

New York State Department of Taxation and Finance
Office of Counsel
Advisory Opinion Unit

TSB-A-10(8)S
Sales Tax
February 25, 2010

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S091229A

Petitioner [REDACTED] asks whether its vehicle registration fees collected from students and others are subject to New York State sales taxes.

We conclude that Petitioner's vehicle registration fees which encompass vehicle registration for both the purpose of controlling vehicles on campus and parking privileges are subject to sales tax.

Facts

Petitioner is a part of the State University of New York. Petitioner charges a \$30.00 registration fee for all vehicles that are parked on campus. The registration fee is intended to defray Petitioner's costs of registering and accounting for all vehicles on campus, annual decals, and related processing. All vehicles parked on campus must be registered annually. The registration fee is accounted for as a discrete fee in the college's accounting records.

Pursuant to section 360 of the Education Law (Power to Regulate Traffic on University Grounds) regulations were enacted relating to the regulation of parking and traffic on Petitioner's campus. These regulations in pertinent part provide:

Registration. (a) Regardless of the ownership of the vehicle, all staff and students who drive on campus must register their vehicles with the campus business office. Official college identification decals will be issued for the current academic year (September to August) or summer session upon payment of a fee approved by the chancellor or designee. All individuals exercising the privilege are responsible at all times for the vehicle while the vehicle is on campus.

(b) Decals must be affixed no later than 48 hours after the first day of classes of that session.....

* * *

(d) Temporary or special use of a motor vehicle on campus requires that a temporary permit be issued by the public safety office.

(e) When ownership of a registered motor vehicle is changed, the campus business office must be advised within 48 hours and the decal must be removed from the vehicle.

(f) Parking permits are not transferable from the individual to whom they are issued to any other individual. Permits are not transferable from one vehicle to another.

Penalties and procedures for violation of campus parking and traffic regulations.

* * *

(g) Campus motor vehicular registration and parking privileges shall be revoked for the balance of the academic year upon a finding that 10 or more campus violations have been incurred during an academic year.

Among other provisions, the regulations also provide for designated parking areas for students and faculty, and penalties (fines) for violation of parking and other traffic infractions (speeding, etc.).

Petitioner's Web site, in addition to presenting a restatement of the regulations, contains the following additional statements: "All vehicles parked on campus must display a valid [Petitioner] decal" and "Visitors can obtain *free* one-day passes at the University Police *BEFORE* parking."

Analysis

Petitioner, as part of the State University of New York, is a corporation created in the State Education Department and within the University of the State of New York, under the Board of Regents. Thus, Petitioner is an exempt governmental entity under Section 1116(a)(1) of the Tax Law. However, a governmental entity's sales of tangible personal property or services of a kind ordinarily sold by private persons are subject to sales tax. A governmental entity's parking services are of a kind ordinarily sold by private persons, and are subject to tax under Section 1105(c)(6) of the Tax Law. Petitioner is a corporation created under the Education Law (*See* Education Law §352.1). Accordingly, the exception from the imposition of the sales tax for public, municipal, or district corporations, as provided in Section 1105(c)(6), does not apply to Petitioner.

Petitioner has adopted regulations to enforce campus rules relating to parking, vehicular and pedestrian traffic, and safety, including provisions for the payment of fees for the registration or parking of vehicles. According to Petitioner's traffic and parking regulations, when a person pays to register his or her vehicle with Petitioner, that person is also entitled to the privilege of parking on the campus of Petitioner. This is evidenced by the fact that a single fee is paid to register a motor vehicle with Petitioner, which results in a permit being issued to the owner of the vehicle. That permit, when properly displayed, confers the right to park in the appropriate (student, faculty, staff, etc.) designated areas on the premises of Petitioner.

In *University at Albany (SUNY)*, Adv Op Comm T&F, June 22, 2005, TSB-A-05(23)S; *SUNY College at Oneonta*, Adv Op Comm T&F, May 24, 2001, TSB-A-01(20)S, and *State University of New York at Binghamton*, Adv Op Comm T&F, February 2, 1998, TSB-A-98(5)S, the vehicle registration and parking permit schemes imposed separate mandatory minimal registration fees for all vehicles and separate (minimal in some cases and significant in others) fees charged for parking. It was concluded under those circumstances that the registration fees were not subject to sales tax.

As the facts of this Petition and Petitioner's traffic and parking regulations demonstrate, Petitioner does not charge two separate and distinct fees for registration and parking, and does not require separate permits for registration and parking. Petitioner's single fee for both vehicle registration and parking confers parking privileges for the vehicles displaying the registration decal. Therefore, since Petitioner charges a single fee to cover vehicle registration and parking privileges on its campus, the vehicle registration fee is subject to sales tax under Section 1105(c)(6) of the Tax Law. *See* Section 527.1(b) of the Sales and Use Tax Regulations. The conclusion in this Advisory Opinion is consistent

with *State University of New York at Stony Brook*, Adv Op Comm T&F, January 28, 2000, TSB-A-00(4)S, in which the university's annual registration/parking permit fee was held subject to sales tax.

DATED: February 25, 2010

/S/
Jonathan Pessen
Director of Advisory Opinions
Office of Counsel

NOTE: An Advisory Opinion is issued at the request of a person or entity. It is limited to the facts set forth therein and is binding on the Department only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. An Advisory Opinion is based on the law, regulations, and Department policies in effect as of the date the Opinion is issued or for the specific time period at issue in the Opinion.