

## **Special Requirements for Parking Facility Operators\* Located in New York County (Manhattan) Made Permanent.**

The Tax Law was amended to make permanent the provisions of section 1142-A of the Tax Law. Section 1142-A contains special recordkeeping and enforcement provisions relating to parking garage operators in Manhattan to continue to ensure compliance with state and local sales taxes on parking services. Organizations that have received an exempt organization certificate for New York State sales and use tax purposes, and governmental entities, are exempt from these requirements. However, other persons operating a parking facility for or on behalf of an exempt organization or governmental entity are subject to all the requirements of section 1142-A. Parking facility operators must continue to properly document all exemption claims, including any exemption for parking paid by a member of a homeowners' association.

### **What the Tax Law requires of parking facility operators**

Certain records must be kept in addition to the records required under section 1135 of the Tax Law.

Each parking facility operator in Manhattan is required to furnish a ticket or other documentation (referred to collectively as the *ticket* in the remainder of this notice) to each purchaser of parking services, except as described later in this notice.

The parking facility operator must keep the original ticket or a true copy of it. Each ticket issued must indicate the parking facility operator's full name and the complete address of the parking facility. The ticket must also indicate the date and time of entry of the purchaser's motor vehicle, and the date and time of exit, unless:

- the purchaser is charged a flat fee for the service based on time elapsed; and
- the price indicated on the ticket is specified as a flat fee; and
- it is not the facility operator's practice to stamp the date and time on flat-fee tickets when the purchaser pays for the parking.

Tickets issued by a parking facility operator must be consecutively numbered or issued by a computer in a manner approved by the Tax Department. The parking facility operator must submit the proposed numbering scheme or the alternative computer issuance procedure to the Tax Department at least 20 days prior to its use. However, a parking facility operator does not have to get prior approval if the operator uses only one form and type of ticket at a facility and the consecutive numbers of the tickets (taking into account either letter prefixes or suffixes or distinctly different colors of the paper on which the tickets are printed or in the ink used to print the tickets) do not repeat for that facility in a calendar year. Send submissions to: NYS Tax Department, Field Audit Management, Building 9 Room 340, W A Harriman Campus, Albany NY 12227.

---

\*A *parking facility operator* is any person required to collect the sales taxes described in sections 1105(c)(6), 1109(a), 1210(a), and 1212-A(a)(1) of the Tax Law on parking services provided in Manhattan.

A *parking facility* is any garage, parking lot, or other place of business in Manhattan in which a parking facility operator provides parking, garaging, or storing services for motor vehicles.

If a ticket is issued to a purchaser that allows parking for a period of a month or more, either the purchaser's name and signature, or the identification number assigned to the purchaser by the parking facility operator, must be indicated on the ticket.

However, persons who sell parking services on a monthly or longer-term basis, and who issue a computer access card or a prenumbered decal or tag to a purchaser of the services, are not required to give a ticket to the purchaser or to keep copies of the ticket.

For monthly or longer-term services, the parking facility operator must keep a list of the name, address, and signature of each purchaser of monthly or longer-term parking services, the valid period of these services, and the number of authorized vehicles entitled to these services. This information must be kept whether or not a ticket is issued to the purchaser.

The requirements for additional records to be kept by each parking facility operator for each parking facility they operate are found in section 538.4 of the regulations.

The records must be kept in a written form that adequately provides the information by day and by month. The regulations also permit a parking facility operator to keep records, or a portion of them, in a machine-sensible form in a manner prescribed by the regulations.

Persons required to collect tax on parking services in New York City (including parking facility operators in Manhattan) must complete Schedule N-ATT, *Taxes on Parking Services in New York City*, to report information regarding the location of each facility in New York City, as well as additional information for each facility located within Manhattan, including:

- total weekday receipts for each month;
- total weekend receipts for each month;
- total monthly receipts for nonresident parking purchased on a monthly (or longer-term) basis for each month;
- total monthly receipts for Manhattan resident parking for each month; and
- quarterly or annual totals for each of the above categories.

### **Hardship exemption**

A parking facility operator may apply to the Tax Department for a hardship exemption from complying with the provisions of section 1142-A of the Tax Law. To qualify for a hardship exemption, the facility operator must demonstrate that it has limited annual sales and use tax liability, and that the requirements imposed by section 1142-A of the Tax Law create an undue hardship. Applications for the hardship exemption should be sent to: NYS Tax Department, Field Audit Management, Building 9 Room 340, W A Harriman Campus, Albany NY 12227.

Even if a hardship exemption from the additional section 1142-A requirements is granted, the operator must comply with all other record-keeping requirements of the Tax Department.

### **The "walkabout"**

Section 1142-A of the Tax Law also provides that the Tax Department may conduct a walkabout observation of any parking facility in Manhattan. The walkabout must be conducted during the hours that the facility is open for business. The person conducting the observation must announce his or her presence at the facility and display valid identification to the owner, officer, or employee of the parking facility.

The walkabout will be conducted only on that portion of the facility where parking services are provided and in a manner that will not unreasonably interfere with the operation of the parking facility.

The information obtained during the walkabout may be used to assess, determine, fix, collect, enforce, or administer any tax, fee, penalty, or interest imposed on the parking facility operator under Article 28 of the Tax Law or pursuant to the authority of Article 29 of the Tax Law.

The person conducting the walkabout is not required to give advance notice of his or her intent to enter the premises for the purpose of conducting the walkabout.

If the parking facility operator fails to keep the required additional records described above, or if the Tax Department's employees cannot enter or walk about the operator's premises to conduct a walkabout because the operator fails to cooperate or interferes with the walkabout, then the department would be authorized to estimate tax due from the operator based on external indices.

### **Penalties**

In addition to other civil and criminal penalties that persons required to collect tax are liable for, parking facility operators may also be subject to the following:

- Failure to keep any of the additional records required pursuant to section 1142-A of the Tax Law will subject the operator to a penalty of up to \$500 per month or part of a month.
- An additional penalty may be imposed on any parking facility operator who fails to consent to a walkabout or who interferes with the conduct of the walkabout. The penalty for failure to consent or for interference is an amount of up to \$500 for the first day of such failure to consent or interference, and up to \$1,000 for each subsequent day of noncompliance. The total of these amounts may not exceed \$10,000.
- Any person subject to the requirements of section 1142-A of the Tax Law who willfully fails to include all of the information required on the ticket or other documentation issued under section 1142-A will be guilty of a misdemeanor.

### **What the Tax Law requires of the Tax Department**

The Tax Department will furnish, on an annual basis, a copy of section 1142-A(d) of the Tax Law, regulations adopted pursuant to such section 1142-A(d), and a written explanation of the power of the Tax Department to conduct the walkabout, to every person who registers and remains registered for the purposes of section 1142-A of the Tax Law.

The Tax Department will provide every parking facility operator with a poster stating that the facility is subject to periodic inspections by the Tax Department for purposes of enforcing the sales and use taxes imposed under or pursuant to the authority of Articles 28 and 29 of the Tax Law. Parking facility operators are required to display the poster prominently.

If you have any questions about the special requirements for parking facility operators providing parking services in New York County (Manhattan), call (518) 485-2889.

**This notice is provided in accordance with section 1142-A of the Tax Law.**