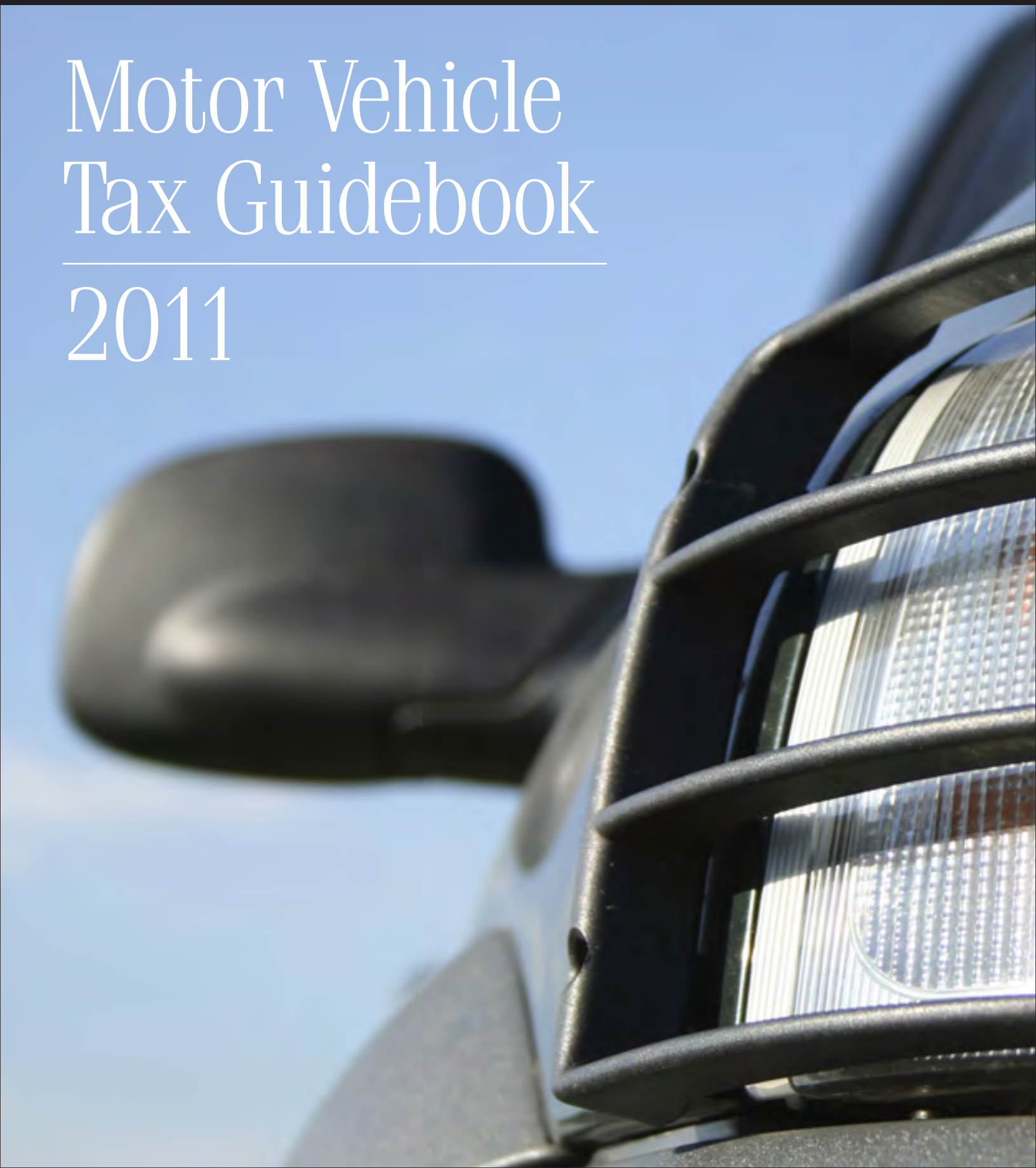
Susan Combs Texas Comptroller of Public Accounts

Motor Vehicle Tax Guidebook

2011



January 2011

Dear Fellow Texan:

Motor vehicle sales and use tax is one of the state's primary revenue sources supporting Texas government. We appreciate your hard work in collecting this tax.

Our aim is to help you with your collection duties through publications such as this guide. This guide details the regulations that govern the taxes involved in transferring motor vehicles and includes the links to Texas motor vehicle tax laws, Comptroller rules, publications and forms.

Please call our Motor Vehicle Tax staff at (800) 252-1382 if you have any questions. Our Austin number is (512) 463-4600. Our staff of trained tax professionals will answer your questions honestly, fairly and quickly.

Please let us know if we can be of any further assistance.

Sincerely,

Susan Combs

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Glossary of Terms

This *Motor Vehicle Tax Guide* uses the following terms and acronyms.

Accessory – Any item that is not a motor vehicle and that can either be attached to a motor vehicle or combined with other items or parts to make a motor vehicle.

Apportioned Plates – Plates given to those vehicles registered to travel in two or more states. See also *International Registration Plan (IRP)* in this Glossary.

Appraised Value – The retail value of a used motor vehicle based on a certified appraisal for the purpose of calculating motor vehicle tax due.

Attachment – An extra part or extension that is, or can be, attached to a motor vehicle to perform a particular function.

Bunkhouse – A house trailer designed for use as a sleeping place for a group or crew, but not as a single-family residence.

Business Entity or Legal Entity – A form of business with distinct and independent existence, that is recognized by law and includes, but is not limited to, a sole proprietor, partnership, corporation or LLC doing business in Texas.

Cab Card – The official document issued by the state and carried in the cab of a vehicle registered for apportioned plates. The cab card lists the jurisdictions (states) into which the carrier has apportioned the vehicle and the registered vehicle weight in each state. See also *International Registration Plan (IRP)* in this Glossary.

Certificate of Title – An instrument issued for a motor vehicle under Transportation Code Section 501.021 by the Texas Department of Motor Vehicles (TxDMV). The blue copy is the original and becomes the "owner's" copy when the motor vehicle is paid off. The customer's Registration and Title System (RTS) receipt becomes a vehicle's non-negotiable title.

Church or Religious Society – An organized group of people regularly associating for the sole purpose of holding, conducting and sponsoring religious worship according to the rites of the group.

Co-Owner or Co-Maker – A party to the ownership of a motor vehicle. When a loan is undertaken, all parties are jointly and severally liable for its payment.

Co-Signer – A party that has agreed to guarantee the repayment of a loan, but does not have direct ownership rights.

Community Property – Property acquired by a married couple and titled in the name of the husband, the wife or both.

Comptroller – Texas Comptroller of Public Accounts.

Conditional Sale – A sales agreement under which the lessor (seller) retains title until the lessee (purchaser) has paid for the motor vehicle at which time the conditional sale has been fulfilled and the title passes to the lessee (purchaser). This is also known as a lease/purchase agreement.

Consideration or Total Consideration – The total amount paid or to be paid for a motor vehicle and all accessories that are attached to it at the time of the sale. It includes anything given as payment, such as a boat, airplane, land, livestock, labor or the assumption of a lien.

Consumer Credit Commission – Also called Office of Consumer Credit Commissioner (OCCC). This is the state agency that licenses companies that finance motor vehicle sales in Texas. Motor vehicle dealers that provide financing themselves, dealers that arrange financing with lenders for their customers and finance companies that provide financing to dealers' customers must hold a license with the OCCC.

Corporation – A company authorized to act as a single entity and recognized as such in law. A corporation includes a bank, state limited banking association, savings and loan association, limited liability company, professional limited liability company, corporation that elects to be an S corporation for federal income tax purposes and a professional corporation.

County TAC – County tax assessor-collector. This also refers to actions by the county tax office.

County Working Day – A day in which a county tax office is open for business to the public.

Date of Purchase – Same as sale date or date of sale. This is the day the motor vehicle is delivered to the purchaser unless otherwise specified by written agreement.

Dealer – A person, licensed under Occupations Code, Chapter 2301, for the purpose of regularly and actively engaging in the business of buying, selling or exchanging motor vehicles as a primary business function, who separately sells at least five different motor vehicles during any 12-month period. Dealers licensed under Transportation Code, Chapter 503, Subchapter B, include a dealer authorized by law and by franchise agreement to offer for sale a new motor vehicle, an independent dealer authorized by law to offer for sale a motor vehicle other than a new vehicle, a wholesale dealer, a wholesale auction dealer, a motorcycle dealer, a house trailer dealer and a trailer or semi-trailer dealer.

Dealer, Franchised or Franchised Dealer – As defined by Transportation Code Chapter 503, a person holding a franchise with a motor vehicle manufacturer to sell a particular make of car.

Dealer, Independent – Usually a used car dealer.

Dealer, Seller-Financed – A dealer who finances the sales of motor vehicles from the dealer's inventory.

DFPS – Department of Family and Protective Services.

Documentary Fee – Separately stated charge for preparing and processing documents relating to the transfer of a motor vehicle.

Equity – The value in a financed or mortgaged motor vehicle after deduction of charges against it.

Even Trade – An exchange of motor vehicles in which no consideration other than the exchange of motor vehicles is involved.

Fair Market Value – A vehicle's actual selling price when retired from service or its depreciated book value if it is no longer used and is offered for sale.

Fair Market Value Deduction – A method by which the taxable value of a vehicle purchased for dealer use, lease or rental may be reduced.

Farm or Ranch – One or more tracts of land used to produce crops, livestock or other agricultural products to be sold in the regular course of business, including dairy farms, commercial orchards, commercial greenhouses, feedlots and similar commercial agricultural operations that are the original producers of agricultural products.

Farm Machine – A self-propelled motor vehicle specially adapted or modified to apply plant food materials, agricultural chemicals or feed for livestock. It does not include a self-propelled motor vehicle specially adapted for the transportation of agricultural products.

First Sale – The bargain, sale, transfer or delivery of a motor vehicle that has not been previously registered, licensed, or subject to a retail tax, with intent to pass an interest in the motor vehicle, other than a lien.

Form 130-U – Short name for the Application for Texas Certificate of Title/Motor Vehicle Tax Statement.

Form 31 RTS Receipt – A receipt issued by the county TAC as proof of title application and registration and payment of the motor vehicle tax.

Gift – A transfer of a motor vehicle, subject to a nominal tax ($10), in which an eligible person receiving a motor vehicle pays no consideration. The only transactions that qualify to be taxed as gifts are those wherein the vehicles are received from: a spouse (separate property); parent or stepparent; father/mother-in-law or son/daughter-in-law; grandparent/grandparent-in-law or grandchild/grandchild-in-law; child or stepchild; sibling/sibling-in-law; guardian; or decedent's estate (inherited). A vehicle also qualifies to be taxed as a gift when it is donated to, or given by, a nonprofit service organization qualifying for exemption under Section 501(c)(3) of the Internal Revenue Code.

Glider Kits – A set of parts that enable an owner to upgrade a truck or truck tractor to the equivalent of a later model; also called glove frames or rebuild kits.

Homemade Vehicle – See *Motor Vehicle, Homemade or Shop-Made* in this Glossary.

House Trailer – A motor vehicle without automotive power designed for human habitation to carry property upon its own structure and to be drawn by a

motor vehicle. A house trailer is built on a permanent chassis with axle(s), wheels and a towing device. The term includes a travel trailer and bunkhouse, but does not include a park model, manufactured housing or mobile offices.

Independent Dealer – Usually a used car dealer.

Insurance Adjuster – A person licensed under Insurance Code, Chapter 4101, or licensed or operating under similar regulatory requirements of another state.

International Registration Plan (IRP) – An international method of registering fleets of vehicles that travel in two or more states or provinces. IRP motor carriers register fleets of vehicles in their home state, for which the home state apportions the registration fees to the other traveled states of the carriers. See also *Apportioned Plates and Cab Card* in this Glossary.

Interstate Motor Vehicle – Any motor vehicle that is operated in Texas and in at least one other state or country and for which the registration fees could be apportioned if the motor vehicle were registered in a state or province of a country that is a member of the International Registration Plan (IRP).

IRC – Internal Revenue Code.

Lease – An agreement to give possession and exclusive use of a motor vehicle to another person for a single contract period of more than 180 days for consideration.

Lease/Purchase – A conditional sales agreement under which the lessee must or may take title to the motor vehicle at the end of the lease agreement.

Legal Entity – See *Business Entity or Legal Entity* in this Glossary.

Lessee – A person who leases or lease/purchases (conditional sale) a motor vehicle from another.

Lessor – A person who acquires title to a new motor vehicle for the purpose of leasing the motor vehicle to another person for a contract period of more than 180 days for consideration. A lessor must have a license from TxDMV, regularly and actively engage in leasing motor vehicles as a primary business function and separately lease at least five different motor vehicles during any 12-month period.

Limited Liability Company (LLC) – see *Corporation* in this Glossary.

Limited Liability Partnership (LLP) – see *Partnership* in this Glossary.

Limited Partnership (LP) – see *Partnership* in this Glossary.

Limited Sales and Use Taxes – The taxes imposed under Sections 151.051 and 151.101, Texas Tax Code. The tax imposed on most tangible personal property and certain services.

Living Trust – A legal arrangement whereby a living person's property is held.

Manufacturer – A person regularly engaged in the business of manufacturing or assembling new motor vehicles.

Manufactured Housing or Home – A structure constructed on or after June 15, 1976, according to the rules of the U. S. Department of Housing and Urban Development, that is built on a permanent chassis; designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; transportable in one or more sections; and at least eight body feet in width or at least 40 body feet in length in the traveling mode, or at least 320 square feet in area when erected on site.

MCO – Manufacturer's Certificate of Origin. A document generated by the original manufacturer of a motor vehicle showing the date manufactured, the serial number assigned to the motor vehicle and other pertinent motor vehicle information. The MCO is surrendered to the county TAC when application for title is made. The MCO is also referred to as a Manufacturer's Statement of Origin (MSO).

Mechanic's Lien – A right to keep possession of property belonging to another person until a debt for service costs owed is discharged.

Mobile Home – A structure constructed before June 15, 1976; built on a permanent chassis; designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; transportable in one or more sections; and at least eight body feet in width or at least 40 body feet in length in the traveling mode, or at least 320 square feet in area when erected on site.

Mobile Office – A trailer designed for use as an office, sales outlet or other work-place.

Modular Home – A dwelling constructed in one or more modules at a location other than the home site and designed for use as a permanent residence when the modular components are transported to the home site and joined together or erected and installed.

Moped – A motor-assisted bicycle that can be propelled either by human power or by a motor with a capacity of less than 60 cubic centimeters piston displacement, or by both. A moped has a maximum speed of 20 miles per hour.

Motor Vehicle – A self-propelled unit designed to transport property separate from itself or persons other than the driver upon public highways. Trailers, semi-trailers, house trailers and motorcycles are specifically defined as motor vehicles. It does not include a motor vehicle to which the certificate of title has been surrendered in exchange for (1) a salvage motor vehicle certificate of title, (2) a certificate of authority issued for an abandoned motor vehicle or (3) a non-repairable motor vehicle certificate of authority. It does not include a mobile office, a device moved only by human power, a device used exclusively upon stationary rails or tracks, road-building machinery or equipment transportable over the highways but designed to perform a specialized function.

Motor Vehicle, Homemade or Shop-Made – A motor vehicle built from scratch using component parts.

Motor Vehicle, Inherited – A motor vehicle received by a person as specified by a deceased person's will or by order of a probate court.

Motor Vehicle, Interstate – Any motor vehicle that is operated in Texas and in at least one other state or country and for which the registration fees could be apportioned if the motor vehicle were registered in a state or province of a country that is a member of the International Registration Plan (IRP).

Motor Vehicle, Off-Road – A self-propelled motor vehicle designed primarily for use off the public streets and highways. Examples are golf carts, go-carts, race cars, dirt bikes, all-terrain vehicles (ATVs) and other types of motor vehicles that may be titled under the Texas Certificate of Title Act, but are not designed or intended by the manufacturer to meet registration requirements for motor vehicles.

Motor Vehicle, Salvage – A unit that is no longer a motor vehicle for tax purposes. A salvage motor vehicle has a salvage certificate or a non-repairable motor vehicle certificate of title issued pursuant to the Certificate of Title Act; has a certificate of authority for an abandoned motor vehicle; or is a unit declared a total loss by an insurance company. The sale of a salvage unit is subject to limited sales and use tax and not to motor vehicle sales and use tax.

Motor Vehicle, Slow-Moving – A self-propelled motor vehicle designed primarily for use off the public streets and highways that displays a special sign for moving on public roads. See *Motor Vehicle, Off-Road* in this Glossary.

Motor Vehicle Sales Tax – Texas tax imposed on the retail sale of a motor vehicle.

Motor Vehicle Use Tax – Texas tax imposed on a motor vehicle brought into Texas to operate on Texas public highways.

Motorcycle – A motor vehicle having a saddle for the use of the rider and designed to propel itself with not more than three wheels in contact with the ground, but excludes a tractor or any three-wheeled motor vehicle equipped with a cab, seat and seat belt that is designed to contain the operator of the motor vehicle inside the cab.

Motorcycle, Off-Road – A motorcycle that is designed primarily for use off the public streets and highways and that does not meet registration and safety inspection requirements for a motor vehicle. A common example is a dirt bike.

Moveable Specialized Equipment – A component or assembly of components designed and built to perform a specific function, but not to transport separate property.

NATO – North Atlantic Treaty Organization.

New Resident – Any person who moves into Texas with the intent to live or locate within the state. A natural person may demonstrate the necessary intent to live in Texas by establishing a fixed dwelling place in Texas, registering to vote in Texas or demonstrating a legal or economic constraint to live in Texas. A business entity may demonstrate the necessary intent to locate in Texas by establishing a fixed place of business in Texas, advertising that it is located in Texas

or demonstrating a contractual obligation to locate in Texas. A new resident may also be a resident of other states. Once residency is established in Texas, a person may not subsequently become a new resident without showing that the residency formerly established in Texas was abandoned.

Operating Lease – A lease is an agreement by an owner (lessor) to give exclusive use of a motor vehicle to a lessee for a consideration for a specified period of more than 180 days. Under the terms of an operating lease agreement, a lessor remains the title owner of a motor vehicle and a lessee has no ownership rights.

Orthopedically Handicapped Person – An individual who has limited movement of body extremities and/or loss of motor functions. The physical impairment must be such that the person is either unable to operate or be transported in a reasonable manner in a motor vehicle that has not been specially modified.

Partnership – A business association composed of individual partners with a common purpose. Partnerships are considered legal entities separate and apart from the individual members. A general or limited partnership (LP or LLP) may own property and engage in business and is responsible for its debts.

Person – Includes an individual, officer, director, member, partner, partnership, limited liability partnership, corporation, limited liability company, association or other legal entity.

Primary Use – Primary use is 80 percent of the operating time with respect to motor vehicles qualifying for the following exemptions: use by a church or religious society; use by an orthopedically handicapped driver or passenger; farm machines, trailers and semi-trailers qualifying for exemption for use for farming or ranching; and timber machines and trailers qualifying for exemption in timber operations.

Private-Party Purchase – A retail sale of a motor vehicle in which no party to the transaction is a motor vehicle dealer.

Public Agency – A department, commission, board, office, institution or other agency of the state of Texas, or of a county, city, town, school district, hospital district, water district or other special district, authority or political subdivision created by or pursuant to the Texas constitution or its statutes. The term also includes an unincorporated agency or instrumentality of the United States.

Ranch – See *Farm or Ranch* in this Glossary.

Recreational Vehicle (RV) – A vehicle defined in Transportation Code Section 522.004(b) and designed as temporary living quarters for recreational camping or travel use, including a travel trailer, camping trailer, truck camper and motor home.

Related Finance Company (RFC) – A lender having at least 80 percent of its ownership identical to the ownership of a seller-financed motor vehicle dealer. The RFC must be registered with the Comptroller.

Rental Company – A person who rents motor vehicles for contract periods of 180 or fewer days under a single contract. A rental company must have a valid *Motor Vehicle Rental Permit* issued by the Comptroller.

Replaced Motor Vehicle – For purposes of the fair market value deduction, a motor vehicle taken out of service. A replaced motor vehicle is no longer used and is either sold or offered for sale.

Repossession – The act of seizing a motor vehicle on which there is a valid lien recorded when a purchaser defaults on the motor vehicle's payments.

Resident – Any person who lives in the state, as well as any firm, corporation or association that is physically located in Texas or doing business in the state. A person who is temporarily living in the state, and retains a permanent home in another state, is a resident of Texas. A person may be a resident of more than one state at a time.

Retail Sale – The transfer of a motor vehicle in return for consideration by a purchaser. A retail sale has not occurred when a licensed dealer acquires a motor vehicle for the exclusive purpose of resale. For example, a motor vehicle purchased at an auction by a dealer who is holding that motor vehicle exclusively for resale is not a retail sale. A motor vehicle purchased by a dealer and operated with a dealer plate is not considered a retail sale. A transfer of a motor vehicle without payment of consideration that does not qualify as a gift is a retail sale.

Sale – The transfer of a motor vehicle in exchange for consideration. A sale includes installment and credit sales and exchanges for property, services or money.

Sale Date – See *Date of Purchase* in this Glossary.

Seller-Financed Dealer – A dealer who finances the sale of motor vehicles from the dealer's inventory.

Seller-Financed Sale – A retail sale of a motor vehicle by a dealer licensed under Transportation Code Chapter 503, in which the dealer collects all or part of the total consideration in periodic payments and retains a lien on the motor vehicle until the purchaser makes all payments.

Shop-Made Vehicle – A shop made vehicle is a motor vehicle built from components none of which is a motor vehicle.

Standard Presumptive Value or SPV– The private-party transaction value of a motor vehicle as determined by TxDMV based on an appropriate regional guidebook of a nationally recognized motor vehicle value guide service.

Storage Lien – A right to keep possession of property belonging to another person until a debt for property storage costs owed is discharged.

Straight-Line Basis – The depreciation of a motor vehicle by the same amount every year rather than as a declining percentage of its previous value; also called straight-line depreciation.

Substitution of Collateral – The process of substituting a motor vehicle that is being held as collateral with another motor vehicle of the same or greater value.

Tax Receipt – See *Form 31 RTS Receipt* in this Glossary.

Tax Code Section – Provisions of the Texas Tax Code, Vernon's Texas Codes Annotated and supplements.

TERP Surcharge – A charge for the Texas Emissions Reduction Plan (TERP), as provided by Tax Code Section 152.0215.

Timber Machine – A self-propelled motor vehicle specially adapted or modified for use primarily in timber operations. Timber machine does not include any self-propelled motor vehicle specifically designed or adapted for the primary purpose of transporting timber or timber products.

Title – See *Certificate of Title* in this Glossary.

Title Owner – The person/entity named as the owner of a motor vehicle on the Certificate of Title. It also includes a person/entity who is the legal owner because of a lease/purchase or conditional sales contract where the seller retains title until full payment is made.

Title, Assigned – A title of a motor vehicle on which the previous owner (or a person acting under power of attorney) signed the back of a title and indicated the name of the person to whom the motor vehicle was being transferred.

Title, Negotiable – A title of a motor vehicle that is free of liens or other encumbrances and can be used to freely transfer the motor vehicle to another person.

Title, Open – A title of a motor vehicle on which the previous owner of the motor vehicle (or person acting under power of attorney) has signed the back of a title, but has not filled in the name of the person to whom the motor vehicle is to be transferred.

Titling Trust – A trust whose activities are limited to owning leased motor vehicles and the related leases. Re-titling and re-registration of the leased motor vehicles is not required because the titling trust owns the motor vehicles. The titling trust is the lessor.

Token Tag or Plate – A license plate for a trailer towed by a truck tractor where the registration fees are applied to the pulling unit; also referred to as token trailer.

