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COURT OF APPEALS REVERSES *GAIED* "PERMANENT PLACE OF ABODE" DECISION

By Kara M. Kraman

In a closely watched case, the Court of Appeals reversed the Appellate Division and held that a New Jersey resident's ownership and maintenance of a Staten Island residential property occupied by his parents, without more, did not turn the property into his "permanent place of abode" for statutory residency purposes. *Matter of John Gaied v. Tax App. Trib.*, 2014 NY Slip Op. 1101 (N.Y. Ct. App. Feb. 18, 2014).

Background. Pursuant to Tax Law § 601(b)(1)(B), an individual who "maintains a permanent place of abode" in the State and spends more than 183 days in the State during the year is a "statutory resident," and is taxable as a resident. The regulations define a permanent place of abode as "a dwelling place of a permanent nature maintained by the taxpayer." 20 NYCRR § 105.20(e)(1). Similar rules apply under the New York City resident income tax.

Mr. Gaied was domiciled in New Jersey and worked in Staten Island. Following an audit, the Department determined that Mr. Gaied was a State and City statutory resident because he spent more than 183 days in New York, and because he allegedly owned and maintained a permanent place of abode in Staten Island. The Tax Appeals Tribunal initially held that the multifamily Staten Island residence occupied by Mr. Gaied's parents (and also partially leased to tenants) was not being occupied by Mr. Gaied, and therefore was not his permanent place of abode. The Tribunal subsequently granted the Department's motion for reargument and then reversed its decision, holding that the Staten Island property was in fact Mr. Gaied's permanent place of abode. *Matter of John Gaied*, DTA No. 821727 (N.Y.S. Tax App. Trib., June 16, 2011). The Tribunal concluded that "where a taxpayer has a property right to the subject premises, it is neither necessary nor appropriate to look beyond the physical aspects of the dwelling place to inquire into the taxpayer's subjective use of the premises." In other words, the Tribunal determined that it did not matter whether Mr. Gaied actually used the abode as his residence.

On appeal by Mr. Gaied, the Appellate Division, with two justices dissenting, upheld the Tribunal's decision. *Matter of John Gaied v. Tax App. Trib.*, 101 A.D. 3d 1492 (3d Dep't 2012). The Appellate Division did not adopt the Tribunal's conclusion, however, that ownership and maintenance of a dwelling alone was determinative of a permanent place of abode, regardless of the use of the dwelling by the taxpayer. The Appellate Division instead examined a number of factors that may be relevant in determining whether a taxpayer maintained a dwelling as a "permanent place of abode," and noted that "a contrary conclusion would have been reasonable based upon the evidence

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presented." Nevertheless, the Appellate Division applied a deferential standard of review, holding that it was "constrained to confirm [the Tribunal's decision], since [its] review is limited and the Tribunal's determination [was] supported by the record."

Court of Appeals decision. The Court of Appeals reversed the Appellate Division decision, holding that there was "no rational basis" for the Tribunal's interpretation of the phrase "maintains a permanent place of abode" to mean that a taxpayer need not "reside" in the permanent place of abode ("there must be some basis to conclude that the dwelling was utilized as the taxpayer's residence"). Citing its decision in *Matter of Tamagni v. Tax App. Trib.*, 91 N.Y.2d 530 (1998), *cert. denied*, 525 U.S. 931 (1998), the Court of Appeals found that the legislative history of the statutory resident statute clearly indicated that it was intended "to discourage tax evasion by New York *residents*" (emphasis in original). The Court held that the legislative purpose of preventing tax evasion, as well as the regulations themselves, clearly indicated that "in order for a taxpayer to have maintained a permanent place of abode in New York, the taxpayer must, himself, have a residential interest in the property."

> "[I]n order for a taxpayer to have maintained a permanent place of abode in New York, the taxpayer must, himself, have a residential interest in the property."

