
Opinion of the Tax Commissioner

Date Issued: November 19, 1991

Opinion No: 91-0024

Tax: Personal Property

XXXX
XXXX
XXXX

Subject: Sale or Lease

This request for an opinion of the Tax Commissioner was received on August 27, 1991. Specifically, it concerns the personal property tax ramifications for leased equipment.

XXXX (hereinafter taxpayer) has submitted the following factual information:

1. The taxpayer is XXXX.
2. The taxpayer leases equipment from other parties.

Question For Which An Opinion is Requested

1. Pursuant to Ohio Adm. Code 5703-3-14 and provisions of R.C. 5711.01 and 5711.05, do the purchase obligation clauses in the specific lease attached to this request deem the taxpayer the owner of the leased equipment contained in that lease?

OPINION

It is the Tax Commissioner's opinion that the lease under review is a lease and does not require the taxpayer to buy the equipment at the end of the lease period. The lease under review does contain an addendum (Addendum A) to the Master Lease Agreement requiring the lessee to purchase the equipment listed on Schedule 04 of the Master Lease Agreement. Addendum A is dated December 7, 1990. The equipment list mentioned in the addendum was never attached, so it is impossible to describe the equipment at issue. However, that fact is not important in light of the fact that the lessor and lessee executed a mutual rescission of Addendum A to the Master Lease Agreement. This rescission cancels the obligation clauses contained in Addendum A. Therefore, the lease is strictly a lease and ownership of the equipment rests with the lessor. Furthermore, the lessor is responsible for listing the equipment on its personal property tax return and paying any tax due.

This opinion applies to the taxpayer and its property only. It may not be transferred or assigned.

In addition, the tax consequences stated in this opinion may be subject to change for any of the reasons stated in R.C. 5703.53(C). It is the duty of the taxpayer to be aware of such changes. See R.C. 5703.53(E).

Roger W. Tracy
Tax Commissioner