Motor Vehicle Dealers

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PREFACE

This publication is designed to help motor vehicle dealers understand California's Sales and Use Tax Law as it applies to the sale, lease, or use of a vehicle. Information about vehicle repairs and the sale and use of parts is provided in publication 25, *Auto Repair Garages and Service Stations*. If you cannot find the information you are looking for in this publication, please visit the BOE website or call the Customer Service Center at 1-800-400-7115. Customer service representatives are available to answer your questions weekdays between 8:00 a.m. and 5:00 p.m. (Pacific time), except state holidays.

This publication complements publication 73, *Your California Seller's Permit*, which includes general information about obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying, selling, or discontinuing a business; and keeping records. Please also refer to the BOE website or the For More Information section for the complete list of Board of Equalization (BOE) regulations and publications referenced in this publication.

We welcome your ideas on improving this or any BOE publication. Please send your suggestions to:

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Please note: This publication summarizes the law and applicable regulations in effect when the publication was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, the decision will be based on the law and not on this publication.

To contact your Board Member, see *www.boe.ca.gov/members/board.htm*.

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MOTOR VEHICLE SALES

As a motor vehicle dealer or wholesaler, you must obtain a seller's permit, and report and pay tax on your vehicle sales to the BOE. Some sales, however, are exempt from tax under the Sales and Use Tax Law. This section provides information on the taxability of vehicle sales and of charges associated with those sales, such as license fees and dealer-installed extras. Information is also provided on the tax impact of trade-ins, discounts, rebates, and factory-dealer incentives.

If you have any questions regarding the taxability of your sales, please contact the Customer Service Center. *For information on leases and rentals, please see* Vehicle Leases and Rentals.

Introduction

There are a variety of rules that govern how tax applies to sales of new and used motor vehicles. The majority of your sales may involve purchases made by private individuals who will use the vehicle in California for personal or business purposes. In those instances, the transaction is generally subject to tax. However, some vehicle sales may not be taxable based on certain criteria and proper documentation.

A person located in California, who makes three or more sales of vehicles (tangible personal property) in a 12-month period, is a retailer. California law requires retailers to hold a seller's permit. Generally, this is true regardless of whether the sales are at retail, for resale, or delivered outside California, even though it would not be subject to California sales tax.

California seller's permit requirements–dealers, wholesalers, and brokers

Dealers and wholesalers

The BOE requires motor vehicle dealers and wholesalers to register for a seller's permit. When you sell or lease vehicles, or merchandise in California, even temporarily, you are required to hold a seller's permit. If you hold a seller's permit you must report and pay sales and use tax due on your returns.

Brokers

A broker is a *retailer* if you have the power to transfer title to property, and exercises it, either:

- By holding title to the property before its sale,
- By completing a bill of sale to the buyer under power of attorney from the legal owner, or
- By getting a signed bill of sale from the legal owner and delivering it to the buyer.

When entering any transactions in which you have the power to transfer title to a vehicle, you are a retailer in those transactions, and must hold a seller's permit.

A true broker's authority, however, is limited to getting offers from potential buyers and conveying the offers to vehicle owners for their acceptance. As a true broker, you are not liable for the tax, and not required to hold a seller's permit. In transactions in which buyers deal with a true broker, the buyer will be liable for use tax.

Please note: As a broker, you may collect the use tax due on a purchase of a vehicle, as a convenience to your customer. If you collect the use tax from a buyer and provide a receipt, you (the broker), not the buyer, are liable for the use tax amount paid and must pay that amount to the BOE. If the BOE later discovers that additional use tax is due, the buyer is liable for the additional tax. This procedure allows financing the tax in the purchase price of the vehicle and helps avoid future misunderstandings about the buyer's use tax liability.

Buyers; be sure to keep a receipt for any use tax paid to a broker.

If a broker provides this service, they must forward the use tax to the BOE with a statement that shows:

- Name and address of buyer
- Full purchase price of vehicle
- The vehicle identification number (VIN)

You can report your purchase of vehicles subject to use tax on the BOE website at *www.boe.ca.gov* by selecting New Registration, and then select Pay use tax, file an exemption or request a tax clearance. You can also report your purchases of vehicles subject to use tax in person at any of the BOE field offices. Please contact the BOE Customer Service Center for assistance at 1-800-400-7115.

Specific types of sales

Sales of previously leased or rented vehicles

When previously leased or rented vehicles are sold, tax applies to the total selling price, regardless of tax that may have been previously paid on the lease or rental receipts. (See note below if you are licensed as a lessor-retailer with the Department of Motor Vehicles [DMV].)

If a lessee chooses to buy a vehicle as part of a lease agreement, you must report and pay sales tax based on the amount required to be paid upon exercise of that option.

Please note: Licensed Lessor-Retailers

If you sell and lease vehicles and are licensed by the DMV as a lessor-retailer, the following special rules apply to the retail sale of a leased vehicle:

- If you sell the vehicle to the lessee, you are not required to file a report of sale with the DMV. You are also not liable for sales tax on the transaction; however, the lessee will be required to pay use tax when he or she registers the vehicle. (If you do file a report of sale when selling to the lessee, even though you are not required to do so, you will owe sales tax on the sale.)
- If you make a retail sale of a leased vehicle to someone other than the lessee, you are required to file a report of sale and to report and pay sales tax.

Transfer of a vehicle to a lessee by a lessor—as a sale for resale

The sale of a vehicle to a lessee by a lessor may be considered a nontaxable sale for resale. If the lessee transfers *title and registration to a third party within 10 days from the date the lessee acquires title from the lessor* at the expiration or termination of a lease, the sale will be presumed to be a sale for resale. Transfer of title and registration occurs when the lessee endorses the certificate of ownership.

As the lessor, or seller, you may accept a resale certificate from a purchaser who intends to resell the vehicle. Assuming that the purchaser is not engaged in the business of selling vehicles, as defined in Regulation 1595, *Occasional Sales—Sale of a Business—Business Reorganization*, the purchaser must include on the resale certificate a specific description of the vehicle, including the serial number (vehicle's identification number (VIN)). For more information on resale certificates, refer to Regulation 1668, *Sales for Resale,* and Regulation 1610*, Vehicles, Vessels, and Aircraft*.

If the purchaser of the vehicle is not required to hold a seller's permit because the purchaser only sells property of a kind the retail sale of which is not taxable, or because the purchaser, for example, sells vehicles exclusively in interstate commerce, the purchaser *must* include an appropriate notation to that affect in lieu of a seller's permit number on the resale certificate (BOE-230, *General Resale Certificate*). For example, the purchaser may state on the resale certificate under number 1, I hold valid seller's permit number: *I am not required to hold a California seller's permit because I make no sales in this state.*

If such a resale certificate is issued timely by the purchaser and taken in good faith by the lessor, or seller, it is considered a valid resale certificate and the certificate relieves the lessor, or seller, from liability for the sales tax and the duty of collecting the use tax.

A person that has a seller's permit, for example, a jewelry store shouldn't issue a resale certificate using their seller's permit number for items they are not reselling in their business operations. Since the jewelry store owner is not in the business of selling vehicles they would issue a resale certificate with a specific description of the vehicle including the VIN. In place of a seller's permit number they would state that they are purchasing the vehicle for the purpose of reselling the vehicle within 10 days from acquiring title, as *referenced in* Regulation 1610.

This would be an occasional sale for the jewelry store owner not a sale made in the regular course of business.

If the purchaser insists that the purchaser is buying for resale, property of a kind not normally resold in the purchaser's business, the seller should require a resale certificate containing a statement that the specific property is being purchased for resale *in the regular course of business*.

To document the ten days from the date title was received, the lessee may request that you send the title via registered mail. This will supply supporting information indicating the day the title is received by the lessee. That day starts the 10-day period in which title and registration must be transferred to a third party to be considered a nontaxable sale for resale. If the lessee fails to resell the vehicle within the 10-day period, the lessee will be responsible for the tax based on the purchase price from the lessor.

If the lessee sells the vehicle and transfers title and registration to a third party within the 10-day period, generally, the purchaser (third party) must pay use tax to the DMV at the time of registration.

Company vehicles and demonstrators

Tax applies to the sale of company cars, parts and service department vehicles, tow trucks, demonstrators, and so forth, in the same manner as it applies to other vehicle sales. Record the sales of these vehicles in the normal manner with regular sales. Otherwise, they may be overlooked for tax reporting purposes.

Demonstrators being held for resale or lease and used solely for demonstration or display purposes are not subject to tax until sold. However, vehicles that are held for resale or lease and used even partly for purposes other than demonstration or display may be subject to use tax. See Vehicles Used for Purposes Other Than Resale or Lease, for more information.

Repossessed vehicles

The sale of a repossessed vehicle is no different for tax purposes than other retail sales. If you transfer a repossessed vehicle to a third party who assumes the unpaid contract, you must report and pay sales tax based on the total sales price.

Vehicles purchased for use outside California

You are generally not required to report tax on a vehicle that is sold and delivered for use outside California. You must establish that the vehicle was delivered to the purchaser outside California (for example, delivered by your employee or by common carrier), and that the purchaser did not take possession of the vehicle in California.

Required documentation

This may include evidence of the customer's out-of-state address, such as utility bills or property tax bills.

If the delivery is made by a common or contract carrier, customs broker, or forwarding agent, documents supporting the delivery or shipment may include bills of lading.

If delivery is made by facilities operated by the retailer, documents such as:

- The employee's expense claims that include fuel or hotel receipts, and
- A statement signed by the delivery person and the purchaser, such as a BOE-448, *Statement of Delivery Outside California*, certifying delivery of the vehicle to an out-of-state location, may be used.

You are urged to have this statement notarized at the out-of-state delivery point. This form can be used by a dealer to certify a vehicle was delivered to a purchaser at an out-of-state location. It is also used by a purchaser to support the fact that delivery was accepted out of state. Once completed, the original must be returned to you for your records.

If your customer claims the sale is not subject to tax because the vehicle is being purchased for use outside California and you know the customer is a resident of this state, it is important to obtain a signed statement (BOE-447, *Statement Pursuant to section 6247 of the California Sales and Use Tax Law*) certifying that the vehicle is being purchased for use outside California. You may also use a statement that is substantially similar to the BOE-447. If you do not obtain a signed statement from the customer, the vehicle is considered to be purchased for use in this state, and you must collect tax on the sale. A dealer may complete the DMV registration of a vehicle for its California customers. However, if the dealer accepts a BOE-447 from a California resident who requests the dealer register the vehicle in California, the dealer's good faith acceptance of this certification may be questioned.

If all of the above conditions are met for delivery outside the state, you are generally not required to pay tax on the sale. Although you must report the sale as part of total gross receipts on your tax return, you may claim the amount of the sale as a deduction on the same return, under "Sales in Interstate or Foreign Commerce."

Although you are not required to pay or collect tax on a vehicle purchased and delivered for use outside California (as described above), the buyer may be required to pay use tax. Please see publication 52, *Vehicles and Vessels: Use Tax*.

Vehicles purchased for use in this state

A vehicle purchased out of state and brought into California is regarded as having been purchased for use in this state if the first functional use of the vehicle is in California. In this case, the buyer is generally liable to pay use tax on the purchase price of the vehicle. The applicable use tax rate is determined by where the vehicle is garaged and used. (See Special Taxing Jurisdictions.)

When the vehicle enters California but was first functionally used outside of California, the vehicle will nevertheless be presumed to have been purchased for use in this state unless certain criteria are met and documentation can be provided as proof of the intent of out-of-state use. Please refer to publication 52, *Vehicles and Vessels: Use Tax*, which includes a BOE-106, *Vehicle/Vessel Clearance Request*.

Vehicles purchased for out-of-state use and brought into California for warranty or repair service

Customers may bring vehicles into California for you to repair from locations outside California. Tax applies to your charges for work on those vehicles in the same way it does to your other warranty or repair jobs, but you may need to provide some extra documentation to your customer. For the period September 20, 2006, through June 30, 2007, and on or after October 1, 2008, California law provides a use tax exclusion for vehicles purchased outside California

and brought into this state for the exclusive purpose of warranty or repair work for no more than 30 days. The 30-day period includes any travel time to and from the repair facility. When you perform warranty work on a vehicle brought into California, your invoice or work order should show the dates the vehicle was in your possession. That will help your customer show, if necessary, that the vehicle may be eligible for the use tax exclusion. As noted above, this has no influence on how you apply tax to your warranty or repair charges. For additional information, please refer to publication 52, *Vehicles and Vessels: Use Tax*.

Vehicles used in interstate commerce

If you sell a vehicle for use in interstate commerce (to transport people or property for hire between states), you are not required to report tax on the sale. However, the following conditions must be met for this exemption to apply:

- The vehicle must be delivered to the purchaser outside California.
- You must obtain from the buyer a signed statement, taken in good faith, certifying the following:
  1) That the vehicle will be functionally used in interstate commerce prior to its entry into California.
  2) That the vehicle will be used continuously in interstate commerce, both within and outside California.
  3) That the buyer understands that if the BOE determines, based on the vehicle's use, that use tax is payable, he or she will pay the tax directly to the BOE (see Customer's liability if vehicle is used in California, below).

If you deliver or ship a vehicle to an out-of-state location for use in interstate commerce, you need to retain:

1) Documents supporting the delivery or shipment, such as bills of lading, employee expense claims, and so forth, and
2) A notarized statement signed by the delivery person and the purchaser, certifying delivery of the vehicle to an out-of-state location.

You can use a BOE-448, *Statement of Delivery Outside California*, or a statement that is substantially similar to the BOE-448.

If all of the above conditions are met, you are generally not required to pay tax on the sale. Although you must report the sale as part of total gross receipts on your tax return, you may claim the amount of the sale as a deduction on the same return, under "Sales in Interstate or Foreign Commerce."

Customer's liability if vehicle is used in California

Although you are not required to pay or collect tax on a vehicle purchased and delivered for use in interstate commerce (as described above), the buyer may be required to pay use tax unless certain criteria are followed as set by California law. Please refer to Regulation 1620, *Interstate and Foreign Commerce,* or publication 52, *Vehicles and Vessels: Use Tax*, for additional information.

Sales of vehicles

Military personnel

Sales of a vehicle to a member of the military who is on active duty by a dealer, manufacturer, or dismantler, who is licensed or certificated in California, may not be subject to sales tax. Please refer to Regulation 1610, *Vehicles, Vessels, and Aircraft*, or publication 52, *Vehicles and Vessels: Use Tax*.

Disabled veterans

A partial sales tax exemption may apply to sales of vehicles to disabled veterans. If a portion of the payment is made by the veteran and a portion is paid directly by the Veterans Administration, tax applies only to the amount paid by the veteran. See Modifications of vehicles for persons with disabilities.

Supporting documents for sales to disabled veterans

Any seller claiming a transaction as exempt or partially exempt under these circumstances must obtain from the purchaser, and retain, a government purchase order or documents demonstrating direct payment by the Veterans Administration to support the claim.

When you make a tax-exempt or partially exempt sale or lease, be sure to retain documentation clearly showing that the transaction is a sale to the U.S. government. Documentation can include items such as:

- Purchase orders.
- Documents showing direct payment by the U.S. government.
- Shipping and related documents if there is a question that the merchandise might have been sold directly to an individual in the armed services rather than to the U.S. government.

The documentation furnished by the Veterans Administration parallels that of other purchases by the U.S. government. In addition, the selling dealer is required to show the Veterans Administration as the actual purchaser on the sales invoice to the extent that payment is made by the Veterans Administration. However, the vehicle must be registered in the purchaser's name and all other documents must reflect the disabled veteran as the purchaser. Verification of the validity of the exemption must readily be available by examination of the customer folder (car jacket).

Residents of a foreign country

Subject to certain conditions, neither sales tax nor use tax applies to the sale of a new, noncommercial motor vehicle manufactured in the United States and sold to a resident of a foreign country.

Please note: This exemption applies only to residents of a foreign country, and does not apply to California residents or residents of other states. The exemption allows the foreign purchaser to operate the vehicle in California for the valid period of the in-transit permit without payment of sales or use tax on the purchase.

To qualify for the exemption, the following conditions must be met:

- The foreign resident must have arranged for the purchase through an authorized vehicle dealer in the foreign country before coming to the United States.
- The purchaser must obtain an in-transit permit from the DMV, as required by section 6700.1 of the Vehicle Code.
- Before the 30-day in-transit permit expires, the retailer must deliver or ship the vehicle to a point outside the United States by means of:
    1) Facilities of the retailer (for example, having the vehicle driven to a foreign destination by a dealership employee or using dealership equipment to make the delivery).

2) A carrier, forwarding agent, export packer, customs broker, or other person engaged in the business of preparing property for export, or arranging for its export (third-party delivery company).

