

City and County of Denver, Colorado

TAX GUIDE

Topic No. 5

AUTOMOTIVE VEHICLES

MOTOR VEHICLE SELLERS

All sellers of motor vehicles at retail, located in the City and County of Denver, ARE REQUIRED to have a City and County of Denver Retail Sales Tax License, and are required to charge, collect and remit sales tax on all retail sales.

PURCHASED VEHICLES

Motor vehicles purchased by a Denver resident are required to be registered at the purchaser's address in Denver. Denver sales/use tax is due on the net purchase price (total purchase price less the amount allowed by a dealer for a trade-in, if any; no trade-in deduction is allowed if the sale is not by a licensed dealer). The purchaser must pay the sales or use tax to the seller if the seller is licensed and authorized to collect and remit the tax to Denver. If the seller is not licensed and authorized, then the purchaser shall pay the use tax directly to the Denver Motor Vehicle Division. Until the tax is paid, no certificate of title or registration certificate or license plates will be issued for the vehicle. Persons who purchase a motor vehicle, and at the time of purchase are non-Denver residents, and who subsequently move into Denver, must register their vehicles at their Denver address. If sales tax was paid to another taxing jurisdiction, use tax may be owed if the sales tax paid to the other taxing jurisdiction is less than the sales tax that would have been owed in Denver.

LEASED VEHICLES

Motor vehicles leased for more than 30 days by a Denver resident (lessee) must be registered at the lessee's address, in Denver. Denver residents include businesses located in Denver even though the business owners are non-Denver residents. Thus, motor vehicle leases to businesses in Denver for business use in Denver are subject to Denver tax. Denver sales/use tax should be collected by the vehicle leasing company (lessor) on each lease payment. If at the inception of the lease, the lessee was a non-Denver resident, and subsequently moves into Denver, the vehicle would be required to be registered in Denver at the address which becomes the lessee's address, and the lessor would be required to collect Denver tax on the lease payments. If the lessor is not licensed to collect the Denver tax, then the lessee shall pay the tax directly to the Denver Motor Vehicle Division.

When a person arrives at Denver Motor Vehicle (DMV) to register his/her vehicle in Denver, and the person is leasing the vehicle from an out-of-Denver lessor, DMV will contact the Denver Treasury (Audit Unit) to verify if the lessor has a Denver sales tax license. If the lessor is not licensed with Denver, DMV will collect the use tax on the fair market value of the vehicle at the time of registration. The Kelly Blue Book average wholesale value is used to determine fair market value. Until the tax is paid, no certificate of title, registration certificate, or license plates will be issued for the vehicle. As with vehicle purchases, the lessee must register the vehicle in Denver within thirty (30) days of becoming a Denver

resident.

EXAMPLE

Betty, a resident of Wyoming, leases a vehicle from a Laramie leasing company. Midway through the lease term, Betty moves to Denver. The leasing company is not licensed to collect Denver tax. Betty is required to pay Denver use tax on the fair market value of the vehicle to Denver Motor Vehicle Division within thirty (30) days of becoming a resident.

DIFFERENCES IN LEASING RULES: DENVER VS. STATE OF COLORADO

There are two major differences that exist between Denver and the state of Colorado with regard to the application of taxes on leases, including leases of automotive vehicles. When collecting taxes for the State of Colorado (including non-home-rule statutory cities, if applicable):

- A. The lessor may elect to collect the taxes from the lessee on the lease payments (same rule as required by Denver). However, on leases of thirty-six (36) months or less, the lessor may pay the tax up front on the total cost of the vehicle and not collect Colorado tax on the lease payments. The lessor must handle all leases in the same manner.
- B. Taxes collected on the lease are based on the lessee's location when the lease was entered into and remain in effect during the term of the lease.

In reference to Part "A" above, Denver permits the lessor to apply to the Manager of Revenue for permission to pay the tax up front. In Part "B" above, Denver taxes apply only during the period the lessee is a Denver resident. Each periodic lease payment is considered a separate transaction for Denver tax purposes.

For additional information regarding statutory cities and state taxes, contact the Colorado Department of Revenue.

VEHICLES RECEIVED AS A GIFT

Vehicles claimed as gifts between family members that are truly gifts without consideration are not subject to the tax. However, assumption of a debt (lien) between family members is consideration and subjects the transaction to the Denver tax. The taxable value of the vehicle would be the debt plus any other consideration given.

The donor and the recipient are considered family members if one of the following relationships exists:

- A. Spouse
- B. Parent, grandparent
- C. Child, grandchild
- D. Brother, sister

Claimed gifts between parties not including the above stated familial relationships are presumed to be with consideration and subject to Denver tax. The vehicle is taxed at the fair market value as determined by using the Kelly Blue Book average wholesale value.

