



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 42

REGISTRATION OF VEHICLES – TAXABLE/EXEMPT

This bulletin is intended solely as advice to assist persons in determining and complying with their obligations under Maine tax law. It is written in a relatively informal style and is intended to address issues commonly faced by municipal agents and employees of the Bureau of Motor Vehicles while assisting taxpayers in the registration of vehicles.

Taxpayers are responsible for complying with all applicable tax statutes and rules. Although Maine Revenue Services ("MRS") bulletins do not have the same legal force and effect as rules, justifiable reliance upon this bulletin will be considered in mitigation of any penalties for any underpayment of tax due. This bulletin is current as of the last revision date shown at the end of the document.

The Sales and Use Tax Law is found in Part 3 of Title 36 of the Maine Revised Statutes ("M.R.S."). Title 36, MRS rules, forms, and instructional bulletins referenced in this bulletin can be viewed on the MRS website, www.maine.gov/revenue.

For the purposes of this Bulletin, **the term "vehicle" primarily means motor vehicle**, but also includes, depending on the context, truck campers, trailers, and special mobile equipment. The term "motor vehicle" means a self-propelled vehicle designed for the conveyance of passengers or property on the public highways. See 36 M.R.S. § 1752(7). Although "motor vehicle" also includes snowmobiles, all-terrain vehicles ("ATVs") and watercraft, these vehicles are addressed separately in Instructional Bulletin No. 47 ("Original Registration of Watercraft, Snowmobiles and All-Terrain Vehicles") and are not discussed in this bulletin.

The purchaser or other person seeking to register a vehicle must pay Maine use tax at the time and place of registration unless the dealer has already collected the sales or use tax in full. For vehicles, the tax must be collected by the Secretary of State and transmitted to the Treasurer of State as provided by 29-A M.R.S. § 409. See 36 M.R.S. § 1952-A.

To facilitate this collection, the applicant for the original registration of a vehicle must present a properly completed bill of sale and/or "Use Tax Certificate" (Form STMV6U) to the appropriate registering agency. Unless the purchase of the vehicle was exempt from tax, the bill of sale provides the documentation for receipt of sales tax paid to a dealer; completion of a Use Tax Certificate requires that the use tax be paid to the Secretary of State prior to the issuance of the registration.

1. MAINE DEALER SALES

Maine vehicle dealers must provide their customers with a properly completed bill of sale showing either that the sales tax due on the vehicle to be registered has been collected by the dealer or that the sale or lease of the vehicle is exempt or otherwise not subject to tax. The person registering the vehicle must present the bill of sale as a prerequisite to any original registration.

Maine vehicle dealers must collect and report the sales tax on all sales or leases of vehicles made in this state, unless the purchaser qualifies for one of the tax exemptions discussed in Section 5 below. A Maine vehicle dealer does not have the option of allowing its customers to pay the use tax directly to the Secretary of State at the time of registration. The dealer will be held accountable for the tax on all taxable transactions. Maine dealers should refer to Instructional Bulletin No. 24 ("Vehicle Dealers") for more information on administering sales tax in their businesses.

A. BILL OF SALE. The registration agent must review the bill of sale to determine whether sales tax was charged or the sale or lease was exempted from sales tax. The agent may proceed with the registration if: (1) the sales tax is listed on the bill of sale, or (2) the sales tax line on the bill of sale contains the word "EXEMPT." The bill of sale should be returned to the person registering the vehicle. A copy of the bill of sale does **not** need to be forwarded to MRS.

If the bill of sale does not list the sales tax and does not contain the word "EXEMPT", the person registering has two options. The person should either return to the dealer to obtain a properly completed bill of sale or complete a Use Tax Certificate, and either pay the appropriate tax or claim a valid exemption.

In the event a bill of sale is presented from a dealer located outside of Maine, any tax shown on the bill of sale should not be assumed to be a Maine tax. If the out-of-state dealer is registered with Maine, the dealer should clearly indicate their Maine sales tax registration number on the bill of sale. If that number is not present on the bill of sale, the person registering the vehicle should complete a Use Tax Certificate. See Section 2(A) below.

