

TENNESSEE DEPARTMENT OF REVENUE  
LETTER RULING # 24-05

**Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This ruling is based on the particular facts and circumstances presented and is an interpretation of the law at a specific point in time. The law may have changed since this ruling was issued, possibly rendering it obsolete. The presentation of this ruling in a redacted form is provided solely for informational purposes and is not intended as a statement of Departmental policy. Taxpayers should consult with a tax professional before relying on any aspect of this ruling.**

**SUBJECT**

Application of Tennessee sales and use tax to repair services performed in Tennessee on traffic management equipment which is then shipped to customers outside of the state.

**SCOPE**

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the Department by the taxpayer. The rulings herein are binding upon the Department and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time. Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;<sup>1</sup>
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

**FACTS**

[REDACTED] (the "Taxpayer") manufactures and sells traffic management equipment, including cameras installed at roadway intersections that assist in regulating traffic flow (the "Equipment"). The Equipment operates as an automated traffic management system by detecting traffic that is increasing in a particular direction and adjusting traffic light timing intervals to mitigate roadway congestion.

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<sup>1</sup> Note that the Tennessee Tax Works Act, Tenn. Pub. Acts. Ch. 377 (2023) makes changes to the sourcing of repair services beginning July 1, 2024.

In the event the Equipment purchased for use in the United States needs to undergo repairs, the Taxpayer's out-of-state customers ship the Equipment to the Taxpayer's repair center located in Tennessee. The Taxpayer completes the needed services at its Tennessee facility and then ships the repaired Equipment back to the out-of-state customer via Common Carrier, FOB Origin, such that possession of the Equipment transfers to the Taxpayer's customers upon shipment from the Taxpayer's Tennessee facility.

## RULINGS

1. Are the repair services performed by the Taxpayer at its Tennessee facility subject to Tennessee sales and use tax?

Ruling: With respect to transactions occurring before July 1, 2024, repair services on tangible personal property are subject to sales tax under TENN. CODE ANN. § 67-6-205(c)(4) and the exemption provided under TENN. CODE ANN. § 67-6-313(b) is not applicable to the services at issue because the Equipment is not necessary for building or improving roads and highways. However, pursuant to a recent law change, beginning July 1, 2024, if the service is performed in Tennessee and the serviced property or software is then shipped or delivered by the seller to the purchaser outside Tennessee, the sale is no longer sourced to Tennessee and reported as an exempt interstate sale.<sup>2</sup>

2. If the Taxpayer shipped the repaired Equipment back to its customers via Common Carrier FOB Destination, would the repair services be subject to Tennessee sales and use tax?

Ruling: Yes, with respect to transactions occurring before July 1, 2024. The shipping method is not relevant to the taxability of the Taxpayer's repair services. However, pursuant to a recent law change, beginning July 1, 2024, if the service is performed in Tennessee and the serviced property or software is then shipped or delivered by the seller to the purchaser outside Tennessee, the sale is no longer sourced to Tennessee and reported as an exempt interstate sale.<sup>3</sup>

## ANALYSIS

Tennessee does not impose sales tax on the provision of services generally. Rather, only services specifically enumerated by statute are subject to sales tax.<sup>4</sup> TENN. CODE ANN. § 67-6-205(c)(4) (2022) imposes sales tax on repair services for any kind of tangible personal property or computer software.<sup>5</sup> Accordingly, the repair services the Taxpayer provides with respect to the Equipment are subject to Tennessee sales tax unless an exemption is applicable.

TENN. CODE ANN. § 67-6-313(b) (2022) authorizes a sales tax exemption for certain repair services and provides in relevant part as follows:

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<sup>2</sup> See Sales and Use Tax Notice #24-08 (explaining the impact of Public Chapter 377 (2023)).

<sup>3</sup> *Id.*

<sup>4</sup> TENN. CODE ANN. § 67-6-201 *et seq.* (2022); see *Ryder Truck Rental, Inc. v. Huddleston*, 1994 WL 420911, No. 91-3382-III, \*2 (Tenn. Ct. App. Aug. 12, 1994).

<sup>5</sup> "Tangible personal property" is defined in relevant part as "personal property that can be seen, weighed, measured, felt, or touched." TENN. CODE ANN. § 67-6-102(97)(A) (Supp. 2023).

There is exempt from the sales and use tax repair services, including parts and labor, with respect to qualified tangible personal property, where such services are initiated or completed, or both, by a repair person within this state, and where such property, after having repair services performed on it, is delivered or shipped outside this state.

Here, the Taxpayer performs its repair services on the Equipment within the state and subsequently ships the Equipment back to its customers outside the state. The Taxpayer's repair services are thus exempt from sales tax if the Equipment is "qualified tangible personal property."

TENN. CODE ANN. § 67-6-313(b) defines "qualified tangible personal property" in pertinent part to "[include] machinery, apparatus and equipment, with all associated parts, appurtenances and accessories, that is necessary for . . . (2) Building or improving roads or highways." Although the Taxpayer's cameras offer an enhancement or upgrade to use of roads in the form of reduced traffic congestion, the Equipment is not "necessary for building or improving roads or highways" within the meaning of the statute. The Equipment is not used to build roads, nor does it improve the physical structure of the road itself. Instead, the Equipment increases efficiencies for vehicles traveling on the roads.

As the repair services provided by the Taxpayer with respect to the Equipment do not fall within the exemption provided by TENN. CODE ANN. § 67-6-313(b), those services remain subject to Tennessee sales tax under TENN. CODE ANN. § 67-6-205(c)(4) with respect to transactions occurring before July 1, 2024. This determination is unaffected by the shipping method used to return the Equipment to the Taxpayer's customers.

However, please note that under the Tennessee Tax Works Act. Tenn. Pub. Acts. Ch. 377 (2023), beginning July 1, 2024, the repair of tangible personal property, for sales tax purposes, is not sourced to this state when the sale is made from a place of business within the physical limits of this state, and where the serviced tangible personal property is delivered by the seller to the purchaser or the purchaser's designee outside the physical limits of this state or to a carrier for delivery to a place outside the physical limits of this state.

APPROVED: David Gerregano  
Commissioner of Revenue

DATE: June 4, 2024