

M e m o r a n d u m**330.2879**

To: Out-of-State – District Principal
Auditor (DMA)

Date: December 5, 1974

From: Tax Counsel (GLR) - Headquarters

Subject: Chain Leasing

In your memo of November 14, 1974 you ask our opinion with regard to the application of tax in “chain leasing” situations.

It is your view that a lease which is a continuing sale should be treated as a sale. Thus, if it is known that a lease of tangible personal property is to a person who is subleasing it to a consumer or to a sublessor, the original lease is a sale for resale whether a resale certificate is taken or not. In your audits, you believe, you should look first to the sublessor who leases to the consumer. If uncollectible at that point, you should then look to the lessee consumer. However, you could not look to the original lessor or sublessor other than the final sublessor since all those leases (sales) were for resale. The foregoing of course assumes that the resale aspect of the transaction is an established fact.

Under the foregoing facts it is your opinion that liability for collection of the tax rests only with the sublessor who leases the property to the consumer-lessee. If uncollectible at that point, you can then look only to the consumer-lessee.

We agree with your conclusion.

GLR/at