Additional Insights

The *Gaied* case has been controversial, as evidenced by the fact that a Commissioner of the Tax Appeals Tribunal dissented from the Tribunal's decision against the taxpayer, and two justices of the Appellate Division dissented from the Appellate Division's decision (which gave the taxpayer the ability to appeal the matter to the Court of Appeals "as of right" pursuant to C.P.L.R. § 5601(a)). The Court of Appeals has taken the welcome step of providing much needed clarity to what it means to "maintain a permanent place of abode," but questions remain in situations where a taxpayer may occasionally reside in the abode. While it unequivocally (and, we believe, correctly) rejected the Department's argument that the taxpayer's use of the premises as a residence is irrelevant so long as the taxpayer owns and maintains the property, the Court did not address what factors *should* be examined when determining whether a dwelling is maintained as a permanent place of abode. As a result, while it will provide relief to individuals that own residential premises in New York solely for use by family members or for lease to others, the decision is likely not the final word on what constitutes a permanent place of abode.

ALJ HOLDS THAT CERTAIN DATA PROCESSING SERVICES FURNISHED TO BROKER-DEALERS ARE NOT THE LICENSING OF SOFTWARE

By Irwin M. Slomka

A New York State Administrative Law Judge has held that a company's data processing services furnished to broker-dealers and financial institutions did not involve the licensing of pre-written software for sales tax purposes, but that certain other data analysis services constituted the furnishing of a taxable information service. *Matter of SunGard Securities Fin. LLC*, DTA No. 824336 (N.Y.S. Div. of Tax App., Feb. 6, 2014). Thus, the decision addresses two sales tax areas where the Department of Taxation & Finance has taken aggressive positions in recent years.

SunGard Securities Finance LLC ("SunGard"), headquartered in Salem, New Hampshire, provides consulting and related data processing services to securities broker-dealers, banks and other financial institutions. The principal services were:

- *"Smart Loan" service*. This service involves the processing and maintaining of accounting ledgers on a daily basis for customers' securities lending and borrowing transactions, using the customers' own data. Each day, SunGard processes customer data using its own hardware and proprietary software, the results of which are then furnished to customers with a limited amount of software that SunGard provides without charge solely to facilitate a secure Internet connection. Sungard charges customers a monthly fee for this service based on the number of simultaneous "users," plus an additional monthly fee for each "optional module."
- *"Lending Pit" and ancillary services*. SunGard also furnishes what it calls its "Lending Pit" service, which involves the compiling, analyzing and processing of customer trade data on a daily basis. Customers view the data and analysis over a secure Internet connection using SunGard's proprietary web-based application. Data reports are delivered to customers over the Internet, based substantially on the customer's own data, and are made available only to the customer that furnishes the data. Part of the service incorporates market data from public sources to allow SunGard's customers to compare their own data to market data. SunGard's "Board Reporting" service, a component of its Lending Pit service, involves the periodic furnishing of reports to the customer's management which evaluate the customer's own lending program, including a comparison with market

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performance benchmarks. "Performance Analytics," another component of the Lending Pit service, involves the furnishing of written documents showing customer earnings results compared with the results of other securities lenders in the industry.

SunGard filed New York State sales tax returns, but did not collect or remit sales tax on its receipts from these services that it provided to its New York customers. The Department also claimed that SunGard's Smart Loan service involved the taxable licensing of pre-written computer software. The Department also claimed that SunGard's Lending Pit and other services were subject to sales tax as information services.

Sales tax is imposed on the sale of tangible personal property in the State, including the licensing of pre-written computer software. Tax Law §1101(b)(6). Sales tax is also imposed on the furnishing of information services, but not on information that is personal or individual in nature and which may not be substantially incorporated in reports furnished to other customers. Tax Law § 1105(c)(1).

ALJ decision. The ALJ concluded that SunGard's SmartLoan services did not involve the sale or licensing of Sungard's proprietary software. The ALJ found that the service contracts with customers made clear that SunGard was furnishing a "processing service," and was not selling or licensing software (or, for that matter, providing customers with *any* access to that software). The fact that the SmartLoan service was available to customers only during prescribed business hours was also found to be inconsistent with the notion that SunGard was selling or licensing pre-written software to customers. According to the ALJ, SunGard, not its customers, was using its proprietary software. The ALJ also considered whether the SmartLoan service was a taxable information service, and concluded that even if it was, the service was based solely on the customer's own data, and therefore would be excludable from sales tax as being personal and individual to each customer.

