


**CITY OF CHICAGO
DEPARTMENT OF REVENUE
RULES AND REGULATIONS**

Pursuant to Sections 2-80-030, 2-80-040, 3-4-030, 3-4-150 and 3-32-120 of the Chicago Municipal Code, I, Bea Reyna-Hickey, as Director of the City of Chicago Department of Revenue, do hereby adopt and promulgate Personal Property Lease Transaction Tax Second Amended Ruling #11, as set forth below, effective May 1, 2011.

Dated: April 1, 2011


Bea Reyna-Hickey
Director
Department of Revenue

**CITY OF CHICAGO
DEPARTMENT OF REVENUE
PERSONAL PROPERTY LEASE TRANSACTION TAX RULING**

Personal Property Lease Transaction Tax Second Amended Ruling #11
Subject: Vehicle Rentals From Suburban Locations
Effective Date: May 1, 2011

Section 1. Application of Ruling. This ruling concerns vehicle rentals to Chicago residents, on or after July 1, 2011, from suburban locations within 3 miles of Chicago's border, excluding that portion of the City's border composed of the boundaries of O'Hare International Airport ("O'Hare"), by motor vehicle rental companies doing business in the City. See Sections 3 and 4 below. The ruling applies only to short-term rentals, as distinguished from long-term leases, which are discussed in Personal Property Lease Transaction Tax Ruling #8. The ruling does not affect the audit or assessment of any rental locations in the City. The ruling also does not affect the audit or assessment of any rentals in which passengers who arrive at or depart from a City airport are transported by the motor vehicle rental company or its agents for the purpose of picking up or returning a rented vehicle.

Section 2. Background. The Chicago Personal Property Lease Transaction Tax Ordinance, Chicago Municipal Code ("Code") Chapter 3-32, provides as follows:

- a. The tax. Code Section 3-32-030(A) imposes a tax on "(1) the lease or rental in the city of personal property, or (2) the privilege of using in the city personal property that is leased or rented outside the city."

b. Use. The term “use” means “the exercise of any right to or power over personal property by a lessee incident to the lease or rental of that property including, but not limited to, the permanent or temporary storage, stationing or garaging of personal property by the lessee.” Code Section 3-32-020(R).

c. Exemption for use primarily outside the City. There is an exemption for “[t]he use in the city of personal property leased or rented outside the city if the property is primarily used (more than 50 percent) outside the city.” Code Section 3-32-050(A)(1). As with other exemptions, the burden is on the taxpayer or tax collector to prove, with written evidence, that the taxpayer or tax collector is entitled to this exemption. See, e.g., Code Sections 3-4-130, 3-4-340; Telco Leasing, Inc. v. Allphin, 63 Ill. 2d 305 (1976); West Belmont, L.L.C. v. City of Chicago, 349 Ill. App. 3d 46 (1st Dist. 2004).

d. Collection. The lessor is responsible for collecting the tax from the lessee at the time of each lease or rental payment, and for remitting the tax to the Department of Revenue (“Department”). Lessors that fail to collect or remit the tax are liable to the City for the amount of such tax, plus interest and penalties. Code Section 3-32-070.

e. Books and records. Every lessor is required to retain for at least five years accurate books and records of each transaction or activity requiring the lessor to collect and remit the tax. Code Section 3-32-110. Such books and records include original source documents and books of entry denoting the transactions that gave rise, or may have given rise, to any tax liability, exemption, or deduction. Code Section 3-4-170.

f. Rules and regulations. The Director of the Department is authorized to adopt, promulgate and enforce rules and regulations pertaining to the administration and enforcement of the lease tax. Code Section 3-32-120.

Section 3. Record keeping. In light of the above, each motor vehicle rental company doing business in the City is advised, when renting from a suburban location within 3 miles of the City’s border (excluding the borders of O’Hare), to a customer who will use the vehicle in the City, to maintain written records that support any claim of exemption from the tax, for the company’s use in the event of an audit.

In the event of an audit, absent written proof to the contrary, the Department will assume that a customer who is a Chicago resident (according to the customer’s driver’s license), when renting from such a location, will use the vehicle in the City; and the Department will assume that a customer who is not a Chicago resident (according to the customer’s driver’s license), when renting from such a location, will not use the vehicle in the City.

The Department deems the following provisions to be acceptable to support the exemption for use primarily outside the City, if made part of a company’s rental agreement or related books and records kept in connection with such rentals to Chicago residents:

_____ By initialing this space you are notifying us that you plan to use this vehicle 50% or more of the time (including garaging) in the City of Chicago.

_____ By initialing this space you are notifying us that you plan to use this vehicle more than 50% of the time (including garaging) outside the City of Chicago.

For purposes of this ruling, the term “doing business” in the City includes, for example, having a location in the City or regularly renting vehicles that are used in the City, such that the company is subject to audit by the Department under state and federal law. Any company that is not sure if its operations constitute “doing business” in the City may contact the Department for an opinion.

Section 4. Three Mile Limit. As a policy matter, the Department has decided that, absent further notice (as set forth below), it will not audit or assess any motor vehicle rental companies for rentals from locations more than three (3) miles outside Chicago’s border, excluding that portion of the City’s border composed of the boundaries of O’Hare. If the Department decides to change this policy, it will provide at least 120 days’ advance written notice, and the change will be prospective only. Any company that is not sure if any one of its locations is more than three (3) miles outside Chicago’s border (excluding the borders of O’Hare) may contact the Department for a determination of that issue.

Section 5. Safe Harbor. In lieu of maintaining the kind of written records referred to in Section 3 above, a motor vehicle rental company with suburban locations within three (3) miles of Chicago’s border (excluding the borders of O’Hare) may, as a safe harbor, assume that 25% of its rental charges at such locations, to customers who are Chicago residents, are for vehicles that will be used primarily in Chicago. Thus, a motor vehicle rental company may pay tax to the Department in an amount equal to the tax rate multiplied by 25% of its rental charges at such locations, to customers who are Chicago residents.

Section 6. Status of Prior Rulings and Bulletin. This ruling supercedes Personal Property Lease Transaction Tax Amended Ruling #11 (effective July 15, 2009), Personal Property Lease Transaction Tax Ruling #11 (effective July 1, 2008), and also those portions of the September 1997 Information Bulletin, entitled “Wheel Tax License,” which concerned the application of the City’s personal property lease tax to car rentals outside Chicago. The Department will treat those rulings and the described portions of the Information Bulletin as null and void, and will not seek to enforce them.