

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

TSB-A-14(7)S
Sales Tax
January 31, 2014

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S120413A

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED]. Petitioner asks whether the trade-in credit allowed by a car dealer upon purchase of a new vehicle is subject to sales tax. Petitioner also asks whether the amount of a manufacturer's rebate on the purchase of a new vehicle is subject to sales tax. Petitioner further asks whether amounts paid as a document fee, as registration and title document fees, and for an extended warranty are each subject to sales tax.

We conclude that the trade-in credit is not subject to sales tax, but the amount of the manufacturer's rebate is subject to sales tax. We further conclude that the amount paid for an extended warranty is subject to sales tax but, subject to the caveats identified below, the amounts paid as a document fee and as registration and title document fees are not subject to sales tax.

Facts

Petitioner resides solely in Orange County, New York. He bought a new vehicle in 2012 from an Orange County auto dealership. Petitioner supplied the following information on the specifics of the sale. Petitioner believes the negotiated purchase price of the car was \$31,644. The dealer valued Petitioner's vehicle traded in on the purchase of the new vehicle at \$5,500 and gave Petitioner a credit for that amount toward the purchase price. The manufacturer's rebate for the new vehicle was \$1,500. Petitioner was charged \$472.50 in "fees," consisting of a \$75 fee for paperwork completion by the dealer (known as documentation fees), \$247.50 in Department of Motor Vehicles fees for registration and title documents, and \$150 for an extended warranty on the vehicle. Petitioner asks whether these amounts are subject to sales tax.

Analysis

Section 1105(a) of the Tax Law imposes sales tax on the "receipts from every retail sale of tangible personal property, except as otherwise provided in this article." Section 1101(b)(3) of the Tax Law defines "receipt" as the "amount of the sale price of any property . . . taxable under this article, valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser . . . but excluding any credit for tangible personal property accepted in part payment and intended for resale." *See also* 20 NYCRR § 526.5(f). If the dealer intended to resell the vehicle traded in by Petitioner, the amount of the trade-in credit allowed to Petitioner on the purchase of the new vehicle would not be subject to sales tax and should have been deducted from the taxable receipt.

"Manufacturer's rebates, such as a rebate on the purchase of a car or an appliance, are not deductible from the taxable receipt, whether or not the rebate is assigned to or paid to the seller at the

time of sale, or later paid directly to the purchaser by the manufacturer. Even though the purchaser's out-of-pocket expense is reduced by the amount of the rebate, the price paid to the seller is not. In effect, the manufacturer is subsidizing the consumer's purchase, and the full sales price is subject to sales tax." TB-ST-860, *Taxable Receipt -- How Discounts, Trade-ins, and Additional Charges Affect Sales Tax*. Thus, the manufacturer's rebate amount is included in the taxable receipt for Petitioner's new vehicle.

Dealers may charge fees referred to as "documentation fees" to prepare the paperwork needed to obtain titles and registrations for vehicles. These fees are not subject to tax if the amount of the fee is separately stated and reasonable. Documentation fees "will be presumed reasonable if the amount is equal to or less than the amount permitted under the New York State Department of Motor Vehicles rules." See Publication 838, *A Guide to Sales Tax for Automobile Dealers*, at 12. The Department of Motor Vehicles' regulations state that the "fee charged by the dealer may not exceed \$75." See 15 NYCRR § 78.19(c)(2). Petitioner stated that the documentation fee charged to him was \$75, which is "reasonable" by the definition above. If the \$75 documentation fee was separately stated on the invoice, it would not be subject to sales tax.

A dealer may also charge fees referred to as "title and registration" fees. "If a dealer obtains the vehicle's title and registration on behalf of the purchaser, and the dealer separately states the actual amount of the title and registration fees on the invoice or other statement of the price given to the customer, the fees are not subject to sales tax." See Publication 838, *supra*, at 13. If the dealer obtained the title and registration for the new vehicle for Petitioner, and the amount charged for the title and registration are separately stated and in the exact amount paid to DMV for the title and registration, those fees would not be subject to sales tax.

Regulation § 527.5(c) provides that the "purchase of a maintenance or service contract is a taxable transaction." Thus, the dealer's charge to Petitioner for the extended warranty is subject to sales tax, regardless of whether it is separately stated.

DATED: January 31, 2014

/S/

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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. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.