If you claim this exemption, you must obtain and retain evidence to support your claim. Examples of vehicle export evidence that you deliver or ship to a foreign country by your employees or by other means include the following:

- Bills of lading
- Import documents of a foreign country
- Employee expense claims
- Fuel purchase receipts and motel receipts

If a vehicle is not removed from this country as required above, you as the retailer will be liable for the sales tax, as well as applicable fees and penalties provided for in section 6700.1(a) of the Vehicle Code. That section also provides that if the conditions of the in-transit permit are not met, the manufacturer of the new motor vehicle sold to a foreign purchaser under the above conditions will reimburse the retailer for an amount equal to the sales tax and registration fees and penalties paid by the retailer. Such amounts received by the retailer from the manufacturer are not considered part of the gross receipts from the sale of the vehicle. See Regulation 1610, *Vehicles, Vessels, and Aircraft*.

Sales or leases of vehicles to foreign consuls or consular missions

The sale or lease of vehicles to foreign consular officers, employees, or members of their families will be exempt from sales and use tax if at the time of the transaction, the purchaser or lessee provides a Tax Exemption Card to the retailer and the U.S. State Department, Office of Foreign Missions (OFM) directly furnishes an eligibility letter to the retailer or lessor for the tax exemption for each vehicle.

The OFM issues "Tax Exemption Cards" to qualifying foreign diplomatic personnel. The cards include a photograph and a description of the authorized bearer, and specify either that all transactions or only transactions that exceed a stated amount (threshold level) are exempt. Some cards limit the exemption to official purchases only and do not apply to personal purchases.

The retailer or lessor must retain an invoice or other written evidence of the sale and attach a photocopy of the front and back of the card, the number of the exemption card, the OFM letter to support tax exemption, and the exemption threshold level specified on the card to support this type of claimed exempt sale. The seller may also request additional identification from the buyer, such as a U.S. State Department driver license or diplomatic identification card.

If you have questions or concerns regarding these procedures, please contact the OFM at 1-415-744-2910 in San Francisco or 1-310-235-6292 in Los Angeles.

Please note: Vehicles that are sold and registered to foreign governments (rather than to diplomatic personnel of those governments) are generally subject to sales tax. For additional information refer to Regulation 1619, *Foreign Consuls*.

U.S. government agencies

Sales tax does not apply to the following:

- Sales to the U.S. government or its unincorporated agencies and instrumentalities.
- Sales to any incorporated agency or instrumentality of the United States owned wholly either by the United States or by a corporation wholly owned by the United States.
- Sales to the American National Red Cross, its chapters and branches.

You must obtain and keep copies of government purchase orders or remittance advices to support claimed exemptions.

Please note: Generally, tax applies to sales to state, county and city government agencies. In addition, the following organizations are not considered exempt agencies of the United States. Consequently, sales to these and other nonexempt organizations are subject to tax:

- American Legion Posts in federal areas
- Community action organizations
- District agricultural associations
- National Guard

Federal credit unions and other federal banks

If you sell a vehicle to a federal credit union, a federal home loan bank, a federal land bank, or a federal reserve bank, the sale is exempt from sales tax because, under federal law, such banks and federal credit unions are exempt from direct state taxation. Sales to other banks and credit unions, however, are generally subject to tax.

For further information, please refer to Regulation 1614, *Sales to the United States and Its Instrumentalities*, and publication 102, *Sales to the United States Government*.

Dealer sales of vehicles to Indians: Retailers located outside Indian country

Tax generally applies to a dealer's sales of vehicles to Indians in the same way it does to sales of other merchandise. However, sales tax generally does not apply to sales to Indians who live in Indian country when the vehicle is delivered in Indian country and ownership also transfers to the Indian in Indian country. The sale does not qualify for the exemption if the Indian takes possession of the vehicle before delivery in Indian country. The same principles apply to sales to Indian organizations.

Please note: "Indian" refers to American Indian; "Indian country" generally has the same meaning as a "reservation."

For information on documenting sales to Indians who live in Indian country or Indian organizations located in Indian country, see publication 146, *Sales to American Indians and Sales in Indian Country*. Or, you can call the BOE Consumer Use Tax Section directly at 1-916-445-9524.

Sales to other dealers for resale

Department of Motor Vehicles dealer license verification/status

You can search for a dealer's license online, or check the current license status of businesses licensed by the DMV. To use the DMV's Occupational License Information System, go to: *www.dmv.ca.gov*.

New car resales to other new car dealers with the same franchise

The California Vehicle Code [section 11713.1 (f) (1)] prohibits a dealer from purchasing a new motor vehicle for resale of a line or make for which the dealer does not hold a franchise. An example would be the purchase of a new Ford by a Chevrolet dealer. As a new car dealer, you are advised not to accept a resale certificate for this type of transaction. Because this type of transaction is in violation of the dealer's license, you may not accept the resale certificate in good faith, even if it contains a statement that the specific vehicle is being purchased for resale in the regular course of business.

If a franchised dealer sells a vehicle to another franchised new vehicle dealer of the same line, the first dealer must submit a *Notice of Transfer and Release of Liability* (see *dmv.ca.gov*). The selling dealer is not required to report the transaction on its *Wholesale Report of Sale*.

Used car resales

If you sell or trade a new or used vehicle to another dealer for resale, you are not required to report tax on the sale if the buyer provides you with a valid resale certificate at the time of purchase. When such sales are made to dealers who handle the same line of vehicles, there is generally no difficulty in showing that the sales were for resale.

The *Wholesale Report of Sale* is prepared to report sales of used vehicles from dealer to dealer. This includes wholesale transactions to out-of-state or out-of-country dealers, scrap metal processors, and dismantlers. In case of a wholesale roll back, the buyer must complete a *Wholesale Report of Sale back* to the selling dealer.

However, there are instances when another dealer will purchase a vehicle for a purpose other than for resale. For example, you may sell a Chevrolet truck to a Buick dealer who will use the truck for the parts department. Because the purchase is not for resale, you cannot accept a resale certificate and must report and pay sales tax.

Sales to leasing companies

Under the provisions of Regulation 1660, *Leases of Tangible Personal Property–In General*, the lessor may give a resale certificate if the lessor reports tax measured by the rentals payable.

Passenger and other vehicles

Passenger vehicles and other vehicles that are not defined as mobile transportation equipment, may be sold to leasing companies for resale under certain conditions. The purchaser must provide a valid resale certificate to the seller in the proper form as described in Regulation 1668, *Sales for Resale*. The certificate must contain:

- The signature of the purchaser, purchaser's employee, or authorized representative of the purchaser.
- The name and address of the purchaser.
- The number of the seller's permit held by the purchaser.
- The phrase "for resale." The use of phrases such as "nontaxable," "exempt," or similar terminology is not acceptable.

The purchaser must provide the resale certificate to the seller in a timely manner.

Timely acceptance of resale certificate

When making a sale for resale, you must obtain a resale certificate from your customer in a timely manner. Timely is considered to be any of the following:

- Before you bill the purchaser for the sale;
- At any time within your normal billing and payment cycle; or
- At any time prior to, or upon, delivery of the item.

Accepting a resale certificate late does not relieve you of liability for the tax. If the BOE questions a transaction and you accepted a late certificate, you will be required to present other satisfactory evidence to verify that the sale was a nontaxable sale for resale (see Regulation 1668).The seller may accept the certificate in good faith only if:

1) The property being purchased is for resale.
2) The person is engaged in the business of selling the type of tangible personal property being purchased.

Property purchased by issuing a resale certificate must be described either by an itemized list of the particular property to be purchased for resale, or by a general description of the kind of property to be purchased for resale. If a purchaser issues a general (blanket) resale certificate which provides a general description of the items to be purchased, and wishes to designate on each purchase order whether the property being purchased is for resale, the seller must obtain a qualified resale certificate, for example, one that states "see purchase order" in the space provided for a description of the property to be purchased.

If a leasing company is buying both for resale and "tax paid at source," all purchase orders from that leasing company must be carefully marked as either taxable or for resale.

If a purchaser issues a general (blanket) resale certificate, the purchase order issued by the purchaser to the seller supersedes a resale certificate.

The vehicles must be registered in the manner prescribed by section 4453.5 of the California Vehicle Code, that is, either in the name of the lessor or the lessor and lessee jointly. (If a vehicle is registered in the name of the lessee only, the BOE considers the transaction a retail sale and subject to tax.)

Lessors who own vehicles registered in the names of lessees may only have the registration changed to show either the lessor or the lessor and lessee relationship on the registration card. Under these circumstances, lessors may continue to pay tax based on the rental receipts. Further information on sales of vehicles to leasing companies is included in Regulation 1610*, Vehicles, Vessels, and Aircraft*.

Mobile transportation equipment

Leasing companies that purchase mobile transportation equipment (defined under Vehicle Leases and Rentals) are not generally considered retailers of the equipment being purchased, rather they are generally considered consumers (users) of such equipment. As a result, you must report and pay tax on the sale.

Please note: You can sell mobile transportation equipment to a leasing company without paying tax if the following conditions are met:

- The leasing company issues a valid and timely resale certificate, and
- The leasing company issues the resale certificate for the limited purpose of reporting use tax liability based on the fair rental value of the equipment (see Vehicle Leases and Rentals).

Dismantlers and Auctions

Your sales of vehicles, motorhomes, commercial coaches, and salvage vehicles are taxable retail sales unless you timely, and in good faith accept a completed resale certificate from someone who is licensed, registered, regulated, or certificated as a dealer, dismantler, automotive repair dealer, or is a qualified scrap metal processor. The resale certificate must include all of the required elements as stated in Regulation 1566.1, *Auto Auctions and Auto Dismantlers*.

The certificate must contain:

- The signature of the purchaser, purchaser's employee, or authorized representative of the purchaser.
- The name and address of the purchaser.
- The number of the seller's permit held by the purchaser. If the purchaser is not required to hold a permit because the purchaser makes no sales in this state, the purchaser must include on the certificate the reason the purchaser is not required to hold a California seller's permit in place of a seller's permit number.
- A statement that the property described in the document is purchased for resale in the regular course of business. The document must contain the phrase "for resale." The use of phrases such as "nontaxable," "exempt," or similar terminology is not acceptable.
- The property to be purchased under the certificate must be described either by an itemized list of the particular property to be purchased for resale, or by a general description of property to be purchased for resale.
- A statement that the purchaser is licensed, registered, regulated, or certificated as a dealer, dismantler, automotive repair dealer, or is a qualified scrap metal processor.
- The license or registration number held by the purchaser, as applicable.
- If the purchaser is regulated by another state, the certificate should identify the state.
- Date of execution of the document.

A *California Resale Certificate - Sales by Auto Auctions and Auto Dismantlers*, is included in Regulation 1566.1. For additional information please call the BOE Customer Service Center at 1-800-400-7115.

Other types of sales

Sales of vehicles owned by dealership personnel (accommodation sales)

Personal cars of managers, salespersons, employees, or other personnel are often displayed for sale at a motor vehicle dealer's place of business, or a dealer may otherwise aid in the sale. As a motor vehicle dealer, you must report and pay sales tax if either of the following occurs:

- You report the sale to the DMV on a Dealer's Report of Sale.
- You execute a conditional sales contract on which your name appears as the seller.

Transfer of equity sales

To prevent a default or repossession of a vehicle, you may participate in arranging for a transfer of equity from the original purchaser to another party. Under certain conditions, you may be required to report and pay tax on such transfers.

For example, if you assist in the transfer by displaying the vehicles for sale on your lot, obtaining the new purchaser, and negotiating the transfers at your place of business, you may be liable for sales tax. If your participation is only incidental and the negotiations are handled by the parties and lending institutions, you have no sales tax liability for the transfer. However, if you prepare a Dealer's Report of Sale to the DMV, or if you execute a conditional sales contract as the seller, you will be liable for sales tax on the transfer.

Please note: A transfer of equity is a sale between two individuals in which the purchaser assumes the conditional sales contract balance of the seller. A true transfer of equity, in which the motor vehicle dealer has no function other than the approval of the transferee, results in no additional tax liability to the dealer.

Consignment sales

If you sell a vehicle for a person on a consignment basis, the transfer and sale to the customer are considered to be a sale made by the dealer. Consequently, sales tax must be reported and paid on the sale in the same manner as for any other sale.

Vehicle auction

A Vehicle Auction Wholesale Report of Sale is required for the sale or transfer of a vehicle by a dealer conducting a wholesale motor vehicle auction. These forms may be computer generated or ordered from the DMV at *www.dmv.ca.gov* and include the vehicle identification number of the vehicle, true mileage, buyer's name, auction's name and number, and the seller's name and signature. In addition to this form, the dealer is still responsible for completing and filing the Wholesale Report of Sale.

Special charges related to motor vehicle sales

License fees

Sales tax does not apply to license fees that you collect from a customer and pay to the DMV. If, however, you collect more than the amount required by DMV, you must report and pay tax on the excess amount collected.

Dealer-free full tank of gas

As a dealer, you may or may not be able to use a resale certificate to purchase fuel. Sales tax does not apply to purchases made with a valid resale certificate when you intend to resell the fuel at the time of purchase. Whether you can use a resale certificate will depend on whether you are considered the consumer of the fuel or the retailer. Unless you make a separate charge for gasoline, you are not liable for reporting tax on gasoline that is prepaid along with the vehicle at the time of sale, as it is considered to be sold as part of the vehicle.

If you purchased gas tax paid that you sold with your vehicles, please see Claiming a Tax-Paid Purchases Resold Deduction for Gasoline and Diesel Fuel for information about claiming a deduction on your return.

Labor and services

Charges for repair, installation, and maintenance labor on customer owned vehicles are generally not taxable. Generally, you must state labor and service charges separately on your customer invoices. For example:

- Installation labor on used vehicles such as replacing spark plugs, replacing brake shoes or pads, removing and installing engines, or installing sound and video systems.
- Repair labor to bring a vehicle back to its original condition. Examples of repair labor include rebuilding carburetors or heads, replacing parts in engines or transmissions, and performing body and fender work.
- Maintenance services such as tune-ups, oil changes, or radiator flushes.
- Services such as charging a battery or towing a vehicle.

Exceptions: While sales or use taxes may generally not apply to repair, installation and maintenance labor, there are two exceptions (See Dealer Installed Extras and Fabrication Labor below). For additional information, please refer to Regulation 1546, *Installing, Repairing, Reconditioning In General*.

Dealer installed extras

Prior to delivery, you may install accessories such as sound and video systems, air conditioning units, trailer hitches, and so forth in connection with the sale of the vehicle. The charges for these dealer-installed extras, including installation labor charges, are subject to tax as fabrication labor and must be included as part of the selling price on which tax is based. (See the BOE discussion of fabrication labor, below.) Tax also applies to charges for undersealing, or similar charges, even if the work is sublet and only involves labor or services.

Fabrication labor

Labor to install parts or accessories on a new or used vehicle, if the vehicle is owned by the dealer prior to sale, is considered a stage in the creation or production of the vehicle, and as a result, the labor charge is taxable.

When you install parts or accessories on a *new vehicle* your labor charge is part of the production of the new vehicle and is taxable fabrication labor. As a general rule of thumb, you are considered to be working on a new vehicle if both of the following apply:

- The vehicle qualifies as a new vehicle when it is registered with the DMV, and
- You contract to work on the vehicle within 60 days of the registration date.

Examples of fabrication labor include, adding utility boxes to a new truck, putting a sound or video system into a new car, or converting a new van.

The entire selling price of vehicles in your inventory that you repair or install new or used parts is subject to tax, whether or not the charges are separately stated.

For additional information, please see Regulation 1526, *Producing, Fabricating and Processing Property Furnished by Consumers—General Rules;* Regulation 1546, *Installing, Repairing, Reconditioning in General;* publication 108*, Labor Charges;* and publication 25, *Auto Repair Garages and Service Stations*.

Exceptions: Fabrication labor for new vehicles is not taxable if the work qualifies as a sale for resale (see Sales to other dealers for resale) or a sale to the U.S. government (see U.S. government agencies). In addition, your charges for materials and labor for vehicle modifications that enable the vehicle to be used or driven by a physically handicapped person may not be taxable.

For more information about exemptions for modifications to vehicles used by physically handicapped persons, see Regulation 1591.3, *Vehicles for Physically Handicapped Persons*. In this publication, please see, Modifications to Vehicles Used by Persons with Disabilities. If you have additional questions, please call the BOE Customer Service Center at 1-800-400-7115.

Documentation fees

Charges for document preparation (doc fees) in connection with the sale of a vehicle, such as transfer papers required by the DMV, are subject to tax.

Federal retail excise tax

The federal retail excise tax imposed on the retail sale of heavy trucks and trailers is not subject to California sales and use tax. This is true whether or not it is separately stated on the sales invoice.