Trade Difference – The sales price difference remaining after deducting the allowance for a motor vehicle traded by the purchaser on the purchase of another motor vehicle.

Trade Down – An exchange of a motor vehicle for a motor vehicle of lesser value.

Trade, Even – An exchange of motor vehicles in which no consideration other than the exchange of motor vehicles is involved.

Trade-In Allowance – A credit against the purchase price of a new motor vehicle when a purchaser trades in a motor vehicle to the seller. The allowance for the motor vehicle traded in is the value of the vehicle and not necessarily the equity in that vehicle.

Trade-In, Third-Party – The action by a person who purchases a new motor vehicle from a dealer but sells a used motor vehicle directly to a third party, rather than trading the motor vehicle to the dealer.

Trade-In Value – See *Trade-In Allowance* in this Glossary.

Trailer or Semi-Trailer – A motor vehicle designed or used to carry a load entirely on its own structure and that is drawn by a motor vehicle. A semi-trailer carries some part of its own weight, but part of its load rests upon, or is carried by, another motor vehicle.

Trailer, Farm – A trailer or semi-trailer used primarily on a farm or ranch in the production of food for human consumption, grass or feed for any form of animal life or other livestock or agricultural products to be sold in the regular course of business.

Trailer, House – A motor vehicle without automotive power designed for human habitation, to carry persons and property upon its own structure and to be drawn by a motor vehicle. A travel trailer or bunkhouse is a house trailer.

Trailer, Park Model – A small towable structure, usually a maximum of 12 feet wide. Generally, the wheels and tow bar are removed, the unit is skirted, and a porch is added. A park model can be taxed as industrialized housing under Texas Tax Code Chapter 158 or tangible personal property under Texas Tax Code Chapter 151 depending on how the park model was originally manufactured. A park model trailer is not a motor vehicle.

Trailer, Token – See *Token Tag or Plate* in this Glossary.

Trailer, Travel – A house trailer designed to be used as a dwelling (even though it may be temporary), in which plumbing, heating and electrical systems are self-contained and may be operated with or without connection to outside utilities. The unit which is less than eight body feet wide and 40 body feet long in the traveling mode or less than 320 square feet in area when installed or erected on site.

Truck Tractor – A motor vehicle with a cab and no body and designed for carrying or pulling loads, such as trailers.

TTL – Tax, title and license.

TxDMV – Texas Department of Motor Vehicles.

Used Motor Vehicle – A motor vehicle that previously has been the subject of a retail sale.

VIN – Motor vehicle identification number that is unique to a motor vehicle

Section I

Title Application/Tax Statement

Application for Texas Certificate of Title

- **Form 130-U**
- **Accepting Form 130-U**
- **Signing a False Tax Statement**
- **Tax Receipt**

Form 130-U

The Application for Texas Certificate of Title/Motor Vehicle Tax Statement, Form 130-U, documents TxDMV title application information and is used by the county TAC and the Comptroller to calculate the amount of motor vehicle tax due.

The application includes a tax statement section to document the following:

- the motor vehicle sales tax due on a Texas sale of a motor vehicle;
- a gift from one eligible party to another eligible party;
- an even trade between two parties;
- a new resident tax;
- the motor vehicle use tax due on a motor vehicle purchased outside Texas;
- a tax-exempt transfer;
- a vehicle purchased to rent to another;
- a vehicle purchased to lease to another;
- a trade-in; or
- a fair market value deduction.

Both TxDMV and the Comptroller require Form 130-U to be completed. The previous owner and the new owner of a motor vehicle sign the joint certification on the application and file it at the county tax office.

For retail sales, even trades and gifts, the previous owner and the new owner must sign the certification indicating that all facts on the application are true. For new Texas residents, only the signature of the new resident is necessary on the title application.

Accepting Form 130-U

The county TAC should not accept a Form 130-U until the parties properly complete it, including the required signatures on the certification.

If a qualifying motor vehicle rental company is registering a rental motor vehicle tax deferred, the company must list the 11-digit Motor Vehicle Retailer's (Rental) Permit number in the designated area on the Form 130-U before the county TAC accepts the application for tax-deferred registration.

If a licensed motor vehicle dealer is registering a seller-financed motor vehicle tax deferred, the dealer must provide the 11-digit Texas Motor Vehicle Seller-Financed Sales Tax Permit number or the Registration Number of the Related Finance Company (RFC) on the Form 130-U in the area allocated for exemptions.

The Form 130-U must include the following information:

- county TAC's transaction ID number;
- Texas dealer number of seller, if applicable;
- motor vehicle description;
- license plate number;
- lienholder information, if applicable;
- sales price;
- trade-in value and description, if applicable;
- amount of tax due;
- seller's address and signature; and
- purchaser's address and signature.

The county TAC uses the Form 130-U to determine the tax due and as the source document to complete the tax receipt issued to the new owner.

For questions about the Motor Vehicle Tax Statement, the county TAC should call the Comptroller's Office. For questions about other portions of the form, the county TAC should call TxDMV.

Signing a False Tax Statement

A person commits a felony in the third degree if the person signs a Form 130-U knowing any part of it is false.

The Comptroller's Publication 98-298, Motor Vehicle Sales Tax Warning Poster, in both English and Spanish, warns taxpayers about filing false purchase prices or other false information and the penalties for doing so. Counties may print and post it in county offices and other locations.

Tax Receipt

The county TAC must complete a tax receipt in detail from the information furnished on the Form 130-U.

Example: Form 130-U Application for Certificate of Title

APPLICATION FOR TEXAS CERTIFICATE OF TITLE

→ SHADED AREAS ARE TO BE COMPLETED BY THE SELLER ←

→ TYPE OR PRINT NEATLY IN INK ←

TAX OFFICE USE ONLY

Tax Collector _____ County _____

Date _____ Transaction Number _____

County Use Only

☐ SPV $ _____

☐ Appraisal Value $ _____

1. Vehicle Identification Number	2. Year	3. Make	4. Body Style

5. Model	6. Odometer Reading	7. Empty Weight	8. Carrying Capacity (lbs.)	9. Tonnage

10. Trailer Type ☐ Semi ☐ Full	11. Plate No.	12. Vehicle Unit No.

14. Applicant's/Owner's Name(s)

Address

City, State, Zip Code _____ County Name

14a. Registrant's Name

(Renewal Notice Recipient)

Address

City, State, Zip Code _____ County Name

14b. Vehicle Physical Location

City, State, Zip Code

15. Previous Owner's Name

Address

City, State, Zip Code

15a. GDN - Dealer Use Only

THIS MOTOR VEHICLE IS SUBJECT TO THE FOLLOWING FIRST LIEN

16. 1st Lien Date

1st Lienholder Name

Address

City, State, Zip Code

16a. Electronic Title Request? ☐ YES (16c cannot be checked)

16b. Certified Lienholder ID No.:

16c. Additional Lien(s)? ☐ YES (Attach Form VTR-267)

17. **FOR CORRECTED TITLE, CHECK REASON(S)** ☐ Change in Vehicle Description ☐ Year ☐ Make ☐ Body Style ☐ VIN ☐ Other ☐ No Change in Ownership ☐ Add Lien ☐ Remove Lien ☐ Odometer Brand ☐ Odometer Reading

18. **ODOMETER DISCLOSURE** - FEDERAL AND STATE LAW REQUIRES THAT YOU STATE THE MILEAGE UPON TRANSFER OF OWNERSHIP. FAILURE TO COMPLETE OR PROVIDING A FALSE STATEMENT MAY RESULT IN FINES AND/OR IMPRISONMENT.

I, _____, state that the odometer now reads _____ (no tenths).

** (Name of Seller/Agent)

THE MILEAGE SHOWN IS ☐ **A** - Actual Mileage ☐ **N** - Not Actual Mileage WARNING - ODOMETER DISCREPANCY ☐ **X** - Mileage Exceeds Mechanical Limits

** IF NO SELLER/AGENT, TITLE APPLICANT SHOULD CHECK ONE OF THE 3 BOXES ABOVE UNLESS NUMBER 6 INDICATES "EXEMPT."

MOTOR VEHICLE TAX STATEMENT

19. CHECK ONLY IF APPLICABLE

☐ I hold Motor Vehicle Retailer's (Rental) Permit No. _____ and will satisfy the minimum tax liability (V.A.T.S., Tax Code, §152.046 [c]).

☐ I am a Dealer or Lessor and qualify to take the Fair Market Value Deduction (V.A.T.S., Tax Code, §152.002 [c]).

20. DESCRIPTION OF VEHICLE TRADED IN (if any)	Year	Make	Vehicle Identification Number	20a. ADDITIONAL TRADE - INS? (Y/N)

21. SALES AND USE TAX COMPUTATION

☐ **(a) Sales Price ($ _____ rebate has been deducted)**	$ _____
(b) Less Trade - In Amount, Describe in Item 20 Above	$ ( )
(c) For Dealers/Lessors/Rental ONLY - Fair Market Value Deduction, Describe in Item 20 Above	$ ( )
(d) Taxable Amount (Item a. minus Item b./Item c.)	$
(e) 6.25% Tax on Taxable Amount (Multiply Item d. by .0625)	$
(f) Late Tax Payment Penalty ☐ 5% or ☐ 10%	$
(g) Tax Paid to _____ (STATE)	$
(h) AMOUNT OF TAX AND PENALTY DUE (Item e. plus Item f. minus Item g.)	$

☐ $90 New Resident Tax - (Previous State) _____

☐ $5 Even Trade Tax

☐ $10 Gift Tax - Affidavit required. Use Comptroller Form 14-317.

☐ $65 Rebuilt Salvage Fee

☐ 2.5% Emissions Fee (Diesel Vehicles 1996 and Older > 14,000 lbs) _____

☐ 1% Emissions Fee (Diesel Vehicles 1997 and Newer > 14,000 lbs) _____

☐ Exemption claimed under the Motor Vehicle Sales and Use Tax Law because _____

☐ $28 or $33 APPLICATION FEE FOR CERTIFICATE OF TITLE (Contact your County Tax Assessor-Collector for the correct fee.)

I HEREBY CERTIFY THAT ALL STATEMENTS IN THIS DOCUMENT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

22. _____ Signature of SELLER, DONOR, OR TRADER _____ PRINTED NAME (Same as signature) _____ Date

23. _____ Signature of PURCHASER, DONEE, OR TRADER _____ PRINTED NAME (Same as signature) _____ Date

RIGHTS OF SURVIVORSHIP OWNERSHIP AGREEMENT (MARRIED PERSONS)

WE, THE PERSONS WHOSE SIGNATURES APPEAR HEREIN, HEREBY AGREE THAT THE OWNERSHIP OF THE VEHICLE DESCRIBED ON THIS APPLICATION FOR TITLE, SHALL FROM THIS DAY FORWARD BE HELD JOINTLY, AND IN THE EVENT OF DEATH OF EITHER OF THE PERSONS NAMED IN THE AGREEMENT, THE OWNERSHIP OF THE VEHICLE SHALL VEST IN THE SURVIVOR. **NON-MARRIED PERSONS** ARE REQUIRED TO EXECUTE A RIGHTS OF SURVIVORSHIP OWNERSHIP AGREEMENT FOR A MOTOR VEHICLE, FORM VTR-122.

_____ SIGNATURE _____ Date

_____ SIGNATURE _____ Date

WARNING: Transportation Code, §501.155, provides that falsifying information on title transfer documents is a third-degree felony offense punishable by not more than ten (10) years in prison or not more than one (1) year in a community correctional facility. In addition to imprisonment, a fine of up to $10,000 may also be imposed.

Form 130-U (Rev. 11/09)

Section II

Tax Rates and Types

Tax Rates

- **Current Tax Rate**
- **Prior Tax Rates**

Current Tax Rate

The current motor vehicle tax rate is 6.25 percent. The tax due on a motor vehicle, however, is calculated at the rate in effect on the date the owner purchased the motor vehicle in Texas or the date it was first brought into Texas.

Prior Tax Rates

The motor vehicle sales and use tax rate began in 1941 at 1 percent. The Texas Legislature has increased the rate in subsequent years until 1991, the last year for a rate change. Historical rates are as follows:

Date	Tax Rate
05/1/41 — 02/28/50	1.00 %
03/1/50 — 08/31/59	1.10 %
09/1/59 — 06/30/63	1.50 %
07/1/63 — 09/30/68	2.00 %
10/1/68 — 06/30/71	3.00 %
07/1/71 — 07/31/84	4.00 %
08/1/84 — 08/31/87	5.00 %
09/1/87 — 08/31/91	6.00 %
09/1/91 — Present	6.25 %

Motor Vehicle Sales Tax

- **Tax Responsibility**
- **Not a Retail Sale**
- **Trade-In Allowance**
- **Calculating Sales Tax on Purchases from Licensed Dealer**
- **Limited Sales Tax – Direct Pay; Occasional Sales**

Tax Responsibility

Motor vehicle sales tax is due on the Texas retail sale of a motor vehicle. A motor vehicle sale includes installment and credit sales and exchanges for property, services or money. A transfer of a motor vehicle without payment of consideration that does not qualify as a gift is a retail sale and is subject to the 6.25 percent motor vehicle tax.

The motor vehicle sales tax is the purchaser's responsibility. If the seller is not a licensed dealer, the purchaser is responsible for titling and registering the vehicle, as well as paying the tax to the county TAC within 20 county working days of the purchase date. Active duty military have 60 county working days to title and register a vehicle. Tax is not due until that time.

The seller will collect the tax if the seller is a dealer licensed by TxDMV and the motor vehicle's gross weight is 11,000 pounds or less. The seller is responsible for remitting the tax to the county TAC at the time of titling and registration.

A licensed dealer has no collection responsibility when the motor vehicle's gross weight is more than 11,000 pounds or when the motor vehicle is a non-titled trailer. The purchaser of these vehicles is responsible for remitting the tax to the county TAC at the time of titling and registration.

The state will not hold a purchaser who properly paid the tax to the selling dealer liable for any tax due if the dealer fails to transfer title and submit the tax. The purchaser must provide to the county TAC acceptable documents which show the purchaser paid the tax to the dealer. Acceptable documents include a dealer's invoice or sales contract that itemizes the tax paid to the dealer.

Not a Retail Sale

Tax Code Section 152.001(2) provides that a retail sale does not include the purchases of (A) new motor vehicles by a licensed dealer franchised to resell that type of vehicle, (B) used motor vehicles by a licensed dealer for resale purposes and (C) new motor vehicles by a licensed franchised dealer for a lease contract.

If a licensed dealer acquires a motor vehicle and operates it only with a dealer plate in accordance with Transportation Code Chapter 503, a taxable retail sale has not occurred.

Trade-In Allowance

If a purchaser trades in a motor vehicle to the seller as part of the purchase transaction, the purchaser pays the tax on the trade difference. The allowance for the motor vehicle traded in is the value of the vehicle and not necessarily the equity in that vehicle. The trade-in allowance also applies to a purchaser's traded-in vehicle when purchasing a motor vehicle consigned to a dealer.

Calculating Sales Tax on Purchases from Licensed Dealer

For retail sales of new and used motor vehicles involving licensed motor vehicle dealers, the motor vehicle sales tax is based on the sales price, less any amount given for trade-in vehicle(s) and/or dealer discount. For example, if a purchaser traded in a vehicle worth $6,000 for a $15,000 motor vehicle to a licensed dealer, tax due is as follows:

Example:

Total Sales Price	$	15,000
Less Trade-In	–	6,000
Taxable Value	$	9,000
Tax Rate	x	.0625
Sales Tax Due	$	562.50

The selling dealer's signature on the title application is an acceptable record of the sales price. The county TAC, however, can request to see the dealer's invoice or sales receipt from the purchaser.

For private-party purchases of used motor vehicles in Texas or out-of-state purchases of motor vehicles for Texas use, the motor vehicle tax requires a comparison of the amount paid for the vehicle to a percentage of the vehicle's Standard Presumptive Value (SPV).

Limited Sales Tax – Direct Pay; Occasional Sales

Limited sales and use tax law, Tax Code Section 151.417, provides for a direct pay permit that allows certain purchasers to remit sales tax directly to the Comptroller. Except for rentals and seller-financed sales, there is no similar provision for motor vehicle sales tax.

Similarly, Tax Code Section 151.304 provides for the sale of the entire operating assets of a business to be exempt from limited sales and use tax as an occasional sale. Motor vehicle tax law does not provide for an occasional sale exemption. The purchaser owes motor vehicle sales tax on the transfer of the vehicles.

Motor Vehicle Tax on Private-Party Purchases

- **Private-Party Purchases and Standard Presumptive Values**
- **Excluded Private-Party Purchases**
- **Calculating Sales Tax Due**
- **Trade-In Allowance**
- **SPV and Form 130-U**
- **SPV Examples**
- **Purchase Price Not Available**
  - **When the Seller Is Known to be a Dealer**
  - **In a Private-Party Sale or When the Seller's Identity is Not Documented**

Private-Party Purchases and Standard Presumptive Values

The motor vehicle tax due on a private-party purchase of a used motor vehicle, whether purchased in Texas or out of state for Texas use, depends on a standard presumptive value (SPV) being applied. A sale between neighbors, relatives or strangers is a private-party transaction that triggers the SPV procedures.

A private-party purchase does not involve a Texas licensed motor vehicle dealer or a dealer licensed in another state. If a motor vehicle dealer licensed by Texas or another state sells the used vehicle, motor vehicle tax is due based on the sales price.

A licensed motor vehicle dealer is one that has a General Distinguishing Number (GDN), also known as a "P" number, from the TxDVM. The sale of a repaired or restored motor vehicle by a dealer that only holds a salvage vehicle dealers license, however, is a private–party transaction that triggers the SPV procedures.

Excluded Private-Party Purchases

The SPV law applies to the sale of all types of used motor vehicles except:

- salvage or abandoned vehicles;
- vehicles sold through storage or mechanic's liens, or by a governmental entity (includes governmental sales conducted by an auction company);

- vehicles eligible for classic car and classic truck license plates (vehicles 25 years or older, whether or not the vehicles display those plates);
- even trades of vehicles; or
- gifts of vehicles to eligible parties.

Calculating Sales Tax Due

For a private-party purchase, the county TAC must determine the vehicle's SPV to use in calculating the tax base for the used vehicle. TxDMV supplies the SPV data through its Registration and Title System (RTS).

Motor vehicle tax due for a private-party purchase of a used vehicle purchased or brought into Texas on or after October 2006 is based on one of the following:

- the vehicle's sales price, if the purchaser paid 80 percent or more of the vehicle's SPV;
- 80 percent of the vehicle's SPV, if the purchaser paid less than 80 percent of the vehicle's SPV; or
- the vehicle's certified appraised value, if the purchaser paid less than 80 percent of the vehicle's SPV and provides a certified appraisal. The appraisal may not be used if the sales price is greater than the appraised value.

A purchaser can check a used vehicle's SPV online at http://www.txdmv.gov/vehicles/titles/std_presumptive_value.htm. Be aware that the vehicle's SPV available to the public on TxDMV's website is 100 percent of the SPV, not 80 percent. The county tax office will see the 80 percent of SPV in the RTS. The SPV supplied through the RTS on the date of titling and registering the vehicle is the SPV used for calculating the motor vehicle tax.

If the purchaser has a certified appraisal, the county tax office should do the following:

- Check that the certified appraisal is on Form 14-128, Used Motor Vehicle Certified Appraisal Form.
- Check the date of the certified appraisal to see if the purchaser obtained it within 20 county working days (60 days for active duty military) from the vehicle's sale date or first use in Texas.
- Be sure that the appraisal form is filled out in full. Check for any alterations to the items entered by the appraiser on the appraisal form. An altered form is invalid.
- Note whether a motor vehicle dealer licensed for that category of used vehicle or a licensed insurance adjuster did the appraisal. If in doubt, check with the state licensing agencies through the license number shown on the appraisal. For licensed dealers, check with TxDMV. For licensed insurance adjusters, check with the Texas Department of Insurance.

The county tax office must retain the accepted certified appraisal for four years from the end of the current fiscal year in which the appraisal was presented and accepted.

Trade-In Allowance

If a purchaser trades in a motor vehicle to the seller as part of the purchase transaction, the purchaser pays the tax on the trade difference. The allowance for the motor vehicle traded in is the value of the vehicle and not necessarily the equity in that vehicle. SPV is not used to determine the value of the trade-in vehicle.

SPV and Form 130-U

In TxDMV's RTS system, the county tax office clerk will check for a vehicle's SPV. The clerk will note the SPV in the upper-right corner of Form 130-U.

If the purchaser has an acceptable certified appraisal, the clerk will note that certified value in the upper-right hand corner of Form 130-U.

Section 21 of Form 130-U, titled *"Sales and Use Tax Computation,"* will not change. The clerk will not change the sales price in this section to the SPV or certified appraised value.

Values for some late-model vehicles, trailers and recreational vehicles may not be available. If the used vehicle does not have an SPV in TxDMV's RTS, the county TAC should follow TxDMV's procedures to determine the SPV.

The county tax office clerk should tell the purchaser the 80 percent of SPV retrieved from RTS. If the purchaser disagrees with the SPV and decides to obtain a certified appraisal, the county tax office clerk can cancel the transaction.

The tax receipt issued the purchaser will state the value to compute the motor vehicle tax.

SPV Examples

The following examples address two different tax bases for a used motor vehicle in a private-party purchase.

Example 1: Ricky bought a used motor vehicle from Ethel for $2,000, which he showed as the sales price on Form 130-U. The county tax clerk determined that the vehicle's SPV was $5,000; 80 percent of $5,000 is $4,000.

Answer: Tax is based on the 80 percent of the vehicle's SPV, or $4,000. The purchaser paid less than 80 percent of the vehicle's SPV and did not provide a certified appraisal.

Example 2: Sally saw a classified ad in her newspaper and bought a car from Dan for $10,000. She checked the TxDMV website, which showed the SPV as $25,000; 80 percent of SPV is $20,000. Since the car had some major body damage, Sally paid a local used car dealer $300 for a certified appraisal which showed the car's value was $12,000. Sally registered and titled the vehicle, showing the sales price of $10,000 on the Form 130-U and providing the dealer's $12,000 certified appraisal.

Answer: Tax is based on the $12,000 certified appraised value. Sally paid less than 80 percent of the vehicle's SPV, but provided a certified appraisal with a lower value. Even after paying $300 for the appraisal, Sally saved money by getting an appraisal to lower her motor vehicle tax due.

Purchase Price Not Available

The Tax Code requires the purchaser and seller to complete a joint statement indicating the sales price. Form 130-U, Application For Texas Certificate of Title/ Tax Statement, is the acceptable evidence of sales price, eligible deductions and exemptions. If a motor vehicle is purchased out of state, a seller's signed bill of sale may be accepted in lieu of the seller's signature on the 130-U. The Tax Code provides that the county TAC may require additional documentation to substantiate the information provided.

Sometimes, however, a sale and change of possession take place, but the purchaser has not obtained a valid 130-U with the seller's signature. If the seller's signature is not on the Form 130-U, the purchaser must make a diligent effort to obtain it. Acceptable evidence of that diligent effort can take the form of a receipt obtained by sending a certified letter, return receipt requested, to the seller's last known address. Other credible documentation may be accepted by the county TAC.

If, after making the necessary diligent effort, the purchaser has been unable to locate the seller to obtain the necessary signature on the Form 130-U, the taxable value must still be established for the sale and may be determined in the following ways:

Seller Is Known to be a Dealer

- Use a seller-signed bill of sale.
- If a signed bill of sale is *not available*, use the SPV value.
- If the SPV value is *not available*, then require an appraisal from a dealer, insurance adjuster or at the discretion of the county TAC, someone who would have special knowledge of the vehicle's value. Such a person may include an antique dealer or antique auction. The Comptroller's appraisal form may be used, but is not required. *In lieu of the appraisal*, a title applicant who is obtaining a title through the bonded title process may use two-thirds of the bond amount (bond is for 150 percent of vehicle value).

