

**TENNESSEE DEPARTMENT OF REVENUE  
LETTER RULING # 11-54**

**WARNING**

**Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.**

**SUBJECT**

Whether various items used to modify motor vehicles for use by disabled persons are exempt from the Tennessee sales and use tax.

**SCOPE**

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the Department by the taxpayer. The rulings herein are binding upon the Department, and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time. Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

**FACTS**

[NAME OF TAXPAYER] (the "Taxpayer") is a [TYPE OF ENTITY] engaged in the business of selling vans that have been modified for handicapped accessibility and use by disabled persons. The Taxpayer also separately sells parts and services used to modify motor vehicles to make them handicapped accessible and user friendly for disabled persons. Additionally, the Taxpayer offers extended service plans for the installed equipment and motor vehicle chassis.

Specifically, the Taxpayer sells and installs the following equipment and products:

	<b>Item</b>	<b>Use</b>
	<i>Vehicle Entry Equipment</i>	
1.	Wheelchair Platform Lifts	Used to lift wheelchair-using disabled persons into a motor vehicle
2.	Wheelchair and Scooter Stowage Lifts	Used to lift and stow away wheelchairs and scooters in the rear or trunk space of motor vehicles
3.	Ramps, Van Mounted Ramps, Portable Ramps, Ramp Motors	
4.	Power Doors	
5.	Door Opener Assemblies	Automatic door openers
6.	Door Operating Systems	Provide a broader area for entrance and exit
7.	Door Motors	Motors that operate door systems
8.	Power Steps	Electrically powered step stored under the vehicle
9.	Kneeling Systems	Electric actuators or pneumatic systems installed on vans that lower the rear end of the vehicle
10.	Modules	Control panels or computer boards that operate door, power kneel, and ramp systems
11.	Grab Handles	
12.	Handy Bars	
	<i>Securement</i>	
13.	Securement Systems	Provide for the security and restraint of wheelchairs and other mobility equipment while contained in a vehicle
14.	Buckles	Used on unoccupied wheelchairs when using an electric lift to pick up the wheelchair
15.	Torso Belts	
16.	Ramp/Lift Chains	Used to stow a ramp or lift
	<i>Remote Control Devices</i>	
17.	Remote Controls	Hand held device to allow person to open the vehicle door and operate a wheelchair or scooter lift
18.	Remote or Magnetic Entry	Starts vehicle and allows person to defrost windows and remove ice and snow
	<i>Driving Aids</i>	
19.	Hand Controls	Allow disabled driver to brake, accelerate, and otherwise operate a motor vehicle using hands
20.	Electronic Driving Controls	Gas, brake, and steering controls
21.	High Tech Labor Electronic Driving Controls	Gas, brake, and steering controls
22.	Spinner Knobs	Steering device attached to the steering wheel to allow driver with hand controls to keep one hand on the wheel at all times
23.	Turn Signal Crossover Switches	
24.	Low Effort Steering/Brakes	
25.	Driver Training Brakes	
26.	Pedal Guards	
27.	Left Foot Gas Pedal	
28.	Horn Button	
29.	Air Bag Switches	
30.	Back Up Cameras and Sensors	Assist visibility
31.	Panoramic Mirrors	Assist visibility

