

**New York State Department of Taxation and Finance
Office of Counsel
Advisory Opinion Unit**

TSB-A-14(24)S
Sales Tax
July 22, 2014

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S131104A

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] Petitioner asks whether fines charged for violating parking rules and regulations are subject to sales tax in New York State.

We conclude that the parking fines in this case are not charges for parking services and will not be subject to sales tax.

Facts

Petitioner is an exempt organization under Tax Law § 1116(a)(4) and is registered as such with the Department for sales and use tax purposes. Petitioner is associated with Purchase College, State University of New York and organized in New York State. Among other responsibilities, Petitioner provides several parking-related services to students, employees, and members of the general public who visit the campus. Petitioner collects a registration fee from the owners of all vehicles, other than short-term visitors, who wish to park on campus. The registration fee is charged per academic year, per vehicle. Petitioner also charges registration fees to allow vehicle owners to park their vehicles on campus within designated lots. These registration fees are charged at either a daily or a semester rate. Visitor parking is also available within certain lots that include both metered and free short-term spaces.

In order to enforce parking rules and regulations, Petitioner collects fines from vehicle owners who violate those rules. The campus is subject to New York State Vehicle and Traffic Laws and campus police officers who observe violations of parking rules will issue summonses for parking fines. Fines currently range from \$25 to \$150, and summonses are subject to a 14-day appeal period. Vehicles are also subject to booting or towing for unpaid parking summonses and illegal parking. In such cases, the owner/driver of the vehicle is responsible for booting and towing fees.

Analysis

Petitioner asks whether the fines it issues and collects are part of the parking services Petitioner provides and whether those fines are subject to sales tax. As an exempt organization for New York State sales and use tax purposes, Petitioner is exempt from collecting sales tax on most activities under Tax Law § 1116(a)(4). However, this exemption does not apply to sales of the service of providing parking, garaging or storing for motor vehicles provided by such

organization. Tax Law § 1116(b)(3). Tax Law § 1105(c)(6) imposes a tax on receipts from every sale, except resale, of :

Providing parking, garaging or storing for motor vehicles by persons operating a garage (other than a garage which is part of premises occupied solely as a private one or two family dwelling), parking lot or other place of business engaged in providing parking, garaging or storing for motor vehicles provided....

The Department has defined “parking” as

[P]roviding a place or space for the temporary storage of a motor vehicle. This place or space may be inside or outside a building or structure, it may or may not be staffed by an attendant, the customer's space may or may not be specifically designated, the customer generally has the right to remove his/her vehicle at any time (either by the customer's own action or that of an attendant) and the customer is charged a fee, which may be computed on an hourly, daily, weekly, monthly or other rate.

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We conclude that the fines Petitioner describes do not constitute charges for parking services. Petitioner imposes and collects the fines as penalties for violation of parking rules and regulations, not as charges for the temporary storage of a motor vehicle. Accordingly, Petitioner is not required to collect sales tax on these fines.

DATED: July 22, 2014

/S/

DEBORAH R. LIEBMAN
Deputy Counsel

NOTE: An Advisory Opinion is issued at the request of a person or entity. It is limited to the facts set forth therein and is binding on the Department only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. An Advisory Opinion is based on the law, regulations, and Department policies in effect as of the date the Opinion is issued or for the specific time period at issue in the Opinion. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.