Broker's fees and commissions

Brokers sometimes participate in the sale of a vehicle and act as an agent of the motor vehicle dealer or the customer. When the broker is acting as an agent of the retailer, the retailer must include commissions paid to the broker as part of the taxable selling price of the vehicle. When the broker is acting as an agent of the customer, the fee charged by the broker is not subject to tax.

Financing, interest, and insurance charges

Financing, interest, and insurance charges are not subject to tax. When you sell a vehicle on credit, under a security agreement or otherwise, show the sales price separately from charges for insurance, interest, financing, or for carrying the contract. If you do not show these charges separately, they may be subject to tax.

Smog certification fees

Fee charge. The fee for the smog certificate required by the Department of Consumer Affairs (DCA) is not taxable. Amounts charged in excess of the smog certificate fee are taxable.

Related charges. Other charges for the smog check, such as inspection charges, are taxable if the smog check is done for a vehicle you plan to sell. If the smog check is not done in connection with a retail sale, the labor charge in excess of the certificate fee is not subject to tax.

For information on the taxability of charges for repairs associated with a smog check, please refer to publication 25, *Auto Repair Garages and Service Stations*.

If you have questions regarding the taxability of smog certificate charges, please contact the BOE Customer Service Center at 1-800-400-7115. If you have questions regarding smog certificate requirements, please contact the nearest office of the Bureau of Automotive Repair (BAR), DCA.

Warranties

Charges for mandatory factory warranties are subject to tax, whether or not the charges are stated separately on the invoice. Charges for optional warranties (warranties that are not required and are purchased by the customer for an extra charge) are not subject to tax. Please refer to Regulation 1655, *Returns, Defects and Replacements*, and publication 119, *Warranties and Maintenance Agreements*.

For information on the taxability of parts furnished under a warranty, please see publication 25, *Auto Repair Garages and Service Stations*.

Trade-ins, discounts, rebates, and incentives

Trade-ins

If you accept a trade-in on the sale of a vehicle, the allowance for the trade-in cannot be excluded from the amount on which tax is based. For example, if you sell a car for $20,000 and accept a trade-in valued at $4,000 as partial payment, tax is based on the $20,000 selling price.

If you allow a value on the trade-in that is higher than its actual value, the overallowance may not be treated as a discount or otherwise deducted from the amount subject to tax. Similarly, if you allow a value that is less than the fair market value, the BOE will presume that the allowance agreed upon is the fair market value (unless the facts indicate that the under allowance is for the purpose of avoiding sales tax).

Dealer-purchased incentives

Dealerships are consumers of free incentives offered for vehicles purchased, such as prepaid gas cards, gas vouchers, maintenance checks, car washes, or oil and filter changes, that are segregated and not included in the sales price to your customers. Tax applies to your purchase of supply items necessary to provide these incentives to customers.

Discounts

If you sell a vehicle at a discount, the amount of the discount is not subject to tax. For example, if you sell a $15,000 vehicle and discount the price by 10 percent ($1,500), tax is based on the $13,500 selling price. The records related to the sale should clearly show the discount amount agreed upon, the amount subject to tax, and the amount of tax.

If both a discount and a trade-in are involved in a sale, the records must indicate both the discount value and the amount allowed for the trade-in. Otherwise, the amount of the claimed discount is considered an overallowance, and the total sales price is subject to tax.

Factory-dealer incentives

Under a factory-dealer incentive, the manufacturer sells the vehicle to the dealer at a discounted price to promote the sale of the vehicle. The dealer, in turn, is able to sell the car to the customer at a lower price. The amount of the discount received by the dealer is not subject to tax. Tax is based on the selling price of the vehicle.

Third-party discount or rebate programs

Manufacturers, vendors, or other third parties often offer programs providing discounts on specific products. Generally, to make up for the price reduction, the third party will compensate you directly. There are also programs in which you reduce the sales price in exchange for a discount on your purchase price of the product.

The following are examples involving payments by automobile manufacturers to automobile dealers or end-use customers for the sale or lease of automobiles.

1) An automobile manufacturer provides a customer with a $1,000 rebate on the purchase of a specific automobile. Rather than receive payment from the manufacturer, the customer assigns the rebate to the dealer, who in turn applies the rebate amount toward the customer's payment for the vehicle. The $1,000 payment

by the manufacturer is part of the dealer's gross receipts, since the rebate is provided to the customer who uses the rebate amount to partially satisfy that customer's total payment debt to the dealer. The $1,000 rebate does not constitute a reduction in the retailer's gross receipts as a retailer's coupon, cash discount, purchase discount, or otherwise.

2) An automobile dealer receives a $500 incentive from the automobile manufacturer for every vehicle sold of a specific model in a given period. The manufacturer does not have an oral or written contract requiring the dealer to sell the specific model at a reduced price. The selling price is based solely on the dealer's discretion. Under these facts, the $500 payment by the manufacturer is not part of the dealer's gross receipts since the manufacturer does not require a reduction in the retail selling price of the vehicle. The $500 incentive instead constitutes a reduction in the dealer's cost of goods sold.

Cash for Clunkers

The Consumer Assistance to Recycle and Save Act of 2009 (CARS) established a rebate program that helps owners purchase or lease a new, more fuel-efficient vehicle when they trade in a less fuel-efficient vehicle. This program is often referred to as "Cash for Clunkers." The portion of the gross receipts from the sale or lease of a new vehicle paid by the federal government, by the use of the CARS rebate, is a nontaxable sale to the U.S. government (see publication 102, *Sales to the United States Government*).

Regulation 1671.1, *Discount, Coupons, Rebates, and Other Incentives*, clarifies how tax applies to third-party discounts, rebates and incentive programs. If you are offering an incentive different from the examples described above, please contact the BOE Customer Service Center at 1-800-400-7115, for advice regarding how to apply tax.

VEHICLE LEASES AND RENTALS

Vehicle leases and rentals are generally subject to tax. For general information on leases, see publication 46, Leasing Tangible Personal Property.

Mobile transportation equipment (MTE)

The tax rules that apply to mobile transportation equipment leases differ from those that apply to other vehicles. For that reason, first determine whether a vehicle qualifies as mobile transportation equipment. Please see Regulation 1661, *Leases of Mobile Transportation Equipment*.

Examples of MTE

The following are classified as mobile transportation equipment:

- Trucks.
- Truck tractors.
- Truck trailers.
- Pickup trucks, including smaller pickups. (Even though pickup trucks are often considered to be passenger vehicles, they are, in fact, mobile transportation equipment and must be treated as such.)
- Buses.
- Vehicles designed for carrying more than ten people including the driver.
- Panel trucks designed primarily for carrying property. (Such vehicles cannot be registered as passenger vehicles and are therefore classified as mobile transportation equipment.)
- Vans equipped with a front seat only and designed primarily for carrying property.
- Hearses.
- Bogies. (The term bogie refers to a vehicle that consists of an axle, or axles, with wheels and tires with a device mounted on its frame to support a container [van body] as an undercarriage. It acts as wheels for and in conjunction with the container [or van body]. Bogies are specifically designed to couple under a container temporarily for highway use, being detachable when not required. Bogies may be designed and constructed to allow a sliding movement under a container [or van body] to several positions in order to adjust to the desired axle loading.)
- Chassis. (The term chassis means a frame with one or more axles designed to be used in conjunction with, and as a temporary support or undercarriage for, a container or other van-type box. The chassis and axle, or axles, may be designed and constructed to allow a sliding movement for extending the chassis to allow the carriage of various length bodies or to allow movement of one or more axles to any given position under the container. When operated as a semitrailer, the front portion of the container and chassis is attached to a motor vehicle or dolly.)
- Dollies. (The term dolly refers to a vehicle that consists of a tongue, fifth wheel, and axle equipped with wheels and tires to be connected to a semitrailer so as to support the front end of the semitrailer, including a portion of the cargo thereon, but which is not permanently attached to the semitrailer.)

  When coupled to the semitrailer by its fifth wheel (which is mounted on the frame) and to a trailer by the tongue, the semitrailer becomes in effect a "full" trailer. A dolly may also be designed and used as the third or rear axle of a two-axle tractor to act as an additional axle to support a portion of the weight of a towed semitrailer and any load thereon, thus reducing tractor axle loads. Pole, pipe, and logging dollies consist of a tongue,

bolster and axle, or axles, equipped with wheels and tires. When connected to a motor vehicle by its tongue, or by the cargo, this type of dolly is used to transport long poles, timbers, logs, pipes or structural materials with the rear end of the cargo resting on the dolly bolster and the front end on the motor vehicle.

- Tangible personal property that is or becomes a component of mobile transportation equipment.

Application of tax to leases of MTE

Regulation 1661, *Leases of Mobile Transportation Equipment*, provides an option to lessors of MTE.

1) As a lessor, if you purchase mobile transportation equipment for lease, the sale to you is a retail sale and you are considered the consumer (user) of the equipment *unless* you elect to pay tax based on the equipment's fair rental value (normally the rental amount required by the lease).
2) If you elect to pay tax based on the fair rental value of mobile transportation equipment, you may issue a resale certificate to the seller when purchasing the equipment.
3) If you elect to pay tax based on the fair rental value, you *must* make this election on a *timely basis*. Regulation 1661, defines a *timely basis*, as your first tax payment must be made on or before the due date of a return for either the period in which the equipment is first leased or the period in which the equipment first entered California, whichever is later. *If your election is not timely*, you must pay tax based on your total purchase price of the equipment. This election may not be changed with respect to the specific equipment being leased (irrevocable election).

Tax based on fair rental value

Tax applies, based on the fair rental value, for each reporting period the MTE is leased throughout the term of each lease—even though the lessee may not make the required rental payments. Likewise, tax must be reported and paid whether the equipment is in California or outside the state. As long as you (the lessor) continue to own the equipment, you must pay tax at the same rate that was in effect when you first leased the equipment. This rate also remains in effect throughout the term of subsequent lease agreements. If you sell the equipment and the new purchaser elects to pay tax based on the fair rental value, the new purchaser will pay tax at the rate in effect at the time of his or her purchase.

Although you are required to report and pay use tax each reporting period in which the MTE is leased, you can be reimbursed by your customer (the lessee) for the use tax so long as the reimbursement amount:

1) Is stated separately on the lease agreement, and
2) Is not represented as use tax owed by the lessee. You must also provide the lessee with a receipt for each payment.

See, Miscellaneous charges when tax is based on rental receipts, and Required notifications to lessee.

Tax based on the purchase price

Under this lump-sum payment method, you may either:

- Pay the vendor sales tax or use tax at the time you purchase the equipment (that is, you would not issue a resale certificate to the vendor when purchasing the equipment). The vendor would then report and pay the tax to the state on his or her tax return, or
- Report and pay use tax based on the purchase price of the MTE, on your sales and use tax return for the reporting period in which the equipment is first leased (you purchased the MTE without tax by issuing a resale certificate to the vendor). In this example, report your cost of the equipment, under "Purchases Subject to Use Tax."

Summary. Whichever method you choose to pay tax, the choice is irrevocable. That is, if you choose to pay tax based on the purchase price of the equipment, you cannot change to reporting tax based on the fair rental value. And if you choose to report tax on the fair rental value, you cannot then pay tax on the purchase price. If you wish to pay

tax on the fair rental value *but fail to pay when required, you will lose the opportunity* to pay under this method and must pay tax based on the purchase price. This is true even if you have incorrectly collected tax from the lessee.

Vehicles other than mobile transportation equipment

Examples of vehicles not considered MTE

Below are definitions of vehicles that do not qualify as mobile transportation equipment. If you rent or lease any of the following types of vehicles to customers, please see Application of tax to leases of vehicles other than MTE, below, and Regulation 1660, *Leases of Tangible Personal Property—In General*, for an explanation of how tax applies. If you are uncertain whether a vehicle is considered mobile transportation equipment, please contact the BOE Customer Service Center at 1-800 400-7115.

- Passenger vehicles as defined in section 465 of the California Vehicle Code, that is, any motor vehicle other than a motor truck or truck tractor, designed for carrying not more than ten people including the driver and used or maintained for transportation of people.
- House cars and motor homes.
- Vehicles that are registered with the DMV as multipurpose vehicles.
- Motorcycles.
- A combination pickup and camper leased as a unit and registered with the DMV as a house car. If such vehicles are not registered as house cars, they are regarded as mobile transportation equipment.
- Minibuses or vans designed primarily for carrying people and limited in design to carrying not more than ten people including the driver, which are registered with the DMV as passenger vehicles under the Vehicle Code. Those not so registered are regarded as mobile transportation equipment.
- Vehicles designed to carry ten or fewer people, including the driver (these are considered passenger vehicles if so registered—even if the lessee carries more than ten people in the vehicle or installs extra seats). Vehicles designed to carry more than ten people including the driver are considered mobile transportation equipment.
- Forklift trucks.
- Trailers and baggage containers designed for hauling by passenger vehicles.
- One-way rental trucks identified to the BOE. These vehicles are motor trucks of a kind required to be registered under the Vehicle Code, with a manufacturer's gross vehicle weight rating not exceeding 24,000 pounds. Such trucks are typically leased to customers by people in the rental business and are leased out for short-term periods of not more than 31 days. They are used for one-way or local hauling of a customer's personal property.

Please see Regulation 1661, *Leases of Mobile Transportation Equipment*.

Application of tax to leases of vehicles other than MTE

In general, leases of vehicles other than mobile transportation equipment are subject to tax based on the rental payments. However, you are not required to pay tax based on rental receipts if:

- The vehicle is leased in substantially the same form as you acquired it; and
- You paid sales tax or use tax to your vendor when you purchased the vehicle; or
- You paid California use tax based on the purchase price of the vehicle and made the payment on a timely basis (by the due date of the return for the reporting period in which the vehicle was first leased).

If you have already paid California sales tax or use tax, as described above, you must indicate this on the lessee's invoice so that the lessee will know the reason he or she does not owe tax on the rental payments. (See Required notifications to lessee.)

If you do not pay sales tax or use tax to your vendor or self-report and pay use tax based on the purchase price, you must report and pay tax based on rental payments. Although your customer (the lessee) is liable for the use tax due on the lease or rental payments, you are required to collect the tax and report and pay it to the BOE on a timely basis. You must provide the lessee with a receipt for each payment. (See Required notifications to lessee.)

Please note:

- If you have paid tax based on the purchase price, you cannot change to paying tax based on rental receipts.
- Even if you wish to pay tax based on the purchase price, if you have not done so by the due date of the return for the reporting period in which the vehicle is first leased, you must collect and pay tax based on rental receipts.
- If you elect to collect tax based on rental payments and pay such tax to the BOE, you can purchase vehicles for lease without paying tax by issuing a resale certificate to the seller.

Also see, Miscellaneous charges when tax is based on rental receipts, below.

Collecting sales tax

Retailers are required to report and pay sales taxes on their retail sales to the BOE; however, you may collect sales tax from your customer in the amount equal to the tax you will owe on a sale. For example, if $800 in sales tax is due on the sale of a vehicle, you may pass that cost on to your customer, provided it is agreed to as part of the sale. It is presumed that the customer agrees to pay the addition of tax if:

- A sign is posted on your premises stating that sales tax will be added to all prices of taxable merchandise, or make a similar statement on price tags, advertising material, and other printed material directed to the purchaser.
- A separate amount for sales tax is listed on your receipt or invoices.
- The sales agreement specifically calls for the addition of sales tax.

If the tax amount is included in your prices, rather than itemizing the tax on your invoices or receipts, you must either post a sign on your premises stating, "Prices include sales tax reimbursement calculated to the nearest mill," or add this statement to your receipt or invoice.

Miscellaneous charges when tax is based on rental receipts

The following points are important for leases of vehicles (both for mobile transportation equipment and other vehicles).

Up-front costs or drive-away charges for leased vehicles

Up-front or drive-away charges include capitalized cost reductions, document preparation charges, bank fees, assumption fees, deferral fees, and excessive wear and use charges such as excessive mileage fees. Generally, dealers collect these charges from a lessee at the inception of a lease (including the first month's rental charge). Driveaway charges that are generally subject to tax include:

- Capitalized cost reductions (additional charges to use and possess the property)
- Document preparation charges
- Bank fees
- Acquisition fees
- Booking fees

Nontaxable drive-away charges:

- Title and registration fees are specifically excluded from tax

Taxable charges at the close of the lease include:

- Renegotiation fees
- Assumption fees
- Deferral fees
- Excessive wear and use charges (for example, excessive mileage fees)
- Late charges for failing to return the vehicle as stated in the lease contract are subject to tax as it is a charge for the use of the vehicle

Refundable security deposits are not taxable when received by the dealer at the inception of the lease. However, tax does apply to a refundable security deposit if it is applied to a taxable amount owed on the lease.

