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Rahm Emanuel, Mayor

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January 25, 2019

Stanley R. Kaminski, Esq.  
Duane Morris  
190 South LaSalle Street  
Suite 370  
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Re: [REDACTED]

Dear Stan:

I am writing in response to your letter of January 9, 2019 (copy attached), requesting a private letter ruling ("PLR") on behalf of [REDACTED] under Uniform Revenue Procedures Ordinance ("URPO") Ruling #3.

Your letter concerns the application of the Chicago Personal Property Lease Transaction Tax ("CTT"), Chapter 3-32 of the Municipal Code of Chicago ("Code"), and the Chicago Motor Vehicle Lessor Tax ("MVLT"), Code Chapter 3-48, to the "peer-to-peer motor vehicles rentals" market, also sometimes called car-sharing. Your questions and our responses are set forth below.

1. Is the Car Rental Facilitation Company liable to collect and remit the CTT on the total rental price paid by the Guests?

Response: Yes.

2. Are Hosts required to collect and remit the CTT on the total rental price paid by the Guests?

Response: Yes.

3. Is the Car Rental Facilitation Company liable/required to pay MVLT on the daily or weekly rental transactions involving the Hosts?

Response: Yes.

4. Are the Hosts liable/required to pay the MVLT on the daily or weekly rental transactions involving their motor vehicles?

Response: Yes.

5. How is the CTT to be collected and remitted when a Car Rental Facilitation Company and the Hosts are both liable for the CTT?

Response: See URPO Ruling #6.

Letter to Stanley R. Kaminski  
June 25, 2019  
Page Two

6. Are both the MVLT and CTT determined to be due, based on the location where possession of the rental car transfers?

Response: Where possession of the rental car transfers in Chicago, both the MVLT and the CTT are due. There may be other situations where the taxes are due as well - we are still looking into this issue.

7. Please confirm: That under URPO Ruling #6 that any liability of the Hosts for the CTT will be extinguished, if the Car Rental Facilitation Company collects and remits the CTT on the entire rental price.

Response: Agreed.

8. Please confirm: That under URPO Ruling #6, the DOF will require Car Rental Facilitation Company to collect and remit the CTT and not delegate the total collection and payment of tax to individual Hosts. In this regard, please instruct whether in such cases where the Facilitator is required to collect and remit the total tax due, the Hosts will not be required to fill CTT returns.

Response: Agreed as to both points.

9. Please confirm: That under URPO Ruling #6, if the Car Rental Facilitation Company fails to collect the tax, then the vehicle – providing Host will still be directly liable for the tax and required to file CTT returns and pay the CTT directly to the DOF.

Response: Agreed.

10: Under the plain wording of the MVLT, it does not appear that the Car Rental Facilitation Company is liable for this tax, since it is not a lessor. Please confirm if this is correct or if you need more information to rule on this issue. However, it does appear that the Hosts are liable for this MVLT for their rentals, including rentals that are rented and processed using the Car Rental Facilitation Company's website or app booking and processing systems. Please confirm if this is correct or if you need more information to rule on this issue.

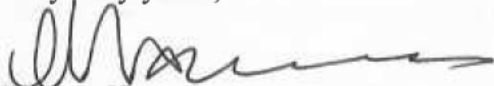
Response: See responses 3 and 4 above.

The opinions expressed in this PLR are based on the text of the CTT and MVLT as of the date of this letter and the facts as represented in your letter. The opinions contained herein are expressly intended to constitute written advice that may be relied upon pursuant to the Code Section 3-4-325. This PLR is subject to the terms of URPO Ruling #3, including the proviso that a taxpayer may not reasonably rely on a PLR that is ten or more years old unless the PLR is ratified in writing by the Corporation Counsel's Office.

Letter to Stanley R. Kaminski  
June 25, 2019  
Page Three

Please let us know if you have questions or need anything further.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Weston Hanscom', with a long horizontal flourish extending to the right.

