

This Week in State Tax (TWIST)

May 12, 2025



Georgia: Rideshare App Operator Responsible for Sales Tax Collection under Taxicab Regulation

The Georgia Court of Appeals recently ruled that the state's Taxicab Regulation, which shifts the sales tax collection and remittance obligation from individual, for-hire drivers to headquarters operators that direct and supervise the drivers, applies to a taxpayer that operates a mobile rideshare application. As a result, the taxpayer was required to remit sales tax for tax periods 2012-2015.

The taxpayer operates a mobile application-based platform that connects consumers seeking transportation services with independent transportation providers. While the drivers are not employees of the taxpayer, they are required to use the app to obtain rides, must follow certain standards, rules, and requirements of the app operator to continue as a driver. All financial matters are handled through the app, including computation of the fees and charges, processing of payments, and remitting proceeds, minus certain fees, to the driver. The taxpayer did not collect and remit sales tax on the rides secured through the app during the audit period, relying instead on the drivers to do so. Following an audit, the Department of Revenue (Department) assessed unpaid sales tax and penalties. On appeal, the Georgia Tax Tribunal concluded that the app operator was responsible for collecting and remitting sales tax on the charges to customers and approved an assessment of roughly \$9 million against the taxpayer. The taxpayer appealed to Superior Court, which affirmed the judgment of the Tribunal. The Court of Appeals then accepted a discretionary appeal from the taxpayer.

Since its inception in 1951, transportation by hired cars has been subject to the state sales tax, and owners and operators of such vehicles have been responsible for collecting the tax from riders and remitting it to the state. At issue here was a regulation adopted by the Department in 1991 (Ga. Comp. R. & Regs. r. 560-12-2-.84) which provided that the tax remittance responsibility of for-hire drivers operating out of a "headquarters", would shift from the drivers to the "headquarters operators". A "headquarters operator" was defined as any person operating a headquarters for taxicabs and supervising or directing taxicab drivers or receiving and relaying calls to such drivers. The term also included any person allowing the use of the trade name of the headquarters or allowing any driver to hold themselves out as associated with the headquarters. The regulation noted that reliance on the headquarter operators for remittance was necessary to ensure proper collection of the tax.

On appeal, the taxpayer made two primary arguments: (a) the regulation was invalid and exceeded the authority of the Department to promulgate it; and (b) it was not applicable to the taxpayer as it operated no headquarters. As to the validity of the regulation, the court held, after a lengthy analysis, that the regulation was within

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the Department's authority and was consistent with expressed legislative intent to shift the collection responsibility away from individual drivers. In addition, the state supreme court and other courts considered the regulation to be valid in other matters. As to the applicability to the taxpayer, the court concluded that taxpayer's app functions as a "headquarters" under the regulation, as it supervises or directs for-hire drivers and receives and relays calls to drivers.

The court rejected the argument that the taxpayer could not be considered a headquarters due to the lack of physical location, emphasizing that the regulation defines headquarters operators by their actions rather than physical presence. Additionally, the court dismissed the taxpayer's claim that the collection and remittance responsibility was discriminatory under the Internet Tax Freedom Act, noting that it was subject to the same tax obligations as other taxi and limousine headquarters operators.

Note: In 2020, Georgia exempted "for-hire ground transport" from the sales tax and imposed an excise tax on such services to be collected and remitted by the for-hire ground transport service provider itself. The definition of provider specifically includes rideshare network services as defined in a 2015 Georgia law requiring the licensing and regulation of rideshare app providers. Contact [Ben Cella](#) for more information on [Uber Technologies, Inc. v. O'Connell](#).

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