Assigned leases

In virtually all retail motor vehicle lease transactions conducted by new and used motor vehicle dealers, the dealer is initially the owner of the leased vehicle and appears on the lease contract as the lessor. At the inception of the lease, the dealer generally collects from the lessee the first month's lease and various other up front charges. The dealer is responsible for collecting, and reporting and paying tax on all taxable costs for which payment was received from the lessee. Sometime after initiating the lease contract, the dealer may assign the lease contract to someone else. That person becomes the new lessor and is responsible for collecting and paying tax on all subsequent lease payments. The original lessor is also required to provide the new lessor with copies of the original purchase contract for each vehicle and/or copies of prior schedules showing how the use tax has been collected.

Vehicle registration

The California Vehicle Code (section 4453.5) requires that leased vehicles be registered in the name of the lessor, or of the lessor and lessee jointly. If the vehicle is registered in the lessee's name only, the BOE will assume that the transaction is a retail sale, and you are required to pay tax in a lump sum based on the purchase price.

License fees

License fees paid to the DMV and separately stated in a monthly charge to the lessee may be excluded from the amount that is subject to tax.

Late charges

If a lessee is charged additional amounts as a penalty for overdue rental payments, those charges are not subject to tax so long as they are reasonable charges for the use of money or additional administrative expense.

Interest charges

If you charge the lessee an interest payment that he or she must pay periodically along with the rental amount, the charge is subject to tax.

Deficiency charges

Any deficiency amount the lessee is required to pay at the termination of a lease to satisfy the base rental must be included in rental receipts subject to tax.

Insurance charges

If the lessee is required to purchase the insurance from you, the insurance charge is included as part of the taxable receipts. If the lessee can buy the insurance from you or any other insurer, then the insurance charge is not subject to tax (the insurance cost must be stated separately on the lease agreement).

Airport customer facility fees

The rentals subject to tax do not include amounts paid to the lessor for customer facility fees collected by a local agency operating an airport, which requires a rental car company to collect a facility-financing fee from its customers.

Fuel furnished by the lessor (wet rentals)

A wet rental is a lease of a vehicle in which the rental charge includes fuel furnished by the lessor. As the lessor, you may or may not be able to use a resale certificate to purchase the fuel. Whether a resale certificate can be issued will depend on whether you are considered the consumer of the fuel or the retailer. That determination will depend on the type of vehicle you are leasing and how you pay tax with respect to the leased vehicle. However, if you make a separate charge to the lessee for the fuel, you are considered to be the retailer of the fuel.

Fuel furnished for vehicles not classified as MTE

If you pay tax based on rental receipts (a continuing sale and purchase), you are considered to be a retailer of the fuel furnished with wet rentals. As a result, you may issue a resale certificate to the seller and purchase the fuel for resale. A resale certificate can be issued to a vendor registered with the BOE as a fuel supplier or wholesaler. Not all sellers of fuel qualify as a fuel supplier or wholesaler. For example, service station operators who purchase fuel to resell to the end consumer typically are not considered fuel suppliers or wholesalers; as such they should not accept a resale certificate on the sale of gasoline. As a retailer you are liable for tax on the amount charged to the lessee for the fuel. When reporting sales on your sales and use tax return, you must include the fuel charges as part of the total gross sales for the reporting period (you can be reimbursed by the lessee for the tax).

When you pay tax on the fuel that is a wet rental you are entitled to claim a deduction for the sales tax paid. When tax is reported based on total rental receipts, without a deduction for the gasoline furnished for wet rentals, you may claim a deduction for tax-paid purchases resold on your sales and use tax return.

When taking a deduction for tax-paid purchases resold, keep in mind the sales tax rate on gasoline is at a lower tax rate than other taxable sales. The sales tax rate for gasoline is 2.25 percent, plus applicable district tax. When filing your sales and use tax return electronically with an account that is coded as a seller of fuel, the program is set up to calculate the tax-paid purchases resold deduction at the rate for gasoline. Don't forget to subtract the sales tax paid from your cost of the gasoline purchased before entering your tax-paid purchases resold deduction.

The deduction for tax-paid purchases resold on diesel is at a higher rate than other taxable sales. The sales tax rate for diesel is 9.25 percent, plus applicable district tax. When filing your sales and use tax return electronically with an account coded as a seller of fuel, the program is set up to calculate the tax-paid purchases resold deduction at the

rate for diesel. Remember to subtract the sales tax paid from the cost of diesel purchased before entering your tax-paid purchases resold deduction.

If you paid tax on the vehicle's purchase price and therefore do not report tax based on rental receipts, you may or may not be able to issue a resale certificate to purchase fuel for the vehicle, as described below:

- If a separate charge is made for fuel on the invoice, you are considered a retailer of the fuel and you may issue a resale certificate when making your purchase. As stated above, a resale certificate can be issued to a vendor registered with the BOE as a fuel supplier or wholesaler. If you are unable to issue a resale certificate, you may be able to claim a tax-paid purchases resold deduction. You are liable for tax on the amount charged to the lessee for the fuel. When filing your sales and use tax return, the fuel charges must be included as part of the total taxable gross receipts for the reporting period (you are allowed to be reimbursed for the tax by your customer).
- If a separate charge is not made on the invoice for fuel, you are considered to be the consumer of the fuel and you may not issue a resale certificate when purchasing the fuel (that is, the sale of the fuel to you is subject to tax).

For additional information please see the BOE Fuel Tax Swap - Frequently Asked Questions (FAQ), or call the BOE Customer Service Center at 1-800-400-7115.

Fuel furnished for vehicles classified as MTE

Regardless of whether tax has been paid based on the purchase price of the MTE or reported based on the fair rental value, you may or may not be able to issue a resale certificate when purchasing fuel for MTE, as described below:

- If a separate charge is made for fuel on the invoice, you are considered a retailer of the fuel and may issue a resale certificate when making the purchase. As stated above, a resale certificate can be issued to a vendor registered with the BOE as a fuel supplier or wholesaler. If you are unable to issue a resale certificate, you may be able to claim a tax-paid purchases resold deduction. You are, however, liable for tax on the amount charged to the lessee for the fuel. When filing your sales and use tax return, the fuel charges must be included as part of the total taxable gross receipts for the reporting period (you can be reimbursed by the lessee for the tax).
- If a separate charge is not made on the invoice for fuel, you are considered the consumer and cannot issue a resale certificate when purchasing the fuel (that is, the sale of the fuel to you is subject to tax). If you pay tax based on the fair rental value and include fuel as part of the rental charge, tax does not apply to that portion of the lease attributable to the fuel.

General Application of Tax on Fuel with Leased Vehicles

Vehicle Lease Tax on Rentals or Purchase Price	How Fuel Charged on Rental Invoice	Lessor as Retailer or Consumer	Fuel Purchases	Lessor's Tax Liability
Vehicles—Non-MTE Tax paid based on rental receipts (continuing sale and purchase).	Fuel is either separately stated or not separately stated on rental invoice.	Lessor is retailer of fuel. *BOE should be notified that you are a retailer of fuel.*	Fuel purchased for resale from registered fuel supplier or wholesaler. *Prepaid sales tax will apply to this purchase.*	Sales or use tax due on total rental receipts, including fuel charges. *Schedule G will be necessary to claim the credit for the prepaid sales tax paid.*
			Fuel purchased tax-paid. *This is typically the case when fuel is purchased from a gas station rather than a fuel supplier or wholesaler.*	Sales or use tax due on total rental receipts, including fuel charges *and* may claim deduction for tax-paid purchases (of fuel) resold at sales tax rate for fuel (gasoline or diesel).
Tax paid on purchase price, not on rental receipts (*not* a continuing sale and purchase).	No separate charge for fuel on rental invoice	Lessor is consumer of fuel.	Fuel may not be purchased for resale	No further tax liability for tax-paid fuel purchases.
	Separate charge for fuel on rental invoice	Lessor is retailer of fuel. *BOE should be notified that you are a retailer of fuel.*	Fuel purchased for resale from registered fuel supplier or wholesaler. *Prepaid sales tax will apply to this purchase.*	Sales or use tax due on fuel charges to lessee. *Schedule G will be needed to credit the prepaid sales tax paid.*
			Fuel purchased tax-paid. *This is typically the case when fuel is purchased from a gas station rather than a fuel supplier or wholesaler.*	Sales or use tax due on fuel charges to lessee *and* may claim deduction for tax-paid purchases (of fuel) resold at sales tax rate for fuel (gasoline or diesel).
Vehicles—MTE (Purchased for use in CA.) Tax paid based on purchase price or tax reported on fair rental value.	No separate charge for fuel on rental invoice.	Lessor is consumer of fuel.	Fuel may not be purchased for resale.	No further liability for tax-paid fuel purchases.
Tax paid based on purchase price or tax reported on fair rental value.	Separate charge for fuel on rental invoice.	Lessor is retailer of fuel. *BOE should be notified that you are a retailer of fuel.*	Fuel purchased for resale from a registered fuel supplier or wholesaler. *Prepaid sales tax will apply to this purchase.*	Sales or use tax is due on separately stated fuel charges on rentals. You may charge the lessee for tax reimbursement.
			Fuel purchased tax-paid. *This is typically the case when fuel is purchased from a gas station rather than a fuel supplier or wholesaler.*	Sales or use tax is due on separately stated fuel charges on rentals *and* you may claim a deduction for tax-paid purchases (of fuel) resold at sales tax rate for fuel (gasoline or diesel).

Required notifications to lessee

If you report tax payments made by the lessee

If you (as the lessor) elect to report and pay tax based on rental receipts and collect tax from the lessee, you must provide the lessee with a receipt for the amount of tax collected. The receipt does not need to be formatted in a particular way, but it must contain the following information:

- The name and address of your business
- Your seller's permit number (or, if applicable, the number of your Certificate of Registration—Use Tax)
- The lessee's name and address
- A description of the property leased to the lessee
- The date on which the property was leased
- The amount of the rental for the period covered by the invoice
- The amount of tax collected from the lessee

If tax does not apply to the lease

If you lease a vehicle for which the rentals are not subject to tax, you must indicate on the invoice that tax does not apply. You must also indicate why the tax does not apply. The most common reasons for tax not applying (taken from Regulation 1686, *Receipts for Tax Paid to Retailers*) are:

- The vehicle is being leased in substantially the same form as it was acquired by the lessor and tax has been paid based on the purchase price of the vehicle.
- The property was acquired by the lessor in an exempt "occasional sale" and the lessor has paid, or elects to pay and will pay with his or her return for the period in which the property is first leased, use tax based on the purchase price of the property instead of collecting tax on rental payments.

The lease may not be taxable for other reasons (for example, the transaction may be excluded from the definition of sale or purchase). If you believe the lease may not be taxable for a reason other than the two listed above, please contact the BOE Customer Service Center for advice.

One-way rental trucks

At the time you lease a one-way rental truck to a customer, you as the lessor must inform the customer that the vehicle is designated as a one-way rental truck. You must also let the customer know of any taxes that are payable which are measured by the lease or rental payments.

Once a truck has been identified to the BOE as a one-way rental truck (that is, once you have reported taxes to the BOE for the truck based on rental receipts), the election may not be revoked with respect to that truck. If you do not report tax based on rental receipts on a timely basis (as defined under Application of tax to leases of MTE), the vehicle will be treated as mobile transportation equipment for tax purposes.

Local tax allocation

A portion of the sales and use tax rate represents local tax that is allocated to cities and counties. With motor vehicle leases, the allocation of local tax depends on the length of the lease, the type of vehicle, and the type of lessor.

"Motor vehicle" means a passenger vehicle (designed to carry no more than ten people, including the driver) such as an automobile, minivan, or sport-utility vehicle. The term also includes light-duty pickup trucks (payload capacity under one ton). See Leases of MTE for leases of vehicles classified as MTE.

The allocation of local tax from different vehicle lease transactions is summarized in the table Local tax allocation for motor vehicle leases. Before 1996, the local use tax on vehicle leases was allocated differently than illustrated in the table below. Local use tax was also allocated differently on leases of used vehicles prior to January 1999. If you have questions about a vehicle lease prior to 1996, or a used vehicle lease made before 1999, please contact the BOE Customer Service Center.

Long-term leases of new motor vehicles

A long-term lease is defined in Regulation 1803.5, *Long-Term Leases of Motor Vehicles*, as a lease that exceeds four months. For long-term leases, the place of use for reporting the local use tax is:

- The lessor's place of business, if the lessor is a California new motor vehicle dealer or leasing company.
- The new motor vehicle dealer or leasing company's place of business, if the company sells a vehicle to an out-of-state lessor who is not a new motor vehicle dealer or leasing company.

In the case of an out-of-state lessor who purchases a vehicle from an out-of-state source and arranges for a courtesy delivery by a California dealer, the local tax will be allocated:

- To the dealer's place of business, if the vehicle is taken from the in-state dealer's resale inventory.
- To the lessee's local tax jurisdiction via the countywide pool, if the in-state dealer does not hold title to the vehicle but merely serves to prepare the vehicle for delivery and to process documentation.

Lessors required to allocate the local use tax to the location of the dealer, or leasing company, will use the BOE-531-F, *Detailed Allocation By City Of 1% Uniform Local Sales And Use Tax*, (Schedule F).

Lessors who are not California new motor vehicle dealers who do not purchase motor vehicles from California new motor vehicle dealers will use the BOE-531, *Detailed Allocation By County Of 1% Uniform Local Sales And Use Tax*, (Schedule B) to allocate the local use tax due on long-term leases to the lessee's local tax jurisdiction through the countywide pool.

Short-term leases of motor vehicles

A short-term lease is defined as a lease of four months or less. For short-term leases, the local use tax will be allocated to the business location of the lessor, unless the lessor is located outside California. If the lessor is outside California, the local tax will be allocated to the lessee's place of registration.

Leases of MTE

Except for leases of pickup trucks rated under a one-ton payload capacity, the local use tax will be allocated to the lessor's business location, unless the lessor is located outside California. If the lessor is outside California, the local tax will be allocated to the lessee's place of registration.

Definitions used in allocating local tax

The place of use for the local use tax will remain the same for the duration of the lease, even if the lessor sells the vehicle and assigns the lease contract to a third party. Accordingly, if you are a lessor who assigns lease contracts to another lessor, you are required to provide that lessor with copies of the original purchase contract for each vehicle and/or copies of prior schedules showing how the use tax has been allocated.

A "leasing company" is a motor vehicle dealer (as defined in Vehicle Code section 285) that meets all of the following criteria:

- Originate long-term lease contracts and elect to pay tax based on lease receipts.
- Does not sell or assign the long-term contracts.
- Annual motor vehicle lease receipts are equal to or greater than $15,000,000 or more per location. Where the lessor operates from multiple locations, the lessor qualifies as a leasing company on a location-by-location basis. Annual lease receipts, which do not include capitalized cost reduction payments or amounts paid by a lessee to exercise an option, are calculated based on the previous calendar year.

When a lessor is a California new motor vehicle dealer or a "leasing company" the place of use for reporting the local use tax is the city in which the lessor's place of business is located.

When the lessor is not a California new motor vehicle dealer or a "leasing company," there are two possible allocations of the local use tax for leases exceeding four months.

1) When the lessor purchases the vehicle from a California new motor vehicle dealer or a "leasing company," the place of use for reporting the local use tax is the city in which the dealer from whom the lessor purchased the vehicle is located.
2) When the lessor purchases the vehicle from another source, the local use tax shall be reported and distributed through the countywide pool of the county of the lessee's place of registration.

Local tax allocation for motor vehicle leases

Type of lessor	Type of transaction	For leases exceeding four months, allocate one percent local tax to	For leases four months or less, allocate one percent local tax to
California new motor vehicle dealer/lessor	Lease of motor vehicle*	Dealer/lessor's place of business where the lease is negotiated.	Dealer/lessor's place of business where the lease is negotiated
California leasing company (as defined)**	Lease of motor vehicle*	Lessor's place of business where the lease is negotiated.	Lessor's place of business
Other California lessor	Lease of a motor vehicle* purchased from a California new motor vehicle dealer.	California dealer/lessor's place of business from which the lessor purchased the vehicle . (Schedule F)	Lessor's place of business
	Lease of a motor vehicle* purchased from someone other than a California new motor vehicle dealer.	Lessee's place of registration (Schedule B)	Lessor's place of business
	Lease of MTE purchased from a California new motor vehicle dealer (except new pickup trucks rated less than one ton).	Lessor's place of business	Lessor's place of business
Out-of-state lessor	Lease of a motor vehicle* purchased from a California new motor vehicle dealer.	California Dealer's place of business from which the lessor purchased the vehicle. (Schedule F)	Lessee's place of registration (Schedule B)
	Lease of a motor vehicle* or MTE purchased from someone other than a California vehicle dealer.	Lessee's place of registration (Schedule B)	Lessee's place of registration (Schedule B)

* "Motor vehicle" means any new or used passenger vehicle designed to carry no more than ten people, including the driver. The term also includes light-duty pickup trucks with a payload capacity under one ton.

