



STATE BOARD OF EQUALIZATION

916-445-2641

April 16, 1976

REDACTED TEXT

Dear Mr. REDACTED TEXT:

This is in response to your letter of April 8, 1976. You seek on behalf of your client REDACTED TEXT, confirmation of the advice which we gave to you on April 8 relative to the application of the California sales tax in situations where an automobile is returned by a purchaser to a dealer.

As we advised you, tax applies to the initial transaction, i.e., the sale of the automobile. The measure of tax does not include automobile registration and license fees.

You inquire as to how the tax will apply where the automobile is returned to the dealer and the dealer returns to the purchaser the purchase price of the automobile, including "sales tax," but does not return the registration and license fees.

Our Regulation 1655 "Returns, Defects, and Replacements" provides, in paragraph (a), that the amount upon which tax is computed does not include the amount charged for merchandise returned by customers if, (1) the full sale price, including that portion designated as "sales tax," is refunded either in cash or credit and (2) the customer, in order to obtain the refund or credit, is not required to purchase other property at a price greater than the amount charged for the property that is returned.

In the situation contemplated, the dealer would be regarded as returning "the full sale price" of the vehicle despite the fact that the dealer retains the licensing and registration fees. These fees are not considered to be part of the sale price of the vehicle for sales tax purposes. Revenue and Taxation Code Section 6012 provides that "gross receipts," the amount upon which the sales tax is computed, does not include "the amount of 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."

Dealers claiming credits for taxable merchandise returned may take the credit on Line 8 of their sales and use tax returns if credit is not taken by reducing the sales price reported on Line 1.

Very truly yours,

Gary J. Jugum
Tax Counsel