

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

The Department of Taxation and Finance received a Petition for an Advisory Opinion from [REDACTED] (Petitioner). Petitioner asks whether her purchase of a vehicle in Maine while a New York State resident was properly subject to New York State and local use tax upon the vehicle's registration with the New York State Department of Motor Vehicles. We conclude that Petitioner's purchase of a vehicle in Maine was properly subject to State and local use tax upon registration in New York State.

Facts

Petitioner, a New York State resident, temporarily lived and worked in Maine from September 2016 through December 2016. On September 28, 2016, Petitioner purchased, registered, and insured a vehicle in Maine. Petitioner paid state and local sales tax to the State of Maine. Petitioner used the vehicle in Maine until December 24, 2016, at which point Petitioner returned to New York for vacation and brought the vehicle to New York. The vehicle remained in New York until June 2018. In December of 2017, Petitioner's mother registered the vehicle for Petitioner in New York and paid use tax to New York. From January 2017 through June 2018, Petitioner temporarily relocated several times for work. Petitioner permanently moved to Washington with the vehicle in July of 2018.

Analysis

Tax Law § 1105(a) imposes sales tax on the receipts from every retail sale of tangible personal property, unless a specific exemption applies. With regard to motor vehicles, the applicable rate of sales or use tax is the combined state and local rate in effect in the purchaser's county of residence. See Tax Law § 1214(a)(2). Tax Law § 1110(a) imposes a compensating use tax on the use of tangible personal property within the State by a resident, except to the extent that the property has or will be subject to state and local sales taxes, or unless a specific exemption applies. See 20 NYCRR 525.2(b)(1)(i). Tax Law § 1101(b)(7) defines the term "use" to include "[t]he exercise of any right or power over tangible personal property . . . and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time. . . ." The tax due is required to be paid upon registration of the vehicle in New York. See Tax Law § 1132(f), 20 NYCRR 531.6(f). Petitioner was a New York State resident at the time she purchased and registered her vehicle. The vehicle was brought to New York in December of 2016 and garaged in New York until June of 2018. Petitioner's storage of the vehicle in New York constitutes use under Tax Law § 1101(b)(7). Therefore, Petitioner's purchase of the vehicle was subject to New York use tax and the tax was properly collected when the vehicle was registered in New York.

Tax Law § 1118(7)(a) provides an exemption from use tax to the extent that tax on the purchase of a vehicle was legally due and paid to another state, without any right to refund or credit, if that state allows a corresponding exemption for such taxes paid to New York. New York may provide a credit on a rate-to-rate basis for sales or use taxes paid to another state only where, and to the extent that, the other state provides a reciprocal credit for sales or use taxes paid to New York State and/or its localities. See TB-ST-765-- *Reciprocal Credit for Sales or Use Taxes Paid to Other Taxing Jurisdictions*. Maine does not allow a credit for either New York state or local sales taxes. See Instructions on Form DTF-804 - *Statement of Transaction – Claim for Credit of Sales Tax Paid to Another State*. Consequently, Petitioner is not entitled to a credit against the New York State and local use tax due for taxes paid to the State of Maine.

DATED: August 1, 2024

/s/

MARY ELLEN LADOUCEUR
Principal Attorney

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.