

Expanded Exclusion for Parking Charges Paid to Homeowners' Associations by their Members

Effective September 12, 1998, the exclusion for parking charges paid to a homeowners' association by its members is expanded to include the 6% Municipal Assistance Corporation parking tax imposed in New York City and the additional 8% Manhattan parking tax.

Prior to September 12, 1998, parking charges paid to a homeowners' association in New York City by its members were excluded only from the 4% New York State tax and the 1/4% Metropolitan Commuter Transportation District tax. As a result of the recent Tax Law change, parking charges paid to a homeowners' association by its members are excluded from all sales taxes, including the parking taxes imposed in New York City. The exclusion applies to the additional 8% Manhattan tax, whether or not the member qualifies as a Manhattan resident.

To be eligible for the exclusion, the following conditions must be met:

- The homeowners' association must own or operate the garage, parking lot, or other parking facility (whether or not it is operated exclusively for its members).
- The homeowners' association must be an association whose membership is comprised exclusively of owners or residents of residential dwelling units (such as single-family homes, condominium units, or cooperative housing or apartments).
- The dwelling units must be in a defined geographical area, such as a housing development or subdivision, and the parking facility must be located within that defined geographical area.
- The parking charges must be paid to the homeowners' association by its members.

Parking services sold by a homeowners' association to its members that are not provided under the above conditions and charges to persons other than its members remain subject to state and local sales taxes. Taxable parking charges paid to a homeowners' association by a person who is not a member of the association may be exempt from the additional 8% Manhattan parking tax if the nonmember qualifies as a Manhattan resident. (See TSB-M-96(13)S for additional information on the exemption from the additional 8% Manhattan parking tax for Manhattan residents.)

Sales taxes on parking services are reported on Schedules N and N-ATT. The instructions for these forms have been changed to further explain the reporting requirements of homeowners' associations. Homeowners' associations that file these forms will report taxable parking receipts as follows:

- **Quarterly filers and part-quarterly filers**--For the quarterly period September 1 through November 30, 1998, report taxable parking sales and tax due on those sales for the eleven-day period September 1 through September 11, 1998. After September 11, 1998, qualifying

payments by members to the homeowners' association for parking services are excluded from tax.

- **Annual filers**--For the annual sales tax return and Schedules N and N-ATT for the period June 1, 1998, through February 28, 1999, report taxable parking sales and tax due on those sales for the period June 1, 1998, through September 11, 1998. After September 11, 1998, qualifying payments by members to homeowners' associations for parking services are excluded from tax.

Payments by members to a homeowners' association for parking services provided on a monthly or other term basis that begin before September 11, 1998, but end on or after that date may be prorated between the taxable and excluded portion.

A homeowners' association that is registered for sales tax purposes only because it provides taxable parking services to its members may not be required to remain registered with the Tax Department after September 11, 1998. If the homeowners' association is no longer required to be registered, it should mark its next return *Final* and attach its Certificate of Authority to the return. Homeowners' associations that provide taxable parking services or other taxable services, or that make sales of tangible personal property, must remain registered. If a homeowners' association no longer makes sales of taxable parking services required to be reported on Schedule N, but must remain registered for other reasons, the association should attach a note to its next return explaining Schedule N is no longer needed.