

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-91 (7) S
Sales Tax
March 1, 1991

STATE AND LOCAL SALES TAX IMPOSED
ON PARKING FEES JUNE 1, 1990

Effective June 1, 1990, a combined state and local sales tax must be collected on any charge made for parking, garaging, or storing motor vehicles in this state when the charge is made by persons who operate:

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

Parking is providing 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.

Garaging is similar to parking except that the place or space to store a customer's vehicle is generally within a structure, the customer is likely to be assigned a particular area, be it a space, stall, or garage and the customer may have some control of access to such space (i.e. locked door, barricade or security entrance).

Storing is like parking and garaging except that, by implication, the term "storage" would suggest that the service is provided for more than just a short period of time. Storage generally is provided for vehicles that will not be in use for extended periods of time and the vehicle owner may not have free and unlimited access to his/her property.

The services of parking, garaging and storing motor vehicles are taxable when provided by an owner or operator of a parking lot, parking garage (except as otherwise excluded) or any other place engaged in providing parking, garaging or the storage of motor vehicles. Other places engaged in providing parking would include, but are not limited to:

- a private residence where parking is allowed on the lawn, for a fee, during the week of the county fair;

- a school providing parking, for a fee, during athletic events;
- a hotel charging guests for parking in its underground garage;
- a state agency selling permits to state residents and such permit allows the resident unlimited free parking at any of the state parks;
- a local newspaper publishing company that charges its employees for parking;
- a condominium association that charges the member residents for parking.

The tax imposed on parking, garaging and storing is a broadbased tax that affects nearly any individual, organization, business or governmental entity that makes a charge for the privilege of parking, or garaging or storing a motor vehicle. Anyone making a charge for parking is a "vendor" under the Sales Tax Law; accordingly, the homeowner, the school, the state agency, the condominium association, etc. in the previous illustrations are vendors for the purposes of this tax. Other vendors would include:

- landlords who charge tenants for parking;
- counties, cities, towns, villages or any of their agencies or departments that charge for parking, including metered parking (except metered parking on public streets);
- parking authorities established under the Public Authorities Law, except charges for metered parking on public streets;
- hospitals that charge visitors, employees or patients for parking;
- marinas that charge for parking of motor vehicles (Note: a docking charge for a boat is not parking);
- owners or operators of sports stadiums, ski centers, civic centers, beaches, racetracks, amusement parks, concert grounds and similar places that charge customers for parking;
- airports, train stations, and other transportation centers where vehicles are left, for a charge, while the driver is away.

Any individual, business, organization or governmental entity that is a vendor of parking services must file a Certificate of Registration with the Tax Department and obtain a Certificate of Authority to collect sales tax. A vendor who does not have a Certificate of Authority may not engage in a business that sells taxable services nor collect sales tax. Vendors of parking services who fail to collect sales tax and/or vendors of parking services who fail to obtain a Certificate of Authority to collect tax are in violation of the tax law and are subject to civil and/or criminal fines and penalties.

Organizations that are generally exempt from payment and collection of sales tax (organizations that have applied for and have received an Exempt Organization Certificate, Form ST-119, and governmental entities) will remain exempt from the payment of sales tax when they are the purchasers of parking services. However, if an exempt organization or governmental entity is the provider of parking, garaging or storage services for motor vehicles, it must collect sales tax on any charge made for such service. Since these organizations are required to collect sales tax, they are considered vendors under the tax law and must file a Certificate of Registration with the Tax Department.

Beginning June 1, 1990, sales tax must be added to any charge for parking, garaging or storing motor vehicles. The rate of tax to be assessed on the charge is determined by multiplying the parking charge by *the* combined state and local tax rate in the jurisdiction where the vehicle will be parked, garaged or stored.

The tax law provides that sales tax must be separately stated on any receipt given to the customer when a taxable sale occurs. Therefore, when a provider of parking services gives a customer a bill, receipt or other document that indicates a charge for parking, the amount of sales tax attributable to such charge must be clearly identified as sales tax and that charge must be listed separately from the actual charge for parking. If sales tax is not clearly identified and shown on a receipt, the provider of the parking service may be held liable for failing to collect tax.

The tax law also recognizes that there are instances where no receipts are given in a taxable sale. Under this circumstance, when a provider of parking, garaging or storage service does not give its customers a receipt, or similar evidence of payment, the service provider must post a placard (conspicuously placed) explaining that the stated charges for parking include the sales tax as a component of that charge.

Example (1) A parking garage uses a billing system that requires the customer to obtain a punched card when his/her vehicle enters the garage area. This card specifies the date and time the card was given to the customer. Before the vehicle is allowed to leave the garage, the card must be surrendered to a parking attendant who calculates the time difference between entry and exit and then collects the appropriate charge from the customer. The customer receives no receipt from the parking attendant. If no receipt is given to the customer, the garage is required to ensure that posted signs advertising its prices state that sales tax is included in the price. In addition, a placard, like the illustration that follows, must be conspicuously posted where the customer can see it when paying the charge.