Private-Party Sale or Seller's Identity is Not Documented

For a Motor Vehicle Fewer than 25 Years Old

- Use the SPV procedure, which includes comparing the price to other documentation (e.g., bill of sale, canceled check), if available.
- If the SPV is *not available*, require an appraisal on Form 14-128.

For a Motor Vehicle 25 Years Old or Older

- Use a seller-signed bill of sale.
- If a signed bill of sale is *not available*, then require an appraisal from a dealer, insurance adjuster or at the discretion of the county TAC, someone who would have special knowledge of the vehicle's value. The Comptroller's appraisal form may be used, but is not required. *In lieu of the appraisal*, a title applicant who is obtaining a title through a bonded title process may use two-thirds of the bond amount (bond is for 150 percent of vehicle value).

Motor Vehicle Use Tax

- **Responsibility for Use Tax**
- **Tax Base**
- **Trade-In Allowance**
- **Use Tax Due on Texas-Purchased Motor Vehicles**
- **Credit**
- **Texas Residents**
- **Military Personnel**
- **Motor Vehicles Previously Titled and Registered with Tax Paid in Texas**
- **Leased Motor Vehicles**
- **Calculating Use Tax Due**

Responsibility for Use Tax

Texas law imposes a use tax on every motor vehicle purchased outside Texas and brought into Texas for public highway use by a Texas resident or by a person who is domiciled or doing business in Texas. If the motor vehicle touches Texas roads or highways, Texas use tax is due.

The use tax is the responsibility of the person operating the vehicle on Texas public highways. The person pays the use tax to the county TAC at the time the person titles and registers the motor vehicle.

Tax Base

For retail sales of new and used motor vehicles involving motor vehicle dealers licensed by Texas or another state, Texas law bases the use tax on a motor vehicle's sales price, with no deduction allowed for depreciation or use prior to entering Texas.

The selling dealer's signature on the title application is an acceptable record of the sales price. The county TAC, however, can request the dealer's invoice or sales receipt from the purchaser.

For private-party purchases of used motor vehicles from out of state for Texas use, the motor vehicle use tax requires an SPV calculation.

The person applying for a certificate of title or registration for a motor vehicle purchased outside of Texas must furnish the county TAC with a Form 130-U, which includes a joint certification signed by both the buyer and seller, attesting to the sales price information on the Form 130-U. If the county TAC has reason to question the truth or accuracy of the information, or if both parties to the transaction have not signed the form, the county TAC can require either party to furnish additional documents about the motor vehicle's sales price. For a motor vehicle acquired out of state, the purchaser could provide a bill of sale signed by the seller. An out-of-state seller, however, cannot be compelled to sign a Form 130-U.

Trade-In Allowance

If a purchaser traded in a motor vehicle to the seller as part of the purchase transaction, the purchaser pays the use tax on the trade difference. The allowance for the motor vehicle traded in is the value of the vehicle and not necessarily the equity in that vehicle. SPV is not used in determining the value of the trade-in vehicle.

Use Tax Due on Texas-Purchased Motor Vehicles

Texas law imposes use tax on a motor vehicle purchased tax free in Texas for use exclusively outside of Texas but subsequently brought back to Texas for use. The person who purchased the vehicle tax free in Texas and returned it to Texas owes the tax.

Credit

Credit toward the Texas use tax is allowed for legally imposed sales or use tax paid to another state, Puerto Rico and any U.S. possession or territory. No credit is allowed for tax paid to a foreign country.

Credit is not allowed against the $90 New Resident tax or Texas Emissions Reduction Plan (TERP) surcharge.

Texas Residents

Use tax is due from a Texas resident who purchases a motor vehicle while temporarily out of state and brings it into Texas for public highway use. Such persons might be military personnel with Texas as their home state of record, students and persons temporarily employed out of state.

Military Personnel

Texas military personnel, whose home state of record is Texas, are subject to the use tax on motor vehicles purchased out of state but titled and registered in Texas.

Military personnel moving to Texas, whose home state of record is not Texas, owe the use tax on motor vehicles that have been purchased out of state but have not been previously registered in their names.

Active duty military personnel have 60 county working days from the first use in Texas to title and register a vehicle. Tax is not due until that time.

Motor Vehicles Previously Titled and Registered with Tax Paid in Texas

Another state may require a former Texas resident or a Texas resident living temporarily in the other state to title a motor vehicle that the resident has previously registered and paid tax on in Texas. There is no liability for additional tax when the resident returns to Texas with the same motor vehicle and presents a copy of a tax receipt or other document showing that the taxpayer previously titled or registered that motor vehicle in the resident's name in Texas.

Leased Motor Vehicles

Use tax is due on motor vehicles brought into Texas for public highway use when leased outside of Texas by a Texas resident or by a person who is domiciled or doing business in Texas. The tax is the responsibility of the person bringing the motor vehicle into Texas.

Credit is allowed for legally imposed sales tax paid by the lessor or the lessee up to the time when the lessee brings the motor vehicle into Texas. If additional tax is due to the other state, at the end of the lease the lessee may apply to the Comptroller for additional credit (refund).

Calculating Use Tax Due

For retail sales of new and used motor vehicles involving motor vehicle dealers licensed in other states, motor vehicle use tax is based on the vehicle's sales price less any allowance for trade-in vehicle(s). Tax paid in the other state reduces the Texas use tax. For example, if a Texas purchaser traded in a vehicle worth $6,000 for a $15,000 motor vehicle sold by a licensed Oklahoma dealer, and paid Oklahoma sales tax, the Texas purchaser owes Texas use tax as follows:

Example:

Total Sales Price	$	15,000
Less Trade-In	–	6,000
Taxable Value	$	9,000
Tax Rate	x	.0625
Use Tax Due	$	562.50
Less Credit for Tax Paid to Oklahoma	–	180.00
Net Texas Use Tax	$	382.50

The selling dealer's signature on the title application is an acceptable record of the sales price. The county TAC, however, can request the dealer's invoice or sales receipt from the purchaser.

For private-party purchases of used motor vehicles from out of state for Texas use, the motor vehicle tax requires an SPV calculation.

New Resident Tax

- **Tax Responsibility**
- **New Resident Requirements**
- **Motor Vehicles Previously Titled and Registered With Tax Paid in Texas**
- **When the New Resident Tax Does Not Apply**
- **Antique Motor Vehicles**
- **Military Personnel**

Tax Responsibility

Texas law imposes a $90 new resident tax upon any motor vehicle purchased outside Texas and brought into Texas by a new resident when the motor vehicle was previously registered in the new resident's name in another state or foreign country, **or leased by** the new resident in another state or foreign country prior to entering Texas. The lessor must have purchased the motor vehicle out of state.

The tax is the new resident's responsibility and must be paid within 20 county working days from the vehicle's first use in Texas (60 county working days for active duty military personnel). The new resident pays the tax to the county TAC when the owner titles and registers the motor vehicle.

Any qualifying vehicle brought into Texas within 30 days of a person becoming a new Texas resident is qualified for the new resident tax, by Comptroller policy. A vehicle documented to be in transit, but

not arriving until after the 30 days still qualifies. After a person resides in Texas for 30 days, a vehicle brought into Texas by that person is presumed to have been brought in **after** the person has become a Texas resident. The new resident tax does not apply, and the person owes the motor vehicle **use** tax.

If a new resident has **not previously registered** the motor vehicle in the new resident's name in another state or foreign country, Texas use tax applies. A motor vehicle leased out of state does not have to be registered to the lessee.

If the $90 new resident tax is due, the new resident does not receive any credit for motor vehicle tax paid to another state or foreign country.

New Resident Requirements

Rule 3.71(b) defines a new resident for tax purposes as any person, firm, corporation or association moving into Texas with the intent to live or locate within Texas. A natural person may demonstrate the necessary intent to live in Texas by establishing a fixed dwelling place in Texas, registering to vote in Texas or demonstrating a legal or economic constraint to live in Texas. A business entity may demonstrate the necessary intent to locate in Texas by establishing a fixed place of business in Texas, advertising that it is located in Texas or demonstrating a contractual obligation to locate in Texas.

A new resident may also be a resident of other states. Once residency is established in Texas, however, a person, firm, corporation or association may not subsequently become a new resident without showing that the residency formerly established in Texas was abandoned.

Motor Vehicles Previously Titled and Registered With Tax Paid in Texas

Another state may require a former Texas resident or a Texas resident living temporarily in another state to title a motor vehicle the resident has previously registered and paid tax on in Texas. There is no liability for additional tax when the resident returns to Texas with the same motor vehicle and presents a copy of a tax receipt or other document establishing that the taxpayer previously titled or registered that motor vehicle in the resident's name in Texas.

When the New Resident Tax Does Not Apply

The new resident tax does not apply in the following situations:

- Texas resident in military service with Texas indicated as the home state of record;
- motor vehicle brought into Texas for public highway use by a person or firm already doing business in Texas; or
- motor vehicle apprehended for improper registration that is owned or operated by a person or firm domiciled or doing business in Texas.

These motor vehicles are subject to the **use** tax.

Antique Motor Vehicles

New residents who bring antique motor vehicles into Texas will pay the lesser of the $90 new resident tax or the use tax on the motor vehicle's sales price. To qualify for this tax treatment, the motor vehicle must be at least 25 years old and a collectors item, used exclusively for exhibitions, club activities or parades, and may not carry advertising.

Military Personnel

Military personnel moving to Texas owe either the new resident tax or motor vehicle use tax.

Military personnel who are new residents to Texas (as demonstrated by a home of record in another state) and who bring a motor vehicle into Texas that was purchased and registered in the military person's name in another state or foreign country, owe the new resident tax. If the new resident has not previously registered the motor vehicle in the new resident's name in another state or foreign country, then Texas use tax applies.

Military personnel who are Texas residents (as demonstrated by a Texas home of record) do not qualify for the new resident provision and owe motor vehicle use tax on vehicles purchased elsewhere and brought into Texas.

Even Trade Transfer Tax

- **Tax Amount**
- **Form 130-U**
- **Dealer Exception**
- **Examples of Transactions Not Even Trades**

Tax Amount

Texas law imposes a $5 tax on each motor vehicle acquired in an even trade. Even trades of motor vehicles are excluded from the SPV procedures.

An even trade is the exchange of a motor vehicle for another motor vehicle that involves no consideration other than the exchange of the motor vehicles. The parties to the exchange can trade more than one motor vehicle for one or more other motor vehicles as long as no other consideration is involved.

An even trade of two motor vehicles can occur even where one motor vehicle has a Texas title and the other motor vehicle has an out-of-state title and is owned by an out-of-state resident. In this situation, the out-of-state resident who owned a motor vehicle and traded even for another motor vehicle with a person who resides in Texas does not have to obtain a Texas title before making an even trade with a Texas resident. The county TAC should collect the $5 even trade tax from the Texas resident when the Texas resident obtains a title on the motor vehicle. The Texas resident would have to show proof of an even trade.

Form 130-U

The parties must document each transaction on separate Form 130-Us. The parties are not required to present these forms to the county TAC at the same time.

Dealer Exception

A dealer is not required to file a Form 130-U or to pay tax on a motor vehicle received in an even trade when the dealer holds that motor vehicle exclusively for resale and not for the dealer's own use.

Examples of Transactions Not Even Trades

Example 1: David swapped motor vehicles with Laurie, but also gave her $2,000. David's motor vehicle is worth $8,000, while Laurie's motor vehicle is worth $10,000. Is this an even trade or does SPV apply?

Answer: This is not an even trade and SPV applies.

Example 2: How is the tax calculated when two individuals trade motor vehicles and there is other consideration involved? For example, Don has a $5,000 vehicle with a $2,000 lien and Michelle has a $3,000 vehicle. They trade motor vehicles. Michelle assumed a $2,000 lien on the motor vehicle from Don.

Answer: This situation is not an even trade. Don has a "trade-down" and owes no tax. Michelle is trading up, has a trade-in and owes tax on $2,000 (the value of the vehicle received minus the value of the trade-in). In determining if an even trade has occurred, you must look at the value of the vehicles and not the equity.

Gift Tax

- **Tax Amount**
- **Eligible Gift Transfers**
- **Required Affidavit of Motor Vehicle Gift Transfer**
- **Other Transfer of Motor Vehicle for No Consideration**

Tax Amount

A $10 tax is due on a gift of a motor vehicle. The tax is the responsibility of the eligible person receiving the motor vehicle, and the person pays the tax to the county TAC at the time the person titles and registers the motor vehicle. A motor vehicle received outside of Texas from an eligible donor may also qualify as a gift when brought into Texas.

A gift is the transfer of a motor vehicle in which an eligible party receiving the motor vehicle pays no consideration. Consideration includes anything given as payment such as the assumption of a lien or other debt, cash, payment for providing services or labor or an exchange of real or tangible personal property.

If an eligible recipient receiving a gift of a motor vehicle wants to record a new lien using the motor vehicle as collateral for an unrelated loan, the gift tax is still the appropriate tax. The county TAC should ask for

reasonable documentation, such as a statement from the lender, that the loan was *unrelated* to the motor vehicle transfer.

Eligible Gift Transfers

Effective Sept. 1, 2009, to qualify to be taxed as a gift ($10), a vehicle must be received from the following eligible parties:

- spouse (separate property);
- parent or stepparent;
- father/mother-in-law or son/daughter-in-law;
- grandparent/grandparent-in-law or grandchild/grandchild-in-law;
- child or stepchild;
- sibling/brother-in-law/sister-in-law;
- guardian;
- decedent's estate (inherited); or
- a nonprofit service organization qualifying under Section 501(c)(3), IRC [gift tax applies when entity is either the donor or recipient].

All other motor vehicle transfers made without payment of consideration are defined as **sales** and may be subject to SPV.

Required Affidavit of Motor Vehicle Gift Transfer

In addition to completing Form 130-U, both the donor and person receiving the vehicle must complete a required joint notarized affidavit of fact, Form 14-317, Affidavit of Motor Vehicle Gift Transfer, describing the transaction and the relationship between the donor and recipient. Because of language in the Government Code, the county TAC or staff member may acknowledge the donor or recipient's signature in lieu of formal notarization, provided that the person whose signature is being acknowledged is present and signs the affidavit in front of the county TAC or staff member. An individual with a Power of Attorney (POA) may complete the affidavit on behalf of the principal. This document may be notarized by a notary from another state. A faxed copy is acceptable.

An individual with a POA has authorization to act on someone else's behalf in a legal or business matter. The affidavit completed by an individual with a POA is acceptable. If the gift transfer is the result of an inheritance, the Executor/Executrix should sign the gift affidavit as "donor". If the transfer is completed using TxDMV Form VTR-262, Affidavit of Heirship for a Motor Vehicle, the heir(s) should sign as donor(s) and, if applicable, recipient(s). Note: Only one heir is required to sign as donor on the Form 14-317, Affidavit of Motor Vehicle Gift Transfer.

The Form 14-317 should be included with the title packet.

Regarding the donor's relationship to the recipient, the Parent/Stepparent check box applies also to Father/Mother-in-Law, Child/Stepchild check box applies also to Son/Daughter-in-Law, Sibling check box applies also to Brother/Sister-in-Law and the Grandparent check box applies also to Grandparent-in Law.

Other Transfer of Motor Vehicle for No Consideration

The transfer of a motor vehicle for no consideration that does not qualify as a gift is taxed as a sale and SPV procedures may apply. Examples are transfers between the following parties:

- uncles/aunts and nephews/nieces;
- nonprofit service organizations not qualifying under Section 501(c)(3), IRC;
- corporations, limited liability companies, partnerships and trusts; or
- individuals and corporations, limited liability companies, partnerships and trusts.

All similar motor vehicle transfers made without payment of consideration are defined as **sales** and may be subject to SPV of the vehicle as determined through the Registration and Title System (RTS).

If the vehicle is subject to SPV and the value is not in the SPV data base, the county TAC should follow TxDMV's instructions to determine the SPV.

Texas Emissions Reduction Plan (TERP) Surcharge

- **What is TERP?**
- **TERP Surcharge**
- **TERP Surcharge Rate**
- **Dealer Responsibility**
- **County Responsibility**

What is TERP?

The Texas Legislature created the Texas Emissions Reduction Plan (TERP) to provide grants and other incentives for improving air quality throughout the state and to comply with federal Environmental Protection Agency air quality standards. The TERP provides funding for cleaner on-road and off-road engines, energy efficiency programs, cleaner fuels and other infrastructure programs, as well as for research and development of related new technologies.

TERP Surcharge

This surcharge applies to the purchase of **diesel-powered,** on-road motor vehicles with a gross motor vehicle registered weight exceeding 14,000 pounds. The TERP surcharge applies to both new and used diesel-powered motor vehicles, whether purchased inside or outside Texas. The TERP surcharge does not apply to motor vehicles operated with gasoline, compressed natural gas (CNG) or liquefied petroleum gas (LPG).

Excluded from this surcharge are recreational vehicles (RVs) with a gross motor vehicle registered weight exceeding 14,000 pounds that are not held or used for the production of income.

The TERP is administered in the same manner as motor vehicle tax. The same exemptions for motor vehicles, including the interstate exemption for certain heavy trucks and trailers, apply to the TERP surcharge.

Purchases of motor vehicles for rental use are subject to the surcharge. The surcharge is due at the time of titling and registration and cannot be deferred. The surcharge does not apply to rental contracts.

Funding for the TERP also includes a 10 percent surcharge on commercial truck registration fees and a portion of the title application fee (from some counties) as prescribed by the Texas Transportation Code. These are remitted directly to the Comptroller by the county TAC.

TERP Surcharge Rate

The surcharge rate for the purchase or use of motor vehicles for model years 1996 and earlier is 2.5 percent, while the rate for model years 1997 and newer is 1 percent. The surcharge is due at the time of titling and registration.

The TERP surcharge is calculated on the sales price less the value of any trade-in or valid fair market value deductions to reduce the sales price. SPV applies in private-party purchases.

Dealer Responsibility

Dealers should collect the TERP surcharge on affected motor vehicles at the same time and in the same manner as registration fees and motor vehicle tax. Dealers pay the surcharge to the county TAC at the time of titling and registration, just like motor vehicle tax, and late payment penalty applies.

Seller-financed dealers must collect the surcharge, when applicable, on payments and report surcharge collections on the same return used to report motor vehicle tax, Form 14-117, Texas Motor Vehicle Seller-Financed Sales Tax and/or Surcharge Report.

County Responsibility

TxDMV includes the TERP surcharges in the RTS and separately identifies the surcharge.

Section III

Specific Provisions

Accessories and Attachments Affixed to a Motor Vehicle

- **Tax Due at Time of Sale**
- **Three Situations and Tax Consequences**
- **Accessories/Attachments Affixed at the Time of Sale**
- **Accessories/Attachments Purchased Separately**
- **Accessories/Attachments Purchased to Combine into a Homemade or Shop-Made Motor Vehicle**

Tax Due at Time of Sale

Motor vehicle tax is due on the consideration paid or to be paid for a motor vehicle, including all accessories or attachments affixed at the time of sale.

Examples of accessories include items such as a side-view mirror, trailer hitch or grill guard.

Examples of attachments include a major piece of equipment that performs a function, such as a concrete mixer or an air compressor.

To determine the amount of tax due on a motor vehicle, it is necessary to determine what accessories or attachments were affixed to the motor vehicle at time of purchase. A person may purchase a motor vehicle and accessories/attachments separately, but then combine them before the person actually registers the motor vehicle.

Three Situations and Tax Consequences

Three situations can occur with the purchase of a motor vehicle and accessories/attachments:

- accessories/attachments are affixed to the motor vehicle at the time of sale;
- accessories/attachments are purchased separately from the motor vehicle; or
- accessories/attachments are purchased to combine into a homemade or shop-made motor vehicle.

The following sections address each of these situations and the resulting tax consequences.

Accessories/Attachments Affixed at the Time of Sale

Motor vehicle tax is due on the total selling price of a motor vehicle with affixed accessories or attachments.

Example 1:

A customer orders a truck with a tool box and grill guard accessories attached. The customer pays motor vehicle tax on the truck, the tool box, grill guard and any other attached accessories.

INVOICE

Ajax Motors
Austin, Texas

Crew Cab	$30,900
Tool Box	350
Grill Guard	750
Total	32,000
Motor Vehicle Sales Tax 6.25%	**2,000**
Final Total	**$34,000**

Accessories/Attachments Purchased Separately

When a buyer purchases a motor vehicle and then purchases unattached accessories separately, motor vehicle tax is due on the motor vehicle's selling price. Limited sales tax is due on the selling price of the unattached accessories. The buyer may purchase the motor vehicle and the accessories from different sellers

or from the same seller at different times. Generally, if the buyer purchases the accessory/attachment and the motor vehicle at the same time from the same person, it is considered the sale of a motor vehicle with an accessory/attachment, regardless of how the seller prepares the invoices.

Example 1:

Customer purchases accessories to add to a completed truck on which the customer has already paid motor vehicle tax. Customer pays limited sales tax on the purchase of the accessories and any labor to install them.

INVOICE

Custom Truck Accessories

Grill Guard	$350
Tool Box	750
Total	**1,100**
Limited Sales Tax 8.25%	**90.75**
Grand Total	**$1,190.75**

Example 2:

Customer purchases a truck cab and chassis (see A) and a truck body (see B) from separate suppliers and assembles the truck. Customer pays motor vehicle tax on the truck cab and chassis and pays limited sales tax on the truck body to the body company.

INVOICE (A)

Truck Store

2010 Cab-Chassis	$44,000
Motor Vehicle Sales Tax 6.25%	**2,700**
Total	**$46,750**

INVOICE (B)

Welding Supply, Inc.

Flat Bed	$2,500
Tool Boxes	800
Welding Rigs	4,500
Total	**7,800**
Installation	1,000
Total (before taxes)	**8,800**
Limited Sales Tax 8.25%	**726**
Grand Total	**$9,526**

Accessories/Attachments Purchased to Combine into a Homemade or Shop-Made Motor Vehicle

When a buyer purchases parts and accessories to be combined into a motor vehicle and no single part or accessory is a motor vehicle, no motor vehicle tax is due when the builder initially titles the motor vehicle. The purchaser pays limited sales and use tax on all the parts and accessories to the seller.

Example 1:

Customer orders parts, materials and accessories, none of which are motor vehicles, and assembles them into a truck. Customer pays limited sales tax to the seller on each part or accessory purchased. No motor vehicle tax is due when the customer initially titles the truck.

The *only* time motor vehicle tax is **not** due on a homemade or shop-made motor vehicle is when the person who actually built the motor vehicle initially titles it. Once the person who built the motor vehicle has titled or registered it, motor vehicle tax is due on any subsequent sales.

Motor vehicle tax is due from the person who custom orders a motor vehicle because someone else is the actual builder.

Business Entities — Corporations and Limited Liability Companies (LLCs)

- **General Characteristics**
- **Transfers Between Corporations and Stockholders**
- **Transfers Between Parent and Subsidiary Corporations**
- **Transfers from Subsidiary to Subsidiary**
- **Incorporation of a Partnership or a Sole Ownership**
- **Transfer from Existing Corporation to Newly Formed Subsidiary Corporation**
- **Transfer Upon Dissolution/Termination**
- **Transfer Due to a Merger or Conversion**
- **Corporate Name Change**
- **Lien Assumption**
- **Corporation as a New Resident**

General Characteristics

NOTE: Limited Liability Companies (LLCs) are treated the same as corporations for the purpose of motor vehicle tax. When reading this text, the term "corporation" also includes an LLC.

