

Memorandum

585.0220

To: Compliance Planning Unit

August 1, 1978

From: Tax Counsel (RHA)

Subject: Rate of Use Tax on Vehicle Transactions On and After 8/1/67

Reference is made to your memo of July 24, 1967 in which you give the following examples of vehicle transactions:

1. (In-state transaction) Vehicle purchased prior to rate change date and registered by the purchaser after August 1, 1967.

If the purchaser received title prior to August 1, the rate would be 3 percent state and 1 percent local.

2. (Out-of-state transaction) Vehicle purchased outside of California and entered California prior to August 1, 1967, but was not required to be registered in California until after August 1st.

Tax rate is 3 percent state and 1 percent local.

3. (Out-of-state transaction) Vehicle purchase outside of California prior to August 1, 1967 and entered California after August 1, 1967.

If the purchaser received title prior to August 1, the rate would be 3 percent state and 1 percent local.

Generally speaking, the "key" to the tax rate in all vehicle transactions is the date of purchase. This should not be confused with the date an order is placed.

Normally, possession and title go hand in hand, although not necessarily so. Some taxpayers will be able to show they received title before they took possession. In such cases the date the purchaser received title is controlling. If a purchaser cannot show he received title before he took possession, the date he took possession must be controlling.

Dates on a bill of sale, check for payment, conditional sales contract, may serve as evidence of title passage, but they are not conclusive.

In the case of out-of-state purchases and out-of-state registration, we have no problem of proof of date when title passed. Obviously, entry into the state before August 1, 1967 of a vehicle registered to the taxpayer would be proof of title passage before August 1, 1967.

The date of title passage should not be confused with decisions on whether the purchaser owes any tax at all.

Two decisions must be made in the case of out-of-state purchases: (1) whether the purchaser owes any tax, and (2) what rate is applicable.

In applying Section 6248 of the Sales and Use Tax Law, (presumption of purchase for use; motor vehicles), we have used the date of possession as a starting point to count the lapse of days before entry into California for use here. It would be relatively simple, for example, for a California resident to take title long before possession in order to show a lapse of 90 days before entry into the state, even though from the very day he took title he intended to use the vehicle for use in California and under Section 6201 of the law he is liable for use tax. However, the rate may be 4 percent instead of 4 percent if he took title before August 1, 1967.

RHA:dse [1b]