**A "leasing company" is a motor vehicle dealer (as defined in Vehicle Code section 285) that meets all of the following criteria:

- Originate long-term lease contracts and elect to remit tax based on lease receipts.
- Does not sell or assign the long-term contracts.
- Annual motor vehicle lease receipts are equal to or greater than $15,000,000 or more per location. Where the lessor operates from multiple locations, the lessor qualifies as a leasing company on a location-by-location basis. Annual lease receipts, which do not include capitalized cost reduction payments or amounts paid by a lessee to exercise an option, are calculated based on the previous calendar year.

VEHICLES USED FOR PURPOSES OTHER THAN RESALE OR LEASE

Introduction

If you know at the time of purchase that a vehicle will not be held for resale or lease in the regular course of business (for example, a service department vehicle), do not issue a resale certificate when purchasing the vehicle; tax applies to the sale of the vehicle to you. Likewise, do not issue a resale certificate when purchasing mobile transportation equipment for lease unless you will be reporting tax based on the fair rental value (see Tax based on fair rental value).

If you purchase a vehicle, for resale, or lease, without paying tax, and use it for a purpose other than demonstration or display (for example, the vehicle is loaned to a customer or used to pick up parts for the service department), you are generally liable for use tax for such use. As explained in the examples later in this section, your use tax liability is based either on the vehicle's cost or its fair rental value.

If you have a question regarding any of the examples used in this publication, or if you have a question regarding a use that is not described here, please call the BOE Customer Service Center for assistance.

Important—please note:

- If you purchase a vehicle for resale or lease and use it exclusively for demonstration or display purposes while holding it for resale or lease, you are not liable for tax for such use.
- If you paid tax on a vehicle (that is, paid sales tax or use tax to your vendor when purchasing the vehicle or reported use tax to the BOE based on the vehicle's cost), you have no further tax liability for its use until it is sold.

Company and service vehicles

Company and service vehicles include service cars, parts and service department vehicles, tow trucks, and so forth. Such vehicles are not considered held for resale or lease in the regular course of business. If you know at the time you purchase the vehicle that it will be used as a company or service vehicle, a resale certificate cannot be issued when making the purchase. Tax applies to the sale of the vehicle to you.

If a vehicle is removed from your resale or lease inventory and used exclusively as a company or service vehicle, use tax is due to the state based on your cost of the vehicle. Report the purchase price on your sales and use tax return for the reporting period in which you began to use the vehicle as a company or service vehicle (under "Purchases Subject to Use Tax").

If you occasionally remove a vehicle from resale or lease inventory for temporary use as a company or service vehicle, you are liable for use tax based on the vehicle's fair rental value for the period of such use (the fair rental value is the amount normally charged for the rental of similar vehicles under similar circumstances).

Vehicles loaned to customers or other users

Loaned to customers

If you buy a vehicle to be used exclusively as a loaner for service department customers, the vehicle is not considered held for resale or lease. It is considered a company vehicle. As a result, you cannot issue a resale certificate when purchasing the vehicle and tax applies to the sale of the vehicle to you. If you later sell the vehicle, you must report tax on the selling price.

If you remove a vehicle from the resale or lease inventory for use by a customer (for example, lending the vehicle to a customer who is waiting for another vehicle that is being repaired or to a customer who is waiting for delivery of a vehicle they have purchased), you must generally report and pay use tax for the period of time the vehicle is loaned. The use tax is based on the fair rental value of the vehicle (the fair rental value is the amount normally charged for the rental of similar vehicles under similar circumstances).

Note to lessors: If you lend a vehicle to a lessee who is awaiting delivery of a leased vehicle, and if the regular lease payments are taxable and continue to accrue during the period the vehicle is loaned, you are not required to report additional use tax on the loaned vehicle. The regular taxable lease payments will be considered to have covered the use of the loaned vehicle, for example, no additional tax will be due.

Vehicles loaned to schools, colleges, or veterans' institutions for educational or training programs

Loaned to a California public school district for educational purposes

As a retailer, you are not liable for use tax for the loan of any goods or products, including vehicles, loaned to any school district for an educational program conducted by a public school district in California. Although private and parochial schools do not qualify as public school districts, the loan of a vehicle to such schools for driver education purposes may be exempt from tax (see below).

Loaned to schools, colleges, or veterans' institutions for driver education purposes

You are not generally required to report and pay use tax for loans of vehicles for driver training purposes. This exemption applies to the following loans:

- Vehicles loaned to the California State colleges or the University of California to be used exclusively in an approved driver education teacher certification program conducted by the state college or university.
- Vehicles loaned for exclusive use for driver training in an accredited private or parochial secondary school as part of a driver training program approved by the State Department of Education as a regularly conducted course.
- Vehicles loaned to a veteran's hospital (or other nonprofit facility or institution operated for veterans) to provide instruction to veterans with disabilities regarding the operation of specially equipped motor vehicles.

Other loans

If you remove a vehicle from resale or lease inventory and lend it to someone to use for purposes other than demonstration or display, you are generally required to report and pay tax on such use as described below:

- If the vehicle is used frequently for demonstration or display and is loaned only incidentally (for a period of 30 days or less), you must report and pay tax based on the fair rental value of the vehicle for the period of such use (loan). The vehicle must have been used for demonstration or display purposes immediately preceding and following the loan.
- If the vehicle is not frequently demonstrated or displayed and you lend it out, it is not presumed to be held for resale or lease, and you must report and pay use tax based on your purchase price for the vehicle.

Please note: For information on assigned vehicles, please see the upcoming sections which immediately follow:

- Vehicles used by salespersons as demonstrators
- Vehicles assigned to employees other than salespersons (below)
- Vehicles assigned to people who are not employees of the dealership

Vehicles used by salespersons as demonstrators

The term salesperson refers only to vehicle salespersons, vehicle sales managers, sole proprietors, partners, and corporate officers who directly participate in negotiating sales. The following discussion assumes that you purchased the vehicle without paying tax (for example, purchasing the vehicle for resale by issuing a California resale certificate).

Vehicle assigned to a salesperson (not rented or sold to the salesperson)

If you remove a vehicle from resale or lease inventory and assign it to a salesperson to use as a demonstrator for 12 months or less, you must report and pay tax based on the fair rental value, calculated at 1/60th of the purchase price, for each month of combined demonstration or display and use.

Example: You paid $15,000 for a vehicle purchased for resale or lease and assign it to a salesperson for use as a demonstrator for less than 12 months. You must report and pay tax based on the 1/60th formula ($15,000 ÷ 60 = $250 for each month of use).

If the vehicle will be used as a demonstrator for more than 12 months, report and pay use tax based on your cost for the vehicle.

If at the time the vehicle is assigned to a salesperson, you do not know how long the vehicle will be used by the salesperson as a demonstrator, you can initially report and pay tax at the 1/60th formula. After 12 months, you must report and pay tax based on the purchase price minus the total tax calculated for the year previously reported and paid under the 1/60th formula.

Example: You paid $15,000 for a vehicle purchased for resale. The vehicle is assigned to a salesperson and used as a demonstrator, but at the time it is not known how long the vehicle will be assigned for such use. The salesperson retains use of the vehicle as a demonstrator for more than 12 months.

Report and pay use tax based on the 1/60th formula for the first 12 months ($15,000 ÷ 60 = $250 for each month of use). After 12 months, report and pay use tax based on $15,000 minus the total tax previously reported and paid ($250 x 12, or $3,000). As a result, report and pay use tax based on $12,000.

Vehicle rented to the salesperson

If you rent a vehicle to a salesperson for use as a demonstrator and if the vehicle is not a truck or other type of mobile transportation equipment, you must collect and report tax on the rental receipts.

If the rental receipts are less than 1/60th of your purchase price for the vehicle for each month of rental, you must report and pay tax under the 1/60th formula (see first example above).

If you rent mobile transportation equipment to a salesperson for use as a demonstrator, please refer to Vehicles, Leases and Rentals for information on how to apply tax to the rental receipts.

Vehicle sold to the salesperson

When a vehicle is sold to a salesperson for use as a demonstrator, report and pay sales tax based on the amount paid by the salesperson for the vehicle.

Vehicles assigned to employees other than salespersons

If you purchase a vehicle for resale or lease and assign it to an employee or officer of the dealership other than a salesperson (see definition of salesperson under Vehicles used by salespersons as demonstrators, above), you are generally liable for tax as described below. It is presumed, unless the dealership can clearly establish otherwise, that vehicles assigned to people who are not salespersons are used less for demonstration or display and more for other business purposes or for personal use.

Vehicle assigned for 12 months or less

When a vehicle is assigned to an employee or officer of the dealership for a period of 12 months or less, report and pay use tax based on the fair rental value. Tax applies to the periods of time when the vehicle is used for purposes other than demonstration or display.

The fair rental value, as it applies to vehicles assigned to employees and officers, is 1/40th of the purchase price of the vehicle for each month of combined demonstration or display and use.

Vehicle assigned for more than 12 months

If you assign a vehicle to an employee or a series of employees for more than 12 months, it is presumed that the vehicle is not being held for resale or lease in the regular course of business. As a result, use tax must be reported and paid based on your cost for the vehicle.

Vehicle assigned for an unknown period of time

Generally, when a dealer or lessor assigns a vehicle to one or more people, for more than 12 months, for business or personal use in addition to demonstration and display, the vehicle is not held for sale in the regular course of business. In this case, tax is based on the purchase price of the vehicle. However, as provided in Regulation 1669.5, *Demonstration, Display, and Use of Property Held For Resale—Vehicles*, subdivision (b)(4), the 1/40th or 1/60th formula, as appropriate, may be used to calculate the use tax liability, if at the time you assign a vehicle, you do not know how long it will be used. After 12 months, you must report and pay tax based on the purchase price minus the total tax previously reported under the 1/40th or 1/60th formula.

> *Example:* You paid $15,000 for a vehicle purchased for resale. You assign the vehicle to an employee (other than a salesperson) to use as a demonstrator, but at the time do not know how long the vehicle will be assigned for such use. The employee retains use of the vehicle as a demonstrator for more than 12 months.

Report and pay use tax based on the 1/40th formula for the first 12 months ($15,000 ÷ 40 = $375 for each month of use). After 12 months, report and pay use tax based on $15,000 minus the total tax previously paid for the year ($375 x 12, or $4,500). As a result, report and pay use tax based on $10,500.

Vehicles assigned to people who are not employees of the dealership

Assigned to a relative or business associate

If you assign a vehicle to a person other than an employee or officer of the dealership, such as a relative or business associate, tax is due based on the cost of the vehicle (your purchase price for the vehicle). The vehicle is not presumed to be held for resale or lease.

However, if such loans are for very short periods of time, interspersed with frequent demonstration or display while holding the vehicle for sale in the regular course of business, the tax liability may be based on the fair rental value.

Assigned to a person other than a customer waiting for delivery of a vehicle or return of a repaired vehicle

When the loan of a vehicle is not interspersed with frequent demonstration or display, but is loaned for a period of 30 days or less to a person other than a customer waiting for delivery of a vehicle or return of a repaired vehicle, tax is due on the fair rental value, provided the loaned vehicle was frequently demonstrated or displayed before and after its loan. A loan for a period of 30 days or less will be considered incidental use. If the loan period exceeds 30 days, or the vehicle is not frequently demonstrated and displayed during the loan period, tax is due on the purchase price of the loaned vehicle.

Assigned to a lessee who is waiting for delivery or return of a leased vehicle

When a lessor loans a vehicle to a lessee who is waiting for delivery or return of a leased vehicle, and the regular lease payments continue to accrue during the period of the loan, the regular lease payments will be considered to cover the use of the loaned vehicle.

Donated vehicles

Use tax does not apply if you remove a vehicle from your resale inventory and donate it to a qualified organization *located in California*. To qualify, the organization must be an institution described in section 170(b)(1)(A) of the Internal Revenue Code.

Qualified organizations include, but are not limited to, certain religious and charitable organizations, as well as certain organizations operated for educational purposes. If you have questions regarding whether an organization is qualified, please contact the BOE Customer Service Center at 1-800-400-7115.

Unassigned demonstrators registered in the name of the dealership

As a dealer or lessor, if you issue a California resale certificate when purchasing a vehicle and register it in your name with the DMV, the BOE presumes that the vehicle is not being held for resale or lease. As a result, use tax is due based on your purchase price for the vehicle.

Vehicles capitalized as assets

Except for vehicles held for leasing, vehicles that are capitalized in an asset account and depreciated for income tax purposes are not considered held for sale in the regular course of business. You must report and pay tax based on the cost of the vehicle.

New vehicles not ordinarily sold by a dealership

The Vehicle Code prohibits a dealer-broker from purchasing a new motor vehicle for resale in a line or make for which the dealer does not hold a like franchise. New car dealers are advised not to accept a resale certificate for this type of transaction. Violation of Vehicle Code section 11713.1 is sufficient to overcome the presumption of the vendor's good faith acceptance of a resale certificate, whether or not the resale certificate contains a statement that the specific vehicle is being purchased for resale in the regular course of business. You must report and pay tax based on the cost of the vehicle.

SPECIAL TAXING JURISDICTIONS

This section is designed to explain how to determine the correct tax rate for your taxable sales or leases. The total sales and use tax rate is a combination of several rates and may or may not include a rate for special tax districts. Special tax districts have been approved by voters in various parts of the state to fund mass transit projects and other public services. Whether or not you are liable for a special district tax rate will depend on where the vehicle is registered. For a listing of the special districts in effect throughout the state and the applicable tax rates, see *California City and County Sales and Use Tax Rates* on the BOE website.

Please note: To allow for the correct application of district taxes, many cities with voter approved district taxes have provided a list of addresses located inside their incorporated city limits. the BOE website provides a link to the address list at: California City and County Sales and Use Tax Rates - City Addresses.

Special district taxes—in general

As a motor vehicle retailer, you must generally report and pay sales or use tax at the standard statewide rate of 7.25 percent (this is the current rate as of the date of this publication, but is subject to change). In addition, you may be required to report and pay tax for a special tax district.

Many of California's cities, counties, towns, and communities have special taxing jurisdictions (districts), which impose a transactions (sales) and use tax. These districts increase the tax rate in a particular area by adding the district tax to the combined statewide rate of 7.25 percent, the present rate in effect. The city special district tax rate applies only to addresses within the incorporated city limits. Generally, residents and businesses in unincorporated areas of those cities are not subject to the additional city district tax rate. However, there may also be countywide districts. More than one district tax may be in effect in a given location. As a seller or a consumer, you may be required to report and pay district taxes for your taxable sales and purchases. For more information on district taxes and how they are applied, see:

- Publication 44, *District Taxes*
- Publication 105, *District Taxes and Delivered Sales*

How to apply the special district tax rate

If you sell or lease a vehicle to a customer who registers the vehicle in a special tax district, you are considered "engaged in business" in the district. As a result, you must report and pay the applicable special district tax.

Examples:

You are located in a county where there is a 0.50 percent special district tax. You sell or lease a vehicle to a customer who will register the vehicle in the same county. You report and pay the standard statewide rate of 7.25 percent plus 0.50 percent for the special tax district in effect in the county, for a total rate of 7.75 percent.

You are located in a special tax district and sell a vehicle that will be registered in a county where there are no special tax districts. You report and pay only the statewide rate of 7.25 percent.

You are located in a county where there are no special tax districts and sell a vehicle that will be registered in a county with a combined special district tax rate of 1.50 percent. You will report and pay tax at the total rate of 8.75 percent (the standard statewide rate of 7.25 percent plus 1.50 percent for the three districts).

Required documentation for sales not subject to district tax

In California, if you register a vehicle at DMV to an address that falls within a special tax district, the district tax applies to the purchase or sale of that vehicle. As stated above, residents and businesses in unincorporated areas of cities with special district taxes are not subject to the additional city district tax rate. A DMV vehicle registration

form, DMV Statement of Facts (REG 256), a BOE-111, *Certificate of Vehicle, Mobilehome or Commercial Coach Use Tax Clearance* (issued by the BOE), or a letter on city letterhead, may be accepted for city use tax exemptions for customers residing in unincorporated areas of a city subject to special sales and use district taxes.

