



January 22, 2009
Pennsylvania Sales and Use Tax
No. SUT-09-001
Public Utility Exemption

ISSUE:

Is Taxpayer's purchase of airport materials and equipment exempt from sales tax, when the equipment will be used by it, an airline public utility?

CONCLUSION:

Taxpayer's purchase of airport materials and equipment that will be directly used in the operation of its airline, a public utility, is exempt from sales tax.

FACTS:

Taxpayer, a commercial airline, intends to purchase tangible personal property and enter into contracts to construct facilities that will be used exclusively by it in rendering a public utility service. Some of the purchases will be paid for by Taxpayer with the proceeds of tax-exempt bonds. Legal title to the property purchased and facilities constructed with the bond proceeds will eventually transfer to a government entity and such property and facilities will be leased to Taxpayer.

DISCUSSION:

Pennsylvania's Tax Reform Code provides for the imposition of a sales tax of six percent of the purchase price on each separate sale at retail of tangible personal property or taxable services within Pennsylvania. 72 P.S. § 7202(a). Generally, a contractor is required to pay tax upon the purchase price of all property, including materials, equipment, components and supplies, which will be furnished and installed in the performance of construction activities. 61 Pa. Code § 31.12(a).

Typically, the contractor may claim no exemption upon the purchase of materials or equipment which it installs so as to become a part of the real estate in conjunction with its construction activities. 61 Pa. Code § 31.13(a). However, a contractor is entitled to an exemption with respect to contracts with public utilities. The exemption is limited to the purchase of property constituting equipment, machinery and parts which the contractor transfers to and is subsequently used directly by the public utility in the rendition of a public utility service. 61 Pa. Code §§ 31.13(b), 32.34. If the property is used for administrative purposes, employee use, preproduction, etc., it is not exempt. 61 Pa. Code § 32.34(a)(3).

Accordingly, please see the attached list which is annotated to indicate whether each item will be directly used in the rendition of a public utility service, and thus exempt from sales tax, or not directly used, and thus subject to sales tax.

PROPERTY USED TO PROVIDE PUBLIC UTILITY SERVICE - GENERAL

<u>ITEM</u>	<u>DESCRIPTION</u>	T	E
400 Hz Units	These are power units that provide power to the aircraft while sitting at the gate so the aircraft does not have to run its engines.		X
PCAir	These are air conditioning units that provide air (both hot or cold) to the aircraft while sitting at the gate so that the aircraft does not have to run its engines.		X
Passenger Boarding Bridge	These are manufactured pieces of equipment that are installed at each gate of the building and allow the passengers to pass from the terminal building down this structure onto the aircraft.		X
Customer Service podiums (at curbsides, ticket counters, gates, baggage service offices)	These are custom manufactured podiums specifically designed and built to hold the computer and printer equipment needed to provide tickets, bag tags and boarding passes to customers.	X	
Passenger ticketing kiosks	These are the ATM style machines located typically at curbs and ticket counters (sometimes remote) which allow customers to produce their boarding passes and select seats on their flights.	X	
Information Display Systems	These are systems used by either passengers or airline personnel to locate the gates for flights, notify of gate changes, time changes or cancellations. On the ramp, these displays also guide the ramp personnel to the correct aircraft for loading luggage onto the planes.	X	
Baggage Handling Systems	These are conveyor systems used to transport and screen passenger checked luggage either from the curb/ticket counter to the aircraft or from aircraft to aircraft for connecting passengers.		X
Storage rack systems	These are large rack systems used to store aircraft parts, aircraft maintenance supplies and food and beverages for catering aircraft.	X	
Radio systems	Communications amongst and between airline staff is by handy talkies, vehicle mounted radios and radios set in control room millwork. Antennas, cabling, special power equipment (UPS – uninterruptible power systems).	X	X
Directional signs	These are signs located throughout airport spaces directing passengers.	X	
Holdroom seating	These are seats located at the gate areas where passengers wait for aircraft boarding.		X
Public Address Systems	These are the public announcement systems located in holdrooms and other terminal areas for announcements to be made to passengers.	X	
TSA Access control systems	Equipment to record employees going through doors to the Aircraft Operating Area installed per U.S. Transportation Safety Administration requirements (special locks, CCTV systems, cameras, etc.)	X	