B. VEHICLES REGISTERED FOR DEALER'S OWN USE. If a dealer registers a vehicle for its own use, the vehicle is generally subject to use tax based on the cost of the vehicle to the dealer. A dealer should complete a Use Tax Certificate and either pay the appropriate use tax or explain on the certificate that use tax is being accrued under its sales tax registration number. In the latter case, the dealer's sales tax number must be clearly identified on the Use Tax Certificate.

Certain vehicles purchased by dealers are exempt from sales tax. In the following situations, dealers should complete a Use Tax Certificate, check the "Other" box under "Exemptions," and provide an explanation. The following purchases by dealers qualify for exemption:

(1) Loaner vehicle. The purchase by a dealer of a loaner vehicle, which means an automobile to be provided to the dealer's service customers for short-term use free of charge pursuant to the dealer's franchise as defined in 10 M.R.S. § 1171(6). See 36 M.R.S. § 1752(11)(B)(8).

(2) Short-term rentals of automobiles. The purchase of an automobile by a person engaged in the business of renting automobiles. "Automobile" includes pickup trucks and vans with a gross vehicle weight ("GVW") of less than 26,000 pounds. See 36 M.R.S. § 1752(11)(B)(3).

(3) Interim rentals. A dealer that purchased a vehicle (other than an automobile) for resale, then rents the vehicle as an interim rental under 36 M.R.S. § 1758 prior to being sold.

2. USE TAX CERTIFICATE

If a vehicle is purchased from someone other than a Maine registered dealer, the person registering the vehicle must complete a Use Tax Certificate. Unless the transaction falls under one of the exemptions listed in Section 5 below, use tax is due as a prerequisite to registration.

A. SALES BY OUT-OF-STATE DEALERS. Vehicles purchased or leased from dealers located outside Maine for use in this State are subject to Maine's use tax. A person who registers a vehicle in this State must complete a Use Tax Certificate and submit it to the Secretary of State, along with any use tax due, as a prerequisite to any original registration.

Note: Some bills of sale may indicate that a sales tax was collected. In some cases, the tax represents the tax of the state where the sale occurred. In this instance, refer to Section 7(C) of this bulletin to apply credit for taxes paid in another jurisdiction. In other cases, the sales tax on the bill of sale may represent Maine's use tax due since the purchaser requested that the tax be included in the financed amount. In this instance, the registrant remains responsible for payment of the use tax at the time of registration and may in fact have a check in hand for that purpose.

B. CASUAL SALES. A casual sale is a sale where the seller is not in the business of selling at retail. 36 M.R.S. § 1764 imposes a use tax on casual sales of the following items:

(1) Motor vehicles. "Motor vehicle" means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways. See 36 M.R.S. § 1752(7).

(2) Truck campers. "Truck camper" means a slide-in camper designed to be mounted on a truck body to provide temporary living quarters for recreational, camping, travel or other use. See 36 M.R.S. § 1752(20-A).

(3) Trailers. "Trailer" means a vehicle without motive power and mounted on wheels that is designed to carry persons or property and to be drawn by a motor vehicle and not operated on tracks, including a camper trailer. See 36 M.R.S. § 1752(19-A).

(4) Special Mobile Equipment. "Special mobile equipment" means any self-propelled vehicle not designed or used primarily for the transportation of persons or property that may be operated or moved only incidentally over the highways, except farm tractors and lumber harvesting vehicles or loaders. See 36 M.R.S. § 1752(14-B). Examples of special mobile equipment include: road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well drillers, wood sawing equipment, bulldozers, front-end loaders, forklifts, lawn tractors, and backhoes.

Note: While included in the definition of special mobile equipment, farm tractors and lumber harvesting vehicles or loaders are **not** subject to use tax when purchased at casual sale.

Any purchaser of these items in a casual sale is required to file a Use Tax Certificate with the Secretary of State and pay any use tax due as a prerequisite to the purchaser's original registration of the vehicle. The use tax is still due if the vehicle is not being registered, and can be remitted to the State on the Individual Use Tax Form, available on the MRS website.

