

18:24-7.6 External tax computation indices

Where, because of affiliation of interests between the seller and purchaser, or for any other reason, the purchase price stated for a motor vehicle is not indicative of the true value of the property, the Director may, at his discretion, utilize external indices to establish the basis upon which tax shall be paid.

Case Notes

Transfer of automobile title from sole shareholder to wholly-owned corporation held to meet definition of retail sale for the purpose of sales tax liability. *L.B.D. Construction, Inc. v. Director, Div. of Taxation*, 8 N.J.Tax 338 (Tax Ct.1986).

18:24-7.7 Out-of-State purchase by resident

(a) A motor vehicle purchased by a resident of this State outside of this State for use outside of this State which subsequently becomes subject to the use tax imposed under the Sales and Use Tax Act, shall be taxed on the basis of the purchase price of said motor vehicle; provided, however, that where a taxpayer affirmatively shows that the motor vehicle was used outside this State for more than six months prior to its use within this State, the motor vehicle shall be taxed on the basis of the current market value thereof at the time of its first use within this State.

(b) The value of such motor vehicle for use tax purposes may not exceed its cost.

18:24-7.8 Sales of motor vehicles specifically exempted

(a) Any sale of a motor vehicle to any of the following shall not be subject to the sales and use tax:

1. The State of New Jersey, or any of its agencies, instrumentalities, public authorities, public corporations or political subdivisions;
2. The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation;
3. The United Nations or any international organization of which the United States of America is a member;
4. Those organizations described in subsection 9(b)(1) of the Sales and Use Tax Act which have obtained and hold an exempt organization permit as provided in said Act; provided, however, that such vehicle is used directly in pursuit of the purposes of the exempt organization.

(b) Any sale of a motor vehicle to a nonresident of this State is not subject to tax provided such nonresident, at the time of delivery, has no permanent place of abode in this State, is not engaged in carrying on in this State any employment, trade, business or profession in which the motor vehicle will be used in this State, and furnishes to the seller, prior to delivery, proof supporting his claim from exemption. For the purposes of this subsection:

1. Any person who maintains a place of abode in New Jersey is a resident individual. A place of abode is a dwelling place maintained by a person, or by another for him, whether or not owned by such person, other than a temporary or transient basis. The dwelling may be a house, apartment or flat, a room, including a room in a hotel, motel, boarding house or club, or at a residence hall operated by an educational or charitable institution, barracks, billets or other housing provided by the Armed Forces of the United States, or a trailer, mobile home, house boat or any other premises.

2. Any corporation incorporated under the laws of New Jersey, and any corporation, association, partnership or other entity doing business in New Jersey or maintaining a place of business in the State, or operating a hotel, motel, place of amusement or social or athletic club in the State is a resident.

3. Any person, corporation or other entity engaged in carrying on in New Jersey any employment, trade, business or profession is deemed a resident of New Jersey with respect to the use of a motor vehicle in such employment, trade, business or profession in the State.

4. (Reserved)

5. Any person serving in the Armed Forces of the United States whose home of record is a state other than the State of New Jersey is a resident of this State whether or not his place of abode is located on or off a military reservation and otherwise within the territorial limits of New Jersey.

6. Any person serving in the Armed Forces of the United States whose home of record is the State of New Jersey is a resident of this State whether his place of abode is located on or off a military reservation situated in New Jersey or another state of the United States or a foreign nation.

(c) Any sale of a motor vehicle to be used exclusively for rental for a period of 28 days or less is purchased for resale and is not subject to tax at the time of purchase.

(d) The renting, leasing, licensing or interchanging of trucks, tractors, trailers, or semitrailers by persons not engaged in a regular trade or business offering such renting, leasing, licensing or interchanging to the public; provided, however, that such renting, leasing or interchanging is carried on with persons engaged in a regular trade or business involving carriage of freight by such vehicles is exempt from tax.

(e) For purposes of subsection (d) of this section, "carriage of freight" means property transported by a common or public carrier, such as regular trucking companies, and does not include the type of business utilizing rented or leased vehicles to transport its own goods. For example, a vendor of welding supplies leases trucks from a person not engaged in the regular trade or business of leasing such

vehicles to the public. The trucks are used to transport to the vendor's customers its own goods. The exemption from tax does not apply since the vendor is not engaged in the carriage of freight, unless the trucks qualify for exemption under subsection 8.43 of the Sales and Use Tax Act (see N.J.A.C. 18:24-7.18).

