



Georgia Department of Revenue
Informational Bulletin SUT 2009-09-25
Application of Georgia Sales and Use Tax to the Providing of Portable
Toilets and Associated Services

- 1) **Purpose/Subject:** This informational bulletin provides guidance on the application of Georgia sales and use tax to charges for portable toilets and charges for certain services associated with portable toilets. The Department of Revenue ("the Department") has reconsidered its prior sales and use tax treatment of charges for portable toilets. Historically, the Department treated charges for portable toilets as sales of nontaxable services. The Department considered changing this policy effective October 1, 2009 by treating such charges as taxable leases or rentals of tangible personal property. However, after much deliberation, including meeting with representatives from the industry, and performing additional research, the Department has elected to continue the historical practice of treating charges for portable toilets as a nontaxable sanitation service.
- 2) **Effective Date:** October 1, 2009.
- 3) **Supersedes:** All previous documents and any oral directives in conflict herewith.
- 4) **Authority:** O.C.G.A. §§ 48-8-2; 48-8-30.
- 5) **Scope:** An informational bulletin is intended to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of law to a specific set of facts or a general category of taxpayers. An informational bulletin does not have the force or effect of law, and is not binding on the public. It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.
- 6) **Issues:**
 - a) Whether charges for providing portable toilets and related services are subject to Georgia sales and use tax?

7) Discussion of Issues

Georgia imposes a sales and use tax on the retail purchase, retail sale, rental, storage, use, or consumption of tangible personal property and on some services that are specifically enumerated in the tax code. O.C.G.A. § 48-8-30(a).

Services that are not specifically listed are exempt from Georgia sales and use tax. When a transaction involves both a transfer of tangible personal property and the providing of a nontaxable service, the Department must make a determination as to whether this type of transaction is the sale or lease of tangible personal property, a service, or both.

Many states have adopted a “true object” or “dominant purpose” test for making taxability determinations in cases where it is not entirely clear whether the transaction is the sale or lease of tangible property, a service, or both. While Georgia does not formally subscribe to a “true object” type test; from a policy perspective, we are frequently required to look to the object of a specific transaction to help determine the taxability for sales and use tax purposes.

In the immediate case, the lease of portable toilets in conjunction with mandatory services that are associated with the providing of portable toilets, the Department has determined that the object of this type of transaction is to provide a sanitation service. In making this determination, the Department looked to the value/cost of the tangible personal property that was being transferred as compared with the value/cost of the services that were being provided. It was found that the value of the portable toilet itself was clearly insignificant when compared to the value/cost of the services that were being provided.

Therefore, providing portable toilets along with all the associated services; including but not limited to, pumping, recharging with chemicals, disinfecting, cleaning, deodorizing, refilling toilet paper, general maintenance and repair, pick-up, and delivery, are all considered to part of a nontaxable sanitation service.

All portable toilet sanitation service providers are required to pay sales and/or use tax on all purchases of tangible personal property and taxable services that are used or consumed in the providing of their sanitation service.

FOR MORE INFORMATION

For more information on this subject, contact the Taxpayer Services Division at 404-417-4300, from 8:00 am to 4:30 pm EST, Monday through Friday, excluding holidays.

Persons with hearing or speech impairments may call our TDD number at 404-417-4302.

For forms and other information, visit our website (www.dor.ga.gov).
