

AMENDMENTS TO THE NEW CAR LEMON LAW SALES TAX PROVISIONS

CHAPTER 799, LAWS OF 1986

Prior legislation provided for refund by the New York State Tax Commission of sales tax paid on the outright purchase of a new motor vehicle when the purchase price or a portion thereof was refunded by the manufacturer to the consumer because the vehicle did not conform to the manufacturer's warranties. See TSB-M-86(9)S.

Effective August 2, 1986, Chapter 799 of the Laws of 1986 amended section 198-a of the General Business Law and section 1139(f) of the Tax Law to provide similarly for motor vehicles which are leased from a vendor. This amendment provides that sales tax paid by a lessee on the capitalized costs, fees and charges or portions thereof, of a new leased motor vehicle returned to and accepted by the manufacturer of such vehicle because it does not conform to its warranty, will be refunded by the New York State Tax Commission. A sales tax refund claim must be filed within three years of the date the consumer receives the refund from the manufacturer.

Capitalized cost is defined in section 198-a of the General Business Law to mean the aggregate deposit and rental payments previously paid to the lessor for the leased vehicle, less service fees.

The General Business Law also defines the following pertinent terms:

1. Lessee - any consumer who leases a motor vehicle pursuant to a written lease agreement which provides that the lessee is responsible for repairs to the motor vehicle.
2. Service fees - the portion of a lease payment attributable to:
 - (a) an amount for earned interest calculated on the rental payments previously paid to the lessor for the leased vehicle at an annual rate equal to two points above the prime rate in effect on the date of the execution of the lease; and
 - (b) any insurance or other costs expended by the lessor for the benefit of the lessee.

Refund claims should be filed on Form AU-11, Application for Credit or Refund of State and Local Sales or Use Tax, and sent to:

New York State Tax Department
Sales Tax Refund Unit
W. A. Harriman Campus
Albany, New York 12227

Refund claims must be accompanied by a copy of the arbitration agreement or other evidence of settlement received from the manufacturer, a copy of the lease contract showing the date of contract, the down payment, the amount of the periodic lease payments, any other fees expended by the lessor for the benefit of the lessee, and evidence of the number of lease payments made.

The following is an example of how to compute the amount of sales tax to be refunded:

Down payment	\$ 500	
Monthly lease payment	\$ 250	
Number of payments made	4	
Insurance paid by lessor	\$ 45	
Prime rate at contract date	10%	
Deposit		\$ 500
Rental Payments (4 x \$250)		<u>1000</u>
Aggregate deposit and rental payments		\$ 1500
Less: Service fees		
1) Earned interest		
prime rate at contract + (.02) = annualized interest rate		
(.10) + (.02) = (.12)		
annualized interest rate + 12 months = monthly interest rate		
(.12) + 12 months = (.01)		
monthly interest rate x number of monthly payments = interest rate		
(.01) x (4) = (.04)		
interest rate x rental payments = earned interest		
(.04) x (\$1000) =		\$40
		<u>\$45</u>
2) Insurance paid by lessor		<u>\$85</u>
Total service fees		\$1415
Capitalized cost		
Sales tax rate paid (7%)		<u>.07</u>
Sales tax to be refunded		<u>\$ 99.05</u>

Although Chapter 799 of the Laws of 1986 amended the General Business Law, the Vehicle and Traffic Law, and the Sales Tax Law, the information in this memorandum reflects only amendments to the Sales Tax Law and relevant amendments to the General Business Law.