

LEASED EQUIPMENT AUTHORITATIVE CITATIONS

The following provides the authoritative citations for the Leased Equipment Survey Topic. In general, citations include Constitutional provisions, sections of the Revenue and Taxation Code, other applicable statutes, court cases, Property Tax Rules, *Assessors' Handbook Sections*, Letters To Assessors, and legal annotations pertaining to the topic.

CITATION	DESCRIPTION
Revenue and Taxation Code	
§202.2	Reductions in property taxes on leased property used for libraries, museums, public schools and other exempt educational institutions shall inure to the benefit of the lessee institution.
§235	The lessee of tangible personal property owned by a bank or financial corporation shall be conclusively presumed the owner of that property.
§405, subs. (b) and (c)	Jointly owned property on the unsecured roll may be assessed to both lessor and lessee; tax notices relating to jointly assessed property shall be sent to both lessor and lessee.
§623	The assessor may place a single assessment on the roll for all leased personal property in the county that is assessed with respect to the same taxpayer.
§1019	Goods in transit have the residence of the owners as their situs for taxation.
Property Tax Rules	
Rule 10	Tangible personal property on short-term lease as specified in Rule 204 and having tax situs with the lessor shall be valued at its value to other lessors or retailers of like property; if on lease for more than six months or an unspecified period and having tax situs with the lessee, it shall be valued at its value to an outside customer operating at the lessee's trade level.
Rule 133	Tangible personal property actually leased or rented on the lien date is excluded from the business inventory exemption.
Rule 153	A liquefied petroleum gas tank (LPG tank) is considered leased or rented if the purchaser of the gas is required to pay either sales or use tax measured by the purchase price of a separately stated lease or rental price of the tank; or any other separately stated periodic charge on the tank (e. g., installation fees, maintenance charges, or rent).

CITATION	DESCRIPTION
Rule 204	Property leased on short-term basis (less than six months) is assessable to the lessor at the lessor's principal location.
Assessors Handbook	
AH 504 (October 2002)	<i>Assessment of Personal Property and Fixtures</i> . See section relating to the assessment of leased equipment (Chapter 6, pages 105, 107, 108, 110-113).
Letters to Assessors	
79/155	Guidelines to differentiate between a lease and a conditional sales contract.
80/69	Section F (pages 14-17) deals with leased equipment and eligibility for the inventory exemption.
82/68	In a safe harbor lease, the true owner, whether lessee or lessor, is the preferred assessee. Property subject to a safe harbor lease should be valued using historical cost.
82/112	Sales tax is not a part of the normal replacement cost of equipment leased to a federal instrumentality.
84/07	Safe harbor leasing has no bearing on the fair market value of property for property tax assessment purposes.
96/37	Section 623 of the Revenue and Taxation Code was added to provide assessors the option of combining assessments of leased equipment owned by a single taxpayer within a county, regardless of tax rate areas. It provides a new definition of situs for property tax purposes.
Annotations	
205.0200	When an equipment lease is terminated due to lessee's default or expiration of the lease, the equipment is still eligible for the inventory exemption even though located on the lessee's rather than the lessor's premises.
205.0201	Lists types of property held for lease which are eligible for the business inventory exemption.
205.0202	The crucial element in determining whether property is actually "out on lease" is control of the property by the lessee.

CITATION	DESCRIPTION
515.0004	Personal property, including medical and ambulatory equipment, that is leased to individuals for home use is not eligible for the household furnishings exemption.
630.0009	<p>Conditional sales leases are agreements whereby the seller accepts periodic payments for the purchase price while retaining title to the property for security purposes. Revenue and Taxation Code section 405 gives the assessor the authority to assess persons owning, claiming, possessing, or controlling property. With regard to leased property, because the lessor is the owner but the property is in the possession and control of the lessee, either the lessor or the lessee may be the assessee. We have advised that property subject to a true lease should typically be assessed to the lessor, while property subject to a conditional sales contract should usually be assessed to the lessee since the lessee is considered the owner of the property. It is our opinion that this method of assessment helps to avoid double taxation, to ensure correct application of property tax exemptions, and to allow for the proper valuation of the property subject to lease. Should a county choose to assess the lessor instead, then precautions should be taken to ensure that property is not subject to double taxation.</p>