Parking	\$1.00*	per hour
* Parking	.93	
Sales Tax	.07	

There may be times when parking is sold in conjunction with other services. In those instances, the charge for parking must be separately stated from the other charges (whether or not the other charges are subject to tax) and the appropriate amount of tax charged.

Example (2) Pursuant to a lease agreement between a landlord and tenant of an apartment building, the tenant receives a monthly statement from the landlord's management agent that lists the tenant's payment obligations. This statement includes charges for the tenant's rent, utility usage, trash pickup and parking. The taxable charges for utilities, trash and parking are required to be separately stated from the non-taxable charge for rent and sales tax must be assessed on such charges.

Example (3) A university student receives an itemized statement that breaks down his/her payment obligation to the school. This statement lists charges for the following:

Tuition	Lab Fees	Dormitory
Meal Plan	Books	Parking Permit

The fees for books and parking are taxable charges and sales tax must be applied to those fees.

If a charge for parking is a component part of another charge but not itemized in any bill or statement, for the purpose of determining the tax base, the charge for parking may be deemed to be equal to prevalent rates charged for similar parking in the area. If the parking charge can otherwise be determined from other available information, the tax base may be deemed from such information.

Example (4) Tenant A and Tenant B live in the same apartment building and have identical apartments. Tenant A's lease provides for an apartment, with parking, for \$800 per month. Tenant B's lease provides for an apartment only for \$750 per month. Even though tenant A's \$800 monthly charge is called rent and there is no separate charge for parking, the difference in the rent between Tenant A (with parking) and Tenant B reasonably establishes that Tenant A is charged \$50 per month for parking. The landlord would be required to collect tax on the \$50 monthly charge for parking.

The fact that parking is provided in conjunction with another purchase does not necessitate a separate statement of a charge for parking if the parking service is provided free.

Example (5) A sports stadium has its own parking lot. There is free access to the parking lot for all spectators. The price of the admission tickets to the sporting event is determined solely by the location of the spectator's seat. Since parking is provided free of charge, no portion of the admission charge to the sporting event must be allocated for parking.

The lease of a parking lot or portion of a parking lot for the purpose of parking is subject to the tax on parking.

Example (6) A business tenant in a commercial building leases 50 parking spaces of the building parking lot from the landlord. The business tenant allows its employees to park in these spaces free of charge. The business tenant is purchasing parking from the landlord. The landlord is required to collect sales tax from the business tenant on the lease charge attributable to the parking spaces.

The lease of real property (including a parking lot) for other than the purpose of parking is not subject to sales tax.

Example (7) The owner of a small shopping plaza rents spaces in a section of its parking lot on weekends to vendors who use their space to display goods for sale (weekend flea market). The shopping plaza owner is not selling parking and is not required to collect sales tax on the rent.

Persons who sell parking, garaging or storage services are not required to collect sales tax on their charges if the purchaser of the service issues to the seller a properly completed exemption certificate or other acceptable proof of exemption. Generally, persons who sell parking services are likely to receive the following proofs of exemption:

- Resale Certificate - Form ST-120;
- Exempt Use Certificate - Form ST-121;
- Exempt Organization Certification - Form ST-119.1;
- Certificate of Sales Tax Exemption for Diplomatic Missions and Personnel - Form DTF-950 or Form DTF-951;
- Certificate of Individual Indian Exemption from Sales Tax on Property or Services Delivered on a Reservation - Form DTF- 801;
- Governmental Contract or Governmental Purchase Order

The resale certificate may only be used by a vendor who is buying parking, garaging or storage services or spaces exclusively for the purpose of reselling those services or spaces to another party or parties. The vendor who furnishes a properly completed resale certificate will not be required to pay sales tax on the purchase of these services, but is required to collect sales tax on such services when they are resold. The resale certificate may not be used to purchase parking if any portion thereof is not resold.

Example (8) A business tenant in a commercial building leases 50 parking spaces in the building's parking lot from the landlord so that it may provide parking for its employees. In turn, the business tenant will sell monthly permits to its employees. The building landlord will not be required to collect sales tax from the business tenant if the tenant provides the landlord with a properly completed resale certificate. The tenant is required to collect sales tax on its sale of parking permits to its employees.

If, however, the business tenant intends to resell only 45 of the parking spaces and use *the* other 5 spaces for its executives, the business tenant may not use a resale certificate to purchase all 50 spaces for resale, it must make a separate purchase of the 5 spaces it does not intend to resell and pay the appropriate tax on the charge for those 5 spaces.

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".

Organizations operated exclusively for religious, charitable or other purpose enumerated in section 1116(a)(4) of the Tax Law who have been issued an Exempt Organization Certificate, Form ST-119, are exempt from the payment of sales tax on their purchases of tangible property and services. When one of these organizations makes a purchase which would normally require the vendor to add sales tax to the charge, the organization is to provide the vendor with an Exempt Organization Certification, Form ST-i19.1, which authorizes the vendor to exclude the sales tax imposed on such charge. A vendor may accept an Exempt Organization Certification only when the organization is the direct purchaser and payer of the charge.