The taxability of the Lending Pit and related services as an information service was another matter. The ALJ initially noted that he was applying the rule of statutory construction under which a tax *imposition* statute (such as Tax Law § 1105(c)) is to be construed against the taxing authority, and in favor of the taxpayer. However, even applying this rule of construction, the ALJ found that SunGard did not meet its burden of proof to show that the service was not a taxable information service. Applying the "primary function" test — under which the taxability of a service is determined by looking to its "primary function" — the ALJ concluded that the primary purpose for the Lending Pit service was to compile and analyze information, which clearly made it an information service.

Although an information service that is personal or individual in nature, and that may be substantially incorporated into reports furnished to others, is not subject to sales tax, the ALJ found that the service did not qualify for this exclusion from tax. He noted that the Lending Pit service involved furnishing and analyzing data from all subscribers to the service, not just the customer's own data. Since the information compiled and analyzed came from SunGard's common data base, and was capable of being substantially incorporated into reports furnished to others, Sungard's Lending Pit and ancillary services were held to be taxable information services.

Additional Insights

Although on audit the Department has frequently adopted an expansive interpretation of what constitutes the taxable furnishing of pre-written software, this is one of the few ALJ decisions in this area. The ALJ's conclusion that the taxpayer, not the customer, was using its own proprietary software to furnish its Smart Loan service demonstrates the limits of the Department's frequent claims that there has been a "constructive" furnishing of taxable software to customers.

There has been recent case law regarding information services, much of which has been favorable to taxpayers. *See, e.g.*, *Matter of Nerac, Inc.*, DTA Nos. 822568 & 822651 (N.Y.S. Div. of Tax App., July 15, 2010) In *SunGard*, the ALJ found that the taxpayer did not prove that it was providing a nontaxable consulting service. Once the ALJ reached that conclusion, it followed that, under the sales tax law and regulations, Sungard's Lending Pit and related services were information services. Since an essential component of that information service involved providing customers with information that was available to all customers, it was not personal or individual to any one customer, and therefore it was found subject to sales tax.

TRIAL COURT ALLOWS CONSTITUTIONAL CHALLENGE TO HIGHWAY USE PERMIT TAXES TO MOVE FORWARD

By Michael J. Hilkin

A judge in the Supreme Court, Albany County has allowed a declaratory judgment action challenging the constitutionality of flat taxes assessed under New York's highway use tax regime to move forward, denying a motion to dismiss the plaintiffs' Commerce Clause challenge to the taxes. *Owner Operator Ind. Drivers Ass'n v. N.Y.S. Dep't of Taxation and Fin.*, 2014 NY Slip Op. 30226(U) (Sup. Ct. Albany Cnty. Jan. 28, 2014).

Background. New York State imposes a highway use tax on motor carriers operating certain heavy motor vehicles on its public highways. The tax is primarily assessed based on miles traveled by a motor vehicle on public highways, and the rate of

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tax is determined by the weight of the vehicle. In addition, the tax law requires motor carriers operating certain heavy motor vehicles to pay, for each vehicle, a $15 fee for a certificate of registration ("Registration Tax") and a $4 fee for a decal that must be affixed to the vehicle ("Decal Tax"). Tax Law §§ 502(1)(a) & 502(6)(a).

A group of plaintiffs, including the Owner Operator Independent Drivers Association, a not-for-profit trade organization, filed a complaint challenging the constitutionality of the Registration Tax and Decal Tax on Commerce Clause and Due Process grounds, seeking a declaratory judgment, an injunction and refunds. The plaintiffs asserted that, because the Registration Tax and Decal Tax, unlike the separate highway use tax imposed by Tax Law § 503, were flat taxes and were not apportioned based on the vehicles' actual use of New York's highways, these taxes fell more heavily on out-of-state vehicles, which used New York's highways less than in-state trucks, and therefore imposed "a heavier per-mile tax burden on out-of-state trucks than on trucks which operate primarily within the State of New York." The plaintiffs sought to represent a class of all out-of-state interstate motor carriers who have paid or will pay the Registration Tax and Decal Tax. The Department filed a motion to dismiss the plaintiffs' complaint on the basis that the plaintiffs failed to state a cause of action, and also requested a denial of class certification in the case.