C. CASUAL SALE EXCEPTIONS. A transfer **to** a corporation, partnership, trust, limited liability company or limited liability partnership is not treated as a taxable casual sale when the seller is the owner of 50% or more of the common stock of the corporation or of the ownership interests in the partnership, trust, limited liability company, or limited liability partnership. In this situation, the space marked "Other" on the Use Tax Certificate should be checked with an appropriate explanation made on the reverse side.

Note: A transfer **from** a corporation, partnership, trust, limited liability company, or limited liability partnership **to** another party, including one of its shareholders or owners, is generally taxable as a casual sale if the shareholder, owner, or employee provides payment or other bargained-for consideration for the transfer. As the tax treatment of these transactions will be determined by the particular facts, questions regarding specific situations should be directed to MRS for a determination.

D. SUBSEQUENT USE IN MAINE OF A PREVIOUSLY EXEMPTED MAINE SALE.

(1) Sale or lease to nonresident. Maine sales tax does not apply to motor vehicles, semi-trailers, camper trailers, and truck campers purchased in Maine by a person that is not a resident of Maine, if the vehicle is intended to be driven or transported outside the State immediately upon delivery by the seller. If the property returns to Maine within the first 12 months after the purchase date, the person seeking registration may be liable for use tax on the basis of the original purchase price. See 36 M.R.S. § 1760(23-C).

(2) Sale or lease to qualifying resident businesses. Maine sales tax does not apply to the sale or lease of a motor vehicle to a qualifying resident business if the vehicle is intended to be driven or transported outside Maine immediately upon delivery and intended to be used exclusively in the qualifying resident business's out-of-state activities. If the vehicle is not used exclusively in the qualifying resident business's out-of-state business activities

or is registered for use in Maine within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price. See 36 M.R.S. § 1760(23-D).

E. TRANSFERS OF EQUITY. In transactions involving a transfer of an equity interest in a vehicle, a sale occurs even though cash may not change hands.

(1) Assuming loan balances. When a person takes possession of a motor vehicle from another person and assumes payment of the balance remaining on the other person's loan, the transaction is a taxable casual sale. Use tax is owed by the new owner based on the amount being assumed. The new owner's assumption of the loan pays off the prior owner's debt and constitutes part of the sale price. If there was additional value paid to the former owner by the new owner, that also must be included as part of the sale price. Similarly, when a lease in lieu of purchase, such as a Terminal Rental Adjustment Clause (or TRAC) lease, is being assumed and the original lessee is relieved of the legal liability for making the lease payments, the lease assumption transaction is a taxable casual sale.

(2) Transfer of ownership interest. When a vehicle is jointly owned by two or more persons and one owner's interest is transferred to one or more of the other owners, the transaction is a taxable casual sale. Use tax is owed by the remaining owner or owners. The sale price will include value transferred by the other owners. The fact that the owners are family members or are husband and wife does not change the fact that a taxable sale has occurred. For more information on exceptions and special situations, see Section 7 of this bulletin.

3. SALE PRICE

A. RETAIL SALES. The statutory definition of "sale price" includes "any consideration for services that are part of a retail sale." See 36 M.R.S. § 1752(14)(A). Thus, all charges imposed by a dealer for services that are part of the sale and occur prior to passage of title of the vehicle are part of the sale price of the vehicle and subject to the sales or use tax.

(1) "Sale price" includes, but is not limited to:

- "Processing fees" or "documentation fees."
- Dealer prep charges.
- Incoming freight (shipping charges to the location of the dealer).
- Shipping charges to the location of the purchaser (unless the charges are separately stated and shipment was made by a common or contract carrier).
- Manufacturers' and importers' excise taxes.
- Rustproofing, protection packages, installation of accessories and other additional work performed on the vehicle prior to the customer taking delivery and prior to passage of title. In contracts for the sale of a vehicle, title is deemed to pass when the customer accepts delivery.

