Tax Executives Roundtable
Mobile Property: Sales and Property Tax Considerations

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Agenda:

- Characteristics of property
- Motor vehicles
- State Update - Sales Tax
- State Update – Property Tax
- Operational Issues
Characteristics of Mobile Property:

• Property that moves from one jurisdiction to another
  – Can be centrally assessed
  – Can be apportioned based on time or miles
  – Common examples
    • Trucks,
    • Cars
    • Planes
    • Railcars
Motor Vehicle Leasing Industry Characteristics:

- Titled property
  - Documentation and fees accompany the process of titling a vehicle
  - Provides the jurisdiction and lessor evidence to where the car is located
- Local governments are becoming more aggressive
- Local governments are become more connected to state agencies
  - DMV
  - State revenue departments
  - Department of Transportation
- Constant contact with lessees
  - Registration problems
  - Tax (sales and/or property tax) problems
- Large number of assets:
  - One asset to one account is common place in motor vehicle industry
State Update: Sales Tax

• Illinois:
  – State collects on full purchase price
    • Allows for trade-in credits
    • Tracking for cars that are registered outside IL.
    • 86 ILL Adm Code 130.455
  – City of Chicago
    • Collects on the rental stream
    • If car moves in, the city wants tax on prorated piece of the cap cost reduction.
    • Chicago Municipal Code 3-32-030
State Update: Sales Tax

• Vermont:
  – Sales tax on residual
  – Adjustments made by commissioner based on future projections.
    • Code Sections 8902 and 8907

• Streamline sales Tax Project
  – Sourcing
    • Section 310 of Agreement
    • Origin vs. Destination
    • Possible additional licensing requirements for dealerships
State Update: Property Tax

- Texas
  - Auto Auction changes
    - S.B. No 1652 amends Section 21.02 of the tax code
      - Motor vehicles is not taxable if on January 1, is located less than 60 days, held for resale at an auction house
      - Auction house must hold a wholesale motor vehicle auction general distinguishing number issued by the Texas department of Transportation under chapter 503, transportation code.
State Update: Property Tax

• North Carolina;
  – Session Law 2005-294; House Bill 1779
    admends General statutes 105-330
    • Act created a combined motor vehicle registration
      renewal and property tax collection system.
    • Two Sections become law when signed
    • Others will become law on July 1, 2009
  – National Vehicle Leasing Association (NVLA)
    • Working together with agencies and industry to
      address the issues.
State Update: Property Tax

- Virginia
  - Changes for calculating PPTRA – Section 58.1-3524
    - Effective January 1, 2006, the Commonwealth will distribute 950 Million dollars based on a prorated proportion from 2005 actual amounts. This amount will remain constant going forward.
    - Jurisdiction will fix its general rate for values for qualifying vehicles in excess of 20,000.
    - Jurisdiction will establish a lower rate for the values below the 20,000 threshold such that the reimbursement from the state plus the tax received from the lower rate does not exceed the amount that would have been received if the general tax rate had been applied.
State Update:
Property Tax

• Connecticut:
  – Senate Bill 50
    • Died in committee.
    • Would have eliminated personal property tax on motor vehicles.

• Rhode Island:
  – Phase out
    • Section 44-34.1-1
      – Continuation of the phase out will only continue with the specific approval on an annual basis by the General Assembly
      – Currently the value reduction stands at 4,500 per car.
      – Scheduled to be completed by 2008.
Operational Issues:

• Sales tax on registration fees:
  – CT and RI require sales tax to be collected on registration fees, even if the lessor requires the lessee to pay them directly to the DMV.

• Parking Tickets / Toll Tag Violation:
  – Receiving tickets with just tag number
  – Jurisdiction not allowing individuals to register based on other vehicles parking/moving violations

• Sales tax on lease extensions:
  – How do you tax an extension payment, when the tax was capitalized and part of the monthly payment upfront?
Questions:
Mobile Equipment

Sales/Use and Property Tax Issues
Direct Driver of Sales Taxation of Mobile Equipment

• Regulation of Interstate Commerce
  – Department of Transportation
    • Regulates carriers and issues DOT numbers
    • Motor Carrier designation made by Federal Motor Carrier Safety Administration (FMCSA-successor to ICC, FHWA, OMCS)
  – Interstate Commerce regulated by US Government
    • Commerce clause
    • There must be sufficient nexus, does not discriminate, tax is fairly apportioned, and fairly related to the benefits received by taxpayer
Taxation Dilemma

- States have interpreted the commerce clause differently resulting in vastly differing methods of taxation of mobile equipment.
- Similar equipment will be taxed or not based on usage in interstate commerce, states may tax intrastate use, but exempt from tax for interstate use.
Taxation Dilemma

