

**M e m o r a n d u m****295.1410**

To: Mr. Donald J. Hennessy

Date: May 29, 1980

From: Philip R. Dougherty

Subject: Revised Annotation to Replace Present 295.1410

Gross Receipts  
(f) Costs and Expenses

Smog Control Certification
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With each application to the DMV for initial registration or transfer of registration of certain motor vehicles, a dealer must also transmit a valid pollution control [smog] device certificate or compliance. There is no requirement that the dealer charge the purchaser for transmitting the certificate, but a dealer may choose to make a separate charge for the transmittal and so be specifically reimbursed for that cost of doing business. Such a charge to the purchaser may not be excluded from the amount upon which the sales tax is computed.

The Department of Consumer Affairs is required to make or authorize certain motor vehicle pollution emission inspections of motor vehicles in the South Coast Air Basin. The Department is required by statute to charge a fee for the inspection. These fees must be deposited in the State's Vehicle Inspection Fund. Revenue and Taxation Code Section 6012(c)(8) excludes from the amount subject to sales tax any motor vehicle fee or tax imposed by and paid to the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle. Accordingly, when the fee (currently \$11 or \$7) [charged by the Department of Consumer Affairs] is paid by a retailer of a motor vehicle and charged to the purchaser, that amount may be excluded from the computation of sales tax due.

This revises and expands on annotation 295.1410. PRD
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