

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

TSB-A-16(16)S  
Sales Tax  
April 28, 2016

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO S150601A

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED]. Petitioner asks whether charges for automobile repairs are subject to New York State and local sales taxes if the repair facility is located out of state, but the repaired automobile is delivered to the customer in New York. Petitioner also asks whether repair equipment is subject to New York State and local sales taxes under two scenarios.

We conclude that charges for maintenance and repairs are taxable in New York if the serviced property is delivered to the customer in New York. Repair equipment is subject to State and local sales tax if it is delivered in New York State.

**Facts**

Petitioner, which is registered for sales tax purposes in New York, operates an automobile sales showroom in New York City. Petitioner has an auto body shop in New Jersey that handles repairs of its customers' damaged automobiles. No customer ever visits the body shop, and there is no ability for a customer to pick up repaired automobiles at that facility. A customer whose automobile requires auto body repair work must deliver the automobile to the New York City showroom and pick it up at the showroom when the work is completed.

Petitioner purchases certain equipment to repair automobiles (e.g., lifts). Petitioner places all equipment orders from its New York City location. In some instances, the equipment is delivered to Petitioner's New York location and transported by Petitioner in its own trucks to its New Jersey facility for installation. In other instances, the equipment is delivered directly to Petitioner's New Jersey facility.

**Analysis**

Petitioner's charges for auto body repairs are subject to New York State and local sales tax. Installing, maintaining, servicing or repairing tangible personal property is subject to State and local sales taxes. *See* Tax Law § 1105(c)(3). Generally, the sales tax is a destination tax: "[t]he point of delivery or point at which possession is transferred by the vendor to the purchaser, or the purchaser's designee, controls both the tax incidence and the tax rate." 20 NYCRR § 525.2(a)(3). Charges for repairs or other taxable services are subject to New York state and local sales taxes if the repaired or serviced property is delivered to the customer in New York. "The rate of the combined State and local sales tax is the rate in effect in the taxing jurisdiction where the property serviced is delivered to the customer (or the customer's designee)." Publication 838, *A Guide to Sales Tax for Automobile Dealers*.

