

Georgia Letter Ruling Number: LR SUT-2017-17
Topic: Motor Vehicle
Date Issued: December 1, 2017

This letter is in response to your request for guidance on the application of Georgia sales and use tax to travel trailers and fifth wheels sold by [Redacted] (collectively referred to as “Taxpayer”) to customers in Georgia.

Facts Presented by Taxpayer¹

Taxpayer sells travel trailers and fifth wheels (collectively, “towable trailers”). These towable trailers are designed to be towed behind or pulled by self-propelled motor vehicles on public roads. The towable trailers are not self-propelled. Taxpayer sells towable trailers to Georgia residents in counties that have imposed the special district transportation sales and use tax (“TSPLOST”) pursuant to O.C.G.A. § 48-8-241.

Issue

Are towable trailers considered motor vehicles as used in O.C.G.A. § 48-8-241(d), which provides a limit on the tax base to which TSPLOST is applied?

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, certain enumerated services, and utilities.² Georgia sales and use tax is imposed at the rate of four percent of the sales price together with applicable local tax at a rate that varies by jurisdiction.³ One local tax is the 1% TSPLOST,⁴ which was approved by voters in certain counties effective January 1, 2013.⁵ For sales sourced to those counties, sellers must collect the TSPLOST in addition to all other applicable sales and use taxes, and remit the tax to the Georgia Department of Revenue.⁶

Georgia law provides that, except as to rate, the TSPLOST generally corresponds to the state sales and use tax and that the TSPLOST is subject to any sales and use tax exemption which is otherwise imposed by law. Unlike state sales and use tax, the TSPLOST is only imposed on the first \$5,000 of any transaction involving the sale or lease of a motor vehicle.⁷ For that reason, the meaning of the term “motor vehicle” must be determined so that the imposition of the TSPLOST can be limited as provided by law.

The sales and use tax chapter of the Georgia Code does not provide a definition for “motor vehicle.”⁸ However, the Department is guided by how the term is used in sales and use tax exemptions. Specifically, the sales and use tax exemption for certain motor vehicles purchased in Georgia by nonresidents and immediately removed to another state (i.e., the “drive-out” exemption) defines “motor vehicle” as a vehicle which is designed primarily for use upon the public roads.⁹ Just as that exemption applies to trailers designed for use upon public roads, so too are such trailers considered to be “motor vehicles” for the application of the subject provision of the TSPLOST.

¹ Facts were presented by Taxpayer in a letter dated November 16, 2016 and by phone on November 28, 2016.

² O.C.G.A. §§ 48-8-1, 48-8-2(31)(A), and 48-8-30.

³ O.C.G.A. §§ 32-9-13, 48-8-1, 48-8-30(c)(1), 48-8-80, 48-8-100, 48-8-109.1, 48-8-110, 48-8-140, 48-8-200, 48-8-240, 48-8-260, 48-8-269.7, and 48-8-269.22; MARTA Act of 1965.

⁴ O.C.G.A. § 48-8-241.

⁵ The counties in which the TSPLOST was approved are Appling; Bleckley; Burke; Candler; Chattahoochee; Clay; Columbia; Crisp; Dodge; Dooly; Emanuel; Evans; Glascock; Hancock; Harris; Jeff Davis; Jefferson; Jenkins; Johnson; Laurens; Lincoln; Macon; Marion; McDuffie; Montgomery; Muscogee; Quitman; Randolph; Richmond; Schley; Stewart; Sumter; Talbot; Taliaferro; Tattall; Taylor; Telfair; Toombs; Treutlen; Warren; Washington; Wayne; Webster; Wheeler; Wilcox; and Wilkes.

⁶ O.C.G.A. § 48-8-30.

⁷ O.C.G.A. § 48-8-241(d).

⁸ See O.C.G.A. § 48-8-2 (no definition is included in the general definitions statute); but see O.C.G.A. § 48-8-241(d) (the statute authorizing TSPLOST includes a definition for motor vehicle that only applies to a specific paragraph and, thus, does not apply to the remainder of the subsection).

⁹ O.C.G.A. §§ 48-8-3(44) and 48-5-440; Georgia Department of Revenue Informational Bulletin 2011-12-12 (Application of Sales Tax to Watercraft and Trailers Sold by a Georgia Dealer).

In this case, when Taxpayer sells towable trailers to Georgia customers, that transaction is a retail sale subject to state and local sales and use tax unless an exemption applies to the transaction. In counties where TSPLOST is imposed, the tax is only imposed on the first \$5,000 of any transaction involving the sale or lease of a motor vehicle. As explained above, this limitation applies to any vehicle which is designed primarily for use upon the public roads. Since the subject towable trailers are intended for such use, the TSPLOST is imposed only on the first \$5,000 of any transaction involving the sale or lease of these towable trailers.

Ruling

As described by Taxpayer, towable trailers are vehicles designed primarily for use upon the public roads. Thus, the towable trailers are considered “motor vehicles” for the application of the limitation of the imposition of the TSPLOST to any transaction involving the sale or lease of a motor vehicle. Accordingly, if the TSPLOST is imposed on any transaction involving the sale or lease of the subject towable trailers, the TSPLOST is only imposed on the first \$5,000 of the transaction.¹⁰

The opinions expressed in this ruling are based upon the information contained in your request and limited to the specific transactions, facts, circumstances and taxpayer in question. The facts herein are those presented by the taxpayer and the Department accepts them as true for this ruling. If the facts presented herein change, are not true, are different, or material facts have been omitted, the conclusions reached in this ruling may change. In addition, 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 ruling.

¹⁰ This ruling does not address any local taxes other than the TSPLOST imposed by O.C.G.A. § 48-8-241.