	<i>Vehicle Modifications</i>	
32.	Raised Roofs	Allow disabled person to sit comfortably in the vehicle
33.	Raised Doors	Allow disabled person to enter/exit the vehicle with sufficient head clearance
34.	Lowered Floors in motor vehicles	Allow for greater vertical space for disabled users
35.	Roof Reinforcements	Required with installation of raised roofs and doors
36.	Ground Effects	Fiberglass molding on the floor of modified vans; used to cover the lowered floor and protect welded areas
	<i>Seating and Storage</i>	
37.	Jump Seat/Flip Down Seats/Tumble Forward Seats	Seating that folds to allow for additional space, rear bench seat or split seats that can be unsecured and rolled forward to allow additional storage space
38.	Roof Racks	Custom made storage
39.	Custom chairs and seats	Custom made seating
	<i>Battery Equipment</i>	
40.	Batteries for Accessible Equipment	Provide power
41.	Battery Buddy	Protects against a dead vehicle battery by cutting power from the battery as voltage reaches 12 volts
42.	Trickle Charger	Protects against a dead vehicle battery by allowing user to plug in battery when vehicle is not in use
	<i>Replacement Parts</i>	
43.	Wire Harness	Replacement part for lifts, power transfer seats, and lockdowns
44.	Schleps	Replacement part for bottom door wiring harnesses on lowered floor minivans; control power door and ramp operations
45.	Suspension Kits	
46.	Switches	Control power to mobility devices ( <i>e.g.</i> , wheelchair and scooter lifts, power transfer seats, door openers and power doors)
47.	Relays	Electromagnetic device used for remote controls or to trigger switches
48.	Fuses	
49.	Circuit Breakers	Protect electric components of wheelchair accessible vehicles
50.	Brackets	
51.	Hydraulic Cylinders	Components of full size platform lifts; control the up/down functions of the lift
52.	Motors	Electric motors used in lifts, seats, doors
53.	Weldments	Support structures for platform lifts
54.	Pumps	Activate the hydraulic cylinders in a lift
55.	Door Hinges	Replacement part for automatic doors
	<i>Miscellaneous</i>	
56.	Trailer Hitches for Wheelchair Carriers	
57.	Leather upgrade to seats	

## QUESTIONS

1. Is the retail sale and installation of the items listed above subject to the Tennessee sales and use tax?
2. Is the Taxpayer's lease of the items listed above subject to the Tennessee sales and use tax?
3. Is the retail sale of an extended service plan for an item of equipment or motor vehicle chassis subject to the Tennessee sales and use tax?

## RULINGS

1. Please refer to the table provided below.
2. Please refer to the table provided below.
3. Yes. The retail sale in Tennessee of an extended service plan for an item of equipment or motor vehicle chassis is subject to the Tennessee sales and use tax.

## ANALYSIS

### 1-2. *Sale and installation of specific items*

Under the Retailers' Sales Tax Act, TENN. CODE ANN. § 67-6-101 *et seq.*, the retail sale of tangible personal property<sup>1</sup> in Tennessee is generally subject to the sales and use tax. The term "retail sale" is defined to include "any sale, lease, or rental for any purpose other than for resale, sublease, or subrent." TENN. CODE ANN. § 67-6-102(79) (Supp. 2010). Accordingly, the lease or rental of an item of tangible personal property is treated as a retail sale for purposes of the sales and use tax. Additionally, TENN. CODE ANN. § 67-6-205(c)(6) (Supp. 2010) imposes the sales tax on the service of installing tangible personal property that remains tangible personal property after installation. Such sales and leases are exempt for purposes of the Tennessee sales and use tax only if a specific statutory exemption applies.<sup>2</sup>

With respect to the items listed above, the only Tennessee sales and use tax exemption that potentially applies is found under TENN. CODE ANN. § 67-6-314(6) (Supp. 2010), which exempts

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<sup>1</sup> "Tangible personal property" is defined in pertinent part as "personal property that can be seen, weighed, measured, felt, or touched, or that is in any manner perceptible to the senses." TENN. CODE ANN. § 67-6-102(92)(A) (Supp. 2010).

<sup>2</sup> The Taxpayer bears the burden of establishing entitlement to an exemption from taxation. The Tennessee Supreme Court has stated that "[a]lthough the rule is well-established that taxing legislation should be liberally construed in favor of the taxpayer and strictly construed against the taxing authority, it is an equally important principle of Tennessee tax law that 'exemptions from taxation are construed against the taxpayer who must shoulder the heavy and exacting burden of proving the exemption.'" *Am. Airlines, Inc. v. Johnson*, 56 S.W.3d 502, 506 (Tenn. Ct. App. 2000) (quoting *Rogers Group, Inc. v. Huddleston*, 900 S.W.2d 34, 36 (Tenn. Ct. App. 1995)). The Tennessee Supreme Court has also stated that the burden is on the taxpayer to establish the exemption, and any well-founded doubt is sufficient to defeat a claimed exemption from taxation. *Am. Airlines*, 56 S.W.3d at 506 (citing *Tibbals Flooring Co. v. Huddleston*, 891 S.W.2d 196, 198 (Tenn. 1994); *United Cannery, Inc. v. King*, 696 S.W.2d 525, 527 (Tenn. 1985)).