A corporation may own property, engage in business and be held liable for its debts as a legal entity separate and apart from its stockholders. Corporate stock may be bought and sold without affecting the tax status of a motor vehicle titled in the corporate name. When a corporation acquires or sells a motor vehicle, however, motor vehicle tax is due.

Transfers Between Corporations and Stockholders

When an individual stockholder in a corporation transfers a motor vehicle from his or her name to the corporate name or the corporation transfers a motor vehicle to the stockholder, the following guidelines apply:

- If the corporation or stockholder pays consideration for the motor vehicle, motor vehicle tax is due. SPV procedures may apply.
- If the corporation or stockholder pays no consideration for the motor vehicle, there is a transfer without payment of consideration. Tax is due on the vehicle and SPV procedures may apply. The transfer cannot qualify as a gift.

Exception: *See Incorporation of a Partnership or a Sole Ownership* in this topic.

Transfers between an individual and an unincorporated company owned solely by that individual are treated differently.

Transfers Between Parent and Subsidiary Corporations

When a parent corporation transfers a motor vehicle to a subsidiary corporation or a subsidiary corporation transfers a motor vehicle to its parent corporation, the following guidelines apply:

- If the subsidiary or parent corporation paid consideration for the motor vehicle, motor vehicle tax is due. SPV procedures may apply.
- If the subsidiary or parent corporation paid no consideration for the motor vehicle, a sale has occurred even without payment of consideration. SPV procedures may apply. The transfer cannot qualify as a gift.

Exception: See *Transfer from Existing Corporation to Newly Formed Subsidiary Corporation* in this topic.

Transfers from Subsidiary to Subsidiary

When a subsidiary of a corporation transfers a motor vehicle to another subsidiary of the corporation, the following guidelines apply:

- If the subsidiary pays consideration for the motor vehicle, motor vehicle tax is due. SPV procedures may apply.
- If the subsidiary pays no consideration for the motor vehicle, a taxable transfer has occurred and tax is due. SPV procedures may apply. The transaction cannot qualify as a gift.

Incorporation of a Partnership or a Sole Ownership

When a sole owner or partnership incorporates and transfers a motor vehicle from the individual or partnership to the corporation in connection with that incorporation, the following guidelines apply:

- If a newly formed corporation pays no consideration (other than stock) to the individual or partnership transferring assets to it, no tax is due. The owners of the business simply have adopted a different form of doing business. The transfer of a motor vehicle to the newly formed corporation is not a change in ownership and is not a taxable sale.
- If the newly formed corporation pays consideration to the individual or partnership, motor vehicle tax is due since the corporation purchased the vehicle from the individual or partnership. SPV procedures may apply.
- In the case of a partnership converting to a corporation, no tax is due because the ownership is transferred by operation of law. No sale has occurred.

Transfer from Existing Corporation to Newly Formed Subsidiary Corporation

When an existing corporation transfers a motor vehicle to a subsidiary corporation upon the initial incorporation of the subsidiary, the following guidelines apply:

- If the subsidiary pays no consideration (other than stock) to the parent corporation, no motor vehicle tax is due.
- If the subsidiary pays a consideration to the parent corporation, motor vehicle tax is due. SPV procedures may apply.

Transfer Upon Dissolution/Termination

When a corporation transfers a motor vehicle to a stockholder upon dissolution/termination of the corporation, the following guidelines apply:

- If a corporation transfers a motor vehicle for no consideration as a part of the stockholder's share of the dissolving/terminating corporation's assets, no tax is due. No taxable event has occurred.
- If the stockholder gives the dissolving/terminating corporation any consideration, motor vehicle tax is due. SPV procedures may apply.

Transfer Due to a Merger or Conversion

When two or more corporations merge, no tax is due on motor vehicles transferred to the surviving corporation. Similarly, when a corporation converts to a different entity type, no tax is due on motor vehicles transferred to the resulting entity following the conversion. In a merger or conversion, which is an operation of law, transfer of liens with motor vehicles does not constitute "consideration" since the merger or conversion is not a sale by statute, so there is no taxable event.

Corporate Name Change

A corporation may change its name without owing motor vehicle tax. Evidence of a corporate name change may include a Certificate of Amendment filed with the Texas Secretary of State.

Lien Assumption

With the exception of a merger or conversion, any motor vehicle transfer involving the assumption of a lien is subject to motor vehicle tax. SPV procedures may apply.

Corporation as a New Resident

When a corporation enters Texas to establish residency and begins doing business for the first time, the corporation is considered a new resident. The following guidelines apply.

- If the corporation has registered the motor vehicle in the corporate name in another state or country prior to the corporation entering Texas as a new resident and bringing the motor vehicle into Texas, the new resident tax applies.

- If the corporation has not registered the motor vehicle in the corporate name in another state or country prior to the corporation entering Texas as a new resident and bringing the motor vehicle into Texas, the motor vehicle use tax is due. SPV procedures apply if the purchase of the motor vehicle was a private-party transaction. Credit may be applied for legally imposed sales or use tax paid to another state. Credit may not be applied for sales or use tax paid to another country.
- If, after becoming a Texas resident, the corporation brings in a motor vehicle from outside of Texas for public highway use, motor vehicle use tax is due. SPV procedures may apply. The corporation may take a credit for sales tax paid to another state.

A corporation that is presently doing business in Texas or is domiciled in Texas cannot be considered a new resident of Texas for motor vehicle tax purposes.

Business Entities — Partnerships

- **General Characteristics**
- **Formation/Organization or Dissolution/ Termination of a Partnership**
- **Transfers to Newly Formed/Organized Partnership**
- **Transfers to an Existing Partnership**
- **Transfers Upon Dissolution/Termination of a Partnership**
- **Changes in Partners**
- **Incorporation of a Partnership**
- **Lien Assumption**
- **Partnership as a New Resident**

General Characteristics

Partnerships are considered legal entities separate and apart from the individual members.

A general or limited partnership is similar to a corporation; both entity types may own property and engage in business and both are responsible for their debts. While corporations are legal entities composed of individual stockholders, partnerships are legal entities composed of individual members. The members of a partnership may be individual persons or other legal entity such as a partnership or corporation.

Formation/Organization or Dissolution/ Termination of a Partnership

A limited partnership (LP) or limited liability partnership (LLP), registered with the Secretary of State, may add or remove a partner without terminating itself or organizing a new partnership as an entity.

By contrast, unless there is a partnership agreement that indicates otherwise, a general partnership that has not registered with the Secretary of State is presumed to have terminated the old partnership and established a new partnership when a change in members occurs.

The taxability of these events is described in the sections below.

Transfers to Newly Formed/Organized Partnership

When a partner transfers a motor vehicle to a partnership upon formation/organization of the partnership, the following guidelines apply:

- If the partnership pays no consideration, no motor vehicle tax is due. No taxable sale has occurred.
- If the partnership pays consideration, motor vehicle tax is due. SPV procedures may apply.

Transfers to an Existing Partnership

When a partner transfers a motor vehicle to an existing partnership, the following guidelines apply:

- If the partnership pays no consideration, tax is due and SPV procedures may apply.
- If the partnership pays consideration, motor vehicle tax is due. SPV procedures may apply.

Transfers Upon Dissolution/Termination of a Partnership

When a partnership dissolves/terminates and transfers a motor vehicle to an individual partner as a portion of the assets, the following guidelines apply:

- If the dissolving/terminating partnership transfers a motor vehicle for no consideration to a partner, no motor vehicle tax is due. The partner received the motor vehicle as all or part of his share of the assets of the dissolved/ terminated partnership.

- If a partner assumes a lien on a motor vehicle or gives the dissolving/terminating partnership any consideration, motor vehicle tax is due. SPV procedures may apply.

Changes in Partners

When a partner joins or leaves a partnership and the partnership entity remains intact, the following guidelines apply:

- If a new partner joins an existing partnership and contributes a motor vehicle, tax is due whether or not consideration is paid. SPV procedures may apply.
- If a partner leaves a partnership and the partnership transfers a motor vehicle into the partner's personal name, tax is due whether or not the partner paid consideration. SPV procedures may apply.

If the change of partner(s) causes the partnership entity to dissolve/terminate, the two above guidelines do not apply. For example, a general partnership without a partnership agreement that provides for the continuation of the partnership entity upon a change of partner(s) automatically dissolves. Refer to *Transfers Upon Dissolution/Termination of a Partnership* in this topic. If a new partnership entity is then formed/organized, refer to *Transfers to Newly Formed/Organized Partnership* in this topic.

Incorporation of a Partnership

When a partnership incorporates and transfers a motor vehicle from the partnership name to the corporate name in connection with that incorporation, the following guidelines apply:

- If a newly formed corporation pays no consideration (other than stock) to the partnership, no tax is due. The owners of the business simply have adopted a different form of doing business. The transfer of a motor vehicle to the newly formed corporation is not a change in ownership and is not a sale.
- If the corporation pays consideration to the partnership, motor vehicle tax is due since the corporation purchased the vehicle from the partnership. SPV procedures may apply.

Lien Assumption

Any motor vehicle transfer involving the assumption of a lien is subject to motor vehicle tax. SPV procedures may apply.

Partnership as a New Resident

When a partnership enters Texas for the first time to establish residency and to begin doing business, the partnership is considered a new resident.

To be a new resident, the partnership cannot presently be doing business in Texas or be domiciled in Texas.

When a partnership brings a motor vehicle into Texas, the following guidelines apply:

- If the partnership owned the motor vehicle and brought it into Texas at the time the partnership became a new resident, and the partnership previously registered the motor vehicle in the partnership name in another state or country, the new resident tax applies.
- If the partnership had not previously registered the motor vehicle in the partnership name in another state or country, the motor vehicle use tax is due. SPV procedures apply if the sale of the motor vehicle is a private-party purchase. Credit may be applied for legally imposed sales or use tax paid to another state. Credit may not be applied for sales or use tax paid to another country.
- If the partnership acquired the motor vehicle out of state and brought it into Texas for public highway use after the partnership became a resident, motor vehicle use tax is due. SPV procedures apply if the sale of the motor vehicle is a private-party purchase.

A partnership presently doing business in Texas cannot be considered a new resident of Texas.

Business Entities — Sole Owners

- **General Characteristics**
- **Lien Assumption**
- **Incorporation of a Sole Ownership**

General Characteristics

A transfer of a motor vehicle between an unincorporated company and its sole owner is not subject to motor vehicle tax. Since the individual and the business are the same entity, there has been no sale or change in ownership.

A transfer from an individual to a corporation, from a corporation to an individual or between a corporation and a sole stockholder results in a change of ownership and may be taxable.

Lien Assumption

Any motor vehicle transfer involving the assumption of a lien is subject to motor tax. SPV procedures may apply.

Incorporation of a Sole Ownership

When a sole owner incorporates and transfers a motor vehicle from the individual name to the corporate name in connection with that incorporation, the following guidelines apply:

- If the corporation pays no consideration (other than stock) to the individual, no tax is due. The owner of the business simply has adopted a different form of doing business. The transfer of a motor vehicle to the newly formed corporation is not a change in ownership and is not a taxable sale.
- If the corporation pays consideration to the individual, motor vehicle tax is due since the corporation purchased the vehicle from the individual. SPV procedures may apply.

Community Property

- **Transfer is Not a Sale**
- **Property Settlement and Divorce Decree**
- **Taxable Transfer**

Transfer is Not a Sale

A transfer between spouses of a motor vehicle that is community property and that tax has already been paid is not a taxable event. No motor vehicle tax is due.

On the other hand, a transfer between spouses of a motor vehicle that is separate property qualifies for the $10 gift tax.

Since Texas recognizes common law marriages, community property laws also apply to common law marriages.

Property Settlement and Divorce Decree

A transfer between persons formerly married to each other is exempt from motor vehicle tax only if the transfer is part of the property settlement or results from a court-ordered division of community property in a divorce decree.

Taxable Transfer

A transfer between persons formerly married to each other is subject to motor vehicle tax when the transfer occurs after (and is not a part of) the community property settlement or court-ordered division of community property in a divorce decree.

SPV applies to the transfer after the sale since neither party is a licensed motor vehicle dealer.

Contests and Prizes

- **Chance to Win a Motor Vehicle**
- **Seller-to-Contest Sponsor-to-Winner Transfer**
- **Seller-to-Winner Transfer**
- **Dealer Contest Sponsor-to-Winner Transfer**
- **Motor Vehicle Won in Another State**

Chance to Win a Motor Vehicle

Purchasing a ticket that merely represents a chance to win a motor vehicle is not consideration given for a motor vehicle. A person who buys a ticket or is given a ticket for a chance to win a motor vehicle, therefore, does not owe tax on the ticket price, even if it is the

winning ticket. Nor does the contest sponsor owe motor vehicle tax on the total price of the sold tickets.

Seller-to-Contest Sponsor-to-Winner Transfer

When a contest sponsor buys a motor vehicle and the seller assigns the title to the sponsor who in turn transfers the motor vehicle to the contest winner, two taxable events have occurred. The contest sponsor owes motor vehicle tax on the amount paid to the seller **and** the contest winner owes motor vehicle tax on the transfer of the motor vehicle from the contest sponsor to the contest winner. If the contest sponsor is not a licensed dealer, SPV procedures apply.

Exceptions: The $10 gift tax applies when the contest sponsor, contest winner or both are a nonprofit service organization qualifying under Section 501(c)(3), IRC. Remember, that although the $10 gift tax applies on the transfer, the motor vehicle tax is due when a Section 501(c)(3), IRC nonprofit service organization purchases a vehicle to be used in a contest.

Seller-to-Winner Transfer

Although it may appear only one taxable transaction has occurred, two taxable transactions have occurred when a contest sponsor buys a motor vehicle and the seller assigns the title directly to the contest winner, bypassing the contest sponsor. Even though the title was not first transferred to the contest sponsor, this purchase transaction is still taxable as well as the recorded transfer of the motor vehicle to the contest winner.

The rules for determining tax responsibility are the same in this situation as those in the previous section, *"Seller-to-Contest Sponsor-to-Winner Transfer."*

Dealer Contest Sponsor-to-Winner Transfer

When a licensed dealer is a contest sponsor and transfers a motor vehicle directly to a contest winner, the winner owes motor vehicle tax based on the dealer's book value of the motor vehicle. The dealer owes no motor vehicle tax on their acquisition of the vehicle.

Motor Vehicle Won in Another State

A Texas resident who wins a motor vehicle in another state and brings that motor vehicle into Texas will owe motor vehicle use tax based on SPV. If the contest sponsor is a licensed dealer outside of Texas, tax is assessed on the dealer's book value.

Co-Owners and Co-Signers

- **Transfer to Co-Owner or Co-Maker**
- **Transfer to Co-Signer**

Transfer to Co-Owner or Co-Maker

Transferring a title from one co-owner or co-maker to another is not a taxable transfer. Co-owners or co-makers have purchased a motor vehicle together. Both parties own the motor vehicle and, if there is a lien involved, both are jointly and severally liable for repayment of the entire loan. Taking over the sole responsibility of a lien does not make the transfer taxable. Each owner has been jointly and severally liable for the loan.

Documentation should indicate that a co-owner or co-maker's name is being removed from the loan.

If a new co-owner gives any consideration to the other co-owner, then motor vehicle tax is due. SPV applies to the private-party purchase.

Transfer to Co-Signer

Tax is due when a co-signer takes possession of the motor vehicle. A co-signer who has agreed to guarantee the repayment of a loan on a motor vehicle does not become liable unless the borrower defaults. With the default, the co-signer could take direct ownership rights in the motor vehicle and owes motor vehicle tax on the assumed liability.

SPV applies when the co-signer takes possession of the motor vehicle, since the sale is a private-party transaction with no licensed dealer involved in the sale.

Credit

- **Tax Paid to Another State**
- **U.S. Possessions and Territories**
- **Credit Not Allowed**
- **Verification of Credit**
- **Tax Paid to Out-of-State Dealer**
- **New Residents**
- **Texas Emissions Reduction Plan (TERP)**
- **Leased Motor Vehicles**
- **Calculating Tax Due on Vehicle Purchased Outside Texas**

Tax Paid to Another State

Texas participates in the Multistate Tax Compact, which allows credit for legally imposed similar motor vehicle sales or use tax paid to another state, Puerto Rico or any U.S. possession or territory when a motor vehicle becomes subject to the Texas motor vehicle use tax.

Legally imposed sales or use tax paid to another state includes state tax and any taxes imposed by a legal subdivision of the state, such as a city, county or parish.

Some states refer to the tax imposed on sales transactions as an "excise" tax, which is available as credit toward the Texas tax. For example, Oklahoma and New Mexico call their sales taxes "excise" taxes.

U.S. Possessions and Territories

The U.S. possessions and territories include the following (as of 2010):

American Samoa	Midway Islands
Guam	Navassa Island
Howland, Baker and Jarvis Islands	Palmyra Atoll
Commonwealth of Puerto Rico	
Johnston Atoll	U. S. Virgin Islands
Kingman Reef	Wake Island
Commonwealth of the Northern Mariana Islands	

Credit Not Allowed

Credit is not allowed for property taxes, tax paid to a foreign country, custom or duty tax, or import tax.

Verification of Credit

To allow any credit, a county TAC must view a receipt, invoice or other document verifying the amount of tax paid to another state, Puerto Rico or any U.S. possession or territory in the owner's name. The credit is a dollar-for-dollar credit. States may differ on the tax base used to calculate the motor vehicle tax.

Tax Paid to Out-of-State Dealer

Many states require a selling dealer to collect motor vehicle tax at the time of sale, regardless of whether the motor vehicle is titled and registered in that state. Consequently, an individual may purchase a motor vehicle out of state, pay a legally imposed sales or use tax and then bring the motor vehicle into Texas on a Manufacturer's Certificate of Origin (MCO) or assigned out-of-state title.

When this happens, the buyer is allowed full credit against the Texas use tax for the tax paid to the out-of-state dealer. The county TAC should verify the amount of tax paid.

New Residents

Credit for tax paid to another state is not allowed against the new resident tax since it is not a qualifying similar tax.

Texas Emissions Reduction Plan (TERP)

Credit for tax paid to another state is not allowed against the TERP surcharge since it is not a qualifying similar tax.

Leased Motor Vehicles

If a Texas resident or a person who is domiciled or doing business in Texas leases a motor vehicle outside of Texas and brings it into Texas for use, credit is allowed for legally imposed sales or use tax paid to another state, Puerto Rico or any U.S. possession or territory. Either the lessor or the lessee must document the tax payment. The credit applies to taxes paid by the lessor or the lessee.

Some states collect any motor vehicle tax due in full at the time of lease while other states allow the tax to be paid as part of the monthly lease payments. Credit is allowed for tax paid on a monthly basis up to the time the motor vehicle is brought into Texas, if paid by the

same lessee. The credit is limited to tax paid prior to the motor vehicle's entry into Texas. Credit cannot be allowed at time of registration for tax payments not yet made to the other state. At the end of the lease, however, the lessee may request a refund from the Comptroller of up to the amount of additional tax paid to the other state.

Calculating Tax Due on Vehicle Purchased Outside Texas

Example:

Total Sales Price	$	15,000
Less Trade-In	–	6,000
Taxable Value	$	9,000
Tax Rate	x	.0625
Use Tax Due	$	562.50
Less credit for tax paid in another state	–	180.00
Net Texas Use Tax	$	382.50

Dealers

- **Tax Collection - Dealer Responsibility**
- **Motor Vehicles Acquired for Resale**
- **Franchised Dealer**
- **Non-Franchised Dealer**
- **Lienholders**
- **Dealer License Plate - Use of Vehicle Advertising Claims to Waive Taxes**

Tax Collection - Dealer Responsibility

Texas law requires licensed motor vehicle dealers to collect motor vehicle sales tax on taxable sales, including cash sales. Dealers must remit motor vehicle sales tax to the county TAC within 20 county working days (60 county working days for sales made to active duty military). Dealers have no collection responsibility when the gross weight of the motor vehicle is more than 11,000 pounds or when the motor vehicle is a non-titled trailer.

SPV does not apply when a licensed dealer is a party to the sale.

When documents show that a purchaser paid tax to a dealer, yet the dealer failed to transfer title and submit the tax as required, the purchaser will not be liable for the tax again when the title is finally transferred. The purchaser, however, must provide acceptable documentation that the purchaser paid the tax to the dealer. Acceptable documentation includes a dealer's invoice or sales contract that itemizes the tax paid to the dealer.

The county TAC can contact the Comptroller with information on dealers who appear to be violating their motor vehicle tax collection responsibilities.

Consignment sales of motor vehicles by licensed dealers are dealer sales for tax purposes. All dealer tax responsibility addressed in this topic applies to those consignment sales. SPV, consequently, does not apply.

Motor Vehicles Acquired for Resale

Franchised Dealer

Only licensed motor vehicle dealers authorized to sell **new** motor vehicles may acquire a new motor vehicle for resale tax free, provided the new motor vehicle is the same make of motor vehicle they are franchised to sell.

Dealers authorized to sell new motor vehicles may acquire a new motor vehicle with an MCO for resale tax free, but only for the make of motor vehicle they are franchised to sell. If the franchised dealer purchases a new vehicle that the dealer is not franchised to sell, the dealer owes motor vehicle tax even if the motor vehicle is being held strictly for resale.

A Texas franchised dealer may acquire any brand of used motor vehicle for resale and will not owe motor vehicle tax on that acquisition.

A franchised dealer may lease a motor vehicle from its inventory without incurring a motor vehicle tax liability, provided the dealer immediately transfers the motor vehicle and the lease to another lessor. Tax is collected from the second lessor.

Non-licensed entities—whether individuals, corporations or other entities—owe tax on purchases of motor vehicles, even if the purchases are for resale purposes only.

Non-Franchised Dealer

A non-franchised dealer (independent dealer) may acquire any brand of **used** motor vehicle for resale and not owe motor vehicle tax.

Motor vehicle tax is due on the purchase of a new motor vehicle when purchased by an independent motor vehicle dealer or a dealer franchised to sell a

different make of motor vehicle, even if the dealer is holding the motor vehicle strictly for resale.

Lienholders

A lending institution may require a dealer to obtain a Texas certificate of title to record a lien on a motor vehicle purchased tax free for resale. In this situation only, the dealer may "title only" the motor vehicle without paying tax. The dealer must hold the motor vehicle **exclusively** for resale, not for business or personal use.

Dealer License Plate – Use of Vehicle

Transportation Code Section 503.061 authorizes a dealer to operate an unregistered motor vehicle with a metal Texas dealer plate. The dealer must pay an annual $25 use tax for each metal dealer plate (master plate and all supplemental plates) to TxDMV.

Tax is due on the purchase price of a motor vehicle purchased for resale, if the dealer makes any business or personal use of the vehicle other than on the metal dealer plate.

Dealers may title a motor vehicle tax free if it is held exclusively for resale purposes, and will not incur a tax liability as long as the motor vehicle is not registered. When a dealer registers a motor vehicle, the registration creates a presumption of use of the vehicle by the dealer and the dealer owes motor vehicle sales tax.

Advertising Claims to Waive Taxes

Dealers may not advertise or otherwise tell customers or the general public that they will pay, refund or not charge tax due on a motor vehicle sale or rental. An offense for such advertising is a Class C misdemeanor.

