

NOTICE OF INTENT

Department of Revenue and Taxation Sales Tax Division

Motion Picture Rental Exemption (LAC 61:I.4409)

Under the authority of Revised Statute 47:305.9 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Sales Tax Division, proposes to amend LAC 61:I.4409 pertaining to the exemption from tax of the rental of motion picture films.

The Department of Revenue has agreed with the theater operators and film distributors that certain contracts entered into by them are not rental agreements, but are joint ventures or partnerships. The department is proposing changes in the rule dealing with the definition of "lease or rental" found in LAC 61:I.4301.7 to reflect this agreement. The department also wants to make reference to this change in LAC 61:I.4409 in order to ease research for the taxpayer.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 44. Sales and Use Tax Exemptions

§4409. Motion Picture Film Rental

A. R.S. 47:305.9 provides a very limited exemption to the operators of motion picture theaters wherein the amount paid by operators to distributing agencies for the use of film are specifically exempted from the sales and use taxes imposed by this Chapter. Note that film is the only item covered by the exemption. Distributing agencies and suppliers for motion picture theaters are required to collect taxes on any other supplies or materials furnished to operators. Theaters are required to collect the tax on admissions.

B. Any distributing agent who fails to collect the tax imposed by this Chapter because of the exemption provided in this Section must be able to identify the motion picture theater operators to whom films were furnished. Failure of the distribution agency to maintain a complete record of transactions for which no taxes were collected can result in the dealer being held responsible for the tax.

C. In some cases, agreements between film distributors and theater operators may not be leases or rentals. LAC 61:I.4301.7 defines lease or rental and provides exceptions to the definition of lease or rental.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.9.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended LR 22:

A public hearing will be held on July 25, 1996, at 10 a.m., in the Department of Revenue and Taxation Building at 330 North Ardenwood Drive, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendment. The public hearing for this amendment will be held in conjunction with the public hearing for the amendment of LAC 61:I.4301 which deals with the same issue.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than July 10, 1996, at 4:30 p.m., to Patricia Porter, Sales Tax Division, Box 201, Baton Rouge, LA, 70821-0201 or to 330 North Ardenwood Drive, Baton Rouge, LA, 70806.

John Neely Kennedy
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Motion Picture Rental Exemption

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no increase in costs to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no significant effect on revenue collections of state or local governmental units as a result of this proposed rule. The agreements between movie theater operators (exhibitors), distributors, and the department have been in effect for some time. Any effect on state or local governmental units has already been felt because the agreement has already been accepted. The amendment to the rule simply directs the public to the clarification of the agreements in LAC 61:I.4301.7 which has also been amended for this same reason.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule provides direction to find the clarification of the agreements in the rules. Because the agreement between the department and the movie industry was placed into effect prior to the rule, the economic benefits of the agreement have already been felt.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no effect on competition or employment.

John Neely Kennedy
Secretary
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