

**New York State Department of Taxation and Finance
Office of Counsel**

TSB-A-16(12)S
Sales Tax
April 25, 2016

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S150605B

The Department of Taxation and Finance received a Petition for an Advisory Opinion from [REDACTED] (“Petitioner”). Petitioner asks if its purchase of commercial sightseeing ships from a seller located outside New York State for use within New York State is subject to New York State sales and use tax.

We conclude that Petitioner’s purchase is subject to sales tax but only on the first \$230,000 of the purchase price of each vessel.

Facts

Petitioner, a corporation headquartered in New York, agreed to purchase three commercial sightseeing ships from a company located outside New York State in July 2014. Each ship costs in excess of \$230,000. The ships were manufactured outside New York and were delivered to Petitioner in New York in early 2016. The ships will be used exclusively in New York. The Petitioner entered into a payment agreement in 2014 and was making installment payments while the work was in process.

Analysis

Sales tax is imposed on retail sales of tangible personal property. *See* Tax Law § 1105(a). Vessels are included in the definition of tangible personal property. Tax Law § 1101(b)(6),(16); *see also* TB-ST-740. Sales Tax Regulation 20 NYCRR § 526.7(e) provides that “a sale is taxable at the place where the tangible personal property or service is delivered or the point at which possession is transferred by the vendor to the purchaser or his designee.” Consequently, Petitioner’s purchase of three vessels delivered in New York is subject to New York State sales tax.

Effective June 1, 2015, sales tax applies to only the first \$230,000 of the purchase price of each vessel. *See* Tax Law § 1115(jj)(1). Because the delivery of the vessels occurred after June 1, 2015 and each vessel costs in excess of \$230,000, the exemption limiting the application of sales tax to only the first \$230,000 of the purchase price of each vessel applies.¹

Sales tax becomes due at the time of transfer of title to or possession (or both) of the property. 20 NYCRR § 525.2(a)(1)(iii)(2). If the seller of the vessels does not, or is not required to collect the sales tax from Petitioner, and Petitioner is registered or is required to be registered for sales tax purposes, Petitioner must report the purchase of the vessels and remit the tax due

¹For further discussion of recent changes in the sales and use tax for vessels, please see TSB-M-15(2)S, *Changes to the Application of Sales and Use Tax to Vessels*.

with its sales tax return for the period that includes the date the vessels were delivered. If Petitioner is not registered or required to be registered for sales tax purposes, it must file Form ST-130, *Business Purchaser's Report of Sales and Use Tax*, within 20 days of the date of delivery of the vessels.

DATED: April 25, 2016

/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.