The court found that the plaintiffs provided sufficient allegations that the flat tax structure of the Registration Tax and Decal Tax imposes a heavier burden on out-of-state trucks than on trucks that operate primarily within New York.

Trial Court Decision. Affording the plaintiffs "the benefit of every possible favorable inference," as is required in evaluating a motion to dismiss, the trial court concluded that the plaintiffs' Commerce Clause challenge to the Registration Tax and Decal Tax "set forth a cognizable legal theory" with "sufficient facts to state a Commerce Clause cause of action." The court drew parallels between the Registration Tax and Decal Tax and the flat motor vehicle taxes struck down as unconstitutional by the U.S. Supreme Court in *American Trucking Ass'n, Inc. v. Scheiner*, 483 U.S. 266 (1987). In *American Trucking*, the Supreme Court examined the constitutionality of a flat "marker fee" and "axle tax" assessed on certain heavy motor vehicles operating in Pennsylvania, and held that the flat taxes were "plainly discriminatory" against out-of-state taxpayers because, in "practical effect," the taxes imposed a cost per mile on out-of- state trucks "approximately five times as heavy as the cost per mile borne by local trucks." The court found that the plaintiffs provided sufficient allegations that the flat tax structure of the Registration Tax and Decal Tax imposes a heavier burden on out-of-state trucks than on trucks that operate primarily within New York.

The trial court also refused to dismiss the plaintiffs' class certification request on the grounds that the Department's motion was premature. Under New York State rules, plaintiffs need not make a motion for class certification until 60 days after the time to serve a responsive pleading has expired. The court concluded that it may not determine whether the plaintiffs were entitled to class action status until the plaintiffs actually make such a motion for class certification.

The trial court also refused to dismiss the plaintiffs' demand for injunctive relief, concluding that if the plaintiffs "prevail on their constitutional challenge they cannot be fully compensated in money damages," and rejected the Department's assertion that the plaintiffs' refund claims should be dismissed, ruling that the New York Supreme Court has jurisdiction over cases requesting monetary refunds where such relief is "incidental" to a constitutional issue.

However, the trial court did dismiss the plaintiffs' Due Process challenge, concluding that the plaintiffs presented no cognizable Due Process claim, because the case as filed provided the plaintiffs with "both a fair opportunity to challenge the constitutionality" of the taxes and "a clear and certain remedy, damages and injunctive relief, in the event they prevail."

Additional Insights

The trial court's decision only analyzes whether the Department is entitled to a dismissal of the plaintiffs' claims prior to filing an answer, and does not yet address the actual merits of the plaintiffs' allegations. Nonetheless, the court initially seems amenable to the plaintiffs' claims, so motor carriers paying the Registration Tax and Decal Tax for large fleets primarily operating outside of New York State should follow this case carefully.

ALJ REJECTS CHALLENGE TO SALES TAX AUDIT METHOD AND HOLDS PETITIONER RESPONSIBLE

By Hollis L. Hyans

A New York State Administrative Law Judge found that the Department's indirect audit method was acceptable, in light of the absence of adequate records, to support an assessment of

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sales and use tax, and that the wife of the owner of the business was personally responsible for the unpaid sales and use tax. *Matter of Susan Sacher*, DTA No. 824107 (N.Y.S. Div. of Tax App., Jan. 16, 2014)

The Business at Issue. The case arose out of the sales and use tax liability of BMW NY, Inc., which was owned and operated by Joel Sacher, husband of the petitioner Susan Sacher. BMW NY operated BMW motorcycle franchises at two locations in New York State during 1998 through 2006. Mr. Sacher was responsible for the day-to-day operations of the two dealerships, and had full authority to manage the business. Ms. Sacher was a signatory on two of BMW NY's business bank accounts, and provided both her personal guaranty, and a guaranty of the corporation, which she signed as secretary, to enable her husband to obtain the motorcycle franchise, at the insistence of BMW of North America, due to Mr. Sacher's extensive business losses and resulting poor credit rating.