As amended, R.1977 d.484, effective December 29, 1977.

See: 9 N.J.R. 594(a), 10 N.J.R. 81(a).

As amended, R.1979 d.90, effective March 8, 1979.

See: 11 N.J.R. 104(a), 11 N.J.R. 210(e).

Amended by R.1987 d.474, effective November 16, 1987.

See: 19 N.J.R. 1181(b), 19 N.J.R. 2201(b).

(b)4 repealed.

Amended by R.1993 d.313, effective July 6, 1993.

See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

Case Notes

Taxpayer, who maintained "summer home" in state and returned every year, was "resident" of state and was not exempt from sales tax on purchase of automobile. *Furmato v. State*, Dept. of Treasury, Div. of Taxation, 16 N.J.Tax 10 (1996).

18:24-7.9 Transfers statutorily excluded from tax

Within the meaning of subsection (e) of section 2 of the Sales and Use Tax Act, the following transfers of motor vehicles are not subject to tax:

(a) Transfers of motor vehicles to a corporation; solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the law of New Jersey or any other jurisdiction;

(b) Transfers of motor vehicles to a corporation upon its organization in consideration for the issuance of its stock;

(c) Transfers of motor vehicles in the distribution of property by a corporation to its stockholders as a liquidating dividend;

(d) Transfers of motor vehicles as a contribution of property to a partnership in consideration for a partnership interest therein;

(e) Transfers of motor vehicles in the distribution of property by a partnership to its partners in whole or partial liquidation;

(f) Transfers of motor vehicles where the purpose of the vendee is to hold the thing transferred as security for the performance of an obligation of the vendor.

18:24-7.10 Procedures for motor vehicle dealers; forms and certificates

(a) New Jersey motor vehicle dealers are required to execute and retain as a part of their records Form ST-10 if a purchaser of a motor vehicle:

1. Is a nonresident of New Jersey; and
2. Has no permanent place of abode in New Jersey; and

3. Is not engaged in carrying on in New Jersey any employment, trade, business or profession in which the motor vehicle will be used in New Jersey; or

4. Certifies that the motor vehicle has been contracted for delivery out-of-State (state must be designate) and the dealer affirms that the vehicle has been delivered to the purchaser in the aforesaid state. In all cases of sale to nonresidents, New Jersey motor vehicle dealers are required to forward a completed copy of Form ST-10 to the New Jersey Division of Taxation.

Note: It is not necessary to complete Form ST-10 for sales of motor vehicles to New Jersey residents where the dealer collects the tax, or where, in cases of trade-ins, the information required in Item III of Form ST-10 is set forth in the invoice pertaining to such sale.

5. The rules regarding the status of the purchaser of a motor vehicle as a resident of this State are set forth in N.J.A.C. 18:24-7.8(b).

6. The sale of a warranty in conjunction with the sale of a motor vehicle qualified for exemption under this subsection is not subject to sales tax.

(b) A Resale Certificate may be accepted by a dealer of motor vehicles in cases of sales to other licensed dealers where the vehicle is purchased for resale, or is being acquired for rental purposes. A Resale Certificate may be accepted from a lessor registered for sales tax purposes in New Jersey. In all such cases, the purchaser's Certificate of Authority number and name and address must be shown on each sales invoice. The certificate itself should be retained in the dealer's files.

(c) Exempt Organization Certificates may be accepted by a motor vehicle dealer where a vehicle is being acquired by an organization holding a valid Exempt Organization Permit issued pursuant to the provisions of subsection (b)(1) of Section 9 of the Sales and Use Tax Act. A statement should be made on the invoice to the effect that the sale was made to an exempt organization. The purchaser's Exempt Organization Permit Number must be shown on each such sales invoice. The certificate furnished by the organization should be retained in the dealer's files.

(d) Purchases of vehicles by the Federal Government or one of its agencies, or by the State of New Jersey or one of its agencies or political subdivisions, or by the United Nations or any international organization of which the United States is a member are not subject to tax under the provisions of subsection (a) of Section 9 of the Sales and Use Tax Act. A statement must be made on the invoice identifying the governmental agency to which the sale was made.

(e) The certificates listed below may not ordinarily be accepted by motor vehicle dealers as a basis for exemption from sales or use taxes:

1. Exempt Use Certificates (Form ST-4);
2. Direct Payment Certificate (Form ST-6A);
3. Farmer's Exemption Certificate (Form ST-7);