- Manufacturer's rebates. No deduction is allowed from the sale price for manufacturer's rebates. The fact that the rebate is assigned by the purchaser to the dealer does not change the tax treatment.
- Extended warranty on an automobile.
- Extended warranty on a truck.

(2) "Sale price" does not include:

- Discounts allowed by the dealer and taken on sales, including dealer rebates.
Note: No deduction is allowed from the sale price for manufacturer's rebates.
- Services provided after the customer takes delivery and after passage of title.
- Federal Luxury Tax and other retailers' excise taxes.
- Any charge, deposit, fee or premium imposed by a law of this State, such as:
 - Title or encumbrance fees;
 - State Inspection fees; or
 - "Lemon law" arbitration and consumer mediation service fees.
- Finance charges.
- Extended warranties (other than on automobiles and trucks).
- Credit life insurance and "gap" insurance.

See 36 M.R.S. § 1752(14)(B) and Instructional Bulletin 39 ("Sale Price Upon Which Tax is Based") for more details on how to correctly calculate the "sale price" of a vehicle.

B. CASUAL SALES. The items mentioned above are usually associated with "retail sales". Generally, the sale price of a casual sale will be the negotiated amount paid by the purchaser to the seller. However, the amount paid, or "consideration," involves not only cash but also could involve the exchange of property without any further cash payment or the transfer of property in exchange for services rendered. In these situations, the sale price is the value of the exchange as negotiated by the seller and buyer. If that value is not documented or otherwise established, the sale price of the property subject to use tax at casual sale would be its fair market value.

4. TRADE-INS

When one or more of the items listed in 36 M.R.S. § 1765 are traded in toward the sale price of another item of the same kind (e.g., motor vehicle traded for a motor vehicle, trailer for a trailer, etc.), the sales or use tax is levied only on the difference between the sale price of the purchased item and the trade-in value allowed for the item or items taken in trade, except for transactions between dealers involving the exchange of property from inventory.

If any item of one kind is traded in toward the sale price of an item of another kind (a motor vehicle is traded in toward the sale price of special mobile equipment, or a camper trailer is traded in toward the sale price of a motor home), no credit for trade-in is allowed and the tax applies to the entire sale price. No credit for trade-ins is allowed on leased vehicles (unless the lease is a lease in lieu of purchase.) See Section 6 of this bulletin for more information on leases.

A. MOTOR VEHICLES. In transactions involving motor vehicles, the allowance for trade-in applies only when both vehicles involved are self-propelled and are designed for the conveyance of passengers or property on the public highway. See 36 M.R.S. § 1752(7). For trade-in purposes, ATVs and snowmobiles are included within the definition of "motor vehicles." Trailers do not qualify as motor vehicles because they are not self-propelled. The term "motor vehicle" includes items of equipment that are permanently attached to, and sold as one unit with, a motor vehicle. Common examples are cranes, shovels, and cement mixers. "Permanently attached" means that the components are physically joined together in a secure fashion and are not meant to be used independently.

Because a slide-in truck camper can be used independently, it is not an accessory (or part) of a truck. If a truck with a slide-in camper is traded in on the purchase of a truck without a slide-in camper, any trade-in allowance given for the slide-in truck camper is not creditable against the sales or use tax.

B. SPECIAL MOBILE EQUIPMENT. As discussed above, "special mobile equipment" means any self-propelled vehicle not designed or used primarily for the transportation of persons or property that may be operated or moved only incidentally over the highways. See 36 M.R.S. § 1752(14-B). Unlike when determining use tax at casual sale, for trade-in purposes, special mobile equipment **includes** farm tractors and lumber harvesting vehicles and loaders, such as skidders, crawler tractors, and log loaders. Other common examples of special mobile equipment include: road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well drillers, wood sawing equipment, bulldozers, front-end loaders, forklifts, lawn tractors, and backhoes. An item of special mobile equipment, like a crane, that is permanently attached to a motor vehicle and sold as one unit is considered a part of the motor vehicle.