“mobility enhancing equipment,” provided that such equipment is “sold pursuant to a prescription for human use.” In addition, “repair service for the repair and maintenance” of such equipment is exempt. *Id.* TENN. CODE ANN. § 67-6-102(56) defines “mobility enhancing equipment” as equipment that: (1) is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle; (2) is not generally used by persons with normal mobility; and (3) does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.<sup>3</sup>

Accordingly, the Taxpayer’s retail sale or lease of a particular item will be exempt from Tennessee sales and use tax under TENN. CODE ANN. § 67-6-314(6) if the item meets the following requirements: (1) the item is sold pursuant to a prescription; (2) the item is for human use; (3) the item is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for either home or motor vehicle use; (4) the item is not generally used by persons with normal mobility; and (5) the item does not include any motor vehicle or motor vehicle equipment normally provided by a motor vehicle manufacturer.

Additionally, if the retail sale or lease of a particular item is exempt under TENN. CODE ANN. § 67-6-314(6), services for the repair, maintenance or installation of such item will also be exempt.

The following table provides answers to Questions 1 and 2. Note that it is assumed that each particular item is sold pursuant to a prescription and is intended for human use. If the item is not sold pursuant to a prescription or is not intended for human use, the sale will be subject to the Tennessee sales and use tax even if it otherwise meets all other requirements for exemption.

	<b>Item</b>	<b>Exempt?</b>	<b>Comments</b>
	<i>Vehicle Entry Equipment</i>		
1.	Wheelchair Platform Lifts	Yes	
2.	Wheelchair and Scooter Stowage Lifts	No	Storage items; do not directly provide or increase mobility
3.	Ramps, Van Mounted Ramps, Portable Ramps, Ramp Motors	Yes	
4.	Power Doors	No	Item is used by persons with normal mobility
5.	Door Opener Assemblies	No	Item is used by persons with normal mobility
6.	Door Operating Systems	No	Item is used by persons with normal mobility
7.	Door Motors	No	Item is used by persons with normal mobility
8.	Power Steps	Yes	
9.	Kneeling Systems	Yes	
10.	Modules	Depends	Exempt if the equipment that module operates is exempt
11.	Grab Handles	Yes	
12.	Handy Bars	Yes	
	<i>Securement</i>		
13.	Securement Systems	No	Do not directly provide or increase mobility
14.	Buckles	No	Motor vehicle equipment commonly provided by a motor vehicle manufacturer; do not directly provide or increase mobility

<sup>3</sup> Note that “mobility enhancing equipment” includes repair and replacement parts to such equipment, but does not include “durable medical equipment” as defined under TENN. CODE ANN. § 67-6-102(36).