If the new owner feels that the Kelly Blue Book overstates the actual value, he/she may elect to

sign Form MV 3 (Affidavit of Purchase Price, Trade, or Gift of Motor Vehicle) listing the defects and specifying the fair market value. All affidavits are forwarded to the Denver Treasury Division for review. If the unrelated parties claim the change of ownership is a gift without consideration, DMV may refer the new owner to the Treasury Division for evaluation and disposition of the affidavit. If the claimed gift is, in fact, a gift without consideration, it is not subject to Denver tax.

EXAMPLES

1. Donald decides to give his old Buick to his granddaughter. Donald holds free and clear title to the vehicle. He completes Form MV 3 (Affidavit of Purchase Price, Trade, or Gift of Motor Vehicle). The form is accepted at face value; thus, the transfer of title and registration to his granddaughter's name is considered to be a tax-free gift.
2. Joe, the owner of an RV, was recently laid-off from his job and finds himself unable to make the loan payments. Joe offers to transfer the title to his brother, Harry, if Harry will assume the loan payments. Harry accepts. Because consideration is involved, Denver tax is due on the consideration given (the loan balance).

EXEMPTION

Under the Denver Revised Municipal Code (“DRMC” or “Denver Code”) Section 53-26 (11), entitled, Exemptions, sales of automotive vehicles that are registered and required by state law to be registered outside the city are exempt from Denver sales tax. Under Denver Code Section 53-97(12), entitled, Exemptions, purchases or sales of automotive vehicles that are registered and required by state law to be registered outside the city are exempt from Denver use tax.

GUIDELINES AS TO REGISTRATION LOCATION FOR TAX PURPOSES

Personal Vehicles that are not Owned by a Business:

Residency for motor vehicle registration purposes is determined in the same manner as residency for voter registration purposes. A person may register to vote only in the county where he/she maintains his/her residence. If a person is not registered to vote, then factors such as children's school registration, the address as shown on the vehicle insurance policy as the location where the vehicle is kept, work address, telephone directory address, and other public records will be considered in determining residency for vehicle registration purposes. However, if a motor vehicle is permanently maintained at an address other than the address of the owner's residence, such motor vehicle shall be registered at the address from which it is permanently operated and maintained. “Permanently maintained” shall mean the location where the vehicle is primarily garaged or housed.

Business-Owned Vehicles:

Business-owned vehicles that are primarily used for business purposes must be registered at the business address where such vehicle is principally operated and maintained. Vehicles owned by a business but used primarily for personal use shall be registered at the address from which the vehicle is permanently maintained. “Permanently maintained” shall mean the location where the vehicle is primarily garaged or housed. Commercial and other motor vehicles, whether or not engaged in interstate commerce, that are registered under the International Registration Plan (“IRP”) or registered under a similar statutory registration program must still be registered at the business address where the vehicle is principally operated and maintained. Use by the business of an address outside of Denver where only

an agent of the business is located or reports is not sufficient for the Denver sales or use tax exemptions, DRMC Sections 53-26(11) or 53-97(12). The IRP provides for registration at the state level rather than by the county clerks. See, for example, Colo. Rev. Stat. §§42-3-101, et seq. Because the statutory and regulatory provisions establishing the IRP deal primarily with specific ownership allocations for interstate vehicles, and the IRP registration is not a mandatory registration, IRP registration does not qualify taxpayers for the exemption from sales or use tax under the Denver Code.

EXAMPLES

1. Harvey owns a home in Denver and a ranch in the mountains. He works primarily in Denver and votes in Denver. Last month, after purchasing a new car, Harvey properly paid the Denver sales tax to the dealer and registered the vehicle in Denver.
2. Harvey also buys a 4-wheel-drive vehicle that is permanently operated and maintained at his ranch. This vehicle is properly registered in the mountain county and no sales or use tax is due Denver.

Note: Automotive parts and accessories are taxable when sold and installed in Denver, regardless of where the vehicle is registered.

RELATED TAX GUIDE TOPICS

Common Carriers

Automotive Service and Repair

- * DRMC Section 53-24(6), (21), (23). Definitions.
- * DRMC Section 53-35. Automotive vehicle--Registration license.
- * DRMC Section 53-26 (11). Exemptions. Sales tax exemption for sales of automotive vehicles that are registered and required by state law to be registered outside the city.
- * DRMC Section 53-36. Same--Transfer of title.
- * DRMC Section 53-95(6), (24), (26). Definitions.
- * DRMC Section 53-97(12). Exemptions. Use tax exemption for sales of automotive vehicles that are registered and required by state law to be registered outside the city.
- * DRMC Section 53-105. Application to automotive vehicles.
- * CRS 42-3-101, et seq., Registration and Taxation (Specific Ownership Tax and IRP).
- * CRS 42-6-139. Registration, where made. Revised 08/07 5 -3
- * CRS 42-6-140. Registration upon becoming resident.

THE ABOVE INFORMATION IS A SUMMARY IN LAYMAN'S TERMS OF THE RELEVANT DENVER TAX LAW FOR THIS INDUSTRY OR BUSINESS SEGMENT. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE DRMC AND APPLICABLE RULES AND REGULATIONS.

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