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Georgia Letter Ruling SUT No. 2013-06-12-01 Motor Vehicle

This letter is in response to your request for guidance on the application of Georgia sales and use tax to a motor vehicle imported into this state by a member of the military.

Facts

Taxpayer is an Active Duty United States Military Service Member currently stationed in Georgia. Taxpayer was stationed in another country from 2009 until 2012. In 2012, under Official Orders, Taxpayer relocated to Georgia. Taxpayer did not change his home of record to Georgia.

While stationed in another country, Taxpayer bought a vehicle. The vehicle was registered and legally operated in Europe for over two years. In 2012, the vehicle was brought into Georgia as part of Taxpayer's relocation to this state. Taxpayer received temporary Georgia tags and was instructed to register and title the vehicle within 30 days. Sales and use tax has never been paid on the vehicle to another state. Taxpayer now requests clarification as to whether use tax is due on the motor vehicle.

Issue

Are military personnel exempt from the payment of Georgia use tax on motor vehicles brought into this state before March 1, 2013, the date on which vehicles titled in Georgia became exempt from sales and use tax and subject to the title ad valorem tax?

Analysis

Georgia levies and imposes a tax (subject to certain specific exemptions) on the retail purchase, retail sale, storage, use, or consumption of tangible personal property and on certain enumerated services.¹ Use tax becomes due on the Taxpayer's motor vehicle at the time it was imported into this state.

Credit is granted for state sales or use tax legally imposed and previously paid in any state that grants credit for a like tax paid in Georgia.² Thus, the credit for taxes paid to another state applies only to taxes paid before Georgia state tax becomes due, and not to taxes paid later in destination states.³ Based upon the facts provided, no sales tax or use tax has been previously paid on the motor vehicle to another state. Thus, reciprocal credit cannot be granted.

¹ O.C.G.A. §§ 48-8-1 and 48-8-30(a).

² O.C.G.A. § 48-8-42(a); Ga. Comp. R. & Regs. r. 560-12-1-.32(1).

³ Georgia Policy Statement No. SUT 2011-05-25, 05/26/2011.

All tangible personal property purchased out of state by a person not domiciled in Georgia, but who later becomes domiciled in Georgia, is exempt from tax when brought into the state for the first time, if the property is not used for a trade or business.⁴ In this case, the Taxpayer brought the motor vehicle into this state as the result of Official Orders and did not change his home of record to Georgia, and therefore Georgia is not his legal domicile. Thus, the motor vehicle is not exempt from Georgia use tax.

Use tax applies to the lesser of cost price or fair market value of automobiles brought into the state by military personnel, although a credit is given for taxes imposed and paid to reciprocating states.⁵ The use tax liability will be calculated on the lesser of the actual cost price of the motor vehicle or the fair market value of the motor vehicle on the date it was first brought into this state.

Ruling

The Taxpayer is liable for use tax on the motor vehicle brought into this state. However, the Taxpayer's use tax liability will be calculated on the lesser of the actual cost price of the motor vehicle or the fair market value of the motor vehicle at the time the vehicle was first brought into this state.

The opinions expressed in this ruling are based upon the information contained in your request and limited to the specific transactions, facts, and taxpayer in question. Should the circumstances regarding the transactions change, or differ materially from those represented, then this ruling may become invalid. In addition, please be advised that subsequent statutory or administrative rule changes or judicial interpretations of the Statutes or Rules upon which this advice is based may subject similar future transactions to a different tax treatment than that expressed in this response.

⁴ O.C.G.A. § 48-8-3(19).

⁵ Ga. Comp. R. & Regs. r. 560-12-2-.40(2).