	<b>Item</b>	<b>Exempt?</b>	<b>Comments</b>
15.	Torso Belts	No	Motor vehicle equipment commonly provided by a motor vehicle manufacturer; do not directly provide or increase mobility
16.	Ramp/Lift Chains	No	Storage items; do not directly provide or increase mobility
	<i>Remote Control Devices</i>		
17.	Remote Controls	Depends	Exempt if the equipment the remote control operates is exempt
18.	Remote or Magnetic Entry	No	Does not directly provide or increase mobility
	<i>Driving Aids</i>		
19.	Hand Controls	Yes	
20.	Electronic Driving Controls	Yes	
21.	High Tech Labor Electronic Driving Controls	Yes	
22.	Spinner Knobs	Yes	
23.	Turn Signal Crossover Switches	Yes	
24.	Low Effort Steering/Brakes	Depends	Not exempt if the power steering and power brakes are motor vehicle equipment commonly provided by a motor vehicle manufacturer and are items used by persons with normal mobility
25.	Driver Training Brakes	No	Do not directly provide or increase mobility
26.	Pedal Guards	No	Safety feature; do not directly provide or increase mobility
27.	Left Foot Gas Pedal	Yes	
28.	Horn Button	No	Safety feature; do not directly provide or increase mobility
29.	Air Bag Switches	No	Safety feature; do not directly provide or increase mobility
30.	Back Up Cameras and Sensors	No	Safety feature; do not directly provide or increase mobility; item is used by persons with normal mobility
31.	Panoramic Mirrors	No	Safety feature; do not directly provide or increase mobility
	<i>Vehicle Modifications</i>		
32.	Raised Roofs	No	Item is used by persons with normal mobility (e.g., in camping vehicles and vans)
33.	Raised Doors	Yes	
34.	Lowered Floors in motor vehicles	Yes	
35.	Roof Reinforcements	No	Item is used by persons with normal mobility (e.g., in camping vehicles and vans)
36.	Ground Effects	No	Item is used by persons with normal mobility
	<i>Seating and Storage</i>		

	<b>Item</b>	<b>Exempt?</b>	<b>Comments</b>
37.	Jump Seat/Flip Down Seats/Tumble Forward Seats	No	Motor vehicle equipment commonly provided by a motor vehicle manufacturer
38.	Roof Racks	No	Item is used by persons with normal mobility; do not directly provide or increase mobility
39.	Custom chairs and seats	Depends	Exempt only if customization is of a type used only by disabled persons and seating provides or increases mobility
	<i>Battery Equipment</i>		
40.	Batteries for Accessible Equipment	Depends	Exempt only if used on an exempt item*
41.	Battery Buddy	No	Item is used by persons with normal mobility
42.	Trickle Charger	No	Item is used by persons with normal mobility
	<i>Replacement Parts</i>		
43.	Wire Harness	Depends	Exempt only if used on an exempt item*
44.	Schleps	Depends	Exempt only if used on an exempt item*
45.	Suspension Kits	Depends	Exempt only if used on an exempt item*
46.	Switches	Depends	Exempt only if used on an exempt item*
47.	Relays	Depends	Exempt only if used on an exempt item*
48.	Fuses	Depends	Exempt only if used on an exempt item*
49.	Circuit Breakers	Depends	Exempt only if used on an exempt item*
50.	Brackets	Depends	Exempt only if used on an exempt item*
51.	Hydraulic Cylinders	Depends	Exempt only if used on an exempt item*
52.	Motors	Depends	Exempt only if used on an exempt item*
53.	Weldments	Depends	Exempt only if used on an exempt item*
54.	Pumps	Depends	Exempt only if used on an exempt item*
55.	Door Hinges	Depends	Exempt only if used on an exempt item*
	<i>Miscellaneous</i>		
56.	Trailer Hitches for Wheelchair Carriers	No	Motor vehicle equipment commonly provided by a motor vehicle manufacturer; do not directly provide or increase mobility
57.	Leather upgrade to seats	No	Motor vehicle equipment commonly provided by a motor vehicle manufacturer; item used by persons with normal mobility
* Note that all replacement or repair parts must be sold pursuant to a prescription, or the seller must obtain a statement that the item will be used as a replacement or repair part on equipment that was sold pursuant to a prescription.			

The Taxpayer has indicated that it sells vans that have been modified for handicapped accessibility and use by disabled persons. Note that if the Taxpayer sells a modified van (as opposed to selling equipment and/or installing it in a vehicle owned by the customer), the “single article” provisions discussed below will apply to the transaction.

