



The taxpayer owns a motor vehicle dealership that sells and leases motor vehicles.

Taxpayer's invoice for the sale or lease of a motor vehicle includes language which states that the sale/lease includes free oil and filter changes every 5,000 miles up to 75,000 miles. The taxpayer states that the cost of the oil changes is included in the price of the motor vehicle.

TAXABILITY OF TANGIBLE PERSONAL PROPERTY USED IN PROVIDING FREE OIL CHANGES

The taxpayer is inquiring whether purchases of tangible personal property used in providing the free oil changes may be purchased for resale.

Under the New Jersey Sales and Use Tax Act, a taxpayer may purchase personal property for use in performing services subject to tax under N.J.S.A. 54:32B-3(b) for resale if the property becomes a physical component part of the property upon which the services are performed or if the property is actually transferred to the purchaser of the service in conjunction with the performance of the service. N.J.S.A. 54:32B-2(e) (1).

Under the above facts, a dealership may treat such oil changes as a resale situation. Therefore, the dealership may purchase tangible personal property which becomes a physical part of the motor vehicle or is actually transferred to the customer in conjunction with the performance of the oil change for resale (e.g., oil filter). A dealership's purchase of tangible personal property, which does not become part of the motor vehicle and is not transferred to the purchaser, is subject to tax (e.g., tool, supplies). N.J.S.A. 54:32B-3(a).

To purchase tangible personal property used in providing oil changes for resale, the dealership is required to indicate that the purchaser will receive free oil changes, which are included in the purchase price or lease price of the vehicle. This information must be provided in the invoice, sales contract or any other written document furnished to the customer at the time of the sale. Under these circumstances, a dealership is deemed to be making sales of the oil changes to those customer, as part of the sale or lease of the vehicle.

A dealership should maintain proper documentation substantiating that tangible personal property was purchased for use in performing oil changes that were covered by the sale or lease of the vehicle.

If the invoice, sales contract or any other written document furnished to the customer at the time of sale or lease does not indicate that oil changes are included in the transaction, the "free" oil changes would not be considered "resold" to the purchaser. In this case, oil changes provided to the customer free of charge would be considered courtesy transactions and the dealership would be required to remit use tax on the tangible personal property used in providing the oil change because the dealership is the end-user of this transaction.

TAXABILITY OF LABOR USED IN PERFORMING FREE OIL CHANGES

The taxpayer also inquired whether the labor to provide the free oil changes under the above facts is subject to tax.

The Sales and Use Tax Act provides an exemption from taxation for “wages, salaries and other compensation paid by an employer to an employee for performing as an employee...” services otherwise subject to tax. N.J.S.A. 54:32B-3(b). Thus, although auto repair services are subject to tax under N.J.S.A. 54:32B-3(b)(2), wages paid to an employee to perform such services do not constitute a taxable receipt. As such, charges for labor to perform a “free” oil change as described above are not subject to Use Tax if performed by the dealership’s employee.

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