

**New York State Department of Taxation and Finance**  
**Office of Tax Policy Analysis**  
**Technical Services Division**

TSB-A-01(20)S  
Sales Tax  
May 24, 2001

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S001218A

On December 18, 2000, the Department of Taxation and Finance received a Petition for Advisory Opinion from SUNY College at Oneonta, 200 Netzer Administration Building, Oneonta, NY 13820.

The issue raised by Petitioner, SUNY College at Oneonta, is whether fees collected from students and others for the purpose of registering their vehicles (vehicle registration fees) are subject to sales tax.

Petitioner submits the following facts as the basis for this Advisory Opinion.

Petitioner charges a \$5 registration fee for all vehicles parked on campus. All vehicles parking on campus must be registered annually. The fee is universally applied for each vehicle registered by faculty, staff and students. The fee is intended to defray the costs of registration, annual decals, and related processing. A parking fee is separately charged to students and management confidential employees in the amount of \$85 (\$80 if paid in advance for the entire year). As a special consideration, resident students who need only to bring a vehicle on campus for the last week of a semester to transport their personal property home, pay a prorated parking fee of \$5. The registration fee for that week will still be \$5. The registration fee is accounted for separately from the parking fee charged by Petitioner and is identified as a discrete fee in accounting and reporting procedures, as well as publications and other information distributed by Petitioner.

**Applicable Law and Regulations**

Section 1101(b)(3) of the Tax Law defines the term “receipt”, in part, as follows:

The amount of the sale price of any property and the charge for any service taxable under this article...valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts and also including any charges by the vendor to the purchaser for shipping or delivery...regardless of whether such charges are separately stated in the written contract, if any, or on the bill rendered to such purchaser and regardless of whether such shipping or delivery... is provided by such vendor or a third party....

Section 1105 of the Tax Law provides, in part:

Imposition of sales tax.--... there is hereby imposed and there shall be paid a tax ... upon:

\* \* \*

(c) The receipts from every sale, except for resale, of the following services:

\* \* \*

(6) Providing parking, garaging or storing for motor vehicles by persons operating a garage (other than a garage which is part of premises occupied solely as a private one or two family dwelling), parking lot or other place of business engaged in providing parking, garaging or storing for motor vehicles provided, however, this paragraph shall not apply to such facilities owned and operated by a public corporation, as defined by section sixty-six of the general construction law, other than a public benefit corporation, as defined by such section sixty-six, created by interstate compact or at least half of whose members are appointed by the governor, or any agency or instrumentality of a municipal corporation or district corporation as defined by such section sixty-six....

Part 564 of 8 NYCRR contains the regulations of the State University College at Oneonta dealing with vehicular and pedestrian traffic and parking on the Oneonta campus. Section 564.3 of these regulations provides, in part:

**Vehicle Registration and Parking Fees.**

(a) Parking fees as approved by the chancellor, or designee, shall be charged for motor vehicles parked within designated lots, consistent with applicable collective bargaining agreements and in accordance with guidelines established by the chancellor or designee. Such guidelines shall provide that the determination of the amount of the fee be substantially based on an analysis of the costs attributable to the operation and maintenance of the parking facilities owned and operated by the College at Oneonta.

(b) All students, eligible by college standards, who drive to the campus and park must register their vehicles and apply for parking decals on or before the first day of classes. Graduate students and assistants will be registered as residents or commuter students. Parking decals must be obtained from the public safety office in person or by mail.

(c) All faculty and staff must register their vehicle annually. Faculty and staff decals may be issued on a multi-year basis at the discretion of the college president.

TSB-A-01(20)S  
Sales Tax  
May 24, 2001

(d) The identification decal shall be permanently affixed as determined by the director of public safety. It is the responsibility of the owner to insure that the decal remains affixed at all times, and is legible. Taping or clipping on of decals is not considered as being permanently affixed, and registration will not be considered complete unless decal is properly affixed.

### **Opinion**

State University of New York at Binghamton, Adv Op Comm T&F, February 2, 1998, TSB-A-98(5)S, concluded that the registration fees received by the petitioner (SUNY at Binghamton) from vehicle registration were not considered to be receipts received from parking, garaging or storing of motor vehicles and, therefore, were not subject to sales tax. The registration fees and parking fees charged separately by SUNY at Binghamton were two separate fees for accounting and reporting purposes. The revenue generated from the registration fee was held in a separate account and was applied to the cost of paying staff who input data collected concerning identification and ownership of the vehicles.

In this case, Petitioner charges a \$5 registration fee for vehicles parked on campus by faculty, staff and students. All such vehicles parked on campus must be registered annually. The fee is universally applied for each vehicle registered by faculty, staff and students. The fee is intended to defray the costs of registration, annual decals, and related processing. The registration fee is charged separately from the parking fee charged by Petitioner, and is identified as a discrete fee in accounting and reporting procedures, as well as publications and other information distributed by Petitioner.

The service of registering a motor vehicle is not specifically enumerated in Section 1105(c) of the Tax Law. The vehicle registration fees separately charged and administered by Petitioner, as described above, are not considered to be receipts attributable to providing parking, garaging or storing of motor vehicles. See State University of New York at Binghamton, supra. Accordingly, the vehicle registration fees charged by Petitioner are not subject to sales tax imposed by Section 1105(c)(6) of the Tax Law.

DATED: May 24, 2001

/s/  
Jonathan Pessen  
Tax Regulations Specialist III  
Technical Services Division

NOTE: The opinions expressed in Advisory Opinions are limited to the facts set forth therein.