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Diana Beinart
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March 13, 2019

RE: Request for Ruling
Tax on Transfer of Taxicab Licenses
FLR 18-4992

Dear XXXXXX.

This is in response to your request dated October 3, 2018 for a ruling regarding the New York City Tax on Transfer of Taxicab Licenses (the "TTTL") to the transaction described below.

FACTS

The facts presented by the Taxpayer are as follows:

XXXXXXXXXXXXX (the "transferor") transferred stock in XXXXX mini fleet corporations to XXXXXXXX (the "transferee"). Prior to the transfer, the transferor was the sole stockholder in XXXXXX mini fleet corporations and 50% shareholder in XXXXX one.

Additionally, prior to the transfer, each mini fleet corporation had an existing loan, with identical balances and terms, from XXXXXX (the "lender"), which were guaranteed by both the transferor and the transferee and secured by the taxicab license. After the transfer, the transferor remained a guarantor on each of the loans to the mini fleet corporations and the transferee, who was already a guarantor on all of the loans, assumed no indebtedness.

In your original submission you provided the Department of Finance ("DOF") an Affidavit for Judgment by Confession dated XXXXX, including a copy of the loan terms for one of the mini fleet corporation loans. You have represented that the same terms apply to the loans to the remaining XXXXX mini fleet corporations, and you have submitted the loan documents for the other corporations. You have stated in your submission that no money, property or anything of value was paid or required to be paid for the transfer.

ISSUE

Whether under the facts submitted, the transfer of stock in the XXXXX mini fleet corporations is without consideration and therefore will not result in any tax due under the TTTL?

CONCLUSION

Based upon the facts presented and the representations submitted, we have determined that the transferor's transfer of stock to [the transferee] will be without consideration. Therefore, no tax will be due under the TTTL.

DISCUSSION

Under New York City Administrative Code (the "Ad. Code") section 11-1402.a the TTTL is imposed on each transfer of a New York City taxicab license or interest therein. This includes the transfer of shares of stock of a corporation that holds a taxicab license or interest therein.¹ The tax rate imposed is 0.5 percent of the consideration given for the transfer.² Consideration for the purposes of the TTTL is defined under Code section 11-1401.4 as the price paid or required to be paid for the license by money, property, or anything of value including the cancellation or discharge of an indebtedness or obligation.

In the fact pattern submitted, the transferor transferred his stock interest in XXXXX mini fleet corporations to [the transferee]. The transfer is of the type described under the TTTL and would be taxed on the consideration given for the transfer. Under the TTTL, consideration includes the cancellation or discharge of indebtedness or obligation. Prior to the transfer of the stock in the mini fleet corporations both the transferor and the transferee were already guarantors on the loans to each mini fleet corporation. After the transfer, the transferor remained guarantor and the transferee assumed no indebtedness. Therefore, because the transfer resulted in no cancellation or discharge of debt, the debt secured by the licenses is not included as consideration for purposes of calculating any TTTL due.

Contrasting the TTTL to the New York City Real Property Transfer Tax (the "RPTT") supports this conclusion. Like the TTTL, the RPTT is imposed on the amount of consideration for a transfer. The definition of consideration under the RPTT, like the definition under the TTTL, provides that consideration shall include the cancellation or discharge of an indebtedness or obligation. However, the definition under the RPTT further provides that consideration shall also include the amount of any mortgage, lien, or other encumbrances, whether or not the underlying indebtedness is assumed.³ There is no such language in the TTTL. The absence of this language distinguishes the two taxes and shows the legislative intent, that for TTTL purposes, consideration does not include indebtedness that is not assumed by the transferee.⁴

Insofar as no money, property or anything of value was paid or required to be paid for the transfer, and there was no cancellation or discharge of any indebtedness or obligation, we find that there was no consideration given for the transfer. Therefore, there is no TTTL due on the transfer as described.

¹Ad. Code section 11-1402.b.

²Ad. Code section 11-1402.a.

³Ad. Code section 11-2101.9.

⁴ New York City Finance Letter Ruling 99-4755.

DOF reserves the right to verify the facts submitted and to modify its decision accordingly.

Sincerely,

Diana Beinart
General Counsel

CCS:ccs