Environmental Incentive Programs

- **AirCheckTexas Drive a Clean Machine Program – Grants for Low Income People**
- **Hydrogen-Powered Vehicles**

AirCheckTexas Drive a Clean Machine Program- Grants for Low Income People

www.tceq.state.tx.us/implementation/air/mobilesource/vim/driveclean.html

Qualifying low-income persons may receive a grant of up to $3,500 for the replacement purchase of a motor vehicle from a dealer participating in the grant program. The grant amount for the vehicle retirement program is not part of the total consideration for the vehicle and is not subject to Texas motor vehicle sales tax. A county or other local program administrator will work with a participating dealer to fund the grant directly to the dealer for the purchase of the replacement motor vehicle. The participating dealers will not remit motor vehicle sales tax on the grant amount.

Hydrogen-Powered Vehicles

An ultra low-emission motor vehicle that is hydrogen power-capable and has a fuel economy of at least 45 miles per gallon, or that is fully hydrogen-powered, is exempt from Texas motor vehicle tax.

A qualifying hydrogen-powered motor vehicle is a vehicle that meets Phase II standards established by the California Air Resources Board (ARB) as of Sept. 1, 2007, for an ultra low-emission vehicle II or stricter Phase II emission standards established by that board. For information, visit the ARB website at http://www.arb.ca.gov/homepage.htm.

Fair Market Value Deduction

- **What Is It?**
- **Motor Vehicle Requirements**
- **Special Rules for Vehicles Titled to a Related Company**
- **Reporting the Fair Market Value Deduction**
- **Calculating the Fair Market Value**
- **Computing the Tax**

What Is It?

The fair market value deduction allows motor vehicle dealers, lessors and rental companies to replace vehicles without paying some or all of the motor vehicle tax when purchasing new vehicles or trading in the old ones.

An authorized dealer, lessor or rental company may deduct the fair market value of one or more motor vehicles being retired from use from the purchase price of a replacement vehicle. The tax is due only on the difference.

There are two types of motor vehicles involved in a fair market value deduction: a new motor vehicle (the replacement motor vehicle) and the motor vehicle(s) removed from service [the retired motor vehicle(s).]

Motor Vehicle Requirements

For the retired motor vehicle, the dealer, lessor or rental company must:

- title it in the dealer's, lessor's or rental company's name in Texas (unless the special rules below apply);
- retire it from business or personal use;
- offer it for sale prior to claiming it as a deduction; and
- use it only once as a fair market value deduction up to 18 months after removing it from service and offering it for sale.

For the replacement motor vehicle, the dealer or lessor or rental company must:

- title it in the dealer's, lessor's or rental company's name in Texas; and
- purchase it for business or personal use.

Special Rules for Vehicles Titled to a Related Company

A lessor or rental company may deduct the fair market value of a retired motor vehicle titled in Texas to another company if the lessor or rental company offers the retired motor vehicle(s) for sale and if either:

- the lessor or rental company claiming the fair market value deduction holds at least 80 percent beneficial ownership interest as the titled owner of the retired motor vehicle, or the titled owner of the retired motor vehicle holds at least 80 percent beneficial ownership interest in the lessor or rental company (these entities are often referred to as titling trusts); or
- the lessor or rental company claiming the fair market value deduction acquires all of its motor vehicles exclusively from franchised dealers whose franchisor shares common ownership with the titled owner of the retired motor vehicle, or the titled owner of the retired motor vehicle acquires all of its motor vehicles exclusively from franchised dealers whose franchisor shares common ownership with the lessor or rental company.

Reporting the Fair Market Value Deduction

The dealer, lessor or rental company reports and claims the fair market value deduction at the time of registration and titling of the replacement motor vehicle with the county TAC. Line 21(c) of Form 130-U documents the fair market value deduction.

The applicant also should check Line 19 of Form 130-U and describe the retired vehicle(s) in Line 20.

Calculating the Fair Market Value

The dealer, lessor or rental company determines the fair market value in one of two ways:

- If the dealer, lessor or rental company has sold the retired motor vehicle before claiming the deduction, the fair market value is the price the seller actually received from the buyer.
- If the dealer, lessor or rental company has not sold the retired motor vehicle before the purchase of the replacement vehicle, the fair market value of the retired vehicle is the value on the title owner's books at the time the owner retired the motor vehicle, provided that the owner's book value is based on generally accepted accounting principles.

The dealer, lessor or rental company may combine the fair market values of multiple retired motor vehicles for the fair market value deduction on one replacement motor vehicle. If there is only one retired motor vehicle, however, the fair market value of that single retired motor vehicle cannot be split among several newer but less expensive replacement motor vehicles. A dealer, lessor or rental company cannot carry any excess value forward to other motor vehicles. Also, the use of the qualifying retired vehicles cannot reduce the tax due to less than zero.

The owner claiming the fair market value deduction is responsible for maintaining records that document the accuracy of the fair market value of the retired motor vehicle.

Computing the Tax

The difference between the total purchase price of the replacement motor vehicle and the fair market value of the retired motor vehicle(s) determines the amount subject to tax. A rental company can use the fair market value deduction to establish its minimum gross rental receipts tax liability.

Family Transfers

- **Taxable and Nontaxable Transfers**

Taxable and Nontaxable Transfers

Texas law treats the transfer of a motor vehicle between family members for consideration like any other transfer between two individuals. The transaction is subject to motor vehicle tax.

Here are two examples of taxable transfers.

- Motor vehicle tax is due on the transfer of a motor vehicle from one family member to another if the transfer does not qualify as a gift or as a community property transfer. Since the sale is a private-party transaction, SPV procedures apply.
- Motor vehicle tax is due from any family member who assumes the balance of a loan on a motor vehicle from another family member (with the exception of a community property transfer between husband and wife). The taxable amount is the amount required to pay off the loan (net payoff), plus any additional consideration given. Since the sale is a private-party purchase, SPV procedures apply.

In the following two situations no motor vehicle tax is due.

- a transfer of community property between husband and wife; or
- a transfer from parent or guardian to a child when the child initially purchased the motor vehicle as a minor (less than 21 years of age), but titled it in the parent or guardian's name.

The $10 gift tax is due when the transaction qualifies as a gift between eligible family members.

Homemade or Shop-Made Motor Vehicles

- **No Initial Motor Vehicle Tax for Builder**
- **Custom Orders or Fabrication**

No Initial Motor Vehicle Tax for Builder

No motor vehicle tax is due upon the initial titling or registration of a homemade or shop-made motor vehicle by the manufacturer or individual who actually built the motor vehicle. No sale of a motor vehicle has occurred.

Motor vehicle tax is due on any sale by the manufacturer or builder and on all subsequent sales.

A motor vehicle restored or reconditioned for operable use is **not** a shop-made or homemade motor vehicle.

Custom Orders or Fabrication

Motor vehicle tax is due from the person who custom orders a motor vehicle to be built since someone else is the actual builder. SPV procedures apply to the sale of a custom-order vehicle if the actual builder is not a licensed motor vehicle dealer.

No motor vehicle tax is due when an individual purchases component parts and then hires another person to assemble them into a motor vehicle. All component parts purchased to construct the motor vehicle, including glider kits, are subject to limited sales or use tax. In this situation the labor to fabricate a motor vehicle is also taxable under limited sales tax or use tax. The county TAC has no responsibility to determine whether the limited sales or use tax was paid on the component parts purchased to construct the vehicle.

Inherited Motor Vehicles

- **Taxable as Gifts**
- **Liens or Other Consideration on Inherited Vehicle**
- **Transfers by Descendants**

Taxable as Gifts

An unencumbered inherited motor vehicle, which an individual received as specified by a deceased person's will or through TxDMV Form VTR-262, Affidavit of Heirship for a Motor Vehicle, is subject to the $10 gift tax.

If there is an executor/executrix, the executor/executrix should sign the gift affidavit, Form 14-317, Affidavit of Motor Vehicle Gift Transfer.

Liens or Other Consideration on Inherited Vehicle

If the heir assumes a debt or gives other consideration to the estate of the deceased person to whom the inherited motor vehicle belonged, motor vehicle tax is due and SPV of the vehicle may apply.

Note: The estate may owe motor vehicle tax on any motor vehicle that has not been previously titled and registered and on which tax has not been previously paid.

Transfers by Descendants

When a motor vehicle is transferred by the heir(s) of a deceased person to another person, two taxable transactions have taken place. First, the heir(s) owes tax on acquiring the vehicle from the estate. Second, the person receiving the vehicle from the heir(s) also owes tax.

Insurance Settlement Transfers

- **Insurance Company Taking Title**
- **Sale of Total Loss Vehicle**
- **Sale of Repaired Vehicle**
- **Replacement Motor Vehicle**

Insurance Company Taking Title

No sale has occurred when an insurance company obtains title to a motor vehicle in return for an insurance settlement.

Motor vehicle tax is not due when an insured motor vehicle is titled in the insurance company's name because the insurance company determines it to be a total loss or stolen, even if the stolen motor vehicle is later recovered.

Sale of Total Loss Vehicle

Motor vehicle tax is not due on the sale of a vehicle that has been declared a total loss by the insurance company pursuant to the settlement or adjustment of an insurance claim. Instead, limited sales and use tax is due because a vehicle declared a total loss by the insurance company is not a motor vehicle, as provided by Tax Code Section 152.001(4)(F), even if the vehicle still retains its regular title under the Transportation Code.

A retailer who holds a Texas limited sales and use tax permit (or a similar permit for another state) may issue a sales and use tax resale certificate to purchase a total loss vehicle tax free for the purposes of reselling that unit.

Motor vehicle tax is not due when the purchaser of a total loss vehicle repairs the vehicle so that it is eligible to be a motor vehicle again and then titles it in that purchaser's name. The county TAC can request documentation from the purchaser that the vehicle was a vehicle declared a total loss by the insurance company.

Sale of Repaired Total Loss Vehicle

The sale and any subsequent sales of a repaired total loss vehicle are subject to motor vehicle tax.

Replacement Motor Vehicle

Motor vehicle tax is due when an insurance company purchases a replacement motor vehicle for an insured person as a result of a claim for total loss or an insured person purchases a replacement motor vehicle with insurance settlement money. A purchaser cannot use an insurance cash settlement to reduce the taxable amount of a replaced motor vehicle. SPV applies if the purchase of the replacement motor vehicle is a private-party purchase and the transaction does not involve a licensed motor vehicle dealer.

Kits

- **Complete Car Kits or Trailer Kits**
- **Glider Kits**

Complete Car Kits or Trailer Kits

Sales of kits that do not contain an entire motor vehicle (e.g., contain body only) are subject to the limited sales and use tax, which the seller collects. The TAC has no responsibility to determine whether limited sales and use tax has been paid.

When a person purchases a complete car kit or trailer kit, that contains all the component parts of a motor vehicle, and assembles the components into a motor vehicle, motor vehicle tax is due at the time of registration. Tax is based on the purchase price of the kit.

SPV applies to complete motor vehicle kits sold in private-party purchases (no licensed dealer involved).

Glider Kits

Glider kits, also called "glove frames" or "rebuild kits," consist of a set of parts that enable an owner to upgrade a truck or truck tractor to the equivalent of a later model motor vehicle and establish a different VIN for the vehicle. Since the glider kit is only a set of parts and not the entire components of a motor vehicle, no motor vehicle tax is due on the purchase of the kit. The purchaser should pay limited sales or use tax at the time of purchase. The TAC has no responsibility to determine whether limited sales and use tax has been paid.

Since upgrading the motor vehicle is not a sale of a motor vehicle and does not change the ownership, no motor vehicle tax is due. At the time of registration of the upgraded vehicle with a different VIN, both Form 130-U and the tax receipt should indicate that no change in ownership occurred and that the owner installed a glider kit.

If the owner sells the motor vehicle after installing the glider kit, motor vehicle tax is due on the entire purchase price to the new owner. SPV applies for a private-party purchase.

Leases

- **Definition of Operating Lease**
- **Frequent Transactions at TAC Office**
  - **Motor Vehicle Titled to Lease Company**
    Motor Vehicle Leased Outside Texas by New Resident – Title to Leasing Company
  - **Motor Vehicle Leased Outside Texas by Texas Resident – Title to Leasing Company**
  - **Title to Lease Customer at End of an Operating Lease**
- **Conditional Sale (Lease/Purchase)**
- **Subsequent Lease of Lessor's Unit (Re-Lease)**
- **TRAC Lease**

Definition of Operating Lease

A lease is an agreement by an owner (lessor) to give exclusive use of a motor vehicle to a lessee for a consideration for a specified period of more than 180 days. Under the terms of an operating lease agreement, a lessor remains the title owner of a motor vehicle and a lessee has no ownership rights.

Frequent Transactions at TAC Office

The following situations involving operating leases are frequently presented to the county TAC.

Motor Vehicle Titled to Lease Company

Tax is imposed on the leasing company's Texas purchase of a motor vehicle and is due at the time of titling and registration. Tax is calculated on the leasing company's purchase price. The leasing company may use the fair market value deduction to reduce the vehicle's taxable value.

Motor Vehicle Leased Outside Texas by New Resident – Title to Leasing Company

If a new Texas resident brings a leased motor vehicle into Texas, the new resident owes the new resident tax. The vehicle may be registered in the lessor's name and still qualify for the new resident tax. No credit is allowed against the new resident tax for tax paid to another state.

Motor Vehicle Leased Outside Texas by Texas Resident – Title to Leasing Company

When a motor vehicle is leased in another state and the lessee is a Texas resident or is domiciled or doing business in Texas and brings the motor vehicle to Texas, the lessee (as the operator) owes motor vehicle use tax. This includes the situation where a Texas resident assumes a lease on an out-of-state vehicle and brings it into Texas.

The use tax is based on the price the lessor paid for the motor vehicle. Credit is given for any tax the lessor or the lessee paid to another state, Puerto Rico or any U.S. possession or territory. Either the lessor or the lessee must document tax payment.

Some states collect any motor vehicle tax due in full at the time of lease while other states allow the tax to be paid as part of the monthly lease payments. Credit is allowed for tax paid on a monthly basis up to the time the motor vehicle is brought into Texas, if paid by the same lessee. The credit is limited to tax paid prior to the motor vehicle's entry into Texas. Credit cannot be allowed at time of registration for tax payments not yet made to the other state. At the end of the lease, however, the lessee may request a refund from the Comptroller of up to the amount of additional tax paid to the other state.

If the lessee is paying tax on lease payments, the lessee may not have a receipt available from the other state. Documentation may be in the form of a statement from the lessor or a copy of the lease agreement showing the tax collected per payment.

Title to Lease Customer at End of an Operating Lease

Tax is due at the time of titling and registration, since a new taxable sale (second transaction) has occurred, whether the vehicle was leased in Texas or outside Texas. The tax is based on the amount (option) paid at the conclusion of the lease. SPV may apply. The lessee receives no credit for tax reimbursed to the lessor on the lessor's initial purchase of the vehicle to be leased. This is the most common situation. On occasion, however, a lease may qualify as a conditional sale as described below.

Conditional Sale (Lease/Purchase)

One taxable sale has occurred in a conditional sale (lease/purchase) transaction. The lessor retains title to the vehicle while payments are being made by the lessee. To be a conditional sales agreement (lease/purchase) it must meet one of the following conditions:

- the lessor transfers the motor vehicle to a lessee under a "must purchase" clause;
- the lessor transfers the motor vehicle to a lessee under an "option to purchase" clause at nominal value; or
- the lessor transfers the motor vehicle to a lessee at nominal value.

If the contract terms do not firmly establish at the onset that the contract is a conditional sale (lease/purchase), the lessor owes tax on the acquisition of the vehicle. When the lessee later takes title under such a conditional sale agreement, the tax due from the lessee is recalculated based on the lessee's total consideration that includes the down payment, sum of payments and balloon payment. SPV may apply. Only separately stated interest may be excluded from the sales price to determine the sales tax due. The lessee receives credit for the tax paid up front at the time the motor vehicle was initially titled in the lessor's name if this person is the initial lessee/purchaser.

Subsequent Lease of Lessor's Unit (Re-Lease)

A re-lease of a motor vehicle on which Texas tax was paid and the title owner does not change, is not a taxable event, since no sale has occurred.

TRAC Lease

A Terminal Rental Adjustment Clause (TRAC) Lease is a contract where there is a residual dollar amount the lessee is obligated to pay, whether the lessee purchases the vehicle or the vehicle is sold to a third party.

If the lessee takes title to the vehicle for an amount other than a nominal amount, tax is due on the amount paid by the lessee. A new sale has occurred. SPV may apply.

If the vehicle is acquired for a nominal amount under the TRAC agreement, see *Conditional Sale (Lease/Purchase)* in this topic.

Lien Assumptions

- **Existing Lien Assumption**
- **Unrelated Lien**
- **Refinancing**
- **Sale and Repurchase**

Existing Lien Assumption

Motor vehicle tax is due from any person assuming an existing lien on a motor vehicle. The taxable amount is the amount required to release the lien, commonly called "net payoff," plus any other consideration paid by the purchaser.

If the person assuming the lien pays an amount in addition to the amount of the lien, tax is due on the total amount.

Since the lien assumption is a sale, SPV applies to a used vehicle in a private-party purchase via lien assumption.

Unrelated Lien

The existing title owner may record or delete a lien without motor vehicle tax being due, as long as the lien is unrelated to the motor vehicle's purchase. For example, if a person takes out a loan for a vacation and uses a motor vehicle as collateral for the loan, this is not a taxable event. The county TAC may request documentation.

Refinancing

Refinancing a motor vehicle is not a taxable event.

Sale and Repurchase

The following scenario describes a taxable sale and repurchase of a motor vehicle and not merely a refinancing transaction.

To lower the amount of existing car payments on a motor vehicle, the vehicle's owner may choose to refinance the vehicle with a manufacturer-related financing company through a dealer. The dealer takes the motor vehicle into its inventory and pays off the first lien. The vehicle's owner signs a new purchase agreement for that vehicle with the dealer for a new loan contract for the pay-off amount, plus inventory tax, registration fees and documentary fee.

In this case, when the vehicle's owner assigned the motor vehicle to the dealer for the dealer's inventory that was a sales transaction. The dealer purchased the motor vehicle from the vehicle owner for resale purposes. The dealer's resale of that motor vehicle back to the original owner is another taxable transaction. The original owner owes motor vehicle tax on the repurchase of the vehicle.

Liens – Storage or Mechanic

- **Lien Foreclosure**
- **Purchase of Foreclosed Motor Vehicle**
- **Lienholder Purchase**
- **Documentation**

Lien Foreclosure

When a motor vehicle owner fails to pay for storage or mechanic (service) costs, the service provider as a lienholder may attempt to recover costs by foreclosing on the lien. The lienholder may recover costs by selling the vehicle.

Purchase of Foreclosed Motor Vehicle

The purchaser of a motor vehicle owes motor vehicle tax on the total amount paid for the vehicle. The purchaser may be either the storage or mechanic lienholder or a third party. The purchaser is able to take title to the motor vehicle as a result of the sale.

If the purchaser is a dealer, the dealer may take title tax free if the motor vehicle is to be held for resale purposes only.

SPV does *not* apply to a motor vehicle acquired through a storage or mechanic's lien.

Lienholder Purchase

If the storage or mechanic's lienholder takes title to the vehicle, motor vehicle tax is due on the amount of debt extinguished by the lienholder retaining the motor vehicle, unless the sale price is higher. The lienholder's books and records should reflect the debt, which is generally the amount of the lien.

Documentation

Form 130-U documents the purchase of a motor vehicle. When a public sale is held, an auction sales receipt from a governmental entity may be accepted in lieu of the seller's signature on the 130-U.

For a sale conducted by the federal government, the federal government does not provide the purchaser with a Form 130-U. The federal Form 97, United States Government – Certificate to Obtain Title to a Motor Vehicle, contains information sufficient for the registration and titling of the vehicle.

Manufactured Housing and Mobile Homes

- **Manufactured Homes**
- **Older Homes**

Manufactured Homes

Manufactured homes, including modular homes, constructed on or after March 1, 1982, are manufactured housing and are taxed under the Texas Manufactured Housing Sales and Use Tax Act. They are not subject to motor vehicle tax. Manufactured housing manufacturers collect and directly pay the manufactured housing tax to the Comptroller. Furthermore, these units are titled elsewhere and not through the county TAC.

Older Homes

Mobile homes purchased prior to March 1, 1982, are considered motor vehicles. Sales of these older mobile homes are subject to the motor vehicle tax.

Manufacturers of Motor Vehicles

- **No Tax Due**
- **Tax Due on Related Company Purchase**
- **Renting or Leasing**

No Tax Due

Motor vehicle tax is not due if a motor vehicle is titled and registered in the manufacturer's name. No sale of a motor vehicle has occurred.

Tax Due on Related Company Purchase

Motor vehicle tax is due if a motor vehicle is titled and registered in the name of a company related to a manufacturer. For example, motor vehicle tax is due if the motor vehicle is titled and registered in the name of the manufacturer's finance arm. Motor vehicle tax is also due if the motor vehicle is titled to a U.S. distributor of a foreign built vehicle (i.e., the vehicle is not purchased for resale).

Renting or Leasing

All agreements by a manufacturer to give exclusive use of a motor vehicle to another for a consideration are rentals and the manufacturer should use the rental permit number to register these motor vehicles tax free. This includes long term contracts that would otherwise qualify as a lease agreement.

A manufacturer must collect gross rental receipts tax and report it to the Comptroller.

Military Personnel

- **Subject to Tax**
- **Texas Military Personnel**
- **Out-of-State Military Personnel**
- **Credit**
- **Deadline for Titling, Registration and Tax Payment**

Subject to Tax

Vehicles purchased by U.S. military personnel and most foreign military personnel are subject to motor vehicle sales and use tax. The Servicemember's Civil Relief Act (formerly known as the Soldier and Sailor's Relief Act), which exempts the U.S. military from some state and local property and income taxes, **does not** apply to motor vehicle taxes. There is no exemption from motor vehicle tax because the motor vehicle was purchased in another state, overseas or through a base exchange.

Whether the owner (military personnel) is an established Texas resident or a new resident and where the owner purchased the motor vehicle will determine whether the owner will pay motor vehicle sales tax, use tax or new resident tax when the owner registers the motor vehicle.

Foreign military personnel, their dependents and military-employed civilians attached to a North Atlantic Treaty Organization (NATO) force are exempt from the motor vehicle sales and use tax.

Texas Military Personnel

When a military person with Texas as the home state of record purchases a motor vehicle in Texas, motor vehicle sales tax is due. 6.25 percent Texas motor vehicle use tax is due on a vehicle purchased outside of this state, SPV may apply.

A Texas military person who is stationed outside Texas, but chooses to register a vehicle in Texas, is also subject to motor vehicle tax, since the motor vehicle is presumed to be for use in Texas.

Another state may require its state registration on a Texas motor vehicle owned by a Texas resident who is in that state temporarily on military orders, even though the Texas resident previously registered and paid tax on the vehicle in Texas. If this is the case, there is no liability for any additional tax when the resident re-enters Texas with the same motor vehicle. Proof of tax paid to Texas or previous titling in Texas is required when the vehicle returns to Texas.

Out-of-State Military Personnel

Out-of-state U.S. and foreign military personnel (**excluding** foreign NATO personnel) who enter Texas pay the new resident tax on motor vehicles purchased outside Texas and brought into Texas for use. The military person must have previously registered the motor vehicle in the military person's name in another state or foreign country. U.S. military registration is qualified registration. If the registration requirement is not met, 6.25 use tax is due. SPV may apply.

Credit

Credit toward the Texas use tax is allowed for legally imposed sales or use tax paid to another state, Puerto Rico and any U.S. possession or territory. No credit is allowed for tax paid to a foreign country.

Credit cannot be allowed toward the new resident tax paid in Texas.