C. TRAILERS AND TRUCK CAMPERS. When a trailer of any type or truck camper is traded in toward the sale price of another trailer of any type or truck camper, a trade-in credit is allowed. "Trailer" is defined as "a vehicle without motive power and mounted on wheels that is designed to carry persons or property and to be drawn by a motor vehicle and not operated on tracks." See 36 M.R.S. § 1752(19-A). "Truck camper" is defined as "a slide-in camper designed to be mounted on a truck body to provide temporary living quarters for recreational, camping, travel or other use." See 36 M.R.S. § 1752(20-A). "Trailer" includes park model homes, camper trailers as defined in 36 M.R.S. § 1481(1-A), utility trailers, recreational vehicle trailers, livestock trailers, horse trailers, and boat trailers.

5. EXEMPT SALES

Listed below are various sales and use tax exemptions that may apply to transactions involving vehicles that are customarily registered for highway use. Included within each category is an explanation of how the exempt sale should be documented on the Use Tax Certificate.

A. SALES TO THE GOVERNMENT AND TO GOVERNMENT AGENCIES. Sales made directly to the federal government, the State of Maine or any political subdivision of this

State, or to any unincorporated agency of the above, are exempt from sales or use tax. In addition to counties, cities, towns, or plantations in the State of Maine, this exemption covers sales to:

- School districts in Maine;
- Water, power, parking, sewer and other districts in Maine, established by legislative act as quasi-municipal corporations;
- Village corporations; and
- The Maine Turnpike Authority.

An exemption number is not ordinarily issued to the above agencies of government. The box marked "Exempt Purchase" on the front of the Use Tax Certificate should be checked, and the name of the exempt agency and the signature of an authorized individual must be included on the certificate.

B. EXEMPT ORGANIZATIONS. The Sales and Use Tax Law also provides exemptions for purchases by various organizations, including hospitals, schools, regularly organized churches or houses of religious worship and a number of other types of organizations. For more information, see MRS Rule 302 ("Sales to Governmental Agencies and Exempt Organizations") and Instructional Bulletin No. 36 ("Exempt Organizations and Government Agencies"). The box marked "Exempt Purchase" on the front of the Use Tax Certificate should be checked, and the organization should list its 5-digit exemption number in the appropriate box on the back of the certificate.

C. SALE OF DUAL-CONTROLLED AUTOMOBILES USED IN DRIVER TRAINING PROGRAMS. This exemption applies to sales by registered automobile dealers of automobiles for the purpose of equipping the same with dual controls and loaning or leasing them to public or private schools without consideration or for the consideration of not more than \$1 a year. See 36 M.R.S. § 1760(21). Persons registering qualifying automobiles may do so without payment of use tax. The box marked "Exempt Purchase" on the front of the Use Tax Certificate should be checked, and an appropriate explanation should be provided on the back of the certificate.

D. SALES TO AMPUTEE VETERANS. This exemption applies to sales of automobiles to veterans who are granted free registration by the Secretary of State under 29-A M.R.S. § 523(1). See 36 M.R.S. § 1760(22). Veterans qualifying for this exemption may register without payment of use tax. Persons registering qualifying automobiles may do so without payment of use tax. The box marked "Exempt Purchase" on the front of the Use Tax Certificate should be checked, and an appropriate explanation should be provided on the back of the certificate. A copy of the letter from the Veterans Administration should be attached to the certificate.

Note: There is no sales tax exemption for veterans generally, or for military personnel. The sale of a vehicle to a person in the military service is handled in exactly the same way as a sale to a civilian.

E. SALES OF LOANER VEHICLES TO A NEW VEHICLE DEALER. For purposes of this exemption, "loaner vehicle" means an automobile to be provided to the dealer's service customers for short-term use free of charge pursuant to the dealer's franchise as defined in 10 M.R.S. § 1171(6). The use of a vehicle provided to a service customer pursuant to a manufacturer's or dealer's warranty is exempt from use tax pursuant to 36 M.R.S. § 1760(21-A). A dealer may register a qualifying "loaner vehicle" without payment of use tax. The box marked "Exempt Purchase" on the front of the Use Tax Certificate should be checked, and an appropriate explanation should be provided on the back of the certificate.

