



Storage-in-Transit

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Tax: Sales and Use Tax

In general, unless property is held for resale (i.e., inventory), charges for storage services (i.e., receiving, handling or forwarding the property on behalf of the lessee) are subject to Sales Tax. See N.J.S.A. 54:32B-3(b)(3). The tax is imposed on the charges made for the safekeeping of tangible personal property by storage.

Charges for moving property from one location to another are exempt from tax as a charge for the transportation of property. N.J.S.A. 54:32B-8.11. For New Jersey Sales Tax purposes, SIT is a concept centered on the goods being in the stream of commerce rather than “coming to rest” in the state such that would trigger a tax obligation on the storage.

Originally, the Division took the position that so long as the period of storage did not exceed 60 days, the storage was not subject to sales or use tax. If the period of storage exceeded 60 days, the storage charge for the full period became taxable. This position was published in the Division’s March/April 1982 State tax News. Sometime in 2007, the Division was informed by an industry representative that the Professional Movers Commercial Relocation Tariff, which governs the movement of household effects, allows 90 days for SIT. Upon receipt of this information, the Division revised the SIT policy accordingly. The 60 and 90 day time frames were based on the Division’s understanding as far as the time frame authorized for SIT in the federal tariff.

Industry representatives have informed the Division that the 90 day time frame for SIT was not a requirement under federal law. There has been a general trend expressed in federal statutes, specifically over the last 25 years, toward deregulation of the motor carrier industry to promote competitive services.

The Federal Interstate Commerce Commission Termination Act of 1995 (“ICCTA”) requires interstate household goods carriers to publish tariffs containing their rates and service rules. 49 USC 13702(c) (1). The Federal statute permits carriers to establish SIT period in their tariffs and contracts. In addition, 49 USC 14501(c)(1) states that “a State...may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier...with respect to the transportation of property.”

Although the Division does not consider these federal provisions to directly affect the ability of a state to enact and enforce a state sales tax on the storage of tangible personal property, the Division recognizes that Federal law controls the movement of goods in interstate commerce.

Therefore, as long as the period of storage in transit does not exceed the time frame specified by the carrier in its specific tariff and/or contract with the customer, the charge for the storage in transit is not subject to sales or use tax. If the period of storage exceeds the time frame specified by the carrier in their specific tariff and/or contract with the customer, the storage charge for the full period is subject to tax since the goods have come to rest in New Jersey. If a contract or

tariff does not state the specific SIT period, the Division deems the period of SIT to be 90 days. Storage charges for all intrastate moves are subject to tax in full since there are no interstate commerce implications involved with such transportation services.

The information in this Technical Advisory Memorandum supersedes other published guidance, including internal memos and external information, such as the State Tax News March/April 1982 article, issued by the Division.

Note: A Technical Advisory Memorandum ("TAM") is an informational statement of the law, regulations, or Division policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions or changes in Division policies could affect the validity of the information presented in a TAM.