Ms. Sacher operated two businesses during the years at issue, both of which had office space in or adjacent to the BMW NY dealerships. She was a licensed insurance agent, and BMW NY customers were referred to her for motorcycle insurance. She also operated a wholesale business importing motor scooters into the U.S. from Italy, and BMW NY was the first dealership to sell the scooters. Ms. Sacher received wages from BMW NY for 2002 and 2003 of approximately $35,000 per year, which, according to Mr. Sacher, were actually his wages paid to his wife to avoid creditors. She had little or no involvement in BMW NY's business, and did not sign the sales tax returns.

The Audit. The Department commenced a sales and use tax audit for the period from March 1998 through November 2001, requesting the production of all books and records. The only records produced were income statements for some of the years at issue, copies of certain late-filed income and sales tax returns, warranty sales information, and pages from a "police book," which is a record of all vehicles brought to the dealership for resale, used by the police to check for stolen vehicles. It also contains the "facility number" of the dealership, which is used by the Department of Motor Vehicles in conjunction with its issuance of Retail Certificate of Sale forms, known as MV-50s, which record the name and address of purchasers and the prices of the vehicles.

The auditor obtained records from the Department of Motor Vehicles, including the MV-50s, and used those records to compute a percentage of nontaxable sales. The auditor estimated gross sales from federal and New York State corporate tax returns and income statements provided during the audit. Using these estimates, additional taxable sales were computed, and BMW NY signed a Closing Agreement for a portion of the audit period, fixing the additional tax at over $1.4 million, plus penalty and interest. Ms. Sacher also executed a Closing Agreement, in her own name and as a responsible person, for various periods, and another agreement for the periods 9/1/98 through 2/28/99 and 9/1/01 through 11/30/01 (the "separate periods"), stating that tax would be paid by July 31, 2009. Apparently, payment was not received for the separate periods, and Notices of Determination were issued by the Department against Ms. Sacher.

The Decision. The ALJ found, first, that due to the failure of BMW NY to maintain and produce adequate records, as it is required to do by Tax Law § 1135(a)(1), the Department was justified in resorting to an indirect audit methodology, which need only be "'reasonably calculated to determine the amount of tax due.'" The auditor's use of Department of Motor Vehicles records was found to be "entirely reasonable," and the ALJ distinguished this case from others where, for example, a taxpayer proved through an expert witness that the auditor had relied on factors without any rational connection to the business, citing *Matter of Fokos Lounge, Inc.*, TSB-D-91 (13)S (N.Y.S. Tax App. Trib., March 7, 1991). Since the ALJ found that Ms. Sacher had not met her burden of establishing that the audit method was unreasonable, or that the tax as determined was erroneous, the audit method was upheld.

[T]o avoid personal responsibility, it is necessary to demonstrate that the individual could not have ensured that the taxes were paid, either because of an inability to control the company or because of having been actually excluded from control by others.

The ALJ then went on to determine that Ms. Sacher was indeed a responsible person, relying on her provision of both a personal guaranty and a corporate guaranty that she signed as secretary of BMW NY, without which the business would have been unable to operate. She also held herself out to BMW of North America and various banks as a corporate officer, received "the benefit of the corporation's profits" in the form of a salary for at least two years, and ran two businesses that "directly benefitted" from BMW NY. The ALJ also found that Ms. Sacher, while having little or no involvement in the operation of the business, did not establish that she "was thwarted by others in carrying out her corporate duties *through no fault of her own*," but rather that she "chose not to inquire and simply to abdicate her responsibilities. . . to her husband, an individual with a history of extensive businesses losses and poor credit" (emphasis in original). Combined with

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the fact that Ms. Sacher had admitted, in the consents she executed, to being a responsible person both before and after the separate periods now in dispute, the ALJ found Ms. Sacher was properly held responsible for BMW's sales tax payment obligations.

