

Georgia Letter Ruling: LR SUT-2024-01
Topic: Sale of Transportation Services
Date Issued: May 10, 2024

This letter is in response to your request for guidance on the application of Georgia sales and use tax to a certain service offered by Taxpayer.

Facts Presented by Taxpayer

Taxpayer contracts with clients to operate and maintain shuttle bus operations for the clients, as well as for the clients' employees, customer, tenants, etc. Taxpayer does not provide interstate services to its clients.

Under its agreements with clients, Taxpayer generally receives a flat fee per hour of service that is paid monthly. The riders of the shuttle bus do not pay anything directly to Taxpayer for the rides. The client agreements generally prescribe the shuttle bus operating hours, the routes, and the minimum services standards for the shuttle bus and the drivers. Under the agreement terms, Taxpayer provides the transportation services in exchange for a flat fee from the client. No services other than transportation are contemplated within the agreements as part of or in exchange for the flat fee.

Taxpayer is registered with the Georgia Department of Public Safety as a Bus Carrier. Shuttles generally have a capacity that exceeds 15 passengers. Taxpayer owns the buses that provide the shuttle services, and Taxpayer provides and pays for all necessary maintenance, gas, and insurance. Taxpayer also employs the driver.

Issues

1. Is Taxpayer subject to the transportation services tax laws,¹ and therefore exempt from sales and use tax?
2. Does the Taxpayer sell transportation services for resale?

Analysis

Georgia levies and imposes a tax (subject to certain exemptions) on the retail purchase, retail sale, rental, storage, use, or consumption of tangible personal property and on certain services.² "Retail sale" or a "sale at retail" means any sale, lease, or rental for any purpose other than for resale.³ "Sale" means any transfer of title or possession, transfer of title and possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means of any kind of tangible personal property for a consideration.⁴ All sales, uses, consumption, distribution, and storage are taxable until specifically exempt from taxation by the Georgia Code. Services that are not specifically listed are exempt from Georgia sales and use tax.

¹ O.C.G.A. § 48-13-141, et seq.

² O.C.G.A. § 48-3-1 and 48-8-30

³ O.C.G.A. § 48-8-2(31).

⁴ O.C.G.A. § 48-8-2(33)(A).

The definition of “retail sale” or “sale at retail” includes the sale of transportation services, when made to any purchaser for purposes other than resale.⁵ Georgia levies and imposes a transportation services tax on For Hire Ground Transportation Service Providers pursuant to Article 8 of Chapter 13 of Title 48 (the “TST Act”).⁶ Transportation that is subject to the TST Act is exempt from sales and use tax.⁷

“Ground Transportation Service Provider” means a Limousine Carrier, Ride Share Network Service, Taxi Service, or a Transportation Service Provider. Defined terms not otherwise defined herein shall have the meaning as set forth in the TST Act.

Rulings

Issue 1

Based on the facts presented, Taxpayer is not a Limousine Carrier, Ride Share Network Service, Taxi Service, or a Transportation Referral Service. Therefore, it is not a For-Hire Ground Transport Service Provider. As such, the TST Act does not apply to the Taxpayer, and moreover, unless specifically exempt elsewhere in the Georgia Code, its transportation services are taxable pursuant to O.C.G.A. § 48-8-2(6)(B)(i).

Issue 2

Based on the facts presented by the Taxpayer, the Taxpayer sells transportation services to its customers, and the customers are the end-users of the transportation services. The Taxpayer’s customers do not resell any transportation services. The transportation services constitute taxable retail sales.

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. Should the circumstances regarding the transactions change or differ materially from those represented, this ruling may become invalid. 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.

⁵ O.C.G.A. § 48-8-2(6)(B)(i)

⁶ O.C.G.A. § 48-13-140(1).

⁷ O.C.G.A. § 48-8-3(25).