Deadline for Titling, Registration and Tax Payment

Active duty members of the military, including the National Guard and reserve units, have 60 county working days from the date of Texas purchase or first use in Texas to transfer title and pay registration fees on the purchase of a used motor vehicle, as provided in Transportation Code Section 520.031.

For efficient administration of motor vehicle tax, the Comptroller by rule has set the tax payment deadline to the same 60-day time period for active duty military, including the National Guard and reserve units, rather than within 20 county working days of the purchase or first use in Texas. When SPV applies to the private-party purchase of a used motor vehicle by active duty military, then a certified appraisal obtained within the same 60-day time period will be acceptable.

Motorcycles and Mopeds

- **Motorcycles**
- **Off-Road Motorcycles**

Motorcycles

Motorcycles and mopeds, **excluding** off-road motorcycles, are motor vehicles subject to motor vehicle tax. SPV applies to the private-party purchase of a moped or motorcycle.

Off-Road Motorcycles

An off-road motorcycle or dirt bike is subject to limited sales and use tax. The seller is responsible for collecting the limited sales and use tax. The county TAC is not responsible for determining whether limited sales or use tax has been paid on an off-road unit. The application for a certificate of title does not change the unit's taxability.

Moveable Specialized Equipment

- **Determining Moveable Specialized Equipment vs. Motor Vehicle**
- **Taxability**
- **Examples**

Determining Moveable Specialized Equipment vs. Motor Vehicle

A moveable unit's actual design and construction, rather than its use, determines the applicable tax. Distinguishing between similar pieces of equipment with the same use may be necessary to determine if the item is moveable specialized equipment subject to limited sales tax or a motor vehicle subject to motor vehicle tax.

Moveable specialized equipment is a unit designed and built specifically to perform a specialized function that does not include transporting property separate from itself. A motor vehicle is a self-propelled unit designed to transport persons and separate property upon the highway. A motor vehicle includes a trailer designed to transport separate property. A motor vehicle also includes a conventional cab chassis with equipment attached. It does not lose its identity as a motor vehicle when equipment is attached.

Taxability

Purchases of moveable specialized equipment or machinery are subject to limited sales or use tax. The county TAC is not responsible for determining whether limited sales or use tax has been paid on a unit.

All motor vehicles, regardless of use or accessories or equipment attached, are subject to motor vehicle tax unless specifically exempted.

Motor vehicle tax is calculated on the purchase price including all accessories and equipment attached at the time of purchase. Accessories or equipment purchased in a separate transaction are subject to limited sales or use tax.

The type of registration and titling required by TxDMV does not determine the tax liability.

Moveable Specialized Equipment

Lighting Equipment

Asphalt Kettle

Motor Vehicle

Water well drilling truck (Motor Vehicle)

Off-Road Motor Vehicles

- **Taxability**
- **Examples**
- **Titling**

Taxability

Off-road motor vehicles are subject to limited sales or use tax in Tax Code Chapter 151 and not subject to motor vehicle tax. The county TAC has no responsibility to verify whether limited sales or use tax was paid on an off-road unit.

Examples:

Items designed for use off the public streets and highways and off-road motor vehicles include:

- dirt bikes;
- golf carts;
- go-carts;
- race cars;
- miniature motorcycles;
- all-terrain motor vehicles (ATVs); and
- other types of motor vehicles that are not designed or intended by the manufacturer to meet registration and safety inspection requirements for motor vehicles.

Titling

Some off-road motor vehicles may be titled under the Certificate of Title Act. In a few situations, the vehicles also may be registered and may be operated with slow-moving vehicle signs. If the vehicle is not manufactured for highway use, no motor vehicle tax is due. Titling and/or registering an off-road unit does not require payment of motor vehicle tax.

Penalty on Late Tax Payment

- **Payment Deadline**
- **Deadline Exception for Active Duty Military**
- **Penalty for Late Payment by Purchaser, Operator or Dealer**
- **Penalty Exceptions**
- **Documents for Proof of Time and Date**

Payment Deadline

Unless an exception applies, a purchaser or operator is required to pay the motor vehicle tax by the 20th county working day after the delivery date that the purchaser takes possession of the motor vehicle or the date the operator brought the motor vehicle into Texas for highway use.

All TxDMV-licensed motor vehicle dealers must collect motor vehicle sales tax on taxable sales, including cash sales. Exceptions to a licensed dealer's collection responsibility occur when the gross weight of the motor vehicle is more than 11,000 pounds or when the motor vehicle is a non-titled trailer.

If the seller is not a licensed dealer, it is the purchaser's responsibility to title and register the vehicle and pay tax to the county TAC.

Licensed motor vehicle dealers must remit the motor vehicle tax to the local county TAC within 20 county working days. Dealers remit taxes collected on seller-financed sales directly to the Texas Comptroller.

A purchaser who properly pays the tax to a licensed dealer will not be held liable for tax due if the dealer fails to transfer title and remit the tax. The purchaser must provide acceptable documentation that the purchaser paid the tax to the dealer. Acceptable documentation includes a dealer's invoice or sales contract that itemizes the tax paid to the dealer.

Deadline Exception for Active Duty Military

Active duty members of the military, including the National Guard and reserve units, have 60 county working days from the date of Texas purchase or first use in Texas to transfer title and pay registration fees on the purchase of a used motor vehicle.

For efficient administration of motor vehicle tax, the Comptroller by rule has set the tax payment deadline to the same 60-day time period for active duty military, including the National Guard and reserve units, rather than within 20 county working days of the purchase or first use in Texas. When SPV applies to the private-party purchase of a used motor vehicle by active duty military, a certified appraisal obtained within the same 60-day time period will be accepted.

Penalty for Late Payment by Purchaser, Operator or Dealer

The county TAC will assess a 5 percent penalty if the purchaser, operator or licensed dealer does not remit the motor vehicle tax by the 20th county working day (or within 60 county working days of purchase for active-duty military personnel). If the payment is not remitted within another 30 calendar days of its due date, the county TAC will assess another 5 percent penalty, for a total of 10 percent. The penalty is based on the amount of tax due and applies to any motor vehicle, including those unregistered and untitled, on which the responsible party did not timely pay the tax. The minimum amount of penalty is $1. Penalty remains due even if the delay is beyond the control of the purchaser, operator or dealer.

On any questions about assessment of tax penalty, contact the Comptroller's office.

Penalty Exceptions

Penalty is not imposed on an exempt transfer, new resident tax, even trade or gift transaction.

Documents for Proof of Time and Date

Delivery date normally refers to the date the purchaser takes possession of the motor vehicle. Documents for proof of that date include the date on the MCO assigned to a new motor vehicle, the date the title is assigned on a used motor vehicle or the date the Form 130-U is executed on a motor vehicle for which

no title is required. The sale date indicated on the Texas Motor Vehicle Transfer Notification, may also be used.

The date a vehicle is brought into Texas is verified by a document showing delivery date in Texas or a document dated in Texas. Acceptable documents include a weight certificate, identification certificate, customs import document or state inspection document.

Penalty Schedule Example

September 1	Delivery date or date brought into Texas
September 2	1st day of 20 county working days
September 30	Due date (20 county working days from delivery date – excluding Labor Day)
October 1	5 percent penalty due
October 30	30th calendar day from due date
October 31	Additional 5 percent penalty due (31st calendar day from due date)

Refunds and the Lemon Law

- **Refund Procedures**
- **Lemon Law**

Refund Procedures

Refunds of motor vehicle tax paid in error, except on seller-financed sales, must be recovered from the Comptroller. County TACs or dealers may give taxpayers a copy of Form 14-202, Texas Claim for Refund of Motor Vehicle Tax, Diesel Motor Vehicle Surcharge, and/or Commercial Motor Vehicle Registration Surcharge. Page 2 of the form provides instructions for filing the refund claim. The taxpayer will need a tax receipt and often the purchase invoice to submit with the refund claim.

Tax paid erroneously on seller-financed sales must be recovered from the dealer who collected the tax.

Lemon Law

Sometimes manufacturers and distributors will purchase a defective motor vehicle from the initial retail purchaser, generally through independent negotiation. Occasionally, the repurchase is through the Texas "lemon law."

When the "lemon law" passed in the early 1980s, the Comptroller determined that the initial retail sale was refundable to the extent of the monies returned by the manufacturer or distributor. The "lemon law" provides that tax paid by the initial purchaser is part of the purchase price that is required to be refunded by the manufacturer/distributor. The law also provides for a deduction of a reasonable allowance for use, determined by a time/use formula.

Similar procedures apply to situations, such as arbitration through the Better Business Bureau, where the refund computation is done in a manner similar to the "lemon law."

The Comptroller's policies concerning a tax refund are:

1. If the defective motor vehicle is returned to a dealer who is selling a replacement motor vehicle, the dealer may indicate the returned vehicle as a trade-in and thus, no refund application is necessary. Otherwise, tax should be recovered from the Comptroller.
2. When a refund is due, a written request should be filed with the Comptroller by using Form 14-202.

Rental Motor Vehicles

- **Rental Permit**
- **Trade-In or Retired Motor Vehicle**
- **Tax-Exempt Registration Requirements**

Rental Permit

All persons offering motor vehicles for rent must register with the Comptroller. A motor vehicle rental occurs when there is a contract period of 180 days or fewer. The person will collect and report motor vehicle rental tax directly to the Comptroller.

See Publication 96-143, *Motor Vehicle Rental Tax Guidebook*.

Trade-In or Retired Motor Vehicle

A permit holder may either trade a motor vehicle to a seller and reduce the total consideration by the value of the retired motor vehicle or deduct the fair market value of a motor vehicle being retired and offered for sale from the purchase price of a new motor vehicle.

Tax-Exempt Registration Requirements

Qualified permit holders are allowed to register a rental vehicle without paying motor vehicle tax at the time of registration. Before the county TAC may accept a Form 130-U for a rental vehicle for tax-deferred registration, the following must occur:

- the seller or purchaser must complete the Form 130-U;
- the seller or purchaser must include the rental permit number in Item 19 on the Form 130-U application; and
- the seller and the purchaser both must sign the certification statement.

For motor vehicles subject to the Texas Emissions Reduction Plan (TERP) surcharge, the surcharge is due at the time of titling and registration and cannot be deferred.

Nonqualified permit holders must pay the motor vehicle tax at the time of registration of the vehicle for rental.

Repossessions

- **Not a Retail Sale**

Not a Retail Sale

When a purchaser defaults, a lienholder may repossess a motor vehicle on which there is a valid lien recorded without paying motor vehicle tax. The act of repossession is not a retail sale.

When an owner's vehicle has been repossessed and the required repossession documents are completed by the lienholder, a taxable transaction occurs if the previous owner purchases the vehicle back from the lender. If the lender is not a licensed motor vehicle dealer, SPV procedures apply.

Generally, there is no need for the lienholder to take title to the vehicle; however, if the lienholder does take title, then it may do so without tax being collected.

Salvage Motor Vehicles

- **Salvage Motor Vehicle Defined**
- **Tax Due**

Salvage Motor Vehicle Defined

A unit is no longer a motor vehicle for tax purposes if it:

- has a salvage certificate or a non-repairable motor vehicle certificate of title issued pursuant to the Certificate of Title Act;
- has a certificate of authority for an abandoned motor vehicle; or
- is a unit declared a total loss by an insurance company.

A salvage motor vehicle also includes a unit that has a similar ownership document issued from another state.

Tax Due

Purchases of unrepaired salvage motor vehicles are subject to Texas limited sales and use tax. The seller will collect and remit the state and local sales tax directly to the Comptroller. The TAC has no responsibility to ensure sales tax was paid. Refer to Publication 98-776, *County Tax Assessor-Collectors Important Information About Taxes on Un-repaired Salvage Vehicles*.

If the purchaser of an unrepaired salvage motor vehicle applies for title after repairing the motor vehicle, no motor vehicle tax is due. Once a person rebuilds a previously damaged motor vehicle and applies for a regular motor vehicle title, the person will need to show documentation on the repair work and pay the titling fee to return the vehicle to a rebuilt salvage vehicle. TxDMV Form VTR-61, Rebuilt Vehicle Statement, indicates who rebuilt the vehicle.

Future sales of the vehicle as rebuilt salvage are once again subject to motor vehicle tax.

Seller-Financed Sales

- **Defined**
- **Permit**
- **Title and Registration**
- **Tax Paid at Time of Transfer**
- **Seller Responsibility**

Defined

Tax imposed on seller-financed sales is collected by the selling dealer and remitted directly to the Comptroller. A seller-financed sale is one in which the seller is a licensed dealer who finances the motor vehicles he sells.

Permit

A seller who will finance sales of motor vehicles must obtain a motor vehicle seller-financed sales tax permit from the Comptroller and is responsible for collecting and paying the seller-financed motor vehicle receipts tax.

The seller may also receive a license from the Office of the Consumer Credit Commissioner (OCCC). The OCCC license alone does not allow the motor vehicle to be registered tax deferred.

Title and Registration

The county TAC will title and register seller-financed motor vehicles without collecting tax. The selling dealer must list the 11-digit seller-financed sales tax permit number on the Form 130-U under the exemption in Item 21.

The lienholder listed on the Form 130-U for the motor vehicle must be either the selling dealer or a qualifying related finance company (RFC). A title application listing any other entity other than the selling dealer or qualifying RFC as lienholder will not be eligible for the tax-deferred title transfer.

A qualifying RFC is one in which at least 80 percent of the ownership is identical to the ownership of the dealer who sells the note. The RFC must have applied for and received an RFC registration number from the Comptroller. If the RFC is the lienholder, the selling dealer will list the RFC's registration number after the 11-digit seller-financed sales tax permit number on the Form 130-U under the exemption in Item 21. For more information about a qualifying RFC, see Publication 98-820, *Related Finance Companies and Seller-Financed Sales*.

Tax Paid at Time of Transfer

For tax purposes, if a dealer **chooses** to pay the tax at the time of registration at the county TAC, the transaction is not recognized as a seller-financed sale for tax purposes. Although in a seller-financed sale the dealer has 45 days to transfer the title and register the vehicle, the tax is still due within 20 county working days and penalty is due if the tax is not timely paid.

Additionally, if the dealer pays the total tax at the time of registration and later must repossess the motor vehicle, there is no motor vehicle sales tax refund available to the dealer.

A dealer that does in-house financing but pays the tax at the time of registration is still required to have a seller-financed permit as required by Rule 3.74.

Seller Responsibility

The seller collects the appropriate motor vehicle sales tax from the purchaser with each payment and forwards the tax to the Comptroller. The seller reports the seller-financed sales tax on Form 14-117, Texas Motor Vehicle Seller-Financed Sales Tax and/or Surcharge Report. The surcharge refers to the TERP surcharge.

The seller may declare a tax estimate and prepay the tax on Form 14-118, Texas Motor Vehicle Seller-Financed Sales Tax Declared Estimate and Prepayment. If the motor vehicle is subject to the TERP surcharge, the seller also completes Form 14-125, Texas Motor Vehicle Seller-Financed Sales Tax Surcharge Declared Estimate and Prepayment.

A dealer filing a qualifying prepayment may receive a discount of 1.25 percent.

Any refund of tax paid in error by the purchaser in a seller-financed sale is due from the selling dealer. The seller must refund the tax paid in error to the purchaser or remit it to the Comptroller.

Student Motor Vehicle With Out-of-State Plates

- **Reciprocity Agreements for Registration**
- **Taxability**

Reciprocity Agreements for Registration

Non-resident students attending colleges, universities or private high schools in Texas are able to operate their motor vehicles on their home state plates through TxDMV reciprocity agreements. These reciprocity agreements **do not** address **tax** liability.

Taxability

Non-resident students moving to Texas owe the new resident tax if they bring a motor vehicle registered in the student's name in another state or foreign country into Texas, or bring a motor vehicle leased in another state or foreign country prior to moving to Texas. (The lessor must have purchased the motor vehicle out of state.)

Students that do not qualify as new residents owe the motor vehicle use tax.

Total Consideration

- **Tax is Imposed on the Total Consideration**
- **Total Consideration**
- **Deductions from Total Consideration**
- **Substitution of Collateral or Transfer of Equity**
- **Rebates**
- **Liens**
- **Proof of Total Consideration**
- **Purchase Price Not Available**

Tax is Imposed on the Total Consideration

Texas law imposes motor vehicle sales and use tax on the total consideration paid, or to be paid, for a motor vehicle.

Total consideration includes anything given as payment and includes the receipt of a boat, airplane, land, livestock, services, labor, cash or the assumption of a lien or debt.

Total Consideration

The following items are part of total consideration (i.e., taxable) and are not deductions from the selling price:

- cost of the motor vehicle;
- cost of material, labor, service, interest, loss or any other expense;
- all accessories or attachments that are affixed to it at the time of sale;
- cost of transportation of the motor vehicle prior to its sale or purchase; and
- taxes imposed in the chain of distribution prior to the sale, such as the importer excise tax assessed by the United States.

Deductions from Total Consideration

The following items are not part of total consideration (i.e., not taxable) and are deductions from the selling price:

- manufacturer rebates;
- cash discounts or rebates allowed on a sale;
- sales price of a motor vehicle returned by a customer when the seller refunds the full sales price either in cash or credit (failure of sale);
- amount charged for labor or services rendered in installing, remodeling or repairing the motor vehicle after the sale;
- amount charged for finance charges, carrying charges, service charges or interest from credit extended on sale of a motor vehicle under a conditional sales contract or other contract providing for deferred payment of the purchase price;
- value of a motor vehicle taken in trade as all or part of the consideration for the other motor vehicle;
- charges for transportation of a motor vehicle after the sale;
- charges for an extended service contract (warranty) or maintenance agreement;
- charges for roadside assistance programs, which are services performed after the sale, such as jump-starting a battery, unlocking a door, changing a flat tire or providing towing;
- federal retail sales tax (imposed on heavy trucks; often referred to as federal excise tax);
- separately stated charge for preparing and processing documents related to the transfer of a motor vehicle, usually called a documentary fee;

- reimbursement charges for the dealer's vehicle inventory tax, if separately stated;
- charge for debt cancellation agreement.

Substitution of Collateral or Transfer of Equity

Sometimes a person purchases a motor vehicle but retains the same loan that applied to a previously financed vehicle. The TAC should **not** accept a Form 130-U application indicating no tax is due because of a "substitution of collateral" or "transfer of equity". The purchase of a vehicle is a taxable sale, whether or not an existing loan has a different vehicle associated with it as the collateral.

Rebates

Both manufacturer's and dealer's rebates passed directly to customers reduce the sales price when computing the taxable value of a motor vehicle.

When a manufacturer provides a rebate to a selling dealer and the dealer passes the identifiable rebate—or any portion of it—to the customer, it should be considered a cash discount and deducted from the sales price.

Liens

When a lien is assumed and an amount is paid to the seller as equity, the sum of both amounts is the total taxable consideration. SPV may apply.

When a lien is assumed and no equity is paid to the seller or lienholder, the amount to be paid to release the lien, commonly called "net payoff," is the total consideration for the sale. SPV may apply.

Proof of Total Consideration

The selling dealer's signature on the title application is an acceptable record of the sales price. The county TAC, however, can request the dealer's invoice or sales receipt from the purchaser.

For a private-party purchase of a used motor vehicle in Texas or from out of state for Texas use, the person applying for a certificate of title or registration for the motor vehicle must furnish the county TAC with a Form 130-U, which includes a joint statement signed by both the buyer and seller, attesting to the sales price information on the Form 130-U. If the county TAC has reason to question the truth or accuracy of the information, or if both parties to the transaction have not signed the form, the county TAC can require either party to furnish additional documentation about the motor vehicle's sales price. For a motor vehicle acquired out of state, the person could provide a bill of sale signed by the seller.

Purchase Price Not Available

Sometimes a sale and change of possession take place, but the purchaser has not obtained a valid Form 130-U with the seller's signature. If the seller's signature is not on the Form 130-U, the purchaser must make a diligent effort to obtain it. Acceptable evidence of that diligent effort can take the form of a receipt obtained by sending a certified letter, return receipt requested, to the seller's last known address. Other credible documentation may be accepted by the county TAC. If a motor vehicle is purchased out of state, a seller's signed bill of sale may be accepted in lieu of the seller's signature on the 130-U.

If, after making the necessary diligent effort, the purchaser has been unable to locate the seller to obtain the necessary signature on the Form 130-U application, the taxable value must still be established for the sale and may be determined in the following ways:

Seller Is Known to be a Dealer

- Use a seller-signed bill of sale.
- If a signed bill of sale is *not available*, use the SPV value.
- If the SPV value is *not available*, then require an appraisal from a dealer, insurance adjuster or at the discretion of the county TAC, someone who would have special knowledge of the vehicle's value. Such a person may include an antique dealer or antique auction. The Comptroller's appraisal form may be used, but is not required. *In lieu of the appraisal*, a title applicant who is obtaining a title through the bonded title process may use two-thirds of the bond amount (bond is for 150 percent of vehicle value).

Seller Is Not a Dealer or is Unknown

For a Motor Vehicle Fewer than 25 Years Old

- Use the SPV procedure, which includes comparing the price to other documentation (e.g., bill of sale, canceled check), if available.
- If the SPV is *not available*, require an appraisal on Form 14-128.

For a Motor Vehicle 25 Years Old or Older

- Use a seller-signed bill of sale.
- If a signed bill of sale is *not available*, then require an appraisal from a dealer, insurance adjuster or at the discretion of the county TAC, someone who would have special knowledge of the vehicle's value. Such a person may include an antique dealer or antique auction. The Comptroller's appraisal form Form 14-128 may be used, but is not required. *In lieu of the appraisal*, a title applicant who is obtaining a title through a bonded title process may use two-thirds of the bond amount (bond is for 150 percent of vehicle value).

Trade-Ins

- **Value Allowed**
- **Multiple Trades**
- **Split Trade-In Value**
- **Trade-Down**
- **Vehicle Sold to Lender at Conclusion of Balloon Note**
- **Purchase of Vehicle Consigned to Dealer**

Value Allowed

The purchaser may deduct from the selling price the value of a motor vehicle traded by the purchaser to the seller on the purchase of another motor vehicle. The eligible trade-in must be taken as part of the purchase transaction. The tax is computed on the remaining selling price for the purchased vehicle. For example, Jim purchases a $25,000 vehicle and trades in his $10,000 vehicle. Jim owes tax on the $15,000 difference.

The purchaser can take this deduction only by trading in a motor vehicle. Any other property, such as a boat, airplane, livestock, etc., that a seller takes in trade cannot be deducted from the selling price for motor vehicle tax purposes.

The value of the motor vehicle trade-in is not the equity, but the value of the vehicle traded in.

Be aware that SPV applies in a private-party purchase to determine the sales price to use for calculating the motor vehicle tax, but does not apply to determining the value of the trade-in vehicle.

Multiple Trades

A purchaser can trade in more than one motor vehicle on the purchase of another motor vehicle.

The seller must describe the first trade-in in the trade-in block of the Form 130-U, Line 20. Block 20(a) is for noting additional trade-ins.

Split Trade-In Value

When a purchaser trades in a motor vehicle on the purchase of two or more motor vehicles from the same seller and the trade-in motor vehicle is greater in value than any single price of a motor vehicle being purchased, the trade-in value may be split among the purchases to allow full credit for the trade-in.

The seller must show the trade-in description on each Form 130-U and reference the forms to each other to clarify the transaction. The seller must reference the tax receipts in the same manner.

Trade-Down

There is no tax due when a purchaser trades in a motor vehicle of greater value on a motor vehicle of lesser value, commonly referred to as a trade-down.

For example, Sally purchases a $20,000 vehicle and trades in to the seller her $30,000 vehicle. Sally owes no motor vehicle sales tax on her trade-down of vehicles.

