

Leasing of Tangible Personal Property

Sales & Use tax notice

Generally sales or use tax is imposed on all leases and rentals of tangible personal property; however, if an owner of property maintains continuous supervision over the item being leased and furnishes an operator or crew to operate it, the owner is rendering a service which is not subject to sales or use tax. (Tenn. Code Ann. Section 67-6-204(b)). This notice provides guidance on when an owner will be deemed to maintain "continuous supervision" and to "furnish an operator."

If an employee of the owner maintains continuous supervision over the property being leased, and operates the property, the owner is providing a service, and the lease will not be subject to sales or use tax. If the operator is not employed by the owner, the lease is subject to tax, unless all of the following criteria are met:

1. There is a contract between the operator and the owner which sets out the operator's duties regarding the care and use of the property to be leased, which the customer cannot overrule;
2. The continuous presence of the operator is required for the property to perform its intended function;
3. The owner must make certain that the operator meets any

requirements imposed by the insurer of the property;

4. The owner must make certain that the operator complies with all applicable regulations which govern the operation of the property or the operator's qualifications to operate the property;
5. The owner must be contractually obligated to pay the operator, if the customer fails to do so;
6. The customer cannot terminate the operator without obtaining a replacement from the owner;
7. The operator is authorized to cease operation of the property if the customer violates any provision of the lease agreement between the owner and the customer.

An owner of property rendering a non-taxable service may not use a certificate of resale to purchase the tangible personal property used to provide the service, but must pay sales or use tax at the time the property is purchased or registered in Tennessee.

Have questions or comments? Please let us know. [Contact us.](#)

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