

M e m o r a n d u m**295.1315**

To: Mr. Vic Anderson, Pasadena

Date: October 6, 1978

From: Thomas P. Putnam, Assistant Chief Counsel

Subject: Taxability of Auto Dealers Documentary Preparation Charge (AB 3391)

AB 3391 (Ingalls), chapter 632 of 1970, among other things, permits an auto dealer to add to the advertised price of a vehicle a "documentary preparation charge" not to exceed \$20. Under existing law, an auto dealer may not advertise the total cost of a vehicle without including all costs to the purchaser; however, the amount of the sales tax, vehicle registration fees and finance charges need not be included in the advertised price, and may be added onto the advertised price when calculating the final price to the consumer. AB 3391 would add the "documentary preparation charge" to the list of items that can be added onto the advertised price.

You have asked whether the documentary preparation charge is includible in the gross receipts subject to the sales tax. In my opinion the charge is properly included.

Section 6012(a) (2) of the Revenue and Taxation Code defines "gross receipts" to mean "(a)... the total amount of the sale or lease or rental price... without any deduction on account of ... (2) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense Subdivision (b) (1) of that section provides "(b) The total amount of the sale or lease or rental price includes all of the following: (1) Any services that are a part of the sale..."

It is my view that a fee for preparing necessary documents is an expense of the sale and also a fee for services that are a part of the sale. As such, such a fee is subject to tax.

This treatment of this fee involves a very important principle. The cost of preparing documents is a necessary cost of doing business, as are many other costs similar and dissimilar. We have been very careful to avoid attempts to reduce the measure of the tax by "breaking out" particular costs as separate charges on the claim that they are "services" or "labor" and not part of the price for tangible personal property.

I have discussed this matter with Bob Nunes, and he will include information on the taxability of this charge in the December Tax Information Bulletin.

TPP:po

cc: R. Nunes
L. A. Augusta