

Non-transportation aircraft - Sourcing periodic lease payments

Aircraft operated by air carriers authorized and certified by the United States Department of Transportation or another federal or foreign authority to engage in the transport of persons or property in interstate or foreign commerce qualify as "transportation equipment." Aircraft that do not qualify as "transportation equipment," are considered "non-transportation aircraft."

Lease payments of aircraft that do not qualify as "transportation equipment" (non-transportation aircraft) are subject to retailing business and occupation (B&O) tax and retail sales tax. The consumer (lessee) may be required to submit one single payment or multiple (periodic) payments, depending on the terms of the lease agreement.

How do sellers (lessors) source periodic lease payments of a non-transportation aircraft?

Retailing B&O tax and retail sales tax for periodic lease payments of a non-transportation aircraft is sourced to the "primary property location."

The primary property location for a non-transportation aircraft is the location where the aircraft is primarily based or hanged and ready for use. Intermittent use during a lease period does not change the primary property location during the lease payment period. Such intermittent use is typically flight time and other time spent temporarily away from the primary property location.

Intermittent in-state use of leased property

A seller (lessor) has no obligation to pay Washington's retailing B&O tax, or collect Washington's retail sales tax, if the primary property location of the aircraft is outside Washington. This is true even when the lessee intermittently uses the aircraft in Washington. The lessee, however, is responsible for reporting Washington's use tax in these situations, unless a specific exemption applies.

Examples of sourcing lease payments

The examples provided below are to be used only as a general guide. The tax results of other situations must be determined separately after review of all the facts and circumstances.

Example 1

A lessee located in Yakima, Washington hangs an airplane that does not qualify as transportation equipment at the Yakima Airport. The airport is near the lessee's business location. The lessee uses the plane for a business trip to Phoenix, Arizona. The airplane will remain in Phoenix for five days while the lessee is temporarily in Phoenix on business. At the end of the trip, the lessee uses the airplane to return to Yakima.

The primary property location is Yakima, Washington. The trip to Phoenix is considered intermittent use of the airplane and does not alter the primary property location. Therefore, the full lease payment covering this period is sourced to Yakima. There is no apportionment of the lease payment based on days in and days out of the state.

Example 2

A lessee has two business locations. One office is in Spokane, Washington and the other is in Cheyenne, Wyoming. The lessee has previously hangared a leased airplane that does not qualify as transportation equipment at the Spokane Airport and treated Spokane as the primary property location. Now, the lessee is shifting business resources to Cheyenne, including the airplane. The airplane will now be hangared at an airport near Cheyenne.

Once the airplane is hangared in Cheyenne, the primary property location of the airplane has changed from Spokane to Cheyenne because the move is more than intermittent use of the airplane. Subsequent lease payments will be sourced outside of Washington; retailing B&O and retail sales tax will not apply to those lease payments.

Example 3

A lessee has two business locations. One office in Seattle, Washington and the other is in Portland, Oregon. The lessee hangs an airplane that does not qualify as transportation equipment at the Portland Airport and treats