

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

Personal Property Lease Transaction Tax Ruling #9
Subject: Charges for Use of Computers
Effective date: June 1, 2004

Formerly Ruling #13
Original effective date: September 28, 1992

Section 1. Application of the Tax.

Pursuant to section 3-32-030(A) of the Chicago Municipal Code (“Code”), the Chicago Personal Property Lease Transaction Tax (the “lease tax” or “tax”) is imposed upon (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.

In particular, the tax applies to leased time for use of equipment or other personal property not otherwise itself rented, including but not limited to computers, computer software and data processing equipment. Code § 3-32-020. The tax on leased time for use of equipment or other personal property is not limited to time-based charges but also applies to usage-based charges for the use of equipment or other personal property not otherwise itself rented. See Meites v. City of Chicago, 184 Ill. App. 3d 887, 540 N.E. 2d 973 (1st Dist. 1989); also see Chicago Personal Property Lease Transaction Tax Ruling #4.

Section 2. Computer Users

The lease or rental of any personal property specifically includes time-sharing and time or other use of a computer with other users, whether or not denominated as such. In these so-called multi-user computer systems, possession of the computer is neither transferred nor intended to be transferred. The owner or operator of the computer permits use of the computer through a terminal or other device (“access device”) at the user’s location for a fee.

Section 3. Computer Use

A. Where possession of the computer is not transferred, use of a computer is deemed to occur at the location of the access device used to access the computer. Therefore, if the user’s access device is located in the City of Chicago, the lease tax applies to all charges for the use of the computer and its software including, but not limited to, the running or execution of computer programs, or the access, input, retrieval or modification of data or information which are accessed by the user from such device.

B. Unless charges for the use of the computer include charges for services performed by the computer-provider's personnel at the time of the transaction, the transaction is considered to involve charges solely for the use of personal property and not for the sale of a service. See Chicago Personal Property Lease Transaction Tax Ruling #3. Thus, charges imposed on the user for the user's access to, or retrieval of information from, a computer or its database is charges for use of personal property and not charges for sale of a service. See Meites, supra, 184 Ill. App. 3d at 895, 540 N. E. 2d at 979 (provision of a database which users may use is not provision of a service).

C. As used in this ruling and for purposes of applying the tax, the word "computer" includes but is not limited to auxiliary storage and telecommunications devices connected to computers.

EXAMPLE

Application of this ruling is illustrated by the following example.

ABC is a consumer credit reporting company which maintains a computerized data base of consumer credit information which it regularly updates. Customers of ABC may elect to access ABC's data base via computer terminal or other device to request and retrieve credit reports. When a user makes such a request, ABC's response to the request occurs without the performance of any service on the part of ABC's personnel relating specifically to the user's request.

If the customer's terminal or other device used to access ABC's computer is located in the City, then the transaction is subject to tax because the request for and retrieval of the credit report is the use by the customer of ABC's computer and data base and is taxable lease or rental of personal property for purposes of the Chicago Personal Property Lease Transaction Tax Ordinance.

The price charged by ABC for credit reports obtained in this manner is the lease or rental price for the use of ABC's personal property. The customer's use from a location within the City is taxable regardless of the fact that the computer also is used by ABC to maintain its database, or for other purposes, and regardless of the location of ABC's computer.