Warranties, Service Agreements, and Breakdown Agreements

This category of service has raised the question of taxability a few times. The intent of this article is to provide clarification between Warranties, Service Agreements, and Extended Warranties or what is known in the tax circles as Breakdown Agreements.

When referring to warranties, we normally think of a Manufacturer's Warranty. The cost of a Manufacturer's Warranty is included in the sales price of new merchandise which covers the manufacturer's expense for repairing or replacing defective merchandise during a warranty period without any additional charges to the customer. Since Manufacturer's Warranty fees are a part of the selling price, it is taxable at the time of the sale. All repairs made under a manufacturer's warranty are exempt from sales tax even when the repair services are performed by a third party. Unless exempted by another provision of the law, additional charges to the customer, such as labor, are taxable.

The next category to be examined is a Maintenance Agreement, also known as Service Contract. They are purchased on costly appliances or equipment that may require service during the life of the appliance or equipment. Since they are viewed as prepaid repair agreements for tangible personal property, the sale of Service Contracts is taxable. They often cover routine servicing of the property, preventive maintenance and major breakdowns that occur after the warranty period. Whenever an actual repair is performed on the property, no tax shall apply since the agreement has already been taxed. However, if additional charges not covered by the agreements are billed to the property owner, those services are taxable.

The last category of warranty service that will be discussed is known as an "extended warranty" or a Break-down Agreement and is designed to furnish insurance on items such as automobiles. The added protection is in the event of failure after the warranty period, but it does not normally cover routine servicing, scheduled maintenance, pre-ventive maintenance or minor repairs. This agreement is not taxable since it is treated as an insurance policy. However, any charges for repairs under the agreement are taxable. In addition, repairs per-formed by a third party shall be taxable as well (labor and material). Repairs performed by dealers will subject the parts added in the repair to use tax. The same parts require identification as well as taxation. As mentioned, breakdown agreements are typically an insurance policy taken out on automobiles.

Consolidated Filing No Longer an Option

One of the services provided to the various Occupational License Tax (OLT) Departments in the parish is the furnishing of Annual Gross Sales Reports. The purpose of the report is to offer an accurate account of the Gross Sales generated by each individual business operating in order for the license depart-ments to effectively administer the appropriate license and fees. Naturally, if a dealer is filing a consolidated return on behalf of multiple businesses, the Gross Sales number generated from the single (consolidated) return will not be representative of each individual business involved.

After carefully considering all the facts, the department has decided to discontinue granting a consolidated filing status to dealers who operate two or more businesses in the same jurisdiction. The decision was based primarily on the impact the status has on the Gross Sales review process.

Therefore, our goal to help the OLT departments strengthen their enforcement capability resulted in a decision to scruti-nize the consolidated filing status more closely. Hopefully, the decision will not create any inconveniences for future businesses that would prefer the consolidated option. Businesses that are currently filing consoli-dated returns will not be asked to discontinue their filing option.

Free Training for Business Owners/Tax Preparers

A new class is being offered free of charge to all dealers in Calcasieu Parish. This class is held at our office at 2439 6th Street on the first Friday of each month. Class begins at 9:30 am and lasts about 1½ hours. Members of our audit staff are also on hand to answer specific questions concerning individual businesses and tax questions. Call 437-1201 or come by our office to sign up in advance for the class.

Mailing Address and Physical Address

More than fifteen (15) years ago, we changed our mailing address from Post Office Box 3227 to **Post Office Drawer 2050**. Nonetheless, dealers are still sending payments and other forms of communications to P.O. Box 3227. Once again, you are reminded of the inconvenience that is created for the current holder of Box 3227. Therefore, whenever communicating with us via the US Mail, please direct mail to P.O. Drawer 2050, Lake Charles, LA 70602-2050.

If you have never had the opportunity to visit our office, we are located at 2439 6th Street, Lake Charles, Louisiana, next to the Calcasieu Parish School Board Rosteet Annex.

Dealers are encouraged to furnish current address information to the proper representatives who bear the burden of communicating with our department.

R.S.47:305.50 Exemption vehicles used in interstate commerce; rail rolling stock manufactured in this state for use in interstate commerce

Through a review of information recently provided by the Department of Motor Vehicles, it has been determined that not all dealers taking the exemption qualify. In order to qualify, the truck must be used out of state at least 80% of the time (see law below). Letters have been mailed to owners of trucks claiming the Interstate Commerce Exemption for their vehicle. If the recipients of the letters believe they qualify for the exemption, driver's logs or trip reports must be provided to this office for review in order to determine if the exemption is valid.

LAC 61:I.4420. Property Used In Interstate Commerce

A. Revised Statute 47:305.50(A) allows certain taxpayers to register trucks with a gross weight of 26,000 pounds or more, trailers to be used with such trucks, and contract carrier buses with the Office of Motor Vehicles of the Department of Public Safety and Corrections (OMV) without paying state or local sales or use tax. To qualify for the exemption, the taxpayer's activities must be subject to the jurisdiction of the United States Department of Transportation and the taxpayer must certify to the OMV that the property will be used at least 80 percent of its total mileage in interstate commerce. The Department of Revenue and the OMV provide forms on which to make these certifications.

B. Any taxpayer who claims the exemption provided for in R.S. 47:305.50(A) ***must maintain records*** *of the use of the property in order to document that the property is used for at least 80 percent of its total mileage in interstate commerce.*

C. If the taxpayer fails to provide proper documentation, it will be presumed that the taxpayer does not qualify for the exemption and state and local sales or use tax will be due in accordance with subsection (B) above.

Filing Timely Returns

All monthly and quarterly accounts are required to file timely returns, even zero sales returns, to avoid being placed on a delinquent basis with the accompanying interest and penalties.

Rising Filing Fees

Effective October 31, 2006, the cost associated with filing documents with the Calcasieu Parish Clerk of Court's Office has increased by $18.00. This will increase tax lien charges from $36.00 to $54.00. Other fees may also be affected.

HOLIDAY SCHEDULE FOR CALCASIEU PARISH SALES TAX FY 2007-2008

Independence Day....July 4th
Labor Day................Sept 3rd
Veterans Day...........Nov 12th
Thanksgiving...Nov 21 – 23rd
Christmas ....Dec 19th–31st
New Year's.........Jan 1st – 2nd
Martin Luther King ...Jan 21st
Mardi Gras ....Feb 4th -5th
Easter Break...Mar 21st – 25th

Contractors and Special Exemption Certificates

Since the effective date of the ½% Law Enforcement Employees Salary Tax, an exemption from the new tax levy has been available to contractors who are qualified. The exemption only applies to lump sum and unit price construction contracts that were signed prior to the effective date of the new levy or within 90 days of the new tax levy.

Contractors are required to apply for a special exemption certificate to be furnished to vendors as evidence of eligibility. The certificate is not issued for blanket use, but for each separate eligible lump sum or unit price contract entered into within 90 days of the new tax.