Weston Hanscom  
Deputy Corporation Counsel  
Revenue Litigation Division  
Department of Law  
312-744-9077

cc: Department of Finance

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AND SRI LANKA

January 9, 2019

Chicago Department of Finance  
Attn: Tax Policy Section  
DePaul Center, Room 300  
333 South State Street  
Chicago, Illinois 60604-3977

**Re: Taxability of a Peer-to-Peer Car Rental Facilitation Company's Operation**

Dear Sir or Madam:

On behalf of [REDACTED] we hereby request the issuance of a private letter ruling under Section 5 of the Uniform Revenue Procedures Ordinance Ruling Number 3. [REDACTED] is not currently under audit for any tax by the Chicago Department of Finance ("DOF").

[REDACTED] is headquartered at [REDACTED]. [REDACTED] owns motor vehicles and rents such motor vehicles throughout the United States to its affiliates for re-rental. The affiliates then rent such vehicles to the public. Its Chicago affiliate is registered for and collects/remits, where applicable, the Chicago Personal Property Lease Transaction Tax ("CTT") and the Motor Vehicle Lessor Tax ("MVL").

The purpose of this letter ruling request is to receive legal guidance on the taxability of an [REDACTED] affiliate operating an online car sharing platform into what has become known as the "peer-to-peer motor vehicles rentals" market. This affiliate will facilitate peer-to-peer motor vehicles rentals by individuals and commercial businesses using this online car sharing platform ("Car Rental Facilitation Company"). In that regard, [REDACTED] seeks a letter ruling as to the applicability of the CTT and MVL to such Car Rental Facilitation Company's operations. Again, this affiliate will be creating a website and online app which will allow both individuals and commercial businesses to offer their respective vehicles for rental and to make reservations through this online car sharing platform. A power of attorney is enclosed.

DUANE MORRIS LLP

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**FACTS**

██████████ is in the planning process of creating a peer-to-peer Car Rental Facilitation Company to allow private and commercial owners of motor vehicles to provide such vehicles to others through the Car Rental Facilitation Company's peer-to-peer car sharing platform. The Car Rental Facilitation Company will allow owners of privately and commercially owned vehicles to list their vehicles with the Car Rental Facilitation Company. Such motor vehicles will be provided for rent by such private and commercial owners for a fee for the use of the vehicles for a limited period of time. It is contemplated that the Car Rental Facilitation Company will operate similar to existing companies like Turo, Maven and Getaround.

The person listing the vehicle with the Car Rental Facilitation Company will generally be referred to as a "Host" (or similar designation) and such Hosts will set their own daily, weekly or monthly rate. A person wanting to obtain a car will do so through the Car Rental Facilitation Company's website or app. This person renting the vehicle will generally be called the "Guest" (or similar designation). The Car Rental Facilitation Company reviews and approves all Hosts and Guests before a rental can occur. Upon rental, the Host will deliver the car to the Guest.

The Car Rental Facilitation Company may facilitate protection plans that the Hosts and/or Guest can purchase, which include insurance protection for the vehicle by a third party insurer. The Car Rental Facilitation Company and/or the Hosts may charge other fees depending on options chosen by the Guest. The Car Rental Facilitation Company will maintain a payment platform to receive and process rental payments from the Guest and then pay the net revenue to the Host, minus the Car Rental Facilitation Company's share. The Car Rental Facilitation Company will normally receive from 10% to 35% of the rental charges for its share and charges.

**LAW**

The CTT imposes a 9% tax upon "(1) the lease or rental in the City of personal property, or (2) the privilege of using in the City personal property that is leased or rented outside the City. Chicago Municipal Code § 3-32-030.

A "lease" under the CTT is "any transfer of the possession or use of personal property, but not title or ownership, to a user for consideration." Chicago Municipal Code § 3-32-020.I. And, a "lessor" includes "any person ... who leases or rents personal property to users or who, directly or through an agreement or arrangement with another party, collects the consideration for the lease or rental of personal property." Chicago Municipal Code § 3-32-020.M. The definition of lessor goes on to specifically include "persons engaged in the business of facilitating the lease or rental of personal property for consideration, whether on-line, in person or otherwise." *Id.* A rental is deemed to occur within the City if the delivery or possession of the vehicle transfers to the lessee in the City. Chicago Municipal Code § 3-32-030.C.

