

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

TSB-M-96(12)S  
Sales Tax  
November 7, 1996

**Sales of Parking by Local Municipal Facilities Exempt  
From Sales Tax**

The service of providing parking, garaging, or storing for motor vehicles is generally subject to sales taxes. These services are collectively referred to in this memorandum as parking.

**Facilities Qualifying as Exempt**

**Effective on and after December 1, 1996**, charges for parking in facilities owned and operated by the following entities are exempt from the combined state and local sales taxes, **other than the additional 8% parking tax in Manhattan:**

- **municipal corporations** (counties, cities, towns, villages and school districts), or any agency or instrumentality thereof,
- **district corporations** (e.g., fire districts, water districts), or any agency or instrumentality thereof, and
- **public benefit corporations** (other than public benefit corporations which have been created by interstate compact or public benefit corporations at least half of whose members are appointed by the Governor).

Additionally, charges for parking in facilities that are owned and operated by New York City are similarly exempt from sales tax. This includes facilities owned and operated by:

- any **agency** or **instrumentality** of New York City, and
- a **public corporation** more than one half of whose members are appointed by the Mayor of New York City, the New York City Council, or both.

**However, as noted above, this exemption does not apply to the additional 8% sales tax on parking services imposed in Manhattan under Section 1212-A(a) of the Tax Law.**

Parking at facilities owned and operated by any of the entities described above is exempt from:

- the 1/4% Metropolitan Commuter Transportation District (MCTD) tax,
- the 4% state tax and all local (city and county) taxes imposed outside the city of New York and
- the 10 1/4% combined State, New York City and MCTD tax imposed on parking services in the city of New York.

**However**, charges for providing parking at facilities owned and operated by any public benefit corporation created by interstate compact, or by any public benefit corporation at least half of whose members are appointed by the Governor, or both, remain taxable.

Generally, parking provided at facilities owned and operated by the state of New York and its departments, agencies, etc., does not qualify under this exemption and continues to be subject to sales tax.

Except as may otherwise be exempt by law, parking provided at facilities owned and operated by Tax Law section 1116(a)(4) exempt organizations (e.g., religious, charitable, scientific, etc. organizations) and section 1116(a)(5) exempt organizations (e.g., veterans' posts, etc.) also remains subject to sales tax.

#### **Applicability**

This exemption applies to charges for parking at facilities owned and operated by the above described entities on and after December 1, 1996, even though the charges relate to parking provided under a contract entered into prior to that date. When parking is provided on a weekly, monthly or other long-term basis, the nontaxable portion of the charges applicable to exempt parking provided on or after December 1, 1996, may be prorated accordingly.

#### **Refunds of Tax Collected Applicable to Parking On or After December 1, 1996**

Sales tax collected from a customer for parking provided at an exempt municipal facility on or after December 1, 1996, is refundable. The customer may submit a claim directly to the Tax Department for refund (Form AU-11) of the tax paid applicable to periods commencing on or after December 1, 1996. Alternatively, the vendor may refund the tax directly to the customer and then claim a credit on the next applicable sales tax return for the amount of tax that was previously collected and remitted with a return, and subsequently refunded by the vendor to the customer.

#### **Definitions (see Section 66 of the General Construction Law)**

A **municipal corporation** includes a county, city, town, village and school district.

A **district corporation** includes any legally established territorial division of the state, other than a municipal corporation, that has the power to contract indebtedness and levy taxes or benefit assessments upon real estate or to require the levy of such taxes or assessments, whether or not the territorial division is expressly declared to be a body corporate and politic by the statute creating or authorizing its creation.

A **public benefit corporation** is a corporation organized to construct or operate a public improvement wholly or partly within the state, the profits from which inure to the benefit of this or other states, or to the people thereof.