

Georgia Letter Ruling: LR SUT-2019-03

Topic: Aircraft Painting

Date Issued: May 31, 2019

This letter is in response to your request for guidance on the application of Georgia sales and use tax to aircraft painting.

Facts Presented by Taxpayer

Taxpayer performs complete strip, sand, and paint services on aircraft operating under Federal Aviation Administration ("FAA") certificates. Taxpayer provides licensed facilities, labor, and all materials necessary to accomplish these services. Some customers do elect to provide their own paint and decals.

Taxpayer's customers include major airlines, cargo carriers, and military contractors. Taxpayer will be hired to accept a customer's aircraft in a Georgia facility, prepare them for either chemical stripping or mechanical sanding, and treat and paint the aircraft to a customer's specific livery. Upon completion of the operation and proper execution all FAA paperwork, the customer's pilot will pick up the aircraft and depart. Typically, the work is completed in an 8 to 16-day visit.

Issue

How does Georgia sales and use tax apply to Taxpayer's operations?

Analysis

Georgia levies and imposes a tax (subject to certain exemptions) on the retail purchase, retail sale, rental, storage, use, or consumption of tangible personal property and on certain enumerated services.¹ Unlike sales of tangible personal property, sales of services are not subject to sales and use tax unless the service is specifically designated as taxable.² Typically, service providers are deemed to be the end users and consumers of certain tangible personal property used or consumed during the provision of a service, and service providers generally must pay the tax on tangible personal property used in providing their services.³

Two regulations are instructive to explain how sales and use tax law applies to Taxpayer's painting operations. Rule 560-12-2-.08 states that automobile painters and refinishers are engaged primarily in rendering personal services, and their gross receipts are not subject to the tax.⁴ Similarly, Rule 560-12-2-.68 provides that painters and paperhangers perform services not subject to sales and use tax.⁵ Both regulations explain that the painters are consumers of all tangible personal property used in their business and, consequently, must pay tax on their purchases of materials, such as paint, supplies, and equipment.⁶

The rationale behind these regulations applies to aircraft painting. Taxpayer provides a service of stripping, sanding, and painting aircraft. Since the General Assembly has not specifically designated such services as taxable, Taxpayer's services are not subject to sales and use tax. While the services are not subject to the tax, Taxpayer's purchases of materials used in providing its services are subject to sales and use tax.⁷

¹ O.C.G.A. §§ 48-8-1 and 48-8-30.

² *Id.*; See also O.C.G.A. § 48-8-3(22) (Georgia law further provides that professional insurance, and personal service transactions are not subject to the tax even when such transactions involve sales of tangible personal property as inconsequential elements for which no separate charges are made).

³ O.C.G.A. § 48-8-63; Ga. Comp. R. & Regs. r. 560-12-1-.14(7).

⁴ Ga. Comp. R. & Regs. r. 560-12-2-.08.

⁵ Ga. Comp. R. & Regs. r. 560-12-2-.68.

⁶ Ga. Comp. R. & Regs. r. 560-12-2-.08 and 560-12-2-.68.

⁷ It is noted that Georgia law provides a sales and use tax exemption for the sale or use of engines, parts, equipment, and other tangible personal property used in the maintenance or repair of aircraft when such property is installed on an aircraft that is being repaired or maintained in this state, so long as such aircraft is not registered in this state. O.C.G.A. § 48-8-3(86). Further, state law provides a sales and use tax exemption for the sale of major components and repair parts installed in military craft, vehicles, and missiles. O.C.G.A. § 48-8-3(40). If Taxpayer's services

Ruling

Charges made for Taxpayer's stripping, sanding, and painting services are not subject to Georgia sales and use tax. As a service provider, Taxpayer must pay sales and use tax on the purchase of all tangible personal property used in performing its services.

include the installation of qualifying tangible personal property on aircraft not registered in Georgia or military aircraft, Taxpayer may avail itself of the applicable exemption upon purchase or use of such property.