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It is the "duty of each lessor to collect the tax imposed" by the CTT. § 3-32-070. While the incidence of the tax is on the lessee (§ 3-32-030), the failure to collect the tax makes the lessor "liable to the City for the amount of such tax." Chicago Municipal Code § 3-32-070. However, lessees for re-lease are not taxable. Chicago Municipal Code § 3-32-060.

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The rental price includes all consideration for the rental, including all charges paid incidental to the rental such as service fees, facilitation fees, mark-ups, late return fees, etc. However, separately stated optional charges not for the use of personal property are not taxable. Chicago Municipal Code § 3-32-020.K.

Under Uniform Revenue Procedures Ruling #6 ("URPO ruling #6"), the DOF also makes it clear that a rental car facilitator is subject to CTT. Also, the Ruling states that it "will not allow a facilitator to delegate its collection and remittance obligations to clients who are individuals and/or whose taxable transactions involve small amounts of money," such as in "car sharing." Nevertheless, under the Ruling, "if the facilitator is not registered and in good standing, then the client must remit all taxes owed on all charges paid by the customer."

The Motor Vehicle Lessor Tax of \$2.75 per transaction is imposed upon the privilege of leasing motor vehicles within the City of Chicago on a daily or weekly basis. Chicago Municipal Code § 3-48-030; MVLT Ruling #1. This includes any period a daily or weekly rate is charged for a lease. MVLT Ruling #1, § 2. A "lessor" is any person who leases a motor vehicle on a daily or weekly basis. Chicago Municipal Code § 3-48-020. The tax is on the lessor. Chicago Municipal Code § 3-48-030.G.

### ISSUES

1. Is the Car Rental Facilitation Company liable to collect and remit the CTT on the total rental price paid by the Guests?
2. Are Hosts required to collect and remit the CTT on the total rental price paid by the Guests?
3. Is the Car Rental Facilitation Company liable/required to pay MVLT on the daily or weekly rental transactions involving the Hosts?
4. Are the Hosts liable/required to pay the MVLT on the daily or weekly rental transactions involving their motor vehicles?
5. How is the CTT to be collected and remitted when a Car Rental Facilitation Company and the Hosts are both liable for the CTT?
6. Are both the MVLT and CTT determined to be due, based on the location where possession of the rental car transfers?

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**ANALYSIS**

**A. CTT Application**

The CTT is imposed on any lease or rental of personal property, and there is no doubt that includes motor vehicles. See, CTT Ruling #8, *Wellington v. City of Chicago*, 144 Ill. App. 3d 774 (1986); see also *Hertz Corp. v. City of Chicago*, 2017 IL 119545. The CTT also requires every “lessor” to collect and remit the tax. Lessor includes direct lessors, as well as persons in the business of “facilitating” the rental. Chicago Municipal Code § 3-32-020.M.

Based on the definitions in the CTT, it appears that since the Car Rental Facilitation Company is in the business of facilitating the lease or rental of motor vehicles, it would be subject to the CTT on the rental of motor vehicles by the Hosts when the motor vehicles are rented (picked up or delivered) within the City using the Car Rental Facilitation Company’s booking and processing system. Chicago Municipal Code § 3-32-020.C. Short-term rentals of vehicles picked up or delivered outside the City would not appear taxable pursuant to *Hertz Corp. v. City of Chicago*, *supra*.

In addition, the CTT would appear to also apply to the Hosts directly as lessors of the vehicles. The CTT does not appear to require the lessor to be in the business of leasing or renting, but only that the person is engaged in renting or leasing. In any event, it is our understanding that any Host that rents or leases his or her car more than just occasionally will, no doubt, be considered in the business of leasing. As such, it appears under the definition of Lessor, the Hosts would likewise be required to collect the CTT on the consideration received for the rental, whether they rent their vehicles occasionally or multiple times.