Additional Insights

This case demonstrates two principles common to many sales tax disputes. First, in the absence of the records that are required to be maintained by every vendor, taxpayers and allegedly responsible parties always have an uphill battle to demonstrate that the method chosen by the auditor is unreasonable. While in a limited number of instances the burden has been met (see, for example, two cases covered in the August 2012 issue of *New York Tax Insights*: *Matter of Richmond Deli & Bagels, Inc.,* and *Matter of Forestview Rest., LLC*), generally the methods chosen by auditors are upheld unless a taxpayer can demonstrate a concrete basis why the chosen method does not reach a correct result.

Second, it can also be very difficult to challenge a determination of personal responsibility. It is not enough, as the *Sacher* case makes clear, to establish that the individual had little or no involvement in running the business or paying the sales tax. Rather, to avoid personal responsibility, it is necessary to demonstrate that the individual could not have ensured that the taxes were paid, either because of an inability to control the company or because of having been actually excluded from control by others. Here, where Ms. Sacher had conceded liability as a responsible person for periods both before and after the separate periods at issue, it is unlikely that responsibility could have been avoided without a compelling explanation of how the separate periods were different.

INSIGHTS IN BRIEF

Department Rules on Various Automobile Dealer Credits and Fees to Customers

The Department of Taxation and Finance has ruled that the trade-in credit allowed by a car dealer on the purchase of a new vehicle is not subject to sales tax so long as the dealer intends to resell the traded-in vehicle, but the amount of any manufacturer's rebate on the new vehicle is subject to tax. *Advisory Opinion*, TSB-A-14(7)S (N.Y.S. Dep't of Taxation & Fin., Jan. 31, 2014). The Department also ruled that the amount paid by the purchaser of an automobile for an extended warranty contract is subject to sales tax, and that amounts paid to the dealer as "document fees" and as registration and title fees are not subject to sales tax so long as the "document fees" are reasonable, and the registration and title fees do not exceed the actual amount paid by the dealer to the Department of Motor Vehicles.

Proceeds from Dining Events Held by Nonprofit Organization Are Subject to Sales Tax

Proceeds from the sale of tickets to dining events by a nonprofit organization that was otherwise exempt from sales tax were subject to sales tax because the frequency of the events (up to 26 per year) caused the Department to conclude that the organization was operating a "restaurant, tavern or other establishment for purposes of Tax Law § 1116(b)(2)." *Advisory Opinion*, TSB-A-14(4)S (N.Y.S. Dep't of Taxation & Fin., Jan, 27, 2014). According to the Department, holding two or fewer dining events per year would not cause the organization to be treated as a dining establishment required to collect sales tax, but holding more than two dining events per year could cause an exempt organization to be required to collect sales tax as a vendor on the proceeds from those events, depending on "the regularity and continuity" of the events. Where admission to a dining event is based upon a "Suggested Donation" rather than an outright fee, the taxability of the receipts would turn on whether the "Suggested Donation" was completely voluntary.

"Certificates of Authenticity" for Jewelry Not Subject to Sales Tax

The Department of Taxation and Finance has ruled that a jewelry manufacturer's sales of "Certificates of Authenticity" confirming that a particular piece of jewelry is original and authentic are not subject to sales tax. *Advisory Opinion*, TSB-A-14(2)S (N.Y.S. Dep't of Taxation & Fin., Jan. 23, 2014). While it concluded that the sale of Certificates of Authenticity was in essence the sale of an information service, the Department determined that the sale of the Certificates qualified for the exclusion from sales tax for the sale of information "which is personal or individual in nature," and which is not incorporated into reports furnished to anyone other than the person who requested it.

ALJ Finds Sales of Scrip by Adult Entertainment Club Is Subject to Sales Tax

A New York State Administrative Law Judge has held that an adult entertainment club's sales of scrip – which could be used to tip dancers and other club employees – were taxable admission charges for sales tax purposes, and not entitled to the exclusion for "live dramatic, choreographic or musical performances." *Matter of HDV Manhattan, LLC. et al.*, DTA Nos. 824229, 824231, 824232, 824233 & 824234 (N.Y.S. Div. of Tax. App., Jan. 30, 2014). The ALJ decided that the performances, while involving "ancillary" elements of dance, were primarily the creation of "sexual fantasy," which was the ultimate service sold. The ALJ also held that the First Amendment issues raised by the club, which claimed the Department was making an unconstitutional content-based determination regarding taxability, were moot.