Regulation 1823.5, *Place of Delivery of Certain Vehicles, Aircraft, and Undocumented Vessels*, defines the type of vehicles, including certain commercial vehicles, which under certain circumstances qualify for a district sales tax exemption. This exemption does not apply to the district use tax. The regulation and this publication include declarations for the purpose of allowing the seller to treat the sale as exempt from the district transactions (sales) tax. The declarations are made under penalty of perjury. If the purchaser issues a declaration to the seller and the property is principally stored, used, or otherwise consumed in that district, the purchaser will be liable for and must pay the district use tax. Even though the sale of the vehicle may be exempt from the district sales tax under this regulation, the statewide rate of 7.25 percent will still apply to the sale and the retailer may still be responsible for collecting the district use tax.

Any seller claiming an exemption from the district tax under Regulation 1823.5 must retain a declaration signed under penalty of perjury in the form prescribed in the regulation. The declaration must be signed by the buyer, accepted by the seller in good faith, and include a written statement that the vehicle was purchased for use at a designated point(s) outside the district. The seller also must retain in his or her records a copy of either the DMV report of sale or other documentary evidence showing the out-of-district address to which the vehicle is registered.

Regulation 1823.5, *Place of Delivery of Certain Vehicles, Aircraft, and Undocumented Vessels*, includes sample declarations that can be used to relieve the retailer of the obligation to collect district transactions (sales) tax. Regulation 1823.5 is available on the BOE website and the sample declarations are included as Exhibit 1 and Exhibit 2 of this publication.

Bad debts

Deductions for amounts found to be worthless or for losses resulting from repossessions may be taken if they are in compliance with the requirements of Regulation 1641, *Credit Sales and Repossessions*, or Regulation 1642, *Bad Debts*, whichever is applicable.

A bad debt deduction may be taken on your sales and use tax return under certain circumstances. You may take the deduction for bad debts that are charged off for income tax purposes (or, if you are not required to file income tax returns, charged off in accordance with generally accepted accounting principles). The claimed deduction amount cannot be more than the amount charged off. A bad debt deduction cannot be claimed unless the sale was reported and tax paid on the amount claimed on a prior sales and use tax return.

For example, if you repossess a vehicle, a deduction can be claimed on your sales and use tax return for the net taxable loss, provided the amount has been charged off for income tax purposes. The net taxable loss is the loss after adjustments have been made for the wholesale value of the repossessed vehicle and for other credits, such as refunded insurance payments and unearned finance charges, and for charges included in the sale that were not subject to tax.

The formula for calculating net taxable loss and the allowable deduction on your tax return is provided in Regulation 1642, *Bad Debts*. The regulation also includes specific examples of how to compute the deduction for one vehicle or for several vehicles.

When claiming a repossession loss, you:

- Can claim a deduction only if a net loss has been incurred.
- Can claim a deduction only to the extent that you sustain a net loss of gross receipts upon which you have paid tax.
- May base the wholesale value of the repossessed vehicle on industry-recognized wholesale price guides; however, if the vehicle is not in average condition, you can make an appropriate adjustment to the published wholesale price.
- Cannot use estimated or unsupported figures or percentages to calculate the repossession loss.
- Cannot claim a deduction for expenses incurred in attempting to collect an account.
- Cannot claim a deduction for that portion of a debt that is retained by, or paid to, a third party as compensation for collecting an account.
- Must report and pay any amounts that you recovered after claiming a repossession loss. The report must be made on the first tax return following the recovery.

You may also take bad debt deductions for uncollectible open accounts, provided they have been charged off for income tax purposes. These deductions must be taken in substantially the same manner as those involving repossessions (in other words, if the bad debt includes nontaxable charges, you cannot claim a deduction for those charges). For example, if installation or repair labor is performed in connection with the sale of parts, you can deduct only the portion of the bad debt losses applicable to your taxable sale of the parts. The installation or repair labor is not subject to tax and cannot be deducted.

For more information, please refer to Regulation 1642, *Bad Debts*, or call the BOE Customer Service Center.

Bad debts incurred in connection with accounts held by lenders

You may have incurred bad debts on dealer-financed loans sold with or without recourse and loans sold without recourse to third-party lenders. At times, to offset any losses a lender may incur as the result of a purchaser/borrower's default, the lender remits a portion of the principal to you, the dealer, and retains the remainder in a loss reserve

account. The amount charged to the reserve account represents a reduction in the amount of gross receipts from the original sale of the automobile.

If the loan was sold with recourse to a third-party lender, you may be entitled to claim a bad debt deduction or refund as if the loan had not been sold. You are entitled to a bad debt deduction to the extent of the actual losses you incurred. Depending on the terms of the contract with the lender, this amount may be the taxable amount of the lender's deductions from the reserve account. This amount excludes any nontaxable receipts, such as, interest, insurance, repair or installation labor.

To support your claimed bad debt deduction or refund, the loan must have been found worthless and charged off for federal income tax purposes and otherwise satisfy the provisions of Regulation 1642, *Bad Debts*. Additionally, the amount should not include any fees, such as collection fees or management fees charged by the lender to the reserve account. You are required to substantiate that such fees are not included in a claimed bad deduction or refund.

If the loan was sold without recourse to the lender, you may still be entitled to claim a bad debt deduction or refund. You and the lender must complete an election that designates you as the person entitled to claim any deduction or refund for tax previously paid. The election must contain the elements discussed in Regulation 1642. The claimed amount is measured by the amount of the account found to be worthless and charged off. After completing this election, you and the lender are now only required to maintain a copy of the election(s) in your respective records—do not file these elections with the BOE.

For additional information concerning bad debts incurred in connection with accounts held by lenders, please refer to Regulation 1642, *Bad Debts*, or publication 117, *Filing a Claim for Refund*, or call the BOE Customer Service Center at 1-800-400-7115.

California "Lemon Law"

The "Lemon Law" provides recourse to a customer who purchased a new motor vehicle when a vehicle is not repaired to conform to the applicable express warranties after a reasonable number of attempts. The manufacturer must either reimburse the customer (make restitution) for the adjusted cost of the original vehicle including a refund of the sales tax paid to the state, or replace the vehicle. The customer may select monetary restitution or vehicle replacement.

Manufacturers may be entitled to receive a refund from the BOE for sales tax refunded to customers. Described below are procedures on the handling of "Lemon Law" transactions involving:

1) Restitution, and
2) Replacement vehicles.

When the customer selects restitution

The manufacturer must pay an amount equal to the actual price paid or payable by the customer, including any sales tax, license fees, registration fees, and other official fees, plus any incidental damages to which the buyer is entitled. The manufacturer may deduct amounts for the usage of the defective vehicle and any amount charged for non-manufacturer items installed by the dealer from the original vehicle selling price before calculating the sales tax refund. See the sample claim for refund calculation in Exhibit 3, Example 1 of the Appendix.

When the customer selects vehicle replacement

Most "Lemon Law" transactions involving replacement vehicles are coordinated by manufacturers through their dealerships. When a customer chooses replacement, the replacement vehicle is considered a part of the original sale under a mandatory warranty. When manufacturers adhere to this provision, they can only file a claim for refund when the value of the replacement vehicle is less than the original vehicle and the customer has been refunded the difference, including applicable sales tax reimbursement.

The following examples outline the acceptable procedures to follow for vehicle replacements:

1. **The customer selects a replacement vehicle having a value greater than the credit given for the original vehicle.**
   In this situation, the dealership is liable for the sales tax on the amount the customer pays in excess of the credit given for the original vehicle (the incremental amount). License (registration) and amounts billed for nontaxable fees included in the credit given for the original vehicle must not be deducted from the price of the new vehicle when calculating the amount subject to tax. The dealership must report only the incremental amount (the difference between the replacement vehicle and the credit allowed for the original vehicle) on its sales and use tax return as a taxable sale, rather than the full amount of the sales price of the replacement vehicle. See the sample calculation of sales tax due in Exhibit 3, Example 2 of the Appendix.
2. **The customer selects a replacement vehicle having a value less than the credit given for the original vehicle.**
   The manufacturer should refund the difference to the customer, including the sales tax collected from the customer and paid to the state. The manufacturer may seek a refund of sales tax included in the amount reimbursed to the buyer by filing a BOE-101, *Claim for Refund or Credit*, with the BOE. The dealership should not report this replacement transaction on its sales and use tax return. See the sample claim for refund calculation in Exhibit 3, Example 3 of the Appendix.
3. **The customer selects a replacement vehicle with an equivalent price and an exchange of vehicles occurs at no additional cost.**
   Since the credit for the returned vehicle is the same as the negotiated sales price of the replacement vehicle and no additional amount is required to be paid, do not report the transaction on the dealer's sales and use tax return. The manufacturer should not file a claim for refund for the sales tax on the original vehicle.

Supporting documentation required

Vehicle dealers with "Lemon Law" replacement transactions must retain documentation in their files explaining and supporting these transactions. The dealership must retain any documentation provided by the manufacturer and make it available upon request by the BOE in support of the transactions and any claims for refund filed by the manufacturer.

To support the transaction, the dealer must retain, at a minimum, the original sales contract, the new sales contract (if applicable), and any documentation provided by the manufacturer. In addition, the dealer must retain an explanation of how any credits allowed the buyer were calculated including the amount of sales tax included in the credit to the buyer.

Filing a claim for refund

If the manufacturer, through its authorized dealership, is unable to restore the vehicle to mandatory warranty conformity, the dealership can be authorized by the manufacturer to handle the transaction as a "Lemon Law" transaction. The customer has the option to select either a monetary restitution or vehicle replacement. The manufacturer may file a claim for refund of the tax with the BOE when either:

1) Full monetary restitution is made to the customer, or
2) The customer selects a replacement vehicle having a value less than the original vehicle and the difference (including the amount collected for sales tax) is refunded to the buyer.

The claim for refund must state that restitution was paid to the customer in accordance with sections 1793.2 through 1793.26 of the California Civil Code. Include copies of all documentation regarding the transaction when submitting the claim, including the amount collected for sales tax refunded or credited, a copy of the branded title of the reacquired vehicle (with the notation "LEMON LAW BUYBACK"), and copies of documents to support the amount refunded to the customer. In addition, a statement must be submitted from the dealership which originally sold the vehicle to indicate sales tax was reported and paid on the original sales transaction.

Send all claims to the following address:

Audit Determination and Refund Section MIC:39
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0039

For more information on the "Lemon Law"

Please refer to Regulation 1655, *Returns, Defects and Replacements*, for additional information on the California "Lemon Law."

Car Buyer's Bill of Rights

Contract cancellation options required

Vehicle dealers must offer customers a contract cancellation option on certain used vehicle sales. If a buyer chooses to purchase a contract cancellation option, the buyer will have the right to cancel the purchase and receive a full refund, including amounts charged for sales tax, under certain conditions. The specific requirements for returning the vehicle for a full refund must be shown on a separate agreement, as described below. The full refund must also include any vehicle the buyer left with dealers as a down payment or trade-in. The portion of the sales price refunded to the purchaser under a contract cancellation option that meets all of the requirements in the Car Buyer's Bill of Rights is not subject to sales and use tax.

This requirement applies only to sales of used vehicles with a purchase price of less than $40,000, sold for personal, family, or household use. It does not apply to the sale of motorcycles, off-road vehicles, or recreational vehicles.

Vehicle dealers can charge their customer for the cancellation option, up to a maximum defined by law. The maximum price of the option is based on the cash price of the vehicle. If the customer purchases this option, the price of this option is not subject to sales and use tax.

Cash price* of vehicle	Maximum amount dealer can charge for cancellation option agreement
Up to and including $5,000	$75
$5,000.01, up to and including $10,000	$150
$10,000.01, up to and including $30,000	$250
$30,000.01, but less than $40,000	1% of the purchase price

** The cash price of a vehicle, as defined by Civil Code section 2982(a)(1)(A) excludes document preparation fees, business partnership automation fees, tax imposed on the sale, pollution control certification fees, prior credit or lease balance on property being traded, service contract charges, surface protection charges, optional debt cancellation agreement charges, and contract cancellation option agreement charges. Vehicle Code section 11713.21(a)(2)(D) adds that cash price also excludes registration, transfer, titling, license, and California tire and optional business partnership automation fees.*

Information required on cancellation option agreements

Required documentation on cancellation option agreements includes:

- The names of the seller and buyer, a description of the vehicle purchased, and the vehicle VIN number.
- The time period in which the buyer may cancel the purchase and return the vehicle. The deadline cannot be before the dealer's close of business on the second day after the day the vehicle is delivered to the customer. For example, if the dealer delivers a car to a customer on Monday, the return deadline cannot be earlier than the dealer's close of business on the following Wednesday.
- The maximum number of miles the vehicle may be driven before it is returned under the agreement. The maximum may not be less than 250 miles.
- The buyer must pay any restocking fee if the buyer cancels the purchase.
- The specific requirements for returning the vehicle for a refund.

Restocking fee

A restocking fee may be charged based on the cash price of the vehicle. The restocking fee is *not* subject to sales and use tax.

Price of vehicle	Maximum restocking fee
$5,000 or less	$175
Between $5,000 and $10,000	$350
$10,000 or more	$500

The buyer's responsibilities upon cancellation of contract

The buyer must provide the following if he or she chooses to cancel the purchase:

- A signed statement indicating that the buyer chooses to cancel the purchase of the vehicle.
- Any restocking fee specified in the contract cancellation option, less the cost the buyer pays for the contract cancellation option agreement.
- All documents originally provided to the buyer from the seller, including the vehicle purchase contract and the original contract cancellation option agreement.
- All original vehicle title and registration documents.

The vehicle must be returned in the condition in which it was sold, except for normal wear and tear. Also, the vehicle must not have been driven beyond the maximum mileage limit stated in the cancellation agreement.

If you have specific questions regarding the Car Buyer's Bill of Rights, or other portions of the California Vehicle Code, contact the DMV at *www.dmv.ca.gov*.

For more information on the Car Buyer's Bill of Rights

Please refer to Regulation 1655, *Returns, Defects and Replacements*, or if you have any questions, please call the BOE Customer Service Center at 1-800-400-7115.

Courtesy deliveries to and for out-of-state dealers

Factory-directed deliveries

An out-of-state dealer may contract to sell a vehicle to a customer in California and will direct the manufacturer to make delivery to the customer at a specified location in California. The manufacturer may then deliver the vehicle to a dealer in California, who will redeliver it to the customer. The delivering dealer normally charges the manufacturer for new car preparation, but the vehicle is not entered in the dealer's inventory.

Application of tax

If the out-of-state dealer is not engaged in business in California or does not have a California seller's permit and a dealer's license from the California DMV, the tax must be reported and paid by the California dealer, based on the retail sales price. In this instance, under the Sales and Use Tax Law, the California dealer is considered to have made a retail sale.

Note—MTE

As a dealer, in most cases, you owe tax (based on the retail sales price of the equipment) if you make a factory-directed delivery of MTE to a leasing company for lease purposes (there are some exceptions). This applies to vehicles such as trucks, buses, truck tractors, truck trailers, pickup trucks, pickup-type vehicles, and similar vehicles classified as MTE (defined in Regulation 1661, *Leases of Mobile Transportation Equipment*).

Deliveries that are not factory directed

Typically, this involves a delivery agreement reached directly between an out-of-state dealer and a California dealer. The manufacturer is not involved. For example, an out-of-state dealer who is not engaged in business in California may ask a California dealer to deliver a vehicle to a customer located in this state. The vehicle is taken from the inventory of the California dealer, and the local dealer will invoice the out-of-state dealer for the car.

Application of tax

In the example in the previous paragraph, the California dealer must report and pay sales tax on the transaction unless the California customer is another dealer who provides a completed California resale certificate when purchasing the vehicle. Tax is based on the retail sales price paid by the customer to the out-of-state dealer.

Please note: If MTE is involved (see Note—MTE above) and the customer is a leasing company, the transaction is, except under certain conditions, subject to sales tax based on the selling price charged by the out-of-state dealer.

Modifications of vehicles for persons with disabilities

Tax does not apply to the sale or installation of items and materials that:

- Are used to modify a vehicle so that a person with disabilities can operate it or when such items and materials are necessary to enable the vehicle to be used to transport a physically handicapped person or persons, and
- Are incorporated into, attached to, or installed on the vehicle.

Sales of tools and materials used to modify the vehicle, but which are not incorporated into, attached to, or installed on the vehicle, are subject to tax.

Please note: The following definitions apply to this exemption:

- Persons with disabilities include disabled persons who qualify for special parking privileges as described in Vehicle Code section 5007.
- The term, vehicle, as used in this section of the publication, refers to:
  1) All devices that qualify as vehicles under the Vehicle Code section 670, including, but not limited to, automobiles, vans, trucks, mobile homes, and trailer coaches.
  2) Vehicles that are: (1) owned or operated by physically handicapped persons, or (2) used in the public or private transport of handicapped persons and which would otherwise qualify for a distinguishing license plate were they registered to a physically handicapped person or persons (as described in Vehicle Code section 5007).

