



Janet Napolitano  
Governor

J. Elliott Hibbs  
Director

## PRIVATE TAXPAYER RULING LR03-012

October 23, 2003

This private taxpayer ruling is in response to your letter dated March 26, 2003, as updated on September 11, 2003, in which you requested a private taxpayer ruling relating to the transaction privilege tax ("TPT") consequences to . . . ("Taxpayer") from its "convenience copier" agreements with Arizona customers.

### **Statement of Facts:**

Your March 26, 2003 and September 11, 2003 letters present the facts relating to Taxpayer's business as follows:

[("Taxpayer")]. . . provides various services to its clients. One of the products [Taxpayer] offers to its customers is what [are] referred to as "convenience copiers." The documentation used between [Taxpayer] and [its] customers var[ies] but the essence of the transaction is the same.

All convenience copiers are placed at various locations at the customer's place of business.

The customers are charged a base amount that allows them to make a certain amount of copies and an additional charge per copy over the allotted amount.

It is not unusual that the customer has the right to terminate the agreement by providing a written notice 60 days prior to the termination and paying, if applicable, an early termination charge. The convenience copiers are usually combined with other unrelated equipment and services under a single agreement but work independently of each other. During the term of the agreement the customer may negotiate for a different copier if [it] desire[s]. . . higher volume, color[,] etc.

It is [Taxpayer]'s responsibility to maintain the copiers and provide the toner, developer and fuser. [Taxpayer] may or may not provide paper depending on the terms of service on a client-by-client basis.

\* \* \* \* \*

**PRIVATE TAXPAYER RULING LR03-012**

October 23, 2003

Page 2

With convenience equipment invoicing, the provision for supplies and maintenance costs are built into the base...amount of each specific piece of equipment [(i.e.,) the rental charge[]].

\* \* \* \* \*

The customer has exclusive use of the copiers and has the right to direct the manner of its use...[. T]he customer operates the copiers[,] choosing different control functions[,] and [has] the copiers available for [its] use anytime of day during the agreed upon period, usually 3 years.

**Issue:**

Do Taxpayer's convenience copier agreements with Arizona customers comprise rentals subject to the transaction privilege tax ("TPT") or nontaxable services?

**Your Position:**

You do not articulate a position in your request.

**Conclusion and Ruling:**

On the basis of the information provided, Taxpayer's customers' exclusive use of the copiers, including the right to direct the manner of use, during the term of the convenience copier agreements reflects sufficient lessee control over the transferred equipment for Taxpayer to be engaged in the business of personal property rental, which is subject to transaction privilege tax under Arizona Revised Statutes ("A.R.S") § 42-5071, the personal property rental classification. The tax base for the personal property rental classification is the gross proceeds of sales or gross income derived from the business.

Under Arizona Administrative Code ("A.A.C.") R15-5-1502, gross income from the rental of tangible personal property includes charges for maintenance unless a specific statutory exclusion, exemption, or deduction applies. Therefore, Taxpayer's income derived from the maintenance service provisions of its convenience copier agreements is specifically includible in Taxpayer's personal property rental tax base. Likewise, pursuant to the definition of "gross income" under A.R.S. § 42-5001, Taxpayer's personal property rental gross income includes the value proceeding from Taxpayer's supplying toner, fuser, developer, or paper to a customer under a convenience copier agreement. Additionally, the income from Taxpayer's per-copy surcharges, which relate directly to additional usage of the rented copiers, and any early termination fees, which are integral to the personal property rental business, are also includible in Taxpayer's personal property rental tax base. In summary, the entire base amount received under convenience copier agreements with Arizona customers and any overuse surcharges or early termination fees accessed

**PRIVATE TAXPAYER RULING LR03-012**

October 23, 2003

Page 3

under those agreements are subject to transaction privilege tax under A.R.S. § 42-5071, unless otherwise exempt thereunder.

The following private taxpayer ruling is given based on the facts presented in your request.

The Department rules that the base amount Taxpayer receives from its convenience copier agreements with Arizona customers is subject to transaction privilege tax under the personal property rental classification, unless exempt thereunder. Income derived from the maintenance and supply portions of these convenience copier agreements and reflected in Taxpayer's basic rental charge constitutes Taxpayer's gross income from its personal property rental business.

The Department further rules that income Taxpayer derives from any excess copy surcharges and early termination fees contributes to Taxpayer's personal property rental classification tax base.

The conclusions in this private taxpayer ruling do not extend beyond the facts presented in your letters dated March 26, 2003 and September 11, 2003.

**This response is a private taxpayer ruling and the determinations herein are based solely on the facts provided in your request. The determinations are subject to change should the facts prove to be different on audit. If it is determined that undisclosed facts were substantial or material to the Department's making of an accurate determination, this taxpayer ruling shall be null and void. Further, the determination is subject to future change depending on changes in statutes, administrative rules, case law or notification of a different Department position.**

**The determinations in this private taxpayer ruling are applicable only to the taxpayer requesting the ruling and may not be relied upon, cited nor introduced into evidence in any proceeding by a taxpayer other than the taxpayer who has received the private taxpayer ruling.**