

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (“Petitioner”). Petitioner asks whether the furnishing of electronic receipts to customers of parking services and its maintenance of digital records will satisfy the requirements imposed by Tax Law § 1142-A(b) and related regulations. We conclude that the use of a software application to maintain digital records and electronic receipts would be sufficient, provided that the records comply with the requirements imposed by Tax Law § 1142-A(b). However, this Advisory Opinion cannot conclusively determine whether the specific electronic records generated by Petitioner satisfy the recordkeeping requirements of the Tax Law and related regulations.

Facts

Petitioner operates parking garages in the New York City metro area. Petitioner currently provides paper receipts to customers for parking in their garages. Petitioner is in the process of implementing a new phone/digital application to allow customers to reserve and pay for parking. Petitioner will furnish customers that use the application with electronic receipts, as opposed to paper receipts, and will maintain digital records of these transactions.

Analysis

Tax Law § 1135(a)(1) requires that every person required to collect sales tax must keep records of “every sale . . . and of all amounts paid, charged or due thereon and of the tax payable thereon, in such form as the commissioner of taxation and finance may by regulation require. Such records shall include a true copy of each sales slip, invoice, receipt, statement or memorandum upon which subdivision (a) of section eleven hundred thirty-two requires that the tax be stated separately.” Tax Law § 1135(h) also states that “the commissioner may require any person who has elected to maintain in an electronic format any portion of the records required to be maintained by that person under this article, to make the electronic records available and accessible to the commissioner, notwithstanding that the records are also maintained in a hard copy format.”

In addition, parking garage operators in Manhattan are subject to special recordkeeping and enforcement provisions related to parking services, which can be found in Tax Law § 1142-A. Each parking facility operator in Manhattan is required to furnish a ticket or other documentation to each purchaser of parking services, and must keep each ticket, or a true copy thereof. The tickets must be consecutively numbered or issued by a

computer in a manner approved by the Department. Among the numerous other requirements, the tickets must show the date and time the motor vehicle entered the parking garage. The date and time of exit of the motor vehicle also must be indicated on the ticket, unless the parking charge is based on a flat fee and certain other conditions are met. See Tax Law § 1142-A(b); 20 NYCRR 538.3. In the event that the ticket is issued to a purchaser that allows parking for a month or more, the ticket must include the customer's name and signature or identification number. See 20 NYCRR 538.3(b)(5). Persons required to collect tax on parking charges must keep records of each ticket provided to its customers. If long term parking is provided, the person required to collect tax must keep a list "containing the name, address and signature of each monthly or other longer-term purchaser of service, the valid period of such monthly or longer-term service, and the number of authorized vehicles entitled to such parking services, without regard to whether a ticket or other documentation is issued to such purchaser." See Tax Law § 1142-A(b).

Tax Law § 1142-A(b) allows for a ticket or other documentation. Because of the factual nature of the inquiry, this Advisory Opinion cannot reach a definite conclusion about Petitioner's application. However, if Petitioner's digital application complies with the recordkeeping requirements imposed by § 1142-A(b) and 20 NYCRR 538.3, creates electronic receipts with a numbering system approved by the Department, includes all the required information, and enables Petitioner to provide the Department with the digital records to support its returns, Petitioner's use of a digital application to maintain electronic records and provide electronic receipts to parking customers would satisfy the requirements of § 1142-A and related regulations. In order to receive Department approval of the numbering system, "the proposed numbering scheme or alternative computer issuance procedure" must be submitted to the Audit Division-Sales Tax Bureau at least 20 days prior to use by the parking facility. See 20 NYCRR 538.3(b)(1).

DATED: August 6, 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.