

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division

TSB-M-01(3)S
Sales Tax
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**Expanded Exclusion for Parking Charges
Paid by
Homeowners' Association Members**

Governor George E. Pataki has signed legislation expanding the exclusion from state and local sales taxes on receipts from parking charges paid by members of a qualifying homeowners' association. Effective February 6, 2001, the exclusion now includes receipts paid by the members to a person leasing the parking facility from the homeowners' association. The exclusion applies to the 4% New York State tax, all local taxes, the 1/4% Metropolitan Commuter Transportation District tax, the 6% Municipal Assistance Corporation parking tax imposed in New York City, and the additional 8% Manhattan parking tax.

To be eligible for the exclusion from tax, all of the following conditions must be met:

- The homeowners' association must own or operate the garage, parking lot, or other parking facility (whether or not it is operated exclusively for its members).
- The homeowners' association must be an association that has a membership comprised exclusively of owners or residents of residential dwelling units (such as single-family homes, condominium units, or cooperative housing or apartments).
- The dwelling units must be in a defined geographical area, such as a housing development or subdivision, and the parking facility must be located within that defined geographical area.
- The members must pay the parking charges to the homeowners' association, **or to a person leasing the parking facility from the homeowners' association.**

Parking charges paid to a homeowners' association or to a person leasing the parking facility from the homeowners' association, by association members, for parking services that are not provided under the above conditions and charges paid by persons other than association members remain subject to state and local sales taxes. However, taxable parking charges paid to a homeowners' association or to a person leasing the parking facility from the homeowners' association, by a person who is not a member of the association, may be exempt from the additional 8% Manhattan parking tax if the nonmember qualifies as a Manhattan resident. (See TSB-M-96(13)S for additional information on the exemption from the additional 8% Manhattan parking tax for Manhattan residents.)

Persons that lease parking facilities from a homeowners' association will report taxable parking receipts as follows:

- **Quarterly filers and part-quarterly filers**—For the quarterly period December 1, 2000, through February 28, 2001, report taxable parking sales and tax due on those sales for the period December 1, 2000, through February 5, 2001. After February 5, 2001, qualifying payments by members to the person leasing the parking facility from the homeowners' association for parking services are excluded from tax.

- **Annual filers**—For the annual period March 1, 2000, through February 28, 2001, report taxable parking sales and tax due on those sales for the period March 1, 2000, through February 5, 2001. After February 5, 2001, qualifying payments by members to the person leasing the parking facility from the homeowners' association for parking services will be excluded from tax.

Payments by members to a person leasing the parking facility from a homeowners' association for parking services provided on a monthly or other term basis that begins before February 6, 2001, but ends on or after that date, may be prorated between the taxable and excluded portion.

A person that leases the parking facility from a homeowners' association and is registered for sales tax purposes only because parking services are provided to the homeowners' association members, may not be required to remain registered with the Tax Department after February 5, 2001. If the lessee is not required to remain registered, the last return should be marked ***Final***, and the Certificate of Authority should be attached to the return. However, a person who leases the parking facility from the homeowners' association and provides taxable parking services or other taxable services, or that makes sales of tangible personal property, must remain registered.

A person that leases parking facilities from a homeowners' association, collects receipts from the sale of parking services to homeowners' association members or tenants leasing or subleasing from members, and also collects receipts for parking services from the general public must maintain records which provide substantiation for the excluded sales to the members or tenants. The homeowners' association must provide the parking facility lessee with a current list containing the name, address, make of vehicle, and license plate number for each eligible member or tenant, and notify the lessee of any changes to the list. The parking facility lessee must keep the list with other sales tax records and be able to associate names on the list with related sales.