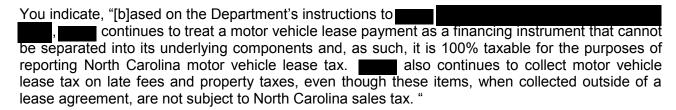


# North Carolina Department of Revenue

Pat McCrory Governor	Lyons Gray Secretary
	May 7, 2015
	Account ID: FEIN:
Attention: Tax Specialist	
	Re: Private Letter Ruling Request
Dear Ms.	
	equest for Private Letter Ruling, remittance of \$500.00, ave inquired as to the taxability of your company's lease ted from your lessees.
offer optional extended warranties to the warranties is collected from the customer at the dealer or the third-party warranty und	is a nationwide lessor of motor purchases lease contracts from plina. When negotiating the lease contract, dealers may bir lease customers. The sales tax on these optional at lease signing and remitted to North Carolina by either derwriter. The lessee has the option of paying for the ever, in most cases the customer elects to capitalize into the monthly lease payment."
then purchased by as a financin receivable and does not record or track the system. Even if an extended warranty is the lease has been booked, the original lease the lease has been booked.	signed by both the dealer and the lessee, the lease is g instrument. books the account as a lease ne receivable's underlying components in its accounting cancelled and the cost refunded to the consumer after ease payment remains unchanged. Cancelled warranty eparate from, the original financing instrument."
lease gross receipts tax (motor vehicle 17:07B.4401, the Department has detern required to collect the 3% motor vehicle lease.	ease tax on the entire lease payment, but that is lease tax on any and all separately stated, non-sales-

Page 2 May 7, 2015



In your letter, you state "on February 7, 2014, the Department published a notice that seems to contradict its earlier instructions to You provided a copy of such notice that states, in part, the following:

Any portion of a lease or rental payment for a motor vehicle that represents any amount applicable to the sales price of or sales tax on a service contract sold at retail and sourced to this State should not be included in the gross receipts subject to the motor vehicle lease tax. Such amount of the lease or rental payment applicable to the sales price of or sales tax on a service contract sold at retail and sourced to this State should be separately stated on the monthly billing or other documentation given to the purchaser.

You further state "[s]ince cannot separately state the portion of the monthly lease payment attributable to an extended warranty, service contract or any other underlying component, can you please answer the following questions for us[.]"

## **Question One:**

"When the service contract is NOT separately stated on the monthly lease invoice to the customer, is the entire lease payment then subject to the 3% motor vehicle lease tax?"

## Answer:

N.C. Gen. Stat. § 105-187.5(a), as amended effective October 1, 2014 and applicable to gross receipts derived from a service contract sold at retail on or after October 1, 2014, provides that "[t]he portion of a lease or rental billing or payment that represents any amount applicable to the sales price of or sales tax on a service contract sold at retail that is subject to the tax imposed by Article 5 [Sales and Use Tax] of this Chapter [105] and sourced to this State should not be included [emphasis added] in the gross receipts subject to the tax imposed by this Article [5A North Carolina Highway Use Tax]. The amount of the lease or rental billing or payment applicable to the sales price of or sales tax on a service contract sold at retail subject to the tax imposed by Article 5 of this Chapter [105] and sourced to the State should be separately stated [emphasis added] on documentation given to the purchaser at the time the lease or rental agreement goes into effect, or [emphasis added] on the monthly billing statement or other documentation given to the purchaser."

It is the Department's opinion that provided the sales price of or sales tax on a service contract sold at retail is separately stated on the documentation given to the purchaser (lessee) at the time the lease or rental agreement goes into effect, such amounts do not have to be separately stated on the monthly billing statement or other documentation given to the purchaser.

## **Question Two:**

"When the service contract is NOT separately stated on the monthly lease invoice provided to the customer, is the entire lease payment then subject to a lower tax rate, based on the percentage of the monthly payment attributable to a capitalized extended warranty or service contract?"

Page 3 May 7, 2015

#### Answer:

No. The portion of the lease payment that represents the gross receipts derived from the lease or rental of a motor vehicle is subject to 3% (8% as applicable) North Carolina motor vehicle lease tax pursuant to N.C. Gen. Stat. § 105-187.5. The percentage of the monthly payment attributable to a capitalized warranty or service contract and the sales tax charged on such at the time of the retail sale of the service contract is not subject to the motor vehicle lease tax.

Based on the legislation enacted, it is the desire of the North Carolina General Assembly that a customer not be required to pay the sales and use tax on the sales price of a service contract that is financed and also pay the motor vehicle lease tax on any portion of the sales price of and sales tax on a service contract that is financed. If your firm elects not to separately state the applicable amount of the sales price of the service contract and applicable sales and use tax thereon on the monthly lease billing, your firm should charge and collect the motor vehicle lease tax on the allocable amount attributable to the gross receipts derived from the lease or rental of the motor vehicle and should not charge and collect the motor vehicle lease tax on the allocable amount attributable to the sales price of and sales tax on the service contract.

## **Question Three:**

"Do **separately-stated** items that are **not** subject to North Carolina sales and use tax, such as late fees and property taxes, continue to be subject to the 3% North Carolina motor vehicle lease tax?"

## **Answer:**

Yes. Separately stated items such as late fees and property taxes are a part of the gross receipts derived from the lease or rental of a motor vehicle, including personal property taxes and fees or charges incurred in collecting delinquent accounts, and such charges are subject to the 3% (8% as applicable) North Carolina motor vehicle lease tax.

This ruling is based solely on the facts submitted to the Department of Revenue for consideration of the transactions described. If the facts and circumstances given are not accurate, or if they change, then the taxpayer requesting this ruling may not rely on it. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material aspect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that this document is not to be cited as precedent and that a change in statute, a regulation, or case law could void this ruling.

If you have any questions, you may reach me at the number listed below.

Very truly yours,

Administration Officer
Sales and Use Tax Division

cc: Director – Sales and Use Tax Division