

Revenue Ruling No. 19-002
April 17, 2019

Transportation and Communication Utilities Tax

Pipelines with Intrastate Movements Beginning or Ending in Foreign Trade Zones

Purpose

The purpose of this ruling is to provide clarity regarding the application of the Transportation and Communication Tax (“T&C Tax”) owed by pipelines with respect to movements of oil within Louisiana which begin or end in a Foreign Trade Zone (“FTZ”) located in Louisiana.

Law

LA R.S. 47:1001 imposes the T&C Tax as follows:

Every person owning or operating, or owning and operating, any public utility in this state as defined in this Part, shall, in addition to all other taxes and licenses levied and assessed in this state, pay a license tax, for the privilege of engaging in such business in this state, of two per centum (2%) of the gross receipts from its intrastate business.”

LA R.S. 47:1002 provides further explanation providing:

This Part levies, in addition to other taxes and licenses levied in this state, a license tax on every person owning or operating or owning and operating a public utility, as herein defined, for the privilege of engaging in such business carried on wholly in this state, and not a part of interstate commerce. This tax is not intended to be a tax for the privilege of engaging in interstate commerce, nor is it intended to be a tax on the business of interstate commerce nor is it intended to be a tax having any relation to interstate or foreign business or commerce in which any such person, firm, association or corporation may be engaged in addition to its business in this state.

The provisions of this Part and the taxes collectible hereunder shall not apply to or be levied against gross receipts derived from any business or operations conducted on navigable waters of the United States.

LA R.S. 47:1003(1) defines *public utility* as “railroads and railways, sleeping cars, motor bus lines, motor freight lines, express companies, telegraph companies, boat or packet lines, and pipe lines, as herein defined. The term public utility shall not include publicly owned ambulance companies.”

A Revenue Ruling is issued under the authority of LAC 61III.101 (C). A Revenue Ruling is written to provide guidance to the public and to Department of Revenue employees. It is a written statement issued to apply principles of law to a specific set of facts. A Revenue Ruling does not have the force and effect of law and is not binding on the public. It is a statement of the department's position and is binding on the department until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.

Pipe lines include “any person engaging in the business of transporting oil within this state for hire.”¹

For purposes of the T&C Tax due by pipelines, *gross receipts* means “the total amount of billings for services rendered and all receipts from business beginning and ending within the state.”²

FTZs are geographical areas in or adjacent to ports of entry located within the United States but considered to be outside of the United States for tariff purposes.³ LA R.S. 51:62 authorizes the establishment of FTZs in Louisiana. As provided by 19 U.S.C. 81o, “[t]angible personal property produced in the United States and held in a zone for exportation ... shall be exempt from State and local ad valorem taxation.”

For purposes of determining Louisiana apportionment percentages to calculate the Louisiana corporation income tax, corporeal movable property located in Louisiana in United States customs-bonded warehouses or FTZs established under the FTZ Act shall be considered located outside of Louisiana.⁴

Similarly, for purposes of the allocation of taxable capital when calculating Louisiana corporation franchise tax, corporeal movable property imported into the United States and located in FTZs established under the FTZ Act shall be considered located outside of Louisiana.⁵

Analysis

The T&C Tax is due on all gross receipts from intrastate business, that is, all business beginning and ending within Louisiana.⁶ FTZs established in accordance with 19 U.S.C. 81c are, by definition, geographical areas located within the United States. Those FTZs established in Louisiana under the authority granted in LA R.S. 51:62 are, in fact, located within the geographical limits of Louisiana.

Under the FTZ Act, property located in an FTZ is considered located outside of the United States for tariff purposes and is exempt from state and local ad valorem taxes.⁷ The exemption does not extend to other state and local taxes and is limited to tangible personal property produced in the United States and held in the FTZ for exportation.

¹ LA R.S. 47:1003(10)

² LA R.S. 47:1003(11)(a)

³ 19 U.S.C. 81a *et seq.* (“FTZ Act”)

⁴ LA R.S. 47:287.95(H)

⁵ LA R.S. 47:606(D)

⁶ *See generally* LA R.S. 47:1001-1003.

⁷ 19 U.S.C. 18c; 19 U.S.C. 81o

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As noted above, Louisiana has legislatively adopted two additional instances in which property located in FTZs in Louisiana will be considered located outside of Louisiana.⁸ Those instances specifically relate to the calculation of Louisiana corporation income and corporation franchise tax and are limited to those taxes.

There is no exemption in the law that authorizes or requires an FTZ located in Louisiana to be treated as being outside of the state for purposes of the T&C Tax. Therefore, the FTZ is not considered to be outside of Louisiana or the United States for purposes of the T&C Tax. Since the FTZ is, in fact, located in Louisiana, any movement of oil which begins or ends within the FTZ is considered to occur within Louisiana. In that regard, movements from or into an FTZ into or from another location in Louisiana are not considered interstate or foreign commerce within the meaning of LA R.S. 47:1002.

Ruling

Transportation and Communication Tax is due by pipelines on gross receipts from their business conducted wholly within Louisiana, including movement of oil which begins or ends in a Foreign Trade Zone located in Louisiana.

Kimberly L. Robinson
Secretary

⁸ See LA R.S. 47:287.95(H) and 47:606(D)

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