Vehicle Sold to Lender at Conclusion of Balloon Note

Sometimes a borrower/purchaser will enter into a finance agreement where at the conclusion of the agreement there are three options available regarding the ownership of the motor vehicle. (1) The borrower/purchaser pays off the balloon note and the borrower/purchaser retains the motor vehicle. (2) The borrower/purchaser refinances the vehicle and retains the vehicle. (3) The lender guarantees to purchase the vehicle from the borrower/purchaser.

If a borrower/purchaser sells the motor vehicle to the lender (the third option) at the conclusion of a finance agreement, the borrower/purchaser cannot use that motor vehicle as a trade-in deduction in the purchase transaction of another motor vehicle. The borrower/purchaser is not directly trading the old motor vehicle for the purchase of a new motor vehicle to the new

motor vehicle seller. If the seller of the new motor vehicle purchases the "old" motor vehicle from the lender, a separate transaction has occurred, and that does not assist in any trade-in tax deduction.

Purchase of Vehicle Consigned to Dealer

The trade-in deduction is allowed on the purchaser's traded-in vehicle when purchasing a motor vehicle consigned to a dealer.

Trailers

- **Motor Vehicles**
- **Trailer Types**
- **Registration and Titling**
- **Tax Receipt**

Motor Vehicles

Trailers and semi-trailers are motor vehicles and are subject to motor vehicle tax, unless specifically exempt. For example, farm trailers are exempt from motor vehicle tax. SPV procedures apply to trailers and semi-trailers.

Trailer Types

Trailers include regular trailers; semi-trailers; house trailers, such as travel trailers; bunkhouse trailers and other trailer types such as towable dollies, jeeps, stingers, auxiliary axles and converter gears.

Park models, manufactured housing and mobile offices are not taxed as motor vehicles. Towable, moveable specialized equipment is not taxed as motor vehicles.

Registration and Titling

Some trailers are not titled but are subject to motor vehicle tax. The type of registration and titling required by TxDMV does not determine the tax liability of a trailer.

Tax Receipt

When a trailer does not require a negotiable title, but motor vehicle tax is due, the county TAC will issue a tax receipt for tax and registration purposes.

Vehicle Inventory Tax (VIT)

- **Property Tax and Not Sales Tax**
- **Sales Price**

Property Tax and Not Sales Tax

For local property tax purposes, Texas law requires a motor vehicle dealer's motor vehicle inventory to be appraised based on the total sales of motor vehicles in the prior year. Dealers must file with their county appraisal districts an annual declaration of total sales in the prior year. Dealers also file a monthly form with the county TAC to report motor vehicles sold during the prior month and prepay to an escrow account a vehicle inventory tax (VIT) for those sold vehicles.

The VIT is not, by statute, a part of "total consideration." Dealers may, however, separately list a reimbursement of the VIT on the sales agreement for customers to reimburse the dealers for the prepaid property tax on the vehicle. The VIT is a property tax assessed on the dealer, not the purchaser, and is a negotiable item on the sales agreement.

For more VIT information, see Publication 96-545, *Motor Vehicle Dealer's Special Inventory*.

Sales Price

If the dealer and seller agree to include a reimbursement of the VIT in the transaction, the VIT reimbursement must be listed separately because it cannot be included in the sales price. Motor vehicle sales tax is not assessed against the separately stated VIT.

The VIT is based on the sales price on Form 130-U, Line 21, after deducting any rebate, including factory and dealer rebates passed on to the customer. The net sales price on Line 21(a) is the sales price used for the VIT. For example, if the initial sales price is $20,000 and a $1,000 rebate is available, then Line 21(a) should reflect the $19,000 net figure.

Vehicles Purchased Through Another Name

- **Not Purchaser's Name**
- **Tax**
- **Exceptions**

Not Purchaser's Name

Occasionally, a purchaser will title and register a motor vehicle in a person's or company's name rather than the purchaser's name for fleet price, insurance/financial, convenience or personal reasons.

Tax

When a purchaser titles and registers a motor vehicle in a name other than the purchaser's name, motor vehicle tax is due on the purchase price.

If the motor vehicle is later transferred back to the purchaser, the motor vehicle sales or use tax may be due again, since this would be a second transaction. If no consideration (including a lien assumption) is given at the time of the second transfer, tax would be due on the SPV supplied by the RTS, unless the transfer qualifies as a gift. Gift tax would be due in that case.

Exceptions

Exceptions to this provision, because there has been no sale or change in ownership, include:

- a transfer of title to the purchaser who was a minor (under 21) at the time of purchase;
- a transfer of title from an individual's name into a living trust in that person's name;
- changing from a maiden name to a married name; and
- changing from an individual's name to a sole proprietor business name.

Neither motor vehicle sales or use tax nor gift tax is due.

Exemptions

Childcare Facilities

- **Qualifying Childcare Facility Defined**
- **License**
- **Application**

Qualifying Childcare Facility Defined

Motor vehicles purchased, used or rented by a qualified residential childcare facility and used primarily to transport children residing at the facility are exempt from motor vehicle tax.

Not all childcare facilities are exempt from motor vehicle tax. A qualifying residential childcare facility is a facility that is licensed under Human Resources Code Chapter 42 to provide residential care 24 hours a day and provides this care in a single residential group to children who do not require specialized services or treatment and to children who are emotionally disturbed.

Motor vehicle purchases by day care centers, group day care centers, registered family homes or those residential childcare facilities that are not for 24-hour care are not exempt from motor vehicle tax.

The exemption does not apply to a motor vehicle purchased by maternity homes, that receive a Texas Department of Family and Protective Services (DFPS) license under Health and Safety Code Chapter 249.

The exemption does not apply to motor vehicles purchased by facilities that are issued a verification certificate from a licensed DFPS child-placing agency and not a license directly from DFPS. These facility types include agency foster homes, agency foster group homes, Child Protective Services (CPS) foster homes, CPS foster group homes and CPS adoptive homes. A child-placing agency that only places children in its verified facilities does not qualify, since the agency is not directly providing the childcare.

A few other state agencies, such as the Texas Department of State Health Services' youth camps, can license facilities that provide 24-hour care. These facilities do not qualify for the motor vehicle tax exemption since they are not under Health and Safety Code Chapter 42 and do not receive a DFPS license. Some of these facilities may qualify for the public agency exemption from motor vehicle tax, depending on the facility's ownership.

License

The DFPS issues licenses to qualifying residential childcare facilities under Human Resources Code Chapter 42. Each license indicates the type of licensed facility and includes a permit number. The license does not have an ending or renewal date. The DFPS may revoke a license at any time.

The DFPS license means the facility has the capacity to serve both children who do not require specialized services or treatment and children who are emotionally disturbed. For the motor vehicle tax exemption, the DFPS license will state one of the following types of qualifying residential childcare facility:

- independent foster group home;
- independent foster family home;
- institution providing basic care;
- institution serving mentally retarded children;
- emergency shelter;
- residential treatment center;
- therapeutic camp; and
- child-placing agency that directly provides residential childcare.

Application

A title applicant must indicate in the exemption section of Form 130-U that the facility meets the requirements for the DFPS license for Health and Safety Code Chapter 42 and directly provides 24-hour residential childcare.

The county TAC can request to see the DFPS license. To be sure that a license is still current, the county TAC can access the DFPS database of residential childcare licenses http://www.dfps.state.tx.us/Child_Care/Search_Texas_Child_Care/ppFacilitySearchResidential.asp.

The county TAC can also request that the facility provide the facility's contact person and phone number for the local DFPS licensing office if the county TAC has any additional questions or requires verification of a current license. The local licensing office, and not the DFPS state headquarters, has the information to respond to any verification questions.

Churches or Religious Societies

- **Exemption**
- **Taxable Use**

Exemption

A qualified church or religious society is exempt from paying motor vehicle tax only if the motor vehicle is designed to carry **more** than six passengers *and* used primarily (at least 80 percent of the time) to provide transportation to and from church or religious services or meetings.

A qualified church or religious society is an organized group of people regularly associating for the sole purpose of holding, conducting and sponsoring religious worship according to the rites of the group.

An indication that a motor vehicle is "designed to carry more than six passengers" is the presence of seven working seat belts (i.e., one for a driver and six for passengers). For example, vans and buses generally meet the "designed to carry more than six passengers" requirement. Similarly, a qualifying religious organization must pay motor vehicle tax on the purchase of a travel trailer because it is not designed to carry passengers.

The use threshold to meet the "primarily" requirement is that at least 80 percent of the time the vehicle is used for transportation to and from the church, religious services or religious meetings and not for other religious or charitable purposes. For example, a church's purchase of a van to deliver medical services and care to needy people as part of the church's outreach program would not be exempt if the van was used more than 20 percent of the time for these purposes and not primarily to transport persons to religious services or religious meetings.

Taxable Use

The motor vehicle tax exemption does not apply to a motor vehicle registered for the personal or official use of a minister, pastor, father, rector, priest or any other head of a church or religious society. The exemption also does not apply to a vehicle used to transport traveling ministry staff.

Driver Training Motor Vehicles

- **Exemption**
- **License Plates**

Exemption

A driver training motor vehicle provided by a dealer is exempt from motor vehicle tax only if the motor vehicle:

- is titled in the name of the dealership;
- is loaned free of charge to a public school;
- is used exclusively in an approved standard driver training course; and
- displays exempt license plates.

The motor vehicle must meet all four requirements before a driver training motor vehicle will be exempt from motor vehicle tax.

License Plates

The public school applies for exempt license plates at the time of vehicle registration. A driver training motor vehicle must display exempt license plates to qualify for the exemption.

The use of standard license plates on the motor vehicle will not qualify the motor vehicle for exemption.

Farm Trailers and Other Farm Vehicles

- **Exemption**
- **Used on Farm or Ranch**
- **Qualifying Trailers Used for Farm or Ranch Use**
- **Qualifying Farm Machines Used for Farm or Ranch Use**
- **Not Qualified for Exemption**
- **Not Motor Vehicles**
- **Registration/Tax Liability**
- **Examples**

Exemption

Farm machines, trailers and semi-trailers used primarily for farming and ranching, including the raising of poultry and for use in feedlots, are exempt from motor vehicle tax. "Primarily" means at least 80 percent of the operating time. Other motor vehicles operated on a farm or ranch are subject to motor vehicle tax, even if they display farm plates.

Used on Farm or Ranch

The qualified farm trailer or other farm vehicle must be used on a farm or ranch to produce crops, livestock or other agricultural products to be sold in the regular course of business. A farm or ranch includes a dairy farm, commercial orchard, commercial greenhouse, feedlot or a similar commercial agricultural operation that is the original producer of agricultural products.

A home garden is not considered a farm or ranch.

Qualifying Trailers Used for Farm or Ranch Use

A farm or ranch trailer or semi-trailer, including a gooseneck trailer, is designed and can be used primarily as a farm or ranch vehicle. An owner must use a farm or ranch trailer in the production of food for human consumption; grass; feed for any form of animal life; or other livestock or agricultural products to be sold in the regular course of business.

A farm trailer primarily used by a farmer or rancher in processing, packing or marketing of the farmer's own livestock or agricultural products is not subject to tax.

A farm trailer exclusively used by an agricultural cooperative in processing, packing or marketing agricultural products is taxable, unless the cooperative can prove the cooperative itself is the original producer of all agricultural products being processed, packed or marketed. The cooperative must perform the functions at a location operated by the cooperative.

Qualifying Farm Machines Used for Farm or Ranch Use

A qualifying farm machine includes a self-propelled motor vehicle specially adapted primarily for use in the production of crops or rearing of livestock, including poultry; used in feedlots; or specially adapted for applying plant food materials, agricultural chemicals or feed for livestock.

Not Qualified for Exemption

A standard pick-up truck is not exempt as a farm motor vehicle, even though it may have a farm registration and may be operated with farm plates. The type of cab does not determine the pick-up truck's eligibility.

A horse trailer with sleeping quarters is not exempt, nor is any trailer used for transporting horses to and from competitions or shows.

Not Motor Vehicles

Under certain circumstances, an owner must register a farm tractor with the TAC. For example, an owner must register a farm tractor when it is used to mow a public highway right-of-way. Motor vehicle tax is not due since the definition of motor vehicle does not include farm tractors.

All-terrain vehicles (ATVs) are off-road units that are taxed under Tax Code Chapter 151 for limited sales tax. They are not motor vehicles as defined in Tax Code Chapter 152, so they are not subject to motor vehicle tax.

Registration/Tax Liability

The type of registration and titling required by TxDMV does not determine tax liability.

Example:

Fertilizer Spreader: Not a Motor Vehicle – No Motor Vehicle Tax Due

Livestock Trailer – Exempt Motor Vehicle – No Motor Vehicle Tax Due.

Foreign Consular Officers, NATO and Others

- **Exemption**
- **NATO Personnel**

Exemption

Foreign consular officers, consular administrative technical employees and certain consular family members are exempt from motor vehicle tax and are required to apply directly to the U.S. Department of State, Office of Foreign Missions, for motor vehicle titles and registration. Neither the state nor local governments are allowed to handle motor vehicle titling and registration.

Direct questions regarding titling and registration of these motor vehicles to the U.S. Department of State, Office of Foreign Missions. The website is www.state.gov/ofm/tax.

NATO Personnel

Foreign NATO personnel stationed in Texas on official orders are exempt from motor vehicle sales and use tax.

Persons qualified for the NATO exemption include foreign military personnel, foreign military dependents and military-employed civilians attached to the NATO forces of one of these countries listed at http://www.nato.int/cps/en/natolive/topics_52044.htm.

Each individual claiming a NATO exemption must show proof that he or she is qualified for the exemption and will have identification indicating their qualification. The individual should complete the Form 130-U indicating the NATO exemption.

Hydrogen-Powered Motor Vehicles

- **Exemption**

Exemption

Tax Code Section 152.090 provides that an ultra low-emission motor vehicle that is hydrogen-power capable and has a fuel economy of at least 45 miles per gallon, or that is fully hydrogen-powered, is exempt from Texas motor vehicle tax.

A qualifying hydrogen-powered motor vehicle is a vehicle that meets Phase II standards established by the California Air Resources Board (ARB) as of Sept. 1, 2007, for an ultra low-emission vehicle II or stricter Phase II emission standards established by that board. The ARB website is http://www.arb.ca.gov/homepage.htm.

Interstate Motor Vehicles

- **Exemption**
- **Cancelation of Apportioned Registration**
- **TERP Registration Surcharge**

Exemption

Trucks, tractors (pulling units) and trailers registered with apportioned plates under the International Registration Plan (IRP) are exempt from the motor

vehicle tax if the vehicles are either purchased in Texas or are purchased outside Texas and apportioned into Texas. Trailers pulled by apportioned tractors and operated interstate on token plates also qualify for the exemption.

An interstate motor vehicle includes a truck, truck tractor or any other motor vehicle with a gross registered weight in excess of 26,000 pounds (calculated either separately or in combination with a trailer or semi-trailer) and which is operated in Texas and some other state or foreign country. The registration fees are apportioned if the motor vehicle is registered in a state or country that is a member of IRP.

Interstate-operated charter buses are exempt from the Texas motor vehicle tax, regardless of type of registration.

Units rented by contract for 180 days or less continue to be subject to motor vehicle rental tax.

Cancelation of Apportioned Registration

Any unit diverted from interstate use within one year of purchase in Texas loses the exemption. Any unit purchased outside of Texas and apportioned in Texas that is diverted from interstate use within one year of entry into Texas also loses the exemption. Obtaining non-apportioned registration may be evidence of a unit being diverted. The IRP cab card(s) will also indicate use in Texas.

Leased trucks and trailers regardless of when removed from interstate use will pay motor vehicle tax. The owner is responsible for remitting the tax directly to the Comptroller. The motor vehicle tax is based on the lessor's book value.

TERP Registration Surcharge

IRP trucks with apportioned plates pay an annual 10 percent of the registration fee for TERP. The RTS accounts for this 10 percent registration surcharge that is remitted to the Comptroller.

Motor Vehicles Transported Out of State

- **Sales for Use Out of State**

Sales for Use Out of State

A motor vehicle purchased in Texas for use exclusively outside Texas is exempt from the motor vehicle sales tax. To be exempt, the purchaser must not use the motor vehicle in Texas, except for transportation directly out of state, and must not title or register the motor vehicle in Texas. The purchaser should issue the seller at the time of sale Form 14-312, Texas Motor Vehicle Sales Tax Exemption Certificate – For Motor Vehicles Taken Out of State.

Occasionally, a purchaser may be required to obtain a title for the motor vehicle because of the requirements of another state or foreign country where the purchaser will use the vehicle. If the purchaser documents those requirements, the county TAC can accept a Form 130-U for a certificate of title only. The motor vehicle should not be registered in Texas.

If the owner later brings the motor vehicle back into Texas for use, the owner owes motor vehicle *use* tax.

Nonprofit Organizations

- **Nonprofits Not Exempt**
- **State or Federal Funds**
- **Limited Sales Tax Exemption Certificate**

Nonprofits Not Exempt

A nonprofit entity is not automatically exempt from paying motor vehicle tax.

State or Federal Funds

An organization funded by the state or federal government is not automatically exempt from motor vehicle tax.

To qualify for exemption from motor vehicle tax, an organization must be either a public agency or exempt by a specific statute.

Limited Sales Tax Exemption Certificate

An organization may not use a limited sales tax exemption certificate, as set forth by Tax Code Chapter 151, to claim an exemption from motor vehicle tax.

Orthopedically Handicapped Persons

- **Orthopedically Handicapped Person**
- **Meeting the Requirements**
- **Modifications**
- **Texas Motor Vehicle Orthopedically Handicapped Exemption Certificate-Required**
- **Required Documentation for Tax Exemption**
- **Refund of Motor Vehicle Tax Paid in Error**
- **Disabled Veterans**

Orthopedically Handicapped Person

An orthopedically handicapped person is someone with limited movement of body extremities and/or loss of physical functions. The physical impairment must be such that the handicapped person is either unable to operate or reasonably be transported in a motor vehicle, unless the motor vehicle has been specially modified.

Conditions that are not considered orthopedically handicapped include hearing and sight impairment.

Meeting the Requirements

The following requirements must be met to claim this motor vehicle tax exemption.

- the motor vehicle is driven primarily (at least 80 percent of the vehicle's operating time) by an orthopedically handicapped person or used primarily (at least 80 percent of the vehicle's operating time) for transporting an orthopedically handicapped person;
- the motor vehicle is or will be appropriately modified;
- at the time the vehicle was purchased, the qualifying handicap existed and the modification was necessary; and
- proper documentation is provided to the county TAC.

The exempt purchase can be made by an entity, such as a healthcare facility, as well as an individual, if the requirements for the exemption are met.

Modifications

A motor vehicle purchased to be driven primarily by an orthopedically handicapped person is exempt from motor vehicle tax if the motor vehicle is modified to enable operation of the vehicle or to allow entrance into the vehicle.

Also exempt is a motor vehicle purchased primarily and modified to transport an orthopedically handicapped person.

Eligible modifications to a motor vehicle include modifications to:

- enable operation by an orthopedically handicapped driver by altering conventional controls, such as brakes, clutch or accelerator; or
- allow an orthopedically handicapped driver to enter or be transported in the motor vehicle by installing a wheelchair lift, hoist, permanent ramp, special seat restraints (other than conventional seat belts or seat belt extensions), wheelchair hold-down clamps or raised roof.

Modifications that do not qualify a motor vehicle for exemption from motor vehicle tax include:

- standard factory options, such as automatic transmission, power seats, power windows and adjustable pedals;
- weight-bearing grab bars or handicap assist handles;
- running boards or steps;
- steering wheel spinner knobs;
- non-electrical carriers designed for bicycles or wheelchairs;
- standard trailer hitches; or
- ramps, including bi-fold ramps, that are not permanently attached to the vehicle.

Motor homes are eligible for the exemption if properly modified. The addition of a weight-bearing grab bar or a spinner knob is not an eligible modification. Adding a wheelchair lift to a motor home or modifying the accelerator or brake are eligible modifications.

Regardless of the modification, a travel trailer is not eligible for the exemption since it is not designed to transport people.

If a vehicle is purchased with eligible modifications already in place, or if the modifications were moved from another vehicle instead of purchased new, the motor vehicle will meet the requirement for motor vehicle tax exemption if the properly completed Form 14-318, Texas Motor Vehicle Orthopedically Handicapped Exemption Certificate and its related required documentation are provided to the county TAC.

Texas Motor Vehicle Orthopedically Handicapped Exemption Certificate - Required

The properly completed Form 14-318, and its required related documentation, is the only acceptable documentation of eligibility for the orthopedically handicapped exemption.

When required to be completed, the *Section 2 – Practitioner of Healing Arts Statement* must be signed by a licensed practitioner of the healing arts. A licensed practitioner of the healing arts includes a person who is licensed by the Texas State Board of Medical Examiners and holds a doctor of medicine degree or osteopathy degree; licensed by the Texas Board of Chiropractic Examiners; or licensed by the State Board of Podiatric Medical Examiners. A licensed practitioner of the healing arts for this purpose does not include a dentist, optometrist or veterinarian. These persons cannot sign the statement.

Required Documentation for Tax Exemption

When the seller is a dealer, a person claiming the exemption must present the selling dealer with a completed Form 14-318 that either includes the signature of a licensed practitioner of the healing arts, indicating the need for qualifying adaptive devices, or is accompanied by a copy of a restricted driver license indicating qualifying adaptive devices are required. The dealer will then provide a copy of the form with the title application to the county TAC. The county TAC should include the exemption certificate as part of the title application packet sent to TxDMV.

When the seller is a private party, the purchaser must provide the county TAC with a completed Form 14-318 that either includes the signature of a licensed practitioner of the healing arts, indicating the need for qualifying adaptive devices, or is accompanied by a copy of a restricted driver license indicating qualifying adaptive devices are required. These documents are part of the title application packet. The county TAC should include the exemption certificate as part of the title application packet sent to TxDMV.

If the purchaser of the motor vehicle with eligible modifications is an entity, such as a healthcare facility or retirement community, and the vehicle will be used primarily to transport multiple orthopedically handicapped passengers, the entity/purchaser is not required to identify a particular eligible orthopedically handicapped person on the Form 14-318 or to provide either a copy of the restricted Texas Driver License or practitioner's statement. All other information in Section 1 of the certificate and the purchaser's dated signature are required.

Refund of Motor Vehicle Tax Paid in Error

A person who paid sales tax to either a seller or to a county TAC in error may request a refund of the tax directly from the Comptroller.

Disabled Veterans

A disabled veteran is **not** automatically exempt from the motor vehicle tax. A disabled veteran must be an orthopedically handicapped person, as defined in this topic and all other requirements for the exemption must be met.

Public Agencies

- **Exemption for Public Agencies**
- **Sale to a Public Agency**
- **Lease to a Public Agency**
- **Contractors to a Public Agency**

Exemption for Public Agencies

A public agency is exempt from motor vehicle tax. A public agency includes the federal government, a department, commission, board, office, institution or other agency of the state of Texas or of a county, city, town, school district, hospital district, water district or other special district, authority or political subdivision created by or pursuant to the constitution or the statutes of this state. An organization may receive federal or state funds and still not be entitled to an exemption from motor vehicle tax.

Except for the federal government, its agencies and instrumentalities, the motor vehicle must display exempt license plates to qualify for the public agency exemption. If plated with standard license plates, motor vehicle tax is due.

Sale to a Public Agency

For the sale of a motor vehicle to a public agency to be exempt from motor vehicle tax, the motor vehicle must be titled in the name of the public agency and operated with exempt license plates.

Lease to a Public Agency

A lessor/purchaser acquiring a motor vehicle to be leased to a public agency is not required to pay motor vehicle tax as long as the motor vehicle is:

- titled in the lessor's name;
- leased to a public agency; and
- operated with exempt license plates.