F. SALES OF AUTOMOBILES FOR SHORT-TERM RENTAL OR LEASE. This exemption applies to automobiles only rented or leased on a short-term basis. "Short-term" means a period of less than one year. For the purposes of this exemption, "automobile" includes pickup trucks and vans with a GVW of less than 26,000 pounds. Businesses that rent automobiles may register qualifying automobiles without payment of use tax. See 36 M.R.S. § 1752(11)(B)(3). The box marked "Exempt Purchase" on the front of the Use Tax Certificate should be checked, and an appropriate explanation should be provided on the back of the certificate.

G. VEHICLES USED IN INTERSTATE COMMERCE. This exemption applies to railroad rolling stock, aircraft, watercraft, and vehicles including trailers and semitrailers designed for the conveyance of property on public highways. The exemption applies to a vehicle that meets the following criteria:

- It must be placed in use as an instrumentality of interstate or foreign commerce within 30 days of purchase (90 days with good cause);
- It must be used not less than 80% of the days in use in interstate or foreign commerce for two years following the date of purchase; and
- It must be used by the purchaser using its own Interstate Operating Authority number issued by the Federal Motor Carrier Safety Administration. Use by the purchaser includes property used by an authorized motor carrier in interstate or foreign commerce pursuant to a written interchange agreement pursuant to 49 Code of Federal Regulations, Section 376.31, or successor regulation, between that carrier and the purchaser of the property.

See 36 M.R.S § 1760(41-A) and MRS Rule 318 ("Instrumentalities of Interstate or Foreign Commerce") for more details.

A person registering a qualifying vehicle may do so without payment of use tax. The box marked "Exempt Purchase" on the front of the Use Tax Certificate should be checked, and an appropriate explanation should be provided on the back of the certificate.

H. PRIOR USE OUTSIDE THE STATE OF MAINE.

(1) Automobiles. An automobile purchased and actually used by the present owner outside the State of Maine, where the owner was a bona fide resident of the other state at the time of purchase, is exempt from the Maine use tax. "Automobile" for purposes of this

provision includes pickup trucks and vans with a GVW of 10,000 pounds or less but does not include a motorcycle, moped, motor home, recreational vehicle, bus, stock car, or antique auto registered as such.

(2) Motor vehicles other than automobiles. Vehicles other than automobiles that were purchased outside of Maine but are now being registered for use in Maine may under certain circumstances qualify for exemption from use tax. If the person registering the vehicle is claiming an exemption based on prior use outside of Maine, the person should indicate in the appropriate box on the Use Tax Certificate the original registration information from the other state and attach a detailed explanation supporting the claimed exemption.

See 36 M.R.S. § 1760(45) for additional information on property purchased outside this State. The box marked "Exempt Purchase" on the front of the Use Tax Certificate should be checked, and an appropriate explanation should be provided on the back of the certificate.

I. SALES OF CAMPER TRAILERS OR MOTOR HOMES FOR RENTAL. Persons engaged in the business of renting camper trailers and motor homes may register these vehicles without payment of sales and use tax if the subsequent rental is to be as tangible personal property and not as the rental of living quarters. The purchase of camper trailers and motor homes that are to be rented out as the rental of living quarters is a taxable sale. See 36 M.R.S. § 1752(11)(B)(16).

The box marked "Exempt Purchase" on the front of the Use Tax Certificate should be checked, and an appropriate explanation should be provided on the back of the certificate.

6. LEASES

A. LEASES OF AUTOMOBILES. The Sales and Use Tax Law treats the rental and leasing of automobiles differently from the rental and leasing of other vehicles. The term "automobile" includes a pickup truck or van with a registered gross vehicle weight of 10,000 pounds or less. See 36 M.R.S. § 1752(1-B).

(1) Short-term rentals. Short-term rentals of automobiles are subject to sales tax. "Short-term" means a period of less than one year. A person that makes short-term rentals of automobiles may purchase the automobile free of tax and must collect tax on each rental payment. For purposes of short term rentals, "automobile" includes a pick up truck or van with a gross vehicle weight of less than 26,000 pounds. A person registering a qualifying vehicle may do so without payment of use tax. The box marked "Exempt Purchase" on the front of the Use Tax Certificate should be checked, and an appropriate explanation should be provided on the back of the certificate.