PROPERTY USED TO PROVIDE PUBLIC UTILITY SERVICE AIRCRAFT GROUND SERVICE EQUIPMENT FACILITY

<u>ITEM</u>	<u>DESCRIPTION</u>	T	E
In-ground Lift	Heavy Duty (heavy vehicle weight) vehicle lifts to perform maintenance on aircraft ground support equipment	X	
4 Post Ramp Lift	Drive on vehicle lifts to perform maintenance on aircraft ground support equipment	X	
Automated Parts Storage	Automated vehicle parts storage & retrieval system for spare aircraft ground service equipment parts	X	
Paint Booth	Paint Booth to paint and repair GSE vehicles	X	
Exhaust Stack	Exhaust fans and ductwork for paint booth to paint and repair aircraft ground service equipment vehicles	X	
Make-up Air Unit	Ventilation unit to compensate for air exhausted from Paint Booth	X	
Bridge Crane	Overhead bridge cranes with hoist to remove/replace major components (engines/transmissions etc.) on aircraft ground support equipment	X	
Installation Supervision	Crane Manufacturer on-site installation supervision as part of crane installation/warranty certification	X	
Load Capacity Test	Test for rated capacity of cranes	X	
Operator Training	Manufacturer training for US Airways operators		X
Fluid Service System	System to store and distribute fresh antifreeze, diesel oil, hydraulic fluid, motor oil, transmission fluid, waste oil and waste antifreeze and to collect waste/used fluids for aircraft ground support equipment vehicle maintenance	X	
Pressure Washer	System to clean aircraft ground support equipment in connection with maintenance, inspection and repair	X	
Air Compressor	To provide compressed air for pneumatic powered tools and equipment for aircraft ground support equipment maintenance	X	
Vertical Receiver	Part of air compressor installation	X	
Concrete Lift Pits	Nine foot recess in concrete slab to allow for installation and operation of the aircraft ground support equipment lifts required due to the weight of the ground support equipment	X	

Structural Concrete Slab	Thickened concrete slab and additional rebar to allow for installation and operation of the aircraft ground support equipment lifts required due to the weight of the ground support equipment	X	
Overhead Doors	Overhead doors ranging in size from 14'-0" x 16'-0" to 18'-0" x 24'-0" required for aircraft ground service equipment access	X	
Recessed Concrete Slab	Concrete slab recessed four feet to accommodate fluid spills, required to allow for on-site storage of required fluids for the aircraft ground support equipment	X	
Concrete Masonry Wall	Half height concrete masonry wall installed to protect the building envelope to protect the building from damage due to impact from vehicles and aircraft ground service equipment which is being repaired or being used during the repair process	X	
Sally Ports	Designated area on the loading dock of a building requiring access restriction by the Transportation Security Administration (TSA) due to required adjacency of the facility to the secure airfield. TSA requires the public side door to close before the door to the building opens. This prevents the public from having direct access to a secure area.	X	

EQUIPMENT USED IN PROVIDING FLIGHT SERVICES

<u>ITEM</u>	<u>DESCRIPTION</u>	T	E
Bag/Freight Carts	Used to transport baggage and freight to and from the aircraft		X
LDS Dollie	Used to transport passenger baggage and customer freight containers to and from the aircraft		X
Pallet Dollie	Used to transport open customer freight pallets to and from the aircraft		X
Cargo Loader	Used to convey passenger baggage and customer freight containers to and from the aircraft from and onto the dollies		X
Deicer	Truck that is specially equipped to spray deice fluid on the aircraft to remove snow and ice	X	
Deicer Pump	Used to transfer deicing fluid from one deicer truck to another	X	
Cabin Service Truck	Used to access the aircraft for cleaning purposes with cleaning supplies	X	
Wrecker	Used to remove inoperable equipment from aircraft flight lines or to provide minor repairs	X	
GPU - Trailer	Provides electrical power to the aircraft while at the passenger gate between flights		X

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Heater/Diesel	Provides heated air to the aircraft while at the passenger gate between flights		X
HACU-CC and Air Conditioner	Truck and air unit that provides preconditioned air to the aircraft while at the passenger gate between flights		X
Beltloader	Used to transport passenger baggage and customer freight from the baggage and freight carts to the aircraft		X
Towbar	Used to connect the push back tug to the nose gear of the aircraft to move the aircraft when not moving under its own power		X
Aircraft Jack	Used to lift the aircraft for replacement of wheels and tires	X	
Pushback	Tug or tractor that moves the aircraft when not moving under its own power	X	
SAR Cart	Electrical cart used to transport passengers that cannot move on their own inside the terminal		X
Chair Trierer	A belt loader modified to transport passengers' power wheelchairs from passenger loading bridge to aircraft bins.		X
Chair T-Stand	Stand used to store wheel chair rack when not in use	X	
Light Cart	Cart used to light the ramp area in front of the cargo area for overnight loading and unloading of customer freight		X
Air Start Unit	Provides pneumatic power to start the aircraft when the aircraft's APU is not operative	X	
Tire Cart	Transports aircraft tires and jacks to remote areas	X	
HPU	Hydraulic power unit used to test hydraulic functions on the aircraft	X	
Sweeper	Used to sweep aircraft operating areas for debris removal	X	
Lite Transport Cart	Transports last-minute bags from the bag shute to the aircraft gate area		X
Pressure Washer	Washes aircraft engines and aircraft ground service equipment	X	
Lav Truck	Truck used to remove toilet waste from aircraft	X	
Stair Truck	Truck used to access the aircraft when passenger boarding bridges are not available		X

Service Truck	Supplies fluids for the aircraft ground service vehicles	X	
Water Truck	Used to provide potable water to aircraft	X	
Bag Tractor	Tows aircraft jacks and tire carts	X	
Bag Tractor- Lightning	Notifies personnel when the ramp is closed because of lightning	X	
Bag Tractor	Tractor used to tow passenger baggage and freight carts		X
Boom Lift	Lift used to access the aircraft off of ground level	X	
Lift Truck	Truck used to access the aircraft off of ground level	X	
Platform Lift	Lift used to access the aircraft off of ground level	X	