

Parking Tax UPDATE

LEGISLATIVE UPDATE -

5/29/15

Sherry Cole,
Legislative Committee Chair



[Sherry Cole](#),
Legislative Committee
Chair

This article is more expansive than what was included in the recent LEGISLATIVE Update E-blast on the “parking tax”. Below is the law, which we have commonly referred to as the “parking tax”.

Tennessee Code Annotated, Section 67-6-205(c)(2)

(c) The retail sale of the following services are taxable under this chapter:

- (2) Charges for services rendered by persons operating or conducting a garage, parking lot or other place of business for the purpose of parking or storing motor vehicles. The tax does not apply, however, to charges for services made by the state and its political subdivisions when providing on-street parking space for which charges are collected, or when operating or conducting a garage or parking lot that is unattended and the charges are collected by parking meters; (emphasis added)

This law has been in effect since 1955. When passed, it was not intended for storage facilities - there were no storage facilities in TN at that time. The best information I could find is that the first storage facility was built in 1971.

Previously, TNSSA relied upon the TN Department of Revenue's 2008 rules which stated:

nue's 2008 rules which stated:

1320-5-1-.104 PARKING LOTS.

- (1) The Sales Tax applies to any charges made for storing or parking motor vehicles and trailers **overnight**, but does not apply to charges made for storing and parking trailers, other than **overnight**, when the trailers are not attached to motor vehicles. (emphasis added)
- (2) Charges for storing airplanes, motorboats, and similar conveyances are not subject to tax.

However, the Department of Revenue's December 2013 Sales and Use Tax Guide drastically changed the interpretation of the law, and it became very clear that we don't really have a choice but to collect the parking tax and remit it to the TN Department of Revenue:

Taxable Services

Charges for services rendered in the operation of parking or vehicle storage facilities. The tax does not apply for parking in state and local government facilities or on the street where the fees are collected by state or local government parking meters. The storage of property other than motor vehicles is not a taxable service.

So, Nathan Ridley, TNSSA's Lobbyist, suggests “pick a certain date not too far in the future and notify your tenants that on and after that date, the storage of motor vehicles outside a unit will be subject to

the Tennessee sales/service tax and that the facility owner has to collect it and remit it to the TN Department of Revenue.” Be sure to comply with your lease terms!

You might ask, “Why isn't TNSSA going to try to change the law?”

The answer is twofold. First, since a number of larger facilities began paying the tax in 2014 (maybe 2013), the Department of Revenue would likely adamantly oppose us. When opposed because of financial impact, bills go to the Finance Committee and frequently don't get out of committee. Second, regardless of whether we were successful in changing the law, there could be unintended consequences. As Nathan Ridley advised me, “my concern with trying to change the law is that it will escalate the issue for the Department of Revenue and may lead to audits and back assessments that our members would not have otherwise had.” It may be possible for the Department of Revenue to audit storage facilities for the prior 3 years.

Thank you all for your past support of TNSSA's legislative efforts! Kudos and a special thank you to Trey Kirby of NAI Nashville for his time, ongoing support, and assistance with the parking tax issue!

If you have any questions, please feel free to email me at cole37129@comcast.net and put “TNSSA legislative question” in the subject line. Your suggestions and involvement are always welcome!

After considerable research, meetings with legislators and their staff, and consultations with TNSSA's Lobbyist, the TNSSA Board of Directors concluded that it is in the best interests of TN self-storage facilities to collect the parking tax and remit those funds to the TN Department of Revenue.