

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

TSB-A-12(5)C
Corporation Tax
September 27, 2012

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. C111118A

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED], (Petitioner). Petitioner asks whether it is entitled to a tax credit for the incremental costs specifically associated with the purchase price of a taxicab or livery service vehicle accessible by individuals with disabilities. We conclude that Petitioner is entitled to claim a tax credit for those incremental costs specifically associated with the purchase price of the vehicle accessible by individuals with disabilities if a tax credit for that vehicle has not previously been claimed.

Facts

In October 2010, Petitioner, a corporation, purchased a used 2008 van from a finance company. The finance company repossessed the van from its previous owner. The previous owner converted the van to an ‘ambulette’ accessible to persons with disabilities. Petitioner states that it paid a higher price for the converted van than for a van of the same make and model except for the equipment needed to convert the vehicle to one accessible to persons with disabilities. Petitioner was not required to incur any additional costs to make the van accessible to persons with disabilities.

Analysis

A taxpayer who provides a taxicab or a livery service is allowed a credit against its business corporation franchise tax for the incremental costs incurred on or after January 1, 2006 and before January 1, 2011¹ which are specifically associated with upgrading a vehicle so that it is accessible by individuals with disabilities. *See* Tax Law § 210.40 & 20 NYCRR § 5-5.2. The term “incremental cost” means the expenses specifically associated with the excess purchase price of a vehicle accessible by individuals with disabilities over the purchase price of a motor vehicle that is the same make and model except for the equipment necessary to convert it to a vehicle accessible by individuals with disabilities. *See* 20 NYCRR § 5.5.2(d). The credit shall

¹Chapter 604 of the Laws of 2011 added sections 210.44 and 606(tt) to the Tax Law to allow a tax credit for 1) the incremental cost of upgrading a vehicle used in providing a taxicab or livery service so that it is accessible to persons with disabilities; and 2) the purchase of certain new vehicles that are accessible to persons with disabilities. The credit allowed under these new sections apply to purchases of new vehicles and to incremental costs incurred for taxable years beginning on or after January 1, 2011, but expire for purchases or costs incurred after December 31, 2016. TSB-M-12(1)C, (1)I.

not exceed \$10,000 per vehicle and it may only be claimed once per vehicle. *See* 20 NYCRR § 5-5.4(a).

In the opinion request you asked if Petitioner may claim a credit for the van that was converted by the previous owner for the incremental costs associated with Petitioner's excess purchase price of the van. The Petitioner did not provide any information on whether the van qualifies as a taxicab or livery service. Thus we cannot reach a conclusion on this aspect of the credit requirements. Assuming the van qualifies as a taxicab or livery service, Petitioner will be entitled to claim a tax credit for the incremental costs specifically associated with the purchase price of the van in accordance with the statutory and regulatory requirements listed above in an amount not to exceed \$10,000, provided that a tax credit for this vehicle was not previously claimed.

DATED: September 27, 2012

/S/

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