

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

The Department of Taxation and Finance received a Petition from [REDACTED] [REDACTED] (“Petitioner”). Petitioner asks whether sales or use tax is due on the transfer of a lease of a motor vehicle, where the monthly installment payment being assumed includes a portion of the sales tax calculated at the inception of the lease.

We conclude that sales tax is due upon assumption of the lease on the amount that remains due for the balance of the lease term, including any transfer or acquisition fees paid by the assignee as part of the lease assumption.

**Facts**

An individual leased a personal use vehicle from a dealership for a term of one year or more, and financed the lease through the dealership’s finance/leasing company. The entire amount of sales tax due on the original lease was paid by the original lessee at the outset of the long-term lease and was financed as part of the lease agreement. The financed amount reflecting the sales tax paid was included in the monthly installment payment.

During the term of the lease, the original lessee transferred the lease to Petitioner. The title to the vehicle remained in the leasing company. Petitioner was charged a one-time assumption fee and is responsible for the remaining monthly lease payments. More than one year remained on the lease at the time it was transferred to Petitioner.

**Analysis**

Sales tax is imposed on all receipts from the retail sale of tangible personal property. See Tax Law § 1105. Tax Law § 1101 (b) (5) explicitly defines “sale” to include the transfer of title or possession or both, including a rental or lease, in any manner or by any means whatsoever for a consideration, or any agreement therefore. Because the definition of “sale” includes either the transfer of title or the transfer of possession, it is irrelevant that the vehicle’s title remains in the leasing company. Here, upon assumption of the lease, possession of the vehicle was transferred to Petitioner; therefore, it is a sale for sales tax purposes.

With respect to any lease of a motor vehicle for a term of one year or more, all receipts due for a leased vehicle for the entire period of the lease are deemed to have

been paid at the time of the first lease payment, and the sales tax due must be collected on those receipts at that time. See Tax Law § 1111 (i) (A).

While the Petitioner points out that the entire amount of sales tax due and owing for the long term-lease was paid by the assignor at the beginning of the lease, that fact has no effect on the tax due by Petitioner on the lease assumption of the remainder of the lease. When an existing long term lease agreement is assumed by an assignee, the transfer of possession of the vehicle, in consideration for assuming the remaining lease payments, is a taxable sale, separate and distinct from the initial lease. See Tax Law §1101 (b) (5) and 20 NYCRR 525.2. No refund or credit is due to the initial lessee on the early termination of a lease, because all of the payments for the lease are deemed to have been paid in the first lease payment, and the tax on all the lease payments is due at that time. See 20 NYCRR 527.15(e); Matter of Michael Greenfield, Tax Appeals Tribunal, June 6, 2019; Matter of Moerdler, Tax Appeals Tribunal, April 26, 2001, confirmed 298 AD2d 778 (3d Dep't 2002); Matter of Miehle, Tax Appeals Tribunal, August 24, 2000. Vehicles are frequently resold and re leased during their useful lives and sales tax liability occurs on each transaction. See *Id.* A party assuming a lease does not receive credit for the tax paid by the original lessor. See 20 NYCRR 527.15(e). The fact that the initial lease included the sales tax due in the financed amount does not change this rule. The party assuming the lease is required to pay sales tax on the remaining lease payments.

DATED: August 2, 2024

/s/  
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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.