Likewise, there is a single box in which the customer must identify any other state(s) in which he or she will operate the vehicle, and the agreement again provides that the failure to do so will affect the customer's liability and rights. In this case, a similar approach would be to include a box that the customer must initial if he or she wishes to claim the exemption for vehicles that will be used primarily outside Chicago - otherwise the tax will be collected. This requirement, of course, would apply only to Chicago customers at [REDACTED] locations within 3 miles of Chicago. If the "two-box" approach presents a problem for [REDACTED] we would be open to the possibility of a "one-box" approach such as this instead.

Our other concern with paragraph 24 is its statement that [REDACTED] will at most assist its non-exempt Chicago customers with filling out their own tax returns, rather than collecting and remitting the tax. This approach, if accepted, would put the Department of Revenue in the position of attempting to collect the tax from non-compliant individuals, which is not a practical or efficient alternative, and which is contrary to the ordinance. See Code Section 3-32-070(A) ("It shall be the duty of each lessor to collect the tax imposed by this chapter from the lessee at the time of each lease or rental payment, and to remit the tax to the department ...").

Despite the concerns noted above, we are happy to meet with you to discuss these issues further. Please let us know if you would like to do so.

Very truly yours,

Weston Hanscom  
Deputy Corporation Counsel  
Revenue Litigation Division  
Department of Law  
312-744-9077

cc: Department of Revenue