(2) Long-term rental or lease. The long-term rental or lease of an automobile is subject to sales and use tax. "Long-term" means a period of 12 months or more. If the lease was arranged by a Maine-licensed dealer or lessor, the person seeking registration should follow

the procedure outlined in Section 1 of this bulletin. If a lease has not been arranged by a Maine dealer or lessor, the person seeking registration should complete the "Use Tax Certificate for An Automobile Being Leased for 12 or More Months" (Form STMV6UL). The use tax is based on the combined value of the total monthly lease payment multiplied by the number of payments in the lease or rental, the amount of equity involved in any trade-in, and the value of any down payment.

B. LEASES OF OTHER VEHICLES. Applicants for registration of all other leased vehicles (with the exception of interim rentals, camper trailers and motor homes) may need to demonstrate that the tax is not owed as a prerequisite to registration. With respect to a true lease and a lease with an option to purchase, the basis of the tax is the sale price of the vehicle in the sale to the lessor. The lessor is making a taxable use of the property through the derivation of rental income in the State, and would be liable for sales or use tax when the property enters the state.

With respect to a lease in lieu of purchase – which is treated as a sale for tax purposes – the basis of the tax is the total of the lease payments.

See Instructional Bulletin No. 20 ("Lease and Rental Transactions") for additional information about leases.

7. SPECIAL SITUATIONS

A. SALES BY ESTATES. Sales of motor vehicles by personal representatives of estates are generally taxable. However, the transfer of a motor vehicle to a beneficiary of a decedent pursuant to a will is not taxable because the transaction is not considered a sale.

B. TRANSFER OF EQUITY IN A DIVORCE. A transfer of equity from a husband or wife to the other spouse pursuant to a court-ordered divorce decree is not taxable because the transaction is not considered a sale.

C. CREDIT ALLOWED FOR SALES TAX PAID TO OTHER TAXING JURISDICTIONS. Credit is allowed for any sales or use tax paid to other taxing jurisdictions against any Maine use tax that may be due on a vehicle. The box marked "Exempt Purchase" on the front of the Use Tax Certificate should be checked, and an appropriate explanation should be provided on the back of the certificate. In addition, a copy of the bill of sale, invoice, or receipt for payment of tax to the other state must be attached to the certificate. If the amount of tax paid to the other jurisdiction is equal to or is greater than the use tax due in Maine, the registrant should indicate "0" on line 4. Otherwise, place the difference on line 4 after subtracting the amount of tax paid to the other jurisdiction from Maine's use tax. See 36 M.R.S. § 1862.

D. SALES FOR RESALE. Under the Sales and Use Tax Law, a sale of a vehicle for resale (except for resale as a casual sale) is not a taxable transaction if no use is made of the vehicle other than demonstration or display. However, registration of a vehicle is considered evidence that use other than demonstration or display is being made of the vehicle, and the registrant

will be required to pay the use tax as a prerequisite to registration. For this reason, "sale for resale" is not allowable as a valid exemption on a Use Tax Certificate.

E. GIFTS. A true gift to a person is not a taxable transaction because it is not a sale. A true gift does not require the recipient to pay any consideration, whether in cash, property in trade, or services rendered. For instance if a father gifts his daughter a car, it is a nontaxable transaction. However, if the daughter assumes the loan balance, the daughter has paid consideration for the car and the transaction is taxable.

8. REVIEW OF PURCHASE PRICES AND EXEMPTIONS

Purchase prices and exemptions claimed are subject to audit or investigation by MRS. If it is determined that the purchase price was understated or that an exemption was claimed improperly, an assessment of the appropriate use tax along with applicable interest and penalties will be made against the purchaser.

9. ADDITIONAL INFORMATION

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law as it applies to the original registration of certain vehicles. It is not intended to be all inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to:

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