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## PRIVATE TAXPAYER RULING LR04-003

March 11, 2004

This private taxpayer ruling responds to your letter of June 27, 2003, as supplemented by your letters of July 24, September 6, and November 13, 2003. In your letters, you request the Department to rule on the application of Arizona transaction privilege tax under the commercial lease classification to gross income derived from storage services provided by your company . . . ("Company").

The following are facts as presented in your letter:

[Company] is in the business of moving and storing customers' household goods. [Company] leases a warehouse/office building . . . from [LLC]. [Company] rents about 90 percent of the building to its storage customers and uses about 10 percent for [its] office. [Company] has been billing [its] storage customers a fixed amount per month to store household goods . . . . The amount varies with the space needed. . . .

. . . .

**B. Offices Used For Storage** - Part of the building is permanently walled off into offices. The offices not being used by [Company] for office space are used to store customers' household goods. The household goods are moved from the customer's home into an office or offices by [Company]. Customers are granted access to their household goods upon request to [Company] and at reasonable hours as agreed to by [Company] and the customers. Customers are billed an appropriate access fee. It could not be reasonably said that customers have access to their space 24 hours a day, seven days a week due to the request requirement and access at reasonable hours requirement. A [Company] representative opens the building, guides the customer to the office providing storage, and assures the security of other [customers'] goods while the customer has access. [Company] has been billing customers a fixed amount per month for storing their goods in offices and the amount varies with office space needed. . . .

. . . .

**C. Open Warehouse Space Used for Storage** - Part of the building is an open two story warehouse. This space is used to store [customers'] household goods. [Company] moves the goods from the customer's homes

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to the warehouse and packs the goods into wooden containers. The containers are about 5 by 5 ½ by 7 feet in size. The containers are stacked 3 to 4 high with a forklift in the warehouse. The containers make an efficient use of the open warehouse space. When customers want to access their goods, they must make a request to [Company] and at a reasonable time as agreed to by both parties, access is granted. Customers are billed an appropriate access fee. It could not be reasonably said that customers have access to their goods 24 hours a day, seven days a week due to the request requirement and access at reasonable times requirement. A [Company] representative opens the building, uses the fork lift to move the containers to where the customer can access his goods, and assures the security of other [customers'] goods while the customer has access. . . .

. . . .

**D. Open Warehouse Used for Uncontained Storage** – Some bulky items such as cars, motorcycles, sofas, and large outdoor decorative items are stored on the floor of the building, on top of the stack of containers, or outside in the secured parking area, wherever there is room. [Company] has been billing the customers a fixed amount per month which varies with the open space needed . . . .

. . . .

**E. Combinations of B through D Used for Storage** – Some customers have so many and varied goods that combinations of B through D above are utilized for storage. Invoices are not broken down into space for each part. . . .

. . . .

**F. [Company] Rental of Storage Units to [Its] Storage Customers that [Company] Rents From Storage Companies** – [Company] rents storage units from local storage companies. [Company] moves customers' goods to the units, stores the goods, and usually moves the goods to the customer's new residence. The customer must make a request to [Company] for access to customer's goods. [Company] has been charging these storage customers a monthly amount which varies by the unit space needed . . . .

You provide further clarification:

. . . Customer storage access – All [Company] storage customers at the [Company] facility can access their goods at a reasonable time as agreed to by [Company] and the customer. A customer can access their goods at other

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facilities that [Company] rents from storage companies under the same arrangements but also subject to the rental agreements between [Company] and the storage companies as they pertain to access. The customer is charged an access fee that depends on the labor and equipment required on [Company]’s part. This process is not spelled out in the storage contract. Eight AM to Five PM on Monday thru Saturday is considered reasonable times for customer access. There are not different access arrangements for different customers.

. . . Access Supervision – A [Company] representative always accompanies customers during customer access. [Company] is responsible for customer’s goods while stored in [Company] facilities so [Company] must protect each customer’s goods from loss which included theft by other customers. Also, since [Company] is responsible for any missing goods, [Company] must mark off the inventory when goods are removed [by] the customer[.]

. . . .

. . . Regarding **storage containers**, [Company] does not charge customers any rental fees for storage containers used to store the customers’ property that are separate from monthly storage fees.

. . . .

. . . Regarding **access fees**, [Company] charges customers a fee of \$20 per visit by the customers to access goods that they are storing with [Company]. Customers must first describe to a [Company] employee the stored goods that they wish to access. A [Company] warehouse manager then retrieves the goods out of the storage area to an area where customers may access them. Customers are not allowed into areas where goods are stored to access their property; the property must be retrieved by a [Company] warehouse manager or other [Company] employee.

. . . .

. . . Regarding **moving services**, all goods stored at the [Company] facility are moved there by [Company] employees or agents. Customers cannot bring goods to [Company]’s facility to store such as one might do at a “mini storage” or “self storage” facility.

**Your Position**

With regard to the application of Arizona transaction privilege tax, you do not advocate a particular position in your request.

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**Conclusion and Ruling**

Based on the facts provided, the Department rules that the storage services Company provides are personal services that are not subject to state or county transaction privilege taxes under the commercial lease classification. Nevertheless, this ruling does not address the imposition of local privilege tax. The City of Phoenix is a “non-program” city and thus administers its own taxes. The city should be contacted directly for questions regarding the applicability of its tax on Company’s services.

The conclusion of this private taxpayer ruling does not extend beyond the facts presented in your letters of June 27, July 24, September 6, and November 13, 2003.

**This response is a private taxpayer ruling and the determination herein is 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 only applicable 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.**