- Taxation of Mobile Equipment may differ from taxation of automobiles
  - Example MN taxes lease of cars payable upfront on the total lease price
  - Vehicles with a Gross vehicle weight rating (GVWR) in excess of 10,000 pounds are taxable on the rental stream
  - If mobile equipment is used by a common carrier or private carrier with a Motor Carrier Direct Pay Permit (MCDP) the tax may be prorated
  - Leases of mobile equipment that is prorated is paid to the Department of Revenue
  - Tax on purchases of mobile equipment is paid to the Department of Public Safety
Taxation Dilemma-End of Lease

• The sale of equipment at the end of lease may have tax implications that differ from that of leased equipment
  – Example a MS-Carrier pays tax at registration however a lessor must collect during lease even if prorated

• A state may exempt a common carrier but not allow the exemption to flow through to lessor
  – Example ME-FMV leases-Lessor is considered the owner and unless lessor has a MC designation is not exempt from tax. TRAC leases are the exception as it is considered a sale in Maine.
Lessor Concerns—Additional Registration Requirements

• Adds cost to compliance—Must provide additional documents along with annual fees.
  – Registration usually allows lessor to collect and remit over the lease stream (MO for example)

• Requirement may be DMV or other state agency driven
Louisiana Requirements (Not all Inclusive)

• A board or member resolution
• Certificate of Insurance
• Articles of Incorporation
• Certificate of Zoning Compliance
• Sworn Financial Statements
• An annual fee of $ 200.00
• Picture of Business with a Sign naming the business
What License Allows

• The ability to charge and pay sales tax over the lease stream. A special certificate (L Number) may be issued allowing the lessor to purchase vehicles without paying tax.

• Why did LA go to such extremes?
  – The state developed the above rules to protect the lessee from lessor’s that are considered a risk.
  – Speakeasy Financier
Equipment types (Most Common)

• Tractor
  • Subject to IRP registration if GVWR is 26,000 pounds or greater. Some states vary the limit.

• Tractor-Trailer Combination
  • Treated similarly to Tractors generally

• Trailers
  – Subclass Bogies, chassis, containers, etc.
    • Generally not included in IRP registration as they are not motorized
Lease types

• TRAC (SPLIT-TRAC)-Terminal Rental Adjustment Clause
  – AKA Code Section 7701 (h)
  – Streamline may affect how TRAC is treated
• Nominal
  – Usually defined as an option to purchase equipment for $100 or less
• FMV
  – Lessor usually is owner on title
Titling by lease type-Non tax issues

• Nominal and TRAC
  – Lessor may be lien holder only
    • Advantages-Fines, tickets, violations and registration may be sent directly to lessee

• FMV
  – Lessor should be listed as owner
    • Lessor usually ends up with notice of violations as owner unless registered in name of lessor care of lessee at lessee’s address
Carrier Types

• Common Carrier
  – Far greater likelihood that an exemption will apply
    • Common carrier hauls goods for others and will either have an ICC certificate or MC authority

• Private Carrier
  – Generally fewer exemptions for private carriers than common carriers
    • Private carrier hauls own goods for convenience
Exemption Types

• Apportioned Plate Exemption (TX)-Tractor and Tractor Trailer units only
  – Trailers are taxed at registration unless pulled by a tractor with apportioned plates

• Gross Vehicle Weight Rating
  – Examples are VA, NJ, CT in excess of 26,000 Lbs GVWR

• Common Carrier (IRP)
  – Examples are IL (Rolling Stock), TN

• Payment of Alternative Fees (AZ)
Exemption Types (Cont)

• Partial Exemption States-Tax is apportioned
  – Examples are FL, MS, MN
  – Note in FL and MS the reduced tax is for Motor Carriers only. Minnesota allows a private carrier to obtain an apportionment number
Streamline Sales Tax

• Most significant item is definition of TRAC lease AKA 7701 (h)(1) lease as a lease or a sale
• Sourcing rules for motor vehicles
Property Tax Issues

• Carrier equipment may be allocable
  – Motorized equipment only in some states
  – May require centralized filing

• Should a lessor allocate-How aggressive do you want to be?

• Can an arrangement be made to allow lessee to report?
State Specific

• Kansas
  – Motor vehicles used in interstate commerce by common carriers are centrally assessed, while other property of carriers is assessed locally

• Texas
  – Naming the lessee as an agent for reporting (Check with county)

• Virginia
  – Counties vary as to reporting or non reporting
  – Trucks may be apportioned, trailers may not