

Sales Tax on Parking Services

Section 1105(c)(6) of the Tax Law imposes sales tax on the service of providing parking, garaging, or storing for motor vehicles by persons operating a garage (other than a garage that 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. The Tax Department has determined that there is **no authority** in that section of the law to allow a vendor who sells or rents motor vehicles to use an exempt use certificate when purchasing parking services. This change reverses the department's prior position on these transactions. That position was previously stated in the following excerpt from TSB-M-91(7)S, *State and Local Sales Tax Imposed on Parking Fees--June 1, 1991*:

An exempt use certificate may be used by a vendor who sells motor vehicles when that vendor purchases parking, garaging or storage services for vehicles in its inventory that are held for sale.

Example (9) Car Dealer F has more inventory than it has space for on its premises. Car Dealer F contracts with the operator of a private garage for space to keep the excess vehicles. Since the vehicles that are being stored are offered for sale in the regular course of business by car Dealer F, Dealer F is allowed to issue the garage operator an exempt Use Certificate, Form ST-121. The dealer must check the box designated as Other on Form ST-121 and in the explanation state that the vehicles are "held for sale."

It is now the department's position that a vendor engaged in the business of selling or renting motor vehicles cannot use an exempt use certificate when purchasing parking, garaging, or storage services from a person operating a garage, parking lot, or similar place of business, for vehicles that are held for rental or sale. Therefore, effective September 1, 2008, vendors of parking services are required to collect sales tax from vendors who sell or rent motor vehicles on charges made for parking, garaging, or storing motor vehicles.

Because this represents a change in policy, the department will not assess sales tax for prior periods if a parking vendor accepted a properly completed exemption certificate based upon the information provided in TSB-M-91(7)S provided the vendor begins collecting sales tax on those services by September 1, 2008.

NOTE: A TSB-M is an informational statement of changes to the law, regulations, or Department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in Department policies could affect the validity of the information presented in a TSB-M.