Even if both the Car Rental Facilitation Company and the Host are each independently liable to collect the CTT, the CTT makes it clear that the tax is on the lessee and that the tax is thus due only once. Chicago Municipal Code § 3-32-030. Moreover, URPO Ruling discusses how the CTT should be collected and remitted when facilitators are involved. As a result, please confirm:

1. That under URPO Ruling #6 that any liability of the Hosts for the CTT will be extinguished, if the Car Rental Facilitation Company collects and remits the CTT on the entire rental price.
2. That under URPO Ruling #6, the DOF will require Car Rental Facilitation Company to collect and remit the CTT and not delegate the total collection and payment of tax to individual Hosts. In this regard, please instruct whether in such cases where the Facilitator is required to collect and remit the total tax due, the Hosts will not be required to file CTT returns.

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3. That under URPO Ruling #6, if the Car Rental Facilitation Company fails to collect the tax, then the vehicle -providing Host will still be directly liable for the tax and required to file CTT returns and pay the CTT directly to the DOF.

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**B. MVLТ**

The MVLТ is imposed on the "privilege of leasing motor vehicles within the City of Chicago" when the vehicles are rented on a daily or weekly basis, or when a daily or weekly rate is charged. MVLТ Ruling #1. The tax is on the "lessor," who is defined under the MVLТ ordinance as "any person who leases a motor vehicle on a daily or weekly basis." Chicago Municipal Code § 3-48-220.A and 030.C. Notably, the statute authorizing this tax does not define the term "lessor" but just authorizes a tax on the "privilege of leasing." 65 ILCS 5/8-11-11. Importantly, the MVLТ does not require the lessor be engaged in the business of renting, but at the same time it does not expand the definition of "lessor" to include rental facilitation businesses.

Under the plain wording of the MVLТ, it does not appear that the Car Rental Facilitation Company is liable for this tax, since it is not a lessor. Please confirm if this is correct or if you need more information to rule on this issue. However, it does appear that the Hosts are liable for this MVLТ for their rentals, including rentals that are rented and processed using the Car Rental Facilitation Company's website or app booking and processing systems. Please confirm if this is correct or if you need more information to rule on this issue.

Moreover, please confirm that for both the CTT and MVLТ the location the possession of the vehicle transfers is the location the lease takes place.

If you have any questions, please call.

Very truly yours,

  
Stanley R. Kaminski

SRK:fs





City of Chicago
Department of Finance

Power of Attorney and
Declaration of Representative

PART I. - Power of Attorney

Taxpayer(s) name, identifying number, and address including ZIP code (Please type or print)

hereby appoints (name(s), address(es), including ZIP code(s), and telephone number(s) of individual(s))\*

Stanley R. Kaminski
Duane Morris LLP
190 S. LaSalle St., Suite 3700
Chicago, IL 60603
(312) 499-0105

as attorney(s)-in-fact to represent the taxpayer(s) before any office of the Chicago Department of Finance for the following tax matter(s). Specify the type(s) of tax and year(s) or period(s).

Table with 2 columns: Type of Tax, Year(s) or Period(s). Rows include Chicago Transaction Tax (2019 - Forward) and Chicago Motor Vehicle Lessor Tax (2019 - Forward).

The attorney(s)-in-fact (or either of them) are authorized, subject to revocation, to receive confidential information and to perform any and all acts that the principal(s) can perform with respect to the above specified tax matters (excluding the power to receive refund checks, and the power to sign the return, unless specifically granted below).

Send copies of notices and other written communications addressed to the taxpayer(s) in proceedings involving the above tax matters to:

- 1 [X] the appointee first named above, or
2 [ ] (names of not more than two of the above named appointees)
Initial here - If you are granting the power to receive, but not to endorse or cash, refund checks for the above tax matters to:
3 [ ] the appointee first named above, or
4 [ ] (name of one of the above designated appointees).

This power of attorney revokes all earlier powers of attorney and tax information authorizations on file with the Department of Finance for the same tax matters and years or periods covered by this power of attorney, except for the following:

(Specify to whom granted, date, and address including ZIP code, or refer to attached copies of earlier powers and authorizations.)

Signature of or for taxpayers(s)

(If signed by a corporate officer, partner, or fiduciary on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.)

(Also type or print your name below if signing for a taxpayer who is not an individual.)

(Signature) (Title, if applicable) (Date)

\* You must authorize an organization, firm, or partnership to receive confidential information, but your representative must be an individual who must complete part II