Example (10) A charitable organization holds its annual dinner meeting at a downtown hotel. The hotel has its own parking facility and it charges for parking. The hotel issues one bill to the organization for all the charges associated with the dinner meeting such as use of a banquet room, food and drink consumed and parking. The hotel is not required to add sales tax to the bill if the organization presents the hotel with a properly completed Exempt Organization Certification, Form ST-119.1. If the persons attending the meeting paid for their own parking, the hotel would not be permitted

to exclude the sales tax imposed on the charges made to the individuals of the organization, even if the organization provides the hotel with an ST-II9.1, since *the* organization was not directly billed, nor did it pay, for the parking charges.

The United States Department of State provides tax exemption cards to diplomatic missions and personnel whom they have determined to be tax exempt. When one of these individuals or missions purchases parking, garaging or storage services, they are not required to pay sales tax on such charge provided they present the vendor of the service with a properly completed Certificate of Sales Tax Exemption for Diplomatic Missions and Personnel, Form DTF-950 or DTF-951. A DTF-950 or DTF-951 may be accepted by a vendor only when it is issued by a person who holds an exemption card issued by the U. S. Department of State; it may not be accepted in order to exempt sales tax on a purchase made by any other person, including family members.

Only vendors who make sales of parking, garaging and storage services on a qualified Indian reservation may accept a Certificate of Individual Indian Exemption from Sales Tax on Property or Services Delivered on a Reservation, Form DTF-801. Acceptance of this certificate will permit these vendors to exclude sales tax from charges for parking, garaging and storage services sold to members of an exempt nation or tribe.

Governmental agencies and instrumentalities are not required to pay sales tax on their purchases and are not required to obtain a tax exemption number or issue tax exemption certificates. Accordingly, a copy of a governmental contract or governmental purchase order must be retained by a vendor providing services to these entities where sales tax was not charged.

Persons required to collect tax and persons required to register with the Tax Department as vendors must file sales tax returns. The tax collected with respect to parking, garaging or storing of motor vehicles must be accounted for in the manner prescribed by the Tax Department, reported on the sales tax return as instructed and paid over to the Tax Department with the filing of such return.

Parking Services Provided in
New York City

Parking, garaging and storage services for motor vehicles have been subject to a local sales tax within the City of New York since September 1, 1970. Therefore, effective June 1, 1990, the only change affecting sales tax on parking in New York City is the addition of the 4% New York State sales tax and the 1/4% sales tax imposed for the benefit of the Metropolitan Commuter

Transportation District. Accordingly, the rate of tax to be collected on parking charges in New York City, outside Manhattan, will increase to 10 1/4% and within Manhattan, the new *rate* will be 18 1/4%. (Manhattan residents who are exempt from the 8% Manhattan parking tax will pay 10 1/4% for parking in Manhattan.)

Vendors who currently report their sales on Part I of the quarterly Schedule N, ST-100.5 or ST-810.5, will continue to do so.

Record Keeping Requirements

The tax law requires that every vendor of taxable services must maintain records to verify the tax status of all transactions.

For those vendors who give the customer a written receipt, a true copy of such receipt must be retained for a period of three years. More information on record keeping requirements can be found in the Tax Department's Publication 752, Record Keeping For Sales Tax Vendors.

For those vendors who do not give receipts, alternative records must be retained for a period of three years. Such records must provide sufficient detail to independently determine the taxable status of each sale and the amount of tax due and collected thereon.

The following is a good example of the records that should be maintained by vendors of parking services.

FOR PARKING SOLD ON A DAILY BASIS

A parking operator should:

- On a daily basis, keep a record of the total receipts from the parking sales. Each sale should be listed separately by ticket number.
- For each parking sale, the number of hours or parts thereof should be listed with the total sale.
- Show the amount of tax collected on each sale. For Manhattan facilities, if the lesser rate of tax is charged (10 1/4% for Manhattan residents only), the name and address must be listed.
- For exempt sales, if any, the exempt identification number must be listed.

- Keep a daily schedule that notes the date, the number of the first parking ticket issued, and the number of the last ticket issued for that day. The parking operator must be able to account for all tickets.

FOR PARKING SOLD ON A MONTHLY BASIS

A parking operator should:

- On a monthly basis, keep a detailed schedule of total monthly parking sales.
- List each monthly customer, separately by license plate number, name and address.
- Show the amount of the monthly parking sale for each monthly customer and tax charged.

MONTHLY SUMMARY PARKING REPORT

An operator should keep a monthly summary report categorizing each type of parking sale transacted (e.g. daily parking sales, monthly parking sales and any other type of parking sale) and the total receipts derived from each such category of parking sales from the daily and monthly records listed above.