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Purchase of a "Commercial Vessel" is Not Subject to NY Sales Tax If Vessel Is to Be Used Primarily in Interstate Commerce

In *Advisory Opinion*, TSB-A-14(5)S (N.Y.S. Dep't of Tax. and Fin., Jan. 29, 2014), the Department found that the purchase of a yacht would be exempt from New York sales and use tax if the yacht is used primarily to transport persons or property for hire between states or countries, and if 50 percent or more of the receipts from the yacht's activities are derived from such activities, determined based on the owner's intent at the time of purchase. The amount of time the vessel is present in or absent from New York, or whether "New York, NY" is displayed as the hailing port on the vessel, would not control whether the vessel qualified for exemption. If the vessel does not qualify for the exemption, but was used outside New York for more than six months prior to its first use within New York, use tax would be due on the market value as of the vessel's first use in NY, not to exceed its cost, and a credit could be available if sales tax was paid to another state.

ABB v. Missouri
Albany International Corp. v. Wisconsin
Allied-Signal, Inc. v. New Jersey
AE Outfitters Retail v. Indiana
American Power Conversion Corp. v. Rhode Island
Citicorp v. California
Citicorp v. Maryland
Clorox v. New Jersey
Colgate Palmolive Co. v. California
Consolidated Freightways v. California
Container Corp. v. California
Crestron v. New Jersey
Current, Inc. v. California
Deluxe Corp. v. California
DIRECTV, Inc. v. Indiana
DIRECTV, Inc. v. New Jersey
Dow Chemical Company v. Illinois
DuPont v. Michigan
EchoStar v. New York
Express, Inc. v. New York
Farmer Bros. v. California
General Motors v. Denver
GMRI, Inc. (Red Lobster, Olive Garden) v. California
GTE v. Kentucky
Hair Club of America v. New York
Hallmark v. New York
Hercules Inc. v. Illinois
Hercules Inc. v. Kansas
Hercules Inc. v. Maryland
Hercules Inc. v. Minnesota
Hoechst Celanese v. California
Home Depot v. California
Hunt-Wesson Inc. v. California
IGT v. New Jersey
Intel Corp. v. New Mexico
Kohl's v. Indiana
Kroger v. Colorado
Lorillard Licensing Company v. New Jersey
McGraw-Hill, Inc. v. New York
MCI Airsignal, Inc. v. California
McLane v. Colorado
Mead v. Illinois
Meredith v. New York
Nabisco v. Oregon
National Med, Inc. v. Modesto
Nerac, Inc. v. New York
NewChannels Corp. v. New York
OfficeMax v. New York
Osram v. Pennsylvania
Panhandle Eastern Pipeline Co. v. Kansas
Pier 39 v. San Francisco
Powerex Corp. v. Oregon
Reynolds Metals Company v. Michigan
Reynolds Metals Company v. New York
R.J. Reynolds Tobacco Co. v. New York
San Francisco Giants v. San Francisco
Science Applications International Corporation v. Maryland
Scioto Insurance Company v. Oklahoma
Sears, Roebuck and Co. v. New York
Shell Oil Company v. California
Sherwin-Williams v. Massachusetts
Sparks Nuggett v. Nevada
Sprint/Boost v. Los Angeles
Tate & Lyle v. Alabama
Toys "R" Us-NYTEX, Inc. v. New York City
Union Carbide Corp. v. North Carolina
United States Tobacco v. California
UPS v. New Jersey
USV Pharmaceutical Corp. v. New York
USX Corp. v. Kentucky
Verizon Yellow Pages v. New York
Wendy's International, v. Illinois
Wendy's International v. Virginia
Whirlpool Properties v. New Jersey
W.R. Grace & Co.—Conn. v. Massachusetts
W.R. Grace & Co. v. Michigan
W.R. Grace & Co. v. New York
W.R. Grace & Co. v. Wisconsin

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