Recordkeeping

It is important to maintain adequate records since BOE representatives may examine your books, papers, records, and other documents to verify the accuracy of your tax returns or, if no return is made, to determine the amount of tax that is due. Failure to maintain accurate records is considered evidence of negligence or intent to evade tax and may result in penalties.

Sales documents

There are three types of billings used by most automobile dealers:

1. Motor Vehicle Contract and Security Agreement
2. Parts and accessory counter sales invoices
3. Repair orders

Motor vehicle contract and security agreement—new car dealers

Most dealers use a motor vehicle contract and security agreement as the basic sales document. Vehicle contracts usually contain four copies provided for the:

1. Deal jacket (customer folders used by new car dealers)
2. Customer
3. Financing company
4. Dealer files

The deal jacket contains sales information from the vehicle sales contract. Some dealers may prepare a vehicle sales invoice to post the information from the contract to their records. Most new car dealers will have records prescribed by major automobile manufacturers. Included in these records are monthly financial statements prepared on forms provided by the manufacturer or distributor which will reflect the dealer's operations in detail.

Sales journals—new car dealers

The journals normally used by new car dealers are:

1. New car retail
2. New car fleet
3. New car commercial
4. Used car
5. Parts, accessory, and service
6. Internal
7. Stock book

The stock book typically lists each vehicle delivered to the dealership in chronological order. Stock books can also be a more complete listing of customer name, date vehicle received and sold, and the VIN. This book can help in identifying courtesy deliveries, and vehicles which have remained in inventory for long periods (house cars and demonstrators).

Used car dealers' records

A common means of control in used car dealers' records are car envelopes and inventory books. In all instances, the DMV issues Report of Sale - Used Vehicle forms to the certificated used car dealer. Dealers selling late model used cars will usually have flooring loans on purchases and sell on conditional sales contracts with recourse.

Car envelopes—used car dealers

Most used car dealers use car envelopes (also referred to as a car jacket, customer file or deal jacket) rather than the customer folders used by new car dealers. Dealers assign an inventory number to resale vehicles with a car envelope prepared for the unit.

Details of each purchase and sale are placed on the proper lines on the printed face of the envelope. All documents of purchase, reconditioning, and sale are inserted in the envelope.

It is necessary to record the various sources of purchases to account for all sold vehicles. Dealers receive cars from trade-ins on sale of used vehicles, purchases of used cars from individuals, other new and used car dealers, or wholesale or retail auctions. Sources of revenue besides sales from the lot include: consignment sale of vehicles by individuals and dealers, and sales at auctions.

Dealers' reports of sale—used car dealers

The only record common to all used car dealers is the *Report of Sale-Used Vehicle form, issued by the DMV*. It is the responsibility of the used car dealer to retain all *Report of Sale-Used Vehicle forms* including copies of forms that have been returned to the DMV *and those forms that have been voided. These forms must be used in numerical sequence*. Preparation of the Report of Sale-Used Vehicle form requires paying license or transfer fees. The payment may be made with DMV form, FO 247, *Transmittal of Registration Applications*. This form contains the Report of Sale number, or license number, and the amount of license or fees paid.

Under the Sales and Use Tax Law, you are required to keep adequate records that show:

- Your gross receipts from your sales or leases of vehicles and other tangible personal property, whether you regard the receipts as taxable or nontaxable.
- All deductions allowed by law and claimed on your sales and use tax returns.
- The total purchase price of all tangible personal property purchased for sale, consumption (use), or lease. (For example, vehicle purchase invoices or auction receipts.)

These records must include:

- The normal books of account.
- All bills, receipts, invoices, repair orders, contracts, or other documents of original entry that support the entries in your books of account.
- All schedules of working papers used in connection with the preparation of your tax returns.
- All DMV Report of Sale - Used Vehicle forms that have been issued to you.

How long should I keep my business records?

You should keep required records for at least *four years* unless the BOE gives you specific, written authorization to destroy them sooner.

If you are being audited, retain all records that cover the audit period until the audit is complete, even if that means keeping them longer than four years. In addition, if you have a dispute with the BOE about how much tax you owe, it is important to retain the related records until that dispute is resolved. For instance, if you appeal the results of an audit or another determination (billing), or file a claim for refund, keep your records while that matter is pending.

If you have a point-of-sale system that overwrites data after a period of time less than four years, you should transfer, maintain, and have available, all data that would have been overwritten or otherwise removed from the system for the required time periods indicated above.

For more information, please refer to Regulation 1698, *Records*, or publication 116, *Sales and Use Tax Records*, or the BOE Customer Service Center.

Sale of business or equipment

Tax applies to the sale of equipment and tools used in your business. If you sell your business for a lump-sum price, sales tax applies to the fair market value of the equipment, tools, and other tangible personal property sold. You must report and pay tax on the sale of any vehicles included in the sale that are sold for use rather than for resale (for example, delivery cars, parts department pickups, tow trucks, and so forth).

For more information on the sale of business assets, see Regulation 1595, *Occasional Sales—Sale of a Business—Business Reorganization*.

Gasoline

Taxable and nontaxable uses

Generally, vehicle dealers no longer have their own underground gasoline storage tanks and do not buy "bulk" fuel. It is more convenient to open an account with a nearby gasoline station. If you are a lessor of vehicles that are not MTE and you are unable to issue a resale certificate when purchasing gasoline furnished for wet rentals, you may claim a deduction for the sales tax paid. When tax is reported based on total rental receipts, without a deduction for the gasoline, the lessor may claim a deduction for tax-paid purchases resold on its sales and use tax return.

Use tax on gasoline

Dealers may have the option to provide a resale certificate to the seller when purchasing gasoline which they intend to include as part of their sales. You are not liable for reporting tax on gasoline that is in the fuel tank of a vehicle *at the time it is sold* (it is considered to be sold as part of the vehicle). However, you are liable for other uses of gasoline, as described below.

You are generally liable for use tax on the use of gasoline that you or the manufacturer place in the fuel tank of:

- Company cars, service cars, tow trucks.
- Vehicles that are being held for resale or lease and used prior to their sale.
- Vehicles whose use is taxable under the 1/40th or 1/60th formula (such as vehicles assigned to salespersons or other employees) (See Vehicles used by salespersons as demonstrators).
- Vehicles that are used as demonstrators only.
- Loaned vehicles that are taxable based on the cost of purchase.
- Loaned vehicles that are taxable based on their fair rental value.

How to report use tax on gasoline

If the amount of gasoline that you purchased for resale, without payment of tax, is more than the amount of gasoline sold with vehicles, the difference must be reported on your tax return under "Purchases Subject to Use Tax." In determining the amount of gasoline purchased without payment of tax, do not overlook the gasoline in the tanks of new vehicles that you purchased for resale from a manufacturer. The cost of the gasoline on which use tax is based includes Federal Excise Tax and State Motor Vehicle Fuel Tax.

If the amount of gasoline that you purchased without payment of tax is less than the amount of gasoline sold with vehicles, the difference can be reported as a deduction on your tax return, under "Cost of Tax-Paid Purchases Resold Prior to Use."

When taking a deduction for tax-paid purchases resold, keep in mind the sales tax rate on gasoline is at a lower tax rate than other taxable sales. The sales tax rate for gasoline is 2.25 percent, plus applicable district tax. When filing your sales and use tax return electronically with an account coded as a seller of fuel, the program is set up to calculate the tax-paid purchases resold deduction at the rate for gasoline. Don't forget to subtract the sales tax paid from your cost of the gasoline purchased before entering your tax-paid purchases resold deduction.

Claiming a Tax-Paid Purchases Resold Deduction for Gasoline and Diesel Fuel

You are entitled to reduce the amount of sales tax that you owe on your vehicle sales by the amount of sales tax you paid when you purchased your gasoline (MVF) or diesel fuel when you sell the vehicle with fuel.

The statewide sales tax rate for the sale of a vehicle is currently 7.25 percent plus applicable district taxes; however, the statewide sales tax rate for gasoline is only 2.25 percent plus applicable district taxes. The statewide sales tax on diesel fuel is 9.00 percent plus applicable district taxes.

Because the tax rate that applies to sales of gasoline and diesel fuel is different than the tax rate that applies to the sale of a vehicle, and the price you pay at the pump is a tax-included price, you will need to calculate the allowable amount of your deduction.

Most vehicle dealers file a BOE-401-A2, *Sales, Local, and District Sales and Use Tax Return**. If you file a BOE-401-A2, *Sales, Local, and District Sales and Use Tax Return*, and you need to claim a *Cost of Tax-Paid Purchases Resold* (TPPR) deduction to recover the sales tax paid on gasoline or diesel, you must compute the allowable deduction and district tax adjustment by following the calculation found in the BOE-401-INST, *Instructions for Completing the 401A Sales and Use Tax Return*.

**Some retailers file a* BOE-401-GS, State, Local, and District Sales and Use Tax Return MVF (Gas Sellers)*, return allowing them to properly recover the correct amount of tax paid on their purchases of gasoline or diesel fuel. For information on claiming your Cost of Tax-Paid Purchases Resold (TPPR) deduction on MVF or diesel on* BOE-401-GS *refer to the* BOE-401-GSIN*,* Instructions for Completing the BOE-401-GS, Fuel Retailers Return. *Paper returns show the form number in top left hand corner. If you are filing an online return and your return has a Schedule G button, you are filing a* BOE-401-GS *return. Otherwise you are filing a* BOE-401-A2 *return.*

Self-consumed items (items used for purposes other than for resale)

If you use an item purchased without paying tax (for example, a California resale certificate was issued when purchasing the item), you owe use tax measured by its purchase price when the item is used for a purpose other than resale or lease. Examples of taxable uses include oil, grease, gasoline, and parts that are used for company vehicles or service department vehicles. The cost of such items must be reported on your sales and use tax return under, "Purchases Subject to Use Tax."

Please note: Using an item for display or demonstration purposes while it is being held for resale in the regular course of business is not considered a taxable use.

Use tax often applies to the use of the following items. If you have any questions regarding your tax liability for items used for purposes other than for resale, please contact the BOE Customer Service Center.

Oil and grease

If you use oil and grease in company cars, service cars, loan cars, tow trucks, and so forth, you are considered the consumer (user) of these products and tax is due based on your purchase price. Tax also applies to oil and grease used in vehicles subject to tax under the 1/40th or 1/60th formula (such as vehicles assigned to salespersons or other employees).

The oil and grease installed in new or used vehicles that are being held only for resale are not subject to the use tax. In this case, the products are considered as sold with the vehicle.

Parts and accessories

Report and pay tax on the cost of parts and accessories installed on the following vehicles:

- Loan cars whose use is subject to tax based on the cost of purchase.
- Company cars, service cars, and tow trucks.

You are considered the consumer (user) of these parts and accessories, and the sale of these items to you is taxable. If you did not pay tax to your vendor when you purchased them, report the cost of the items on your sales and use tax return under "Purchases Subject to Use Tax."

You are not required to report tax on the cost of parts and accessories installed on the following vehicles:

- Vehicles held for resale or taxable lease, including vehicles used for demonstration or display.
- Vehicles whose use is subject to tax under the 1/40th or 1/60th formula (such as vehicles assigned to salespersons or other employees).
- Loan cars whose use is subject to tax based on their fair rental value.

You are considered the seller of these parts and accessories because they are regarded as being resold with the vehicle.

Tools and equipment

Do not issue a resale certificate to vendors when purchasing tools and equipment used in your business. Rather, the sale of such tools and equipment to you is taxable. If you buy these items from an automotive supply house that also sells repair parts for resale, make it clear to the supplier that the tools and equipment are not purchased for resale.

Auto painting, body work, and other auto repairs

For information about how tax applies to charges for vehicle repair, painting, and warranty-related work, see publication 25, *Auto Repair Garages and Service Stations*.

Tire sales

Sellers of new tires must register with the BOE and collect the California Tire Fee on every new tire sold. The fee is $1.75 per tire. You can keep one and a half (1.5) percent of the fees you collect as a reimbursement for your related costs. The fee itself is not taxable, but if you charge an amount higher than the required fee, that excess charge is taxable. For more information, see publication 91, *California Tire Fee*, or contact the BOE Customer Service Center at 1-800-400-7115.

For general information about the application of tax to sales of parts, labor, and hazardous waste fees, and oil recycling fees, please see publication 25, *Auto Repair Garages and Service Stations*. It also discusses the proper method for invoicing your customers.

Deal-of-the-Day Instruments

Third party Internet-based companies such as Groupon or LivingSocial offer Deal-of-the-Day Instruments (DDI) for sale on their website. DDIs, with certain specific terms and conditions, are considered retailer coupons and you, the retailer, are considered the issuer of the DDI. The sale of a DDI to a customer is not subject to tax. However, when the DDI is redeemed for taxable merchandise/service, your gross receipts subject to tax include the consideration paid by the customer for the DDI plus any additional cash, credit, or other consideration paid to you by the customer at the time of the sale. When the type of sale is normally not subject to tax, then tax would not apply to the sale of the merchandise and/or service when a DDI is redeemed by the customer.

For additional information please refer to publication 113, *Coupons, Discounts and Rebates*.

FOR MORE INFORMATION

For additional information or assistance with how the Sales and Use Tax Law applies to your business operations, please take advantage of the resources listed below.

CUSTOMER SERVICE CENTER
1-800-400-7115
TTY:711

Customer service representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays. In addition to English, assistance is available in other languages.

FIELD OFFICES

City	Area Code	Number
Bakersfield	1-661	395-2880
Culver City	1-310	342-1000
El Centro	1-760	352-3431
Fairfield	1-707	427-4800
Fresno	1-559	440-5330
Glendale	1-818	543-4900
Irvine	1-949	440-3473
Norwalk	1-562	466-1694
Oakland	1-510	622-4100
Rancho Cucamonga	1-909	257-2900
Rancho Mirage	1-760	770-4828
Redding	1-530	224-4729
Riverside	1-951	680-6400
Sacramento	1-916	227-6700
Salinas	1-831	443-3003
San Diego	1-858	385-4700
San Francisco	1-415	356-6600
San Jose	1-408	277-1231
Santa Clarita	1-661	222-6000
Santa Rosa	1-707	576-2100
Ventura	1-805	677-2700
West Covina	1-626	480-7200
Out-of-State Field Offices		
Chicago, IL	1-312	201-5300
Houston, TX	1-713	739-3900
New York, NY	1-212	697-4680
Sacramento, CA	1-916	227-6600

INTERNET
www.boe.ca.gov

You can log onto the BOE website for additional information—such as laws, regulations, forms, publications, and policy manuals—that will help you understand how the law applies to your business.

You can also verify seller's permit numbers on the BOE website (look for "Verify a Permit/License") or call the BOE toll-free automated verification service at 1-888-225-5263.

Multilingual versions of publications are available on the BOE website at *www.boe.ca.gov*.

Another good resource—especially for starting businesses—is the California Tax Service Center at *www.taxes.ca.gov*.

TAX INFORMATION BULLETIN

The quarterly Tax Information Bulletin (TIB) includes articles on the application of law to specific types of transactions, announcements about new and revised publications, and other articles of interest. You can find current and archived TIBs on the BOE website at *www.boe.ca.gov/news/tibcont.htm*. Sign up for the BOE updates email list and receive notification when the latest issue of the TIB has been posted to the BOE website.

FREE CLASSES AND SEMINARS

Most of the BOE statewide field offices offer free basic sales and use tax classes with some classes offered in other languages. Check the Sales and Use Tax Section on the BOE website at *www.boe.ca.gov* for a listing of classes and locations. You can also call your local field office for class information. The BOE also offers online seminars including the Basic Sales and Use Tax tutorial and how to file your tax return that you can access on the BOE website at any time. Some online seminars are also offered in other languages.

WRITTEN TAX ADVICE

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if the BOE determines that they gave you incorrect written advice regarding the transaction and that you reasonably relied on that advice in failing to pay the proper amount of tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction.

Please visit the BOE website at: *www.boe.ca.gov/email* to email your request. You may also send your request in a letter to: Audit and Information Section, MIC:44, California State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0044.

TAXPAYERS' RIGHTS ADVOCATE

If you would like to know more about your rights as a taxpayer or if you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor), please see publication 70, *Understanding Your Rights as a California Taxpayer*. or contact the Taxpayers' Rights Advocate Office for help at 1-916-324-2798 (or toll-free, 1-888-324-2798). Their fax number is 1-916-323-3319.

If you prefer, you can write to: Taxpayers' Rights Advocate, MIC:70; California State Board of Equalization; P.O. Box 942879; Sacramento, CA 94279-0070.