The lessor/purchaser is required to pay motor vehicle tax on the book value of any vehicle retained at the termination of the lease.

Contractors to a Public Agency

A contractor working on a public agency project is not exempt from motor vehicle tax.

Public Organizations

- **Exempt by Statute**
- **Federal Organizations**
- **State Organizations**

Exempt by Statute

In addition to public agencies, other organizations are exempt from motor vehicle tax by specific statutes. These organizations **are not** required to operate their motor vehicles with exempt license plates to qualify for the exemption.

Federal Organizations

Tax exemptions, including motor vehicle tax exemptions provided by federal law, are listed below along with their enabling statutory provision and/or court decision:

American Red Cross, *Department of Employment v. United States*, 385 U.S. 355 (1966).

Boy Scouts, Girl Scouts, Camp Fire Girls, Boys Clubs and Girls Clubs – determined to be instrumentalities of the federal government, based on *Department of Employment v. United States*, 385 U.S. 355 (1966).

Farm Credit Bank, 12 U.S.C. Section 2023.

Federal Credit Union, 12 U.S.C. Section 1768.

Federal Deposit Insurance Corporation, 12 U.S.C. Section 1825.

Federal Home Loan Mortgage, Inc. and other Federal Home Loan Banks, 12 U.S.C. Section 1452(e).

Federal Land Credit Associations, 12 U.S.C. Section 2098; and

Federal Reserve Banks, 12 U.S.C. Section 531.

State Organizations

Tax exemptions, including motor vehicle tax exemptions provided by state law, are listed below with applicable citations:

Cultural Education Facilities Finance Corporations, organized under Article 1528m, V.T.C.S.

Health Facilities Development Corporations, organized under Health Facilities Development Act, Chapter 221 Health and Safety Code.

Housing Authorities, organized under Local Government Code Chapter 392, Housing Authorities Established by Municipalities and Counties.

Housing Finance Corporations, organized under Local Government Code Chapter 394, Housing Finance Corporations in Municipalities and Counties.

Local Organizing Committees for the following: Pan American Games, the Olympic Games, the Super Bowl, the National Collegiate Athletic Association Final Four, the National Basketball Association All-Star Game, the National Hockey League All-Star Game, the Major League Baseball All-Star Game, the National Collegiate Athletic Association Bowl Championship Series Games, the World Cup Soccer Games, or the World Games; providing the entity is also exempt from paying federal income tax under Section 501(c), Internal Revenue code of 1986, as amended. Article 5190.14, V.T.C.S.

Public Facility Corporations, organized under Local Government Code Chapter 303, Public Facility Corporations.

Rural Electric Cooperatives, organized under Texas Utilities Code Section 161.062.

Telephone Cooperatives, organized under Texas Utilities Code Section 162.062.

Texas Citrus Pest and Disease Management Corporation, as provided in Agriculture Code, Chapter 80, Official Citrus Producers' Pest and Disease Management Corporation, effective Sept. 1, 2009.

Texas Citrus Pest and Disease Management Corporation Board of Directors, as provided in Agriculture Code, Chapter 80, Official Citrus Producers' Pest and Disease Management Corporation, effective Sept. 1, 2009.

Timber Operations

- **Exemptions**
- **Qualified Use**

Exemptions

Timber machines and trailers used primarily in timber operations are exempt from motor vehicle tax. A "timber machine" is a self-propelled motor vehicle specially adapted to perform a specialized function for use primarily in timber operations. An example is a cab chassis with an articulating arm (grappling arm) for moving logs. "Primarily" means at least 80 percent of the operating time.

Qualified Use

Timber machines and trailers qualify for exemption if they are used in the production of timber, including land preparation, planting, maintenance and gathering of trees commonly grown for commercial timber.

Neither a motor vehicle used to transport timber or timber products nor a general-purpose motor vehicle qualifies for the motor vehicle tax exemption.

Volunteer Fire Departments and Volunteer Emergency Medical Services

- **Exemption**
- **Volunteer Fire Department**
- **Emergency Medical Service**

Exemption

Fire trucks, ambulances or other motor vehicles used exclusively for fire-fighting purposes or for emergency medical service are exempt from motor vehicle tax when rented to or purchased by:

- volunteer fire departments;
- nonprofit emergency medical service providers that receive a federal income tax exemption under Internal Revenue Code Section 501(a) as an organization described by Section 501(c)(3); or
- emergency medical service providers to which Transportation Code Section 502.204 applies.

The exemption applies also to an emergency medical services chief or supervisor vehicle if used exclusively as an emergency services vehicle.

Volunteer Fire Department

A volunteer fire department includes any company, department or association organized to answer fire alarms, extinguish fires and may also provide emergency medical services. Members of a volunteer fire department receive no or nominal compensation for their services.

Emergency Medical Service

An emergency medical service provides emergency medical treatment, rescue service and transportation of the sick and injured. The emergency medical service may be a nonprofit organization, or it may be created and operated by a county, municipality or combination of counties and municipalities.

A for-profit private ambulance or medical transport service does not qualify as an emergency medical service for the purpose of the motor vehicle tax exemption.

County Tax Assessor-Collector

State Tax Duties

- **State Taxes and Fees**
- **Young Farmer Loan Guarantee Program Assessment (Young Farmer's Fee)**
- **Veterans' Assistance Fund (Voluntary Donation Collected by County TAC)**
- **Motor Vehicle Taxes**
- **TAC Leaving Office**
- **Audit**

State Taxes and Fees

The county TAC is responsible for collecting and reporting the motor vehicle tax to the Comptroller. The county TAC also handles the registration of motor vehicles, issuance of license plates and stickers and the titling of motor vehicles. The county TAC also may collect and report the Texas boat and boat motor tax.

Young Farmer Loan Guarantee Program Assessment (Young Farmer's Fee)

Applicants for Farm Truck and Farm Truck Tractor License Plates are required to pay an additional $5 assessment for the Young Farmer Loan Guarantee Program. For more information please see www.agr.state.tx.us. Transportation Code Section 502.174 provides for the TAC to collect a voluntary $5 assessment when a person registers a commercial motor vehicle, using the TxDMV Form VTR-52-A, Application for Farm Trailer/Semitrailer, Farm Truck, or Farm Truck Tractor License Plate under that section.

Once collected, this fee is sent to the Comptroller for deposit in the Texas agricultural fund as prescribed by the Texas Agricultural Finance Authority for use in financial assistance to eligible applicants who wish to establish or enhance their farm or ranch operation or to establish an agriculture-related business.

As a "voluntary" assessment, it may be refunded. The TAC is charged with implementing the refund procedure and providing notice of the refund procedure to persons paying the assessment when the assessment is paid. The Texas Department of Agriculture (TDA) makes the refund claim form available to the county TAC. All questions regarding the assessment or the refund of the assessment should be directed to TDA. The county TAC gives the TDA refund form to the customer for the customer to complete and mail to TDA. The mailing address is:

Texas Agricultural Finance Authority
c/o Texas Department of Agriculture
P. O. Box 12847
Austin, Texas 78711

Veterans' Assistance Fund (Voluntary Donation Collected by County TAC)

Transportation Code Section 502.1746 provides that, effective June 2009, persons registering a motor vehicle in Texas may make a voluntary donation to the Veterans' Assistance Fund at the time of registration. Contributions may be remitted through Registration and Title System (RTS) to TxDMV.

Motor Vehicle Taxes

The county TAC collects the motor vehicle tax at the time of registration of the motor vehicle. The registration and payment of the tax is the obligation of the purchaser of a motor vehicle. A licensed motor vehicle dealer must collect the tax from the purchaser and remit it to the county TAC for vehicles with a gross weight of 11,000 pounds or less.

The Comptroller administers the motor vehicle tax and is responsible for furnishing rules and regulations to the county TAC to assure the tax can be consistently applied.

TAC Leaving Office

The county TAC should contact the Comptroller when leaving office. An audit may be performed by the Comptroller.

Audit

The Comptroller periodically reviews the records of each county tax office to determine that tax due the state was remitted. A county TAC may be held liable for unpaid tax.

Bond Requirements

- **State Law**
- **Amounts**
- **Record**

State Law

A person elected or appointed county TAC must give bonds to the state and to the county, conditioned on the faithful performance of duties.

The county TAC is bound to account for and remit the state monies collected, less commissions, or the bond surety must pay it for the county TAC. See *Boggs v. State*, 46 Tex. 10 (1876). Either the county TAC or the bonded surety must replace all missing state funds.

For the state taxes, the bond must be written for the TAC's term of office and payable to the Texas Governor (and successors in office).

To be effective, the county commissioner's court and the Comptroller must approve the bond. The Comptroller may require a new bond for state taxes at any time.

Amounts

The bond amount must be equal to 5 percent of the net state collections from motor vehicle taxes and motor vehicle registration fees in the county during the year ending Aug. 31 preceding the date bond is given. The bond may not be less than $2,500 or more than $100,000.

The total amount of state bonds required of a county TAC at any time may not exceed $100,000.

Record

The county TAC must file an official oath and bonds for state and county taxes in the county clerk's office. The county judge is required to submit the original bond for state taxes to the Comptroller who will retain possession of the bond.

Collection Procedures

- **Collection Due Dates**
- **Payments by Purchasers and Dealers**
- **Dishonored Checks**
- **Title Application Receipt**
- **Reporting Due Dates**
- **Earned Interest**

Collection Due Dates

Purchasers and dealers are to remit motor vehicle sales tax within 20 county working days of purchase. Use tax is due within 20 county working days from the date a motor vehicle purchased outside Texas is brought into Texas. Active-duty military personnel have 60 county working days from the date of the Texas purchase date or first use in Texas.

The even exchange tax and the gift tax are due at time of title transfer.

The state will not hold a purchaser who properly paid the tax to the selling dealer liable for any tax due if the dealer failed to transfer title and submit the tax. The purchaser, however, must provide acceptable documentation that the purchaser paid the tax to the dealer. Acceptable documentation includes a dealer's invoice or sales contract that itemizes the tax paid to the dealer.

The county TAC may collect a tax payment before a vehicle is transferred so any penalties may be avoided. In rare cases when a vehicle transfer is delayed, a person may request to pay the motor vehicle tax to avoid the late payment penalty. If the county TAC is agreeable, the person may pay the tax and the county TAC issues a manual receipt since the transfer is not entered into RTS.

Payments by Purchasers and Dealers

A county TAC may accept money orders, cash, cashier's checks and certified checks as valid methods of payment of motor vehicle tax.

Dishonored Checks

A county TAC may accept personal checks in payment of motor vehicle tax, but the tax is not considered paid until the bank on which the check was drawn honors it. A county TAC will not be held liable for the amount of motor vehicle tax due on a dishonored check only if the TAC requires at a minimum:

- personal data including name, home address, home telephone number, name and location of employer and telephone number of employer;
- driver license number of the person signing the check; and
- license plate number of motor vehicle(s) owned by the person signing the check.

The county TAC will take credit for the dishonored check on the monthly report, Form 14-115, Texas Motor Vehicle Sales/Use Tax and Surcharge Report on Line 6. *"Claim for dishonored payment."* Additionally, the county TAC must also report dishonored checks on Form 00-224, Detailed Report of Dishonored Checks.

When a personal check is not honored, the county TAC may request the Comptroller's assistance in collecting the money due if the county TAC certifies the following information:

- the required identification information;
- two dates upon which the county TAC sent the check to the appropriate bank;
- the date upon which the sheriff attempted to seize the license plates, if the fees for the plates were included in the check; and
- the date(s) the county TAC took other collection action, such as filing a complaint with the county attorney or hiring a collection agency.

If the customer makes good on the payment, the county TAC needs to communicate with the Comptroller's Revenue Accounting, Inheritance and Miscellaneous Taxes Section regarding the payment and to stop the collection effort. The county TAC must account for and report the collected funds on the monthly report in which the paid funds are collected. This reporting is made on Form 14-115 within the amount reported on Line 2. *"Gross Motor Vehicle Sales and Use Tax Collected."*

The county TAC has no authority to void a motor vehicle tax receipt and not to report a tax payment when the check given in payment is returned unpaid. See Attorney General Opinion O-4745 (1942).

Title Application Receipt

The county TAC issues a numbered Title Application Receipt that serves as a tax receipt and as a receipt for title application. The receipt is immediately issued once the information on Form 130-U is entered into TxDMV's on-line registration system, RTS.

On occasion, such as when the online system is down, the county TAC will issue a handwritten receipt (Form 31 RTS receipt). Once the system is back online, the county TAC enters the information into the system, prints a computer-generated receipt and mails the receipt to the purchaser.

Reporting Due Dates

The county TAC uses Form 14-115 monthly to report collected taxes by the 10th day of the month following the end of each calendar month. Reports must be filed for every period even if there is no tax due.

While the county's motor vehicle monthly reports are due on or before the 10th of the next month, county TACs send the motor vehicle tax collections to the Comptroller daily, weekly or monthly, based on their yearly tax reported amounts. The amounts are:

- up to $2 million per year – monthly;
- $2 to $10 million per year – weekly; and
- more than $10 million per year – daily.

Earned Interest

The county TAC may deposit motor vehicle tax collections in an interest-bearing account.

Interest earned on both the motor vehicle tax and TERP surcharge collections, but not yet remitted, belongs to the state. The county TAC must remit the earned interest on the state's portion to the Comptroller. See Texas Attorney General Opinion No. MW-47 (1979).

The county TAC, however, can retain interest earned on the *commission* retained from the motor vehicle tax and TERP surcharge.

The county TAC reports on Form 14-115 the state's portion of the earned interest each month.

When comingled accounts are used, the county TAC may determine the interest by retaining a daily balance of state motor vehicle tax funds waiting to be remitted to the Comptroller and then applying the daily interest rate to compute the interest earned and due the state.

An alternative method used by some county TACs is to use the ratio of state tax motor vehicle deposits to other county fund deposits (such as state and local registration fees) in the interest bearing account to determine the ratio percentage of interest earned on the state funds. The formula, based on the bank statement period, is motor vehicle tax deposits divided by total deposits, multiplied by amount of interest paid. This alternative method, however, may result in the county not retaining its proper share of the interest, since the float allowance for state registration fees due to TxDMV is 34 days compared to a shorter period for state motor vehicle tax.

Commission

- **Tax Components**
- **Commission Calculation and Source**
- **Annual Notification**
- **Reporting Guidelines**
- **Depositing the Commission**

Tax Components

County TACs receive an annual commission from the state for their efforts in collecting motor vehicle tax. The commission is equal to 5 percent of the tax and penalties collected for motor vehicles sales, seller-financed sales and Texas Emissions Reduction Plan (TERP) surcharges for the county during the preceding calendar year.

Commission Calculation and Source

The commission is retained from a combination of motor vehicle registration fees, motor vehicle tax collections and TERP surcharges. Each year, the percentage of the tax commission retained from the tax sources will increase until 2015, when TACs will retain the total 5 percent motor vehicle tax commission entirely from the motor vehicle tax and TERP surcharges.

Tax Code Section 152.123 and Transportation Code Section 502.1025 set forth the schedule:

Year	Retained From Tax & TERP	Retained from Registration Fees
2006	10 percent	90 percent
2007	20 percent	80 percent
2008	30 percent	70 percent
2009	40 percent	60 percent
2010	50 percent	50 percent
2011	60 percent	40 percent
2012	70 percent	30 percent
2013	80 percent	20 percent
2014	90 percent	10 percent
2015	100 percent	0 percent

Using 2011 as an example, the formula used to determine the amount to retain from tax collections and TERP will be:

(2010 MV tax collections + seller-financed collections + TERP surcharges) x 0.05 x 0.**60** = amount from tax. (The remaining .**40** will come from *registration* fees.)

Counties that have insufficient registration revenue to cover the portion of motor vehicle tax commission that comes from registration fees, may retain the commission amount directly from motor vehicle tax.

Annual Notification

Once motor vehicle sales tax returns for the preceding calendar year are processed, the Comptroller will notify each county TAC by letter of the exact amount of commission and the amounts to be retained from motor vehicles sales and use tax collections and TERP surcharges. This notification cannot be made until all counties have filed reports for the preceding calendar year and the reports have been processed.

Reporting Guidelines

County TACs must report on Form 14-115, Texas Motor Vehicle Sales/Use Tax and Surcharge Report, the amount of commission retained. Item 8A on the report should reflect the commission amount retained from motor vehicle tax collections and Item 8B should reflect the commission amount retained from TERP surcharges.

TACs can retain the total commission due for the year on one month's report if there are sufficient collections to report for that month. Otherwise, a TAC should

retain the commission over several months until the total commission due is retained.

Depositing the Commission

County judges, commissioners and auditors should note the county credits the amount of the commission retained from motor vehicle tax collections to the county's general fund, as required by Tax Code Section 152.123(c).

The county should continue to deposit the commission amounts retained from registration fees to the county's road and bridge fund, as required by Transportation Code Section 502.1025(c). This section also details for what purposes the county may spend these funds.

Records Retention

- **State Requirements**
- **Motor Vehicle Tax Records**

State Requirements

Texas State Library and Archives Commission (TSLAC) www.tsl.state.tx.us established Local Schedule TX (2nd Edition) as the mandatory minimum retention periods for local records. Texas Government Code Section 441.158 provides that the TSLAC shall issue records retention schedules for each type of local government, including a schedule for records common to all types of local government.

Motor Vehicle Tax Records

Part 3: Motor Vehicle and Boat Licensing and Registration Records in Local Schedule TX http://www.tsl.state.tx.us sets the mandatory minimum record retention for motor vehicle registration and tax records found in the county TAC office. The following excerpts apply to motor vehicle tax record retention requirements.

3025-03 Motor Vehicle Affidavits and Applications

a) Seller, Donor, or Trader's Affidavit; Seller, Donor, or Trader's Affidavit for Dealers or Lessors; and Motor Vehicle Rental Certificates. See retention note.

Retention Note: County tax assessor-collectors are not required to retain copies of these affidavits after the transmittal of the originals to the State Comptroller of Public Accounts (or to TxDMV). Any affidavits dated April 30, 1976 or earlier, prior to the institution of the transmittal procedure, may be destroyed at option and are exempt from the destruction request requirement.

b) All other affidavits or applications relating to motor vehicle registration, permitting, or licensing in those instances in which the county tax assessor-collector retains a copy of the affidavit or application by law or regulation. RETENTION: 2 years.

3025-04 Motor Vehicle Collection and Data Reports

3025-04 - Daily, weekly, or monthly reports on the collection of motor vehicle registration fees and sales taxes and other data concerning motor vehicle registration and sale as may be required by law or regulation.

a) Reports to the Texas Department of Highways and Public Transportation. RETENTION: FE (Fiscal Year-End) + 3 years

b) Reports to the Texas Comptroller of Public Accounts. RETENTION: FE + 4 years.

3025-05 Motor Vehicle Receipts

3025-05 - (including voided receipts and letters of protest accompanying payment)

a) Registration receipts. RETENTION: FE + 3 years.

b) Tax receipts for the sale of motor vehicles or boats or any other type of receipt involving monies remittable to and subject to audit by the Texas Comptroller of Public Accounts. RETENTION: Remittance due date + 5 years.

3025-06 Motor Vehicle Refund Documentation

3025-06 - Documentation concerning the refund of motor vehicle taxes or registration fees.

a) Refunds of registration fees. RETENTION: FE + 3 years.

b) Refund of taxes. RETENTION: FE + 4 years.

Who to Call

- Comptroller Departments
- Other State and Federal Agencies

Comptroller Departments

Change in County Tax Assessor-Collector, Reports, Bonds, County Commissions

Revenue Accounting, Inheritance and Miscellaneous Taxes Section
Barbie Scott (800) 531-5441, ext. 3-4435 or barbie.scott@cpa.state.tx.us

John Pollett (800) 531-5441, ext. 3-4596 or john.pollett@cpa.state.tx.us

Electronic Fund Transfers (EFT) Problems and Set Up

Account Maintenance,
Electronic Reporting Section
(800) 442-3453

Motor Vehicle Tax Rulings

Tax Policy (800) 252-1382
tax.help@cpa.state.tx.us.
FAX (512) 475-0900

Dealer Complaints

The county TAC can call or send information on dealers who appear to be violating their Tax Code responsibilities. Sending any questionable documents would be helpful.

Please notify the Comptroller when a dealer continuously fails to transfer title and to submit tax. The state will not hold a purchaser who properly paid the tax to the selling dealer liable for any tax due if the dealer failed to transfer title and submit the tax. The purchaser, however, must provide acceptable documentation that the purchaser paid the tax to the dealer. Acceptable documentation includes a dealer's invoice or sales contract that itemizes the tax paid to the dealer. Copies of the documentation will be helpful in the Comptroller's investigation. Please send lead material to Comptroller of Public Accounts, Audit Division, P. O. Box 13528, Austin, Texas 78711-3528.

Exempt Organizations

www.window.state.tx.us/taxinfo/exempt/index.html

Motor Vehicle Inventory Tax (VIT)

http://www.window.state.tx.us/taxinfo/taxforms/02-form12.html

Refund Claims/Overpayments Verification Section

Revenue Accounting
(800) 531-5441, ext. 5-1083

Certifications and Liens (for lien release)

Revenue Accounting
(800) 531-5441, ext. 6-5913

Other State and Federal Agencies

Texas Department of Motor Vehicles (TxDMV)

Customer Help Line
(888) 368-4689 or
(512) 465-3025 option 2 (VTR)

Dealer Help Line
(800) 622-8682

Exempt License Plates
(512) 374-5010

Lemon Law (800) 622-8682

Motor Carrier Information
(888) 368-4689 or
(512) 465-3025 option 3

Texas Department of Agriculture

Young Farmer Loan Guarantee Program
(Young Farmer Grant Program)

Cynthia Caldwell
(512) 936-0273

Texas Department of Family and Protective Services (Qualifying Childcare Facilities)

State Office (512) 438-4800
http://www.dfps.state.tx.us/child_care/Local_Child_Care_Licensing_Offices/default.asp

Texas Department of Insurance
(TDI) (512) 463-6169 or
(800) 252-3439

Texas Commission on Environmental Quality
(TCEQ) (512) 239-1459 or
(800) 913-3321

Office of Consumer Credit Commissioner
(OCCC) (800) 538-1579

Texas Department of Housing and Community Affairs
Manufactured housing
(512) 475-2200 or
(800) 500-7074

Federal Highway Administration
(202) 366-4000

Internal Revenue Service
(IRS) (800) 829-1040

Section VI

Tax Code, Rules, Publications and Forms

The information in this Motor Vehicle Tax Guide is derived from the following sources:

Tax Code

TAX CODE; TITLE 2; STATE TAXATION; SUBTITLE E. SALES, EXCISE, AND USE TAXES; CHAPTER 152. TAXES ON SALE, RENTAL, AND USE OF MOTOR VEHICLES

http://www.statutes.legis.state.tx.us/Docs/TX/htm/TX.152.htm

Administrative Code Rules

TITLE 34, PUBLIC FINANCE; PART 1, COMPTROLLER OF PUBLIC ACCOUNTS; CHAPTER 3, TAX ADMINISTRATION; SUBCHAPTER F, MOTOR VEHICLE SALES TAXES
http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=5&ti=34&pt=1&ch=3&sch=F&rl=Y

Publications

WINDOW ON STATE GOVERNMENT, TAX PUBLICATIONS

http://window.state.tx.us/taxinfo/taxpubs/index.html#motor

Forms

WINDOW ON STATE GOVERNMENT, TEXAS MOTOR VEHICLE TAX FORMS

http://window.state.tx.us/taxinfo/taxforms/14-forms.html