TENN. CODE ANN. § 67-6-702(a)(1) (Supp. 2010) authorizes counties and incorporated cities to impose a tax on the same privileges that are subject to the state sales and use tax (the “local option sales tax”). However, the local option sales tax, when applied to the sale of any single article of tangible personal property, is imposed only on the first \$1,600 of the sales price (the “local option

single article cap”). Furthermore, TENN. CODE ANN. § 67-6-202(a) (Supp. 2010) imposes an additional state tax at the rate of 2.75% on the amount over \$1,600, but less than or equal to \$3,200, on the sale or use of any single article, as defined by TENN. CODE ANN. § 67-6-702(d), of tangible personal property (the “state single article sales tax”).

TENN. CODE ANN. § 67-6-702(d) defines the term “single article” as “that which is regarded by common understanding as a separate unit exclusive of any accessories, extra parts, etc., and that which is capable of being sold as an independent unit or as a common unit of measure, a regular billing or other obligation.” A motor vehicle is commonly understood to constitute a single article. With respect to items installed on a motor vehicle, TENN. CODE ANN. § 67-6-702(d) specifically provides that “[p]arts or accessories for motor vehicles that are installed at the factory and delivered with the unit as original equipment and/or parts or accessories for motor vehicles that are installed by the dealer and/or distributor prior to sale, at the time of the sale, or that are included as part of the sales price of the vehicle shall be treated as a part of the unit.”

When the Taxpayer sells a modified van, the van is treated as a single article for purposes of the local option single article cap as well as the state single article sales tax. Additionally, in accordance with TENN. CODE ANN. § 67-6-702(d), all equipment installed on the van by the Taxpayer will comprise part of this single article, *i.e.*, the van and the installed equipment will constitute one single article. The local option single article cap and the state single article sales tax will therefore be imposed with respect to the van’s sales price, pursuant to TENN. CODE ANN. §§ 67-6-202(a) and 67-6-702(a)(1). The van’s sales price will include all consideration paid for the van, as well as all consideration paid for equipment installed by the Taxpayer.

However, for purposes of the local option single article cap and the state single article sales tax, the sales price of the van will not include consideration paid for exempt equipment installed by the Taxpayer, provided that the Taxpayer separately itemizes each item of exempt equipment on the invoice. While such equipment is properly treated as part of the single article (*i.e.*, the van) in accordance with TENN. CODE ANN. § 67-6-702(d), such equipment is exempt from the sales and use tax under TENN. CODE ANN. § 67-6-314(6). Interpreting the single article provisions to require the inclusion of the consideration paid for exempt equipment in the sales price of the van would defeat the purpose of the exemption and render it superfluous and inoperative. The Tennessee Court of Appeals has stated that the interpretation of a statute must not render any part of a statute “inoperative, superfluous, void or insignificant.” *Nissan North America, Inc. v. Haislip*, 155 S.W.3d 104, 106 (Tenn. Ct. App. 2004) (quoting *State v. Morrow*, 75 S.W.3d 919, 921 (Tenn. 2002)). Thus, the single article provisions may not be applied in such a manner as to cause otherwise exempt equipment to become subject to taxation. Therefore, the sales price of the van will not include consideration paid for exempt equipment installed by the Taxpayer, provided that the Taxpayer separately itemizes each item of exempt equipment on the invoice.

## 2. *Extended service plans*

The retail sale in Tennessee of an extended service plan for an item of equipment or motor vehicle chassis is subject to the Tennessee sales and use tax.

TENN. CODE ANN § 67-6-230(b) (Supp. 2010) provides that the “sale of a warranty or service contract covering the repair or maintenance of tangible personal property shall be subject to the [Tennessee sales tax] at the time of the sale of the contract.” Accordingly, if the Taxpayer sells a warranty or service contract that covers an item of equipment or motor vehicle chassis, such sale is subject to the sales tax.

Note, however, that if maintenance or repairs that are performed are covered by the service contract, then no additional tax will be collected on such repairs. TENN. CODE ANN. §§ 67-6-230(b) and 67-6-231(b)(2) (Supp. 2010).

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