

Memorandum

580.0406.050

To : Ms. Margaret L. Pennington
Tax Auditor
Audit Review and Refunds - MIC:39

Date: March 21, 1996

From : Ronald L. Dick
Supervising Staff Counsel

Subject: Application of Use Tax to the Use of Vehicles

Your January 31, 1996 memorandum to Mr. David Levine regarding the application of use tax to purchases of vehicles has been referred to me for reply. You asked, "Is tax due upon purchase of vehicles not requiring registration because they will be inoperative for a period of time?"

We understand that the situation to which you refer occurs when a person purchases a vehicle which is not registered for operation, and the person obtains only a title transfer from the Department of Motor Vehicles.

It has been our position in such a case that the use tax does not apply. If a person were to purchase a vehicle under those circumstances to obtain a title only transfer and shortly thereafter register the vehicle, we understand the Consumer Use Tax Section would investigate to determine whether the transaction is a sham and, if so, impose use tax.

We do not believe Revenue and Taxation Code section 6293 calls for a different result. That section provides the application of tax to the sale of a vehicle subject to identification under Division 16.5 (commencing with section 38000) of the Vehicle Code. (Those vehicles are certain "off-highway vehicles" such as certain motorcycles, snowmobiles, and dune buggy or all-terrain vehicles.

If you have further questions regarding this feel free to contact me directly.

RLD:sr