

810-4-1-.22 Assessment of Tangible Personal Property Held Under Lease or Conditional Sales.

(1) PURPOSE – This regulation is issued pursuant to authority contained in Section 40-7-49, Code of Alabama 1975, for the purpose of establishing guidelines and procedures for the uniform assessment of tangible personal property subject to a capital lease, an operating lease or a conditional sales contract.

(2) DEFINITIONS – For the purpose of this regulation, the definition of a capital lease, an operating lease, and a conditional sales contract shall be:

(a) Capital Lease – A lease which transfers substantially all of the benefits and risks inherent in the ownership of the property to the lessee, who accounts for the lease as an acquisition of an asset and the incurrence of a liability. A lease that meets one or more of the following criteria shall be classified as a capital lease;

1. The lease transfers ownership of the leased property to the lessee at any point during or after the lease term.

2. The lease contains an option allowing the lessee to purchase the leased property by the end of the lease term at a bargain purchase option.

3. The lease term exceeds 75 percent of the estimated economic useful life of the leased property.

4. The lease value exceeds 90 percent of the fair market value of the leased property at the beginning of the lease.

(b) Operating Lease – a rental agreement which may be for any term and may be cancelable or non-cancelable for a fixed period of time and there is no transfer of ownership.

(c) Conditional Sales Contract – a sales contract in which the seller reserves title until the buyer pays for tangible personal property, at which time, the condition having been fulfilled, title passes to the buyer.

(3) PROCEDURES – The following procedures are established to ensure that all tangible personal property held under a lease or conditional sales contract is assessed to the proper owner for property tax purposes as of each October 1 lien date.

(a) Tangible personal property held under a capital lease or conditional sales contract shall be reported by and assessed to the lessee, for property taxes purposes.

(b) Tangible personal property held under an operating lease shall be reported by and assessed to the lessor, for property tax purposes.

(4) Nothing in this rule shall affect the reporting and assessing of manufactured homes as provided in Section 40-11-1 (c)(2), Code of Alabama 1975, nor the reporting and assessing of that property as provided in Article 1 Chapter 21, Title 40, Code of Alabama 1975, nor the reporting and assessing of that property as provided in Article 5, Chapter 12, Title 40, Code of Alabama 1975.

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Authority: Sections 40-2A-7(a)(5) and 40-2-11, Code of Alabama 1975.  
History: New rule: Filed November 2, 2004, effective December 7, 2004.