

MARKS & WEINBERG, P.C.

Residential Information Services Limited Partnership v. Rylander

988 S.W.2d 467 (Tex. App. 1999)

Under the Texas Tax Code, a lease of tangible personal property is a taxable sale. The taxable sales price of leased personal property is the total amount for which the item is leased. In the case at bar, the plaintiff sued the Comptroller of the State of Texas for a refund of sales tax levied on a payment which the plaintiff made to a lessor to terminate its obligations under a computer equipment lease.

The plaintiff argued that the termination payment should not have been taxed because it was not part of the original lease price but was really a penalty paid for the lessor's forgiveness of the plaintiff's future obligations under the lease. The Comptroller responded by directing the court to its agency rules, which specifically hold that "a charge imposed for the early termination of a lease is included in the lease price and is taxable." The Comptroller also reminded the court that the interpretation of a statute applied by the administrative agency charged with its enforcement is entitled to serious consideration, so long as the interpretation is reasonable and does not contradict the statute's plain language.

The court agreed with the Comptroller and held that the termination payment was correctly classified as a part of the lease agreement because the plaintiff and the lessor bargained for the termination payment based on the entire lease value. The court



reasoned that, while a longer lease allows for smaller payments, a shorter lease requires higher periodic payments. A termination payment is not punishment for early termination *per se*, concluded the court—such a payment merely reflects the increased cost of a lease having a shorter term and is taxable as part of the original lease price.

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