

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-A-92 (69) S  
Sales Tax  
October 2, 1992

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S920603A

On June 3, 1992 a Petition for Advisory Opinion was received from Morris Shane, 82 Whitney Street, Westbury, NY 11590.

The issue raised by Petitioner, Morris Shane, is whether a charge described as a "capitalized cost reduction" on an automobile lease is a part of the receipt subject to sales tax.

Petitioner entered into a lease with Hempstead Lincoln Mercury Mtrs Corp to lease a 1992 Lincoln Continental. Pursuant to the terms of the lease Petitioner was required to make a payment for certain items to the lessor at the time he entered into the lease. One of these items, in the sum of \$1000.00, was entitled a "Capitalized Cost Reduction" Petitioner paid this sum to the lessor by endorsing over to the lessor a \$1000.00 draft received by him from the motor vehicle manufacturer as an incentive to enter into the lease. Another of the items, in the sum of \$85.00, was the sales tax due on the \$1,000 "Capitalized Cost Reduction".

Section 1101(b)(3) of the Tax Law defines the term "Receipt" as "The amount of the sale price of any property ... 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, .... "

Section 1101(b)(5) of the Tax Law defines sale as "Any transfer of title or possession or both, .... rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor ... "

Under section 1101(b)(8)(i) of the Tax Law, the term "Vendor" includes "A person making sales of tangible personal property or services, the receipts from which are taxed by this article ... "

Section 1105(a) of the Tax Law imposes a tax on "The receipts from every retail sale of tangible personal property, except as otherwise provided in this article."

Section 1132(a) of the Tax Law requires every vendor to " ... collect the tax from the customer when collecting the price ... "

Although a bonus or rebate paid by a manufacturer, who is not privy to or a party in interest in the lease, effectuates an ultimate reduction in the cost to the retail lessee, it does not reduce the receipts received by the lessor upon which the tax is computed, paid and collected, nor the price paid by the retail lessee to the lessor, and the tax when collected and paid is not erroneously, illegally or unconstitutionally collected and paid. The rebate check received from an automobile manufacturer by a lessor is not a reduction of the lease price of the automobile leased at retail from the dealer.

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Sales Tax  
October 2, 1992

Therefore sales tax must be paid to and collected by the lessor on an amount equal to the rebate payment in accordance with the provisions of Sections 1101(b)(3), 1101(b)(5), 1101(b)(8)(i), 1105(a) and 1132(a) of the Tax Law. (See Opinion of Counsel, February 10, 1975, Let 75-3)

Accordingly the \$1000.00 rebate entitled as a "Capitalized Cost Reduction" paid directly to the Petitioner by the manufacturer does not represent a reduction in the cost of the lease even though the Petitioner may assign the rebate to the dealer as part of his downpayment on the lease and thus said sum is part of the receipt subject to sales tax.

DATED: October 2, 1992

s/PAUL B. COBURN  
Deputy Director  
Taxpayer Services Division

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