

Date Issued: February 17, 2016
Georgia Letter Ruling: LR MV TAVT 2016-01
Topic: Leased Vehicle Deferment Option

This letter is in response to your request for guidance on whether [Taxpayer] qualifies for the opportunity to defer 50% of Georgia's state and local title ad valorem tax ("TAVT") pursuant to O.C.G.A. 48-5C-1(d)(3).

Facts as presented by the Taxpayer

Taxpayer is a limited liability company that leases certain motor vehicles throughout the United States. Some lease customers register their motor vehicles in a particular state then during the life of the lease, move to a different state which requires a subsequent registration of the motor vehicle. Georgia assesses a TAVT based upon the value of the car at the time of registration. Georgia statute allows the registrant the ability to divide their payment into two installments. The first installment is due at the time of registration while the second installment is due within a 12-month period from the date of registration.

Although the licensed driver of the leased motor vehicle initiates the registration process, that individual is not the owner of the vehicle. Certain drivers fail to pay the second installment of their title ad valorem tax bill. When this failure occurs, the Department of Revenue will send a letter to the motor vehicle owner, the Taxpayer, demanding payment of the second installment.

Issue

Are citizens of Georgia who possess leased motor vehicles that are owned by a leasing company that are previously registered in another state eligible for the 50% title ad valorem tax deferral established by OCGA § 48-5C-1(d)(3) upon moving to the state of Georgia?

Analysis

The [Taxpayer] is correct in their assertion that the term "natural person" is not defined in Title 48, however mistaken when they say that "'natural person' is not defined under Georgia law."¹ The term "natural person" is stated to mean "an individual human being and does not include any firm, partnership, association, corporation, or trust."² The term is defined in a separate Title, Title 40, yet Title 40 is referenced by operative language of O.C.G.A. § 48-5C-1(d)(3)(B). This indicates that the definition in Title 40 is applicable to Title 48 language, particularly for purposes of the article in question. The language reinforces the Taxpayer's argument that motor vehicles leased by a leasing company are "not qualified for the 50% deferral for vehicles formerly registered in another state[.]"³

The General Assembly's intent regarding O.C.G.A. § 48-5C-1(d)(3) was to provide a mechanism of relief from the financial burden of registering a motor vehicle a person already owns when that person moves from another state into the state of Georgia. The General Assembly chose not to differentiate the application of this deferral between owners of motor vehicles and lease holders of motor vehicles. However, the statutory language explicitly requires that the applicant be an "individual" who must make the application for the certificate of title.⁴ An "individual" is defined as a "natural person" whose definition, as previously stated, specifically precludes applying towards a "firm, partnership, association, corporation[.]"⁵ In order to qualify for the deferment the individual must perform two actions, register the motor vehicle and apply for a certificate of title. The statute makes use of the term "and" which signifies that both responsibilities of the individual be met.⁶

¹ Request for Declaratory Ruling, [Taxpayer], Pg. 3.

² O.C.G.A. § 40-3-2(9.1).

³ Request for Declaratory Ruling, [Taxpayer], Pg. 3.

⁴ O.C.G.A. § 48-5C-1(d)(3).

⁵ O.C.G.A. § 40-3-2(9.1).

⁶ O.C.G.A. § 48-5C-1(d)(3).

The second element of O.C.G.A. § 48-5C-1(d)(3)(B) requires that the individual “file an application for a certificate of title under Code Section 40-3-21 or 40-3-32.”⁷ For the purposes of this inquiry we need only to focus on the “transfer of a vehicle” located in O.C.G.A. § 40-3-32. The Taxpayer states in their request that “the leasing company...[is] a limited liability company.”⁸ Therefore, the Taxpayer cannot meet the qualifications established by Georgia’s statutes because a limited liability company cannot be an individual. Therefore, citizens who have entered into a lease agreement prior to moving into the state of Georgia are not eligible for the deferment privilege of O.C.G.A. § 48-5C-1(d)(3).

Ruling

A citizen of Georgia who is transferring from another state their registration of a leased motor vehicle may not defer 50% of the cost of that registration for 12 months pursuant to 48-5C-1(d)(3). The taxpayer does not qualify for the deferment because they are not the owner of the leased motor vehicle and the owner of the leased motor vehicle cannot qualify under the definition of the term “Individual” as used in the applicable subsection.

Conclusion

The opinions expressed in this ruling are based upon the information contained in your request and are limited to the specific transaction and taxpayer in question. Should the circumstances regarding the transaction the taxpayer describes 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 which is expressed in this response.

⁷ O.C.G.A. § 48-5C-1(d)(3)(B).

⁸ Request for Declaratory Ruling, [Taxpayer], Pg. 3.