Regulations, forms, and publications

Lists vary by publication

Selected regulations, forms, and publications that may interest you are listed below. A complete listing of sales and use tax regulations, forms, and publications appears on the BOE website. Multilingual versions of the BOE publications and other multilingual outreach materials are also available at *www.boe.ca.gov/languages/menu.htm.*

Forms

BOE-101 *Claim for Refund or Credit*
BOE-106 *Vehicle/Vessel use Tax Clearance Request*
BOE-447 *Statement Pursuant to Section 6247 of the California Sales and Use Tax Law*
BOE-448 *Statement of Delivery Outside California*
BOE-531 *Schedule B – Detailed Allocation by County of 1% Uniform Local Sales and Use Tax*

Publications

17 *Appeals Procedures: Sales and Use Taxes and Special Taxes*
25 *Auto Repair Garages and Service Stations*
44 *District Taxes*
46 *Leasing Tangible Personal Property*
51 *Board of Equalization Resource Guide to Free Tax Products and Services for Small Businesses*
52 *Vehicles and Vessels: Use Tax*
58A *How to Inspect and Correct Your Records*
70 *Understanding Your Rights as a California Taxpayer*
73 *Your California Seller's Permit*
74 *Closing Out Your Account*
75 *Interest, Penalties, and Fees*
76 *Audits*
77 *Out-Of-State Sellers: Do You Need To Register With California?*
91 *California Tire Fee*
102 *Sales to the United States Government*
105 *District Taxes and Delivered Sales*
108 *Labor Charges*
116 *Sales and Use Tax Records*
119 *Warranties and Maintenance Agreements*
146 *Sales to American Indians and Sales in Indian Country*

Regulations

1526 *Producing, Fabricating and Processing Property Furnished by Consumers – General Rules*
1546 *Installing, Repairing, Reconditioning In General*
1566 *Automobile Dealers and Sales Representatives*
1566.1 *Auto Auctions and Auto Dismantlers*
1591.3 *Vehicles for Physically Handicapped Persons*
1595 *Occasional Sales—Sales of a Business—Business Reorganization*

Publicaciones disponibles en su idioma
以您的母語出版的出版物
Các Ấn Phẩm Có Sẵn Trong Ngôn Ngữ Của Quý Vị
귀하의 언어로 된 간행물이 있습니다

1610 *Vehicles, Vessels, and Aircraft*
1614 *Sales to the United States and its Instrumentalities*
1619 *Foreign Consuls*
1620 *Interstate and Foreign Commerce*
1641 *Credit Sales and Repossessions*
1642 *Bad Debts*
1655 *Returns, Defects and Replacements*
1660 *Leases of Tangible Personal Property—in General*
1661 *Leases of Mobile Transportation Equipment*
1668 *Sales for Resale*
1669.5 *Demonstration, Display, and Use of Property Held for Resale—Vehicles*
1671.1 *Discounts, Coupons, Rebates, and Other Incentives*
1686 *Receipts for Tax Paid to Retailers*
1698 *Records*
1700 *Reimbursement for Sales Tax*
1802 *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*
1803 *Application of Tax*
1803.5 *Long-Term Leases of Motor Vehicles*
1821 *Foreword—District Taxes*
1823 *Application of Transactions (Sales) Tax and Use Tax*
1823.5 *Place of Delivery of Certain Vehicles, Aircraft and Undocumented Vessels*

APPENDIXES

Exhibit 1

Sample of a declaration used for Noncommercial Vehicles, Aircraft, and Undocumented Vessels, (Regulation 1823.5, *Place of Delivery of Certain Vehicles, Aircraft and Undocumented Vessels)* claiming exemption from special district tax. (See Required documentation for sales not subject to district tax, for information on use of this declaration.)

Exhibit 2

Sample of a declaration used for Commercial Vehicles, (Regulation 1823.5) claiming exemption from special district tax. (See Required documentation for sales not subject to district tax, for information on use of this declaration.)

Exhibit 3 Lemon Law Calculations:

Example 1: Restitution—Method of calculating sales tax refund when the customer elects restitution in lieu of replacement

Example 2: Replacement Vehicle—Method of calculating sales tax due when the replacement vehicle has a value greater than the credit given for the original vehicle

Example 3: Replacement Vehicle—Method of calculating the sales tax refund when the replacement vehicle has a value less than the credit given for the original vehicle

Exhibit 4

Sample of a BOE-230-F, *California Resale Certificate Sales by Auto Auctions and Auto Dismantlers.*

(Exhibit 1)

Sample Declaration
(Regulation 1823.5)
Vehicles, Aircraft, and Undocumented Vessels

I HEREBY CERTIFY THAT:

(1) The _____,
(print the type and description of vehicle, aircraft, or undocumented vessel giving name of manufacturer)

_____

_____ purchased from _____
(print name of seller)

will be registered to the following address:

_____

_____

(2) The above address is outside the _____ District.
(name of district)

(3) The above address is my principal place of residence (or, in the case of a corporation, principal place of business).

(4) The vehicle, aircraft, or undocumented vessel when not in use will be kept, garaged, hangered or docked at:

_____

(5) The vehicle, aircraft, or undocumented vessel will be stored, used or otherwise consumed principally outside the

_____ District.
(name of district)

(Check applicable box.)

(6) ☐ (a) The purchaser does not hold a California seller's permit.

☐ (b) The purchaser holds California seller's permit No. _____ .

I understand that this declaration is for the purpose of allowing the above named seller to treat the sale of the above described tangible personal property as exempt from the transactions (sales) tax imposed by the _____

_____ District. If the property is principally stored, used or
(name of district)

otherwise consumed in that district, the purchaser shall be liable for and pay the use tax.

The foregoing declaration is made under penalty of perjury.

_____
(printed name of purchaser or authorized agent)

_____
(signature of purchaser or authorized agent)

_____
(title)

(date)

(Exhibit 2)

Sample Declaration
(Regulation 1823.5)
Commercial Vehicles

I HEREBY CERTIFY THAT:

(1) The _____,
(print the type and description of commercial vehicles giving name of manufacturer)

_____

_____ purchased from _____
(print name of seller)

will be registered to the following address:

_____

_____

(2) The vehicle will be operated from the following address:

_____

_____

(3) The address from which the vehicle will be operated is outside the _____

_____ District.
(name of district)

(4) When not in use, the vehicle will be kept or garaged at:

_____

_____

(5) The vehicle will be stored, used or otherwise consumed principally outside the _____

_____ District.
(name of district)

(Check applicable box.)

(6) ☐ (a) The purchaser does not hold a California seller's permit.

☐ (b) The purchaser holds California seller's permit No. _____ .

I understand that this declaration is for the purpose of allowing the above named seller to treat the sale of the above described tangible personal property as exempt from the transactions (sales) tax imposed by the _____

_____ District. If the property is principally stored, used or
(name of district)

otherwise consumed in that district, the purchaser shall be liable for and pay the use tax.

The foregoing declaration is made under penalty of perjury.

_____
(printed name of purchaser or authorized agent)

_____
(signature of purchaser or authorized agent)

_____
(title)

(date)

Lemon Law Calculations

Example 1: Restitution—Method of calculating sales tax refund when the customer elects restitution in lieu of replacement.

The tax rate in effect at the time of purchase was 8.25 percent. The vehicle was driven 5,907 miles prior to the first nonconformity. Please note this example does not take into account other types of manufacturer to customer reimbursements (for example, finance charges, attorney fees, rental car, etc.).

Description	**Per Sales Contract (Original Vehicle)**
A. Cash Price of Vehicle	$22,100.00
B. Accessories	
1. Manufacturer-Installed Options	$500.00
2. Dealer-Installed Options	$150.00
C. Document Fee	$45.00
Less: Usage*	($1,112.49)
Dealer-Installed Options**	($150.00)
Subtotal	$21,532.51
D. Sales Tax Due ($21,532.51 x 8.25%)	**$1,776.43**
E. License Fee	$183.00
Total	**$23,491.94**

In the above case, the manufacturer is required to reimburse the customer a minimum of $23,491.94 as restitution. When the customer is fully reimbursed and all other applicable requirements of the Civil Code are met, ***the manufacturer may file a claim for refund with the BOE for the sales tax in the amount of $1,776.43.***

* **Usage Calculation**—The customer is liable for use of the defective vehicle prior to the time the customer first delivers the vehicle to the manufacturer, or to its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. The amount attributable to such use by the customer will be calculated by multiplying the total sales price of the motor vehicle by a fraction having as its denominator 120,000 and as its numerator the number of miles the vehicle was used by the customer, up to the first nonconformity.

$$\text{(Cash Price of Original Vehicle)} \times \frac{\text{(Miles Driven Prior to the First Nonconformity)}}{120{,}000} = \text{Usage}$$

$$(\$22{,}100 + \$500) \times \frac{5{,}907}{120{,}000} = \$1{,}112.49$$

*** Dealer-installed options are not required to be reimbursed under the Civil Code.*

Example 2: Replacement Vehicle—Method of calculating sales tax due when the replacement vehicle has a value greater than the credit given for the original vehicle.

The tax rate of 8.25 percent was in effect at the time of both transactions, the replacement and the original purchase. The original vehicle was driven 5,907 miles prior to the first nonconformity. This example does not take into account other types of manufacturer to customer reimbursements (for example, finance charges, attorney fees, rental car, etc.).

Description	**Replacement Vehicle (Negotiated Price)**	**Per Sales Contract (Original Vehicle)**	**Difference**
A. Cash Price of Vehicle	$28,500.00	$22,100.00	($6,400.00)
B. Accessories			
1. Manufacturer-Installed Options	$855.00	$500.00	($355.00)
2. Dealer-Installed Options	$200.00	$150.00	($50.00)
C. Document Fee	$45.00	$45.00	($0.00)
Less: Usage*		($1,112.49)	($1,112.49)
Dealer-Installed Options**		($150.00)	($150.00)
Subtotal	$29,600.00	$21,532.51	***($8,067.49)***
D. Sales Tax Due ($8,067.49 x 8.25%)	$ 665.57		**($665.57)**
E. License Fee	$237.00	$183.00	($54.00)
Total	**$30,502.57**	**$21,715.51**	**($8,787.06)**

In the above case, the customer is entitled to a total credit of **$21,715.51** from the original sales contract. Since the value of the replacement vehicle was greater than the original vehicle the customer would owe additional sales tax of **$665.57** on the additional taxable measure of $8,067.49. Report the additional taxable measure of $8,067.49 to the BOE along with the payment of the additional sales tax due of $665.57 for the replacement vehicle for the period in which the replacement transaction takes place. Therefore, *the manufacturer should not file a claim for refund on this transaction*. The customer is responsible for paying the additional amount of **$8,787.06** to cover the additional cost of the replacement vehicle. The total allowable credit from the original vehicle applied towards the replacement vehicle is **$21,715.51.**

* Usage Calculation—The customer is liable for use of the defective vehicle prior to the time the customer first delivers the vehicle to the manufacturer, or to its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. The amount attributable to such use by the customer will be calculated by multiplying the total sales price of the motor vehicle by a fraction having as its denominator 120,000 and as its numerator the number of miles the vehicle was used by the customer, up to the first nonconformity.

$$(\text{Cash Price of Original Vehicle}) \times \frac{(\text{Miles Driven Prior to the First Nonconformity})}{120{,}000} = \text{Usage}$$

$$(\$22{,}100 + \$500) \times \frac{5{,}907}{120{,}000} = \$1{,}112.49$$

*** Dealer-installed options are not required to be reimbursed under the Civil Code.*

Example 3. Replacement Vehicle—Method of calculating the sales tax refund when the replacement vehicle has a value less than the credit given for the original vehicle.

The tax rate of 8.25% was in effect at the time of both transactions, the replacement and the original purchase. The original vehicle was driven 5,907 miles prior to the first nonconformity. This example does not take into account other types of manufacturer to customer reimbursements (for example, finance charges, attorney fees, rental car, etc.).

Description	Replacement Vehicle (Negotiated Price)	Per Sales Contract (Original Vehicle)	Difference
A. Cash Price of Vehicle	$15,700.00	$22,100.00	($6,400.00)
B. Accessories			
1. Manufacturer-Installed Options	$145.00	$500.00	($355.00)
2. Dealer-Installed Options	$100.00	$150.00	($50.00)
C. Document Fee	$45.00	$45.00	($0.00)
Less: Usage*		($1,112.49)	($1,112.49)
Dealer-Installed Options**		($150.00)	($150.00)
Subtotal	$15,990.00	$21,532.51	($5,542.51)
D. Sales Tax Due ($5,542.51 x 8.25%)		$ 457.26	**($457.26)**
E. License Fee	$130.00	$183.00	($53.00)
Total	**$16,120.00**	**$21,172.77**	**($6,052.77)**

In the above case, the customer is entitled to a **$6,052.77** refund directly from the manufacturer as well as the replacement vehicle costing **$16,120.00** for a total credit amounting to **$22,172.77.** When the customer is fully reimbursed and all other requirements of the Civil Code are met, the manufacturer may file a claim for refund with the BOE for **$457.26** in sales tax reimbursed.

* **Usage Calculation**—The customer is liable for use of the defective vehicle prior to the time the customer first delivers the vehicle to the manufacturer, or to its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. The amount attributable to such use by the customer will be calculated by multiplying the total sales price of the motor vehicle by a fraction having as its denominator 120,000 and as its numerator the number of miles the vehicle was used by the customer, up to the first nonconformity

$$(\text{Cash Price of Original Vehicle}) \times \frac{(\text{Miles Driven Prior to the First Nonconformity})}{120{,}000} = \text{Usage}$$

$$(\$22{,}100 + \$500) \times \frac{5{,}907}{120{,}000} = \$1{,}112.49$$

*** Dealer-installed options are not required to be reimbursed under the Civil Code.*

BOE-230-F REV. 2 (12-14)

CALIFORNIA RESALE CERTIFICATE—
SALES BY AUTO AUCTIONS AND AUTO DISMANTLERS

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

Regulation 1566.1

Sales of "vehicles" as defined in Regulation 1566.1, subdivision (a)(2), at auction or by dismantlers licensed under the California Vehicle Code are presumed to be retail sales and not sales for resale unless the seller timely takes a valid resale certificate from any person specified in paragraph 2 below. The resale certificate **must** include the purchaser's license or registration number, if applicable.

I HEREBY CERTIFY:

1. ☐ I hold valid California seller's permit number: _____

   ☐ I am not required to hold a California seller's permit because I do not make any sales in the State.

2. I certify *(check statement that applies and provide your license or registration number, if applicable):*

   ☐ I am licensed, registered, regulated, or certificated under the California Health and Safety Code or the California Vehicle Code as a dealer or dismantler.

   My California license or registration number is: _____

   ☐ I am licensed, registered, regulated, or certificated under the California Business and Professions Code as an automotive repair dealer.

   My California license or registration number is: _____

   ☐ I am qualified as a scrap metal processor as described in the California Vehicle Code.

   ☐ I am not registered or licensed in California, but I am licensed, registered, regulated, certificated, or otherwise authorized as a dealer, dismantler, automotive repairer, or scrap metal processor in the following jurisdiction outside the state of California:

   State/Country: _____

   Registration/License Number, if applicable: _____

3. This certificate is for the purchase from: _____ of the property described below.
   (VENDOR'S NAME)

4. I will resell the item(s) described in paragraph 5, which I am purchasing for resale in the form of tangible personal property in the regular course of my business operations, and I will do so prior to making any storage, use, or other consumption of the item(s) other than retention, demonstration, and display while holding the item(s) for sale in the regular course of my business. I understand that if I use the item(s) purchased under this certificate in any manner other than as just described, **I will owe use tax** based on each item's purchase price or as otherwise provided by law.

5. Description of property to be purchased:

6. I have read and understand the following:

   A person may be guilty of a misdemeanor under California Revenue and Taxation Code Section 6094.5 if the purchaser knows at the time of purchase that he or she will not resell the purchased item prior to any use (other than retention, demonstration, or display while holding it for resale) and he or she furnishes a resale certificate to avoid payment to the seller of an amount as tax. Additionally, a person misusing a resale certificate for personal gain or to evade the payment of tax is liable, for each purchase, for the tax that would have been due, plus a penalty of 10 percent of the tax or $500, whichever is more.

NAME OF PURCHASER

SIGNATURE OF PURCHASER, PURCHASER'S EMPLOYEE OR AUTHORIZED REPRESENTATIVE

PRINTED NAME OF PERSON SIGNING	TITLE

ADDRESS OF PURCHASER

TELEPHONE NUMBER	DATE
( )	

CALIFORNIA STATE BOARD OF EQUALIZATION • 450 N STREET • SACRAMENTO, CALIFORNIA
MAILING ADDRESS: P.O. BOX 942879 • SACRAMENTO, CA 94279-0001