

Proposed Text of California Code of Regulations

Title 18. Public Revenues

Section 1620.15. Sales of Vehicles for Use Exclusively Out-of-State or in Interstate or Foreign Commerce.

(A new regulation to be added to the California Code of Regulations)

Regulation 1620.15. Sales of Vehicles for Use Exclusively Out-of-State or in Interstate or Foreign Commerce.

(a) Definitions.

The following terms have the following meanings for purposes of this regulation:

- (1) Dealer. “Dealer” means a person that is engaged wholly or in part in the business of selling vehicles, whether or not such vehicles are owned by the person.
- (2) International Registration Plan. “International Registration Plan” or “IRP” means the International Registration Plan Agreement developed by the American Association of Motor Vehicle Administrators.
- (3) Lessee. “Lessee” means a person that leases a vehicle from a purchaser.
- (4) Permanent Trailer Identification Plate Program. “Permanent trailer identification plate program” or “PTI plate program” means the registration program for assigning permanent trailer identification certificates and permanent trailer identification plates to certain trailers, pursuant to Vehicle Code section 5014.1, administered by the Department of Motor Vehicles (DMV).
- (5) Purchaser. “Purchaser” means a person that purchases or leases a vehicle from a dealer, manufacturer, or remanufacturer.
- (6) Purchaser's Agent. “Purchaser's agent” means a person authorized in writing by a purchaser to act on the purchaser's behalf with regard to the purchase of one or more vehicles and furnish the evidence and affidavit required by this regulation to the delivering manufacturer, remanufacturer, or dealer on the purchaser's behalf.
 - (A) A purchaser must authorize a person to act as the person's agent in writing prior to the use of the person as an agent to furnish the evidence and affidavit required by this regulation and retain the document as evidence of the person's status as the purchaser's agent.

(B) To establish that a particular person is acting as the purchaser's agent for purposes of a specific transaction, the purchaser must clearly disclose the purchaser's intent to use an agent in the transaction and the name of the purchaser's agent to the seller in writing.

(C) A registration service company engaged by the purchaser, dealer, manufacturer, or remanufacturer may act as the purchaser's agent. A dealer, manufacturer, or remanufacturer may not act as the purchaser's agent with respect to a vehicle that it sells or delivers to the purchaser.

(7) Remanufacturer and Remanufactured Vehicle. "Remanufacturer" means a person that is licensed as a remanufacturer as defined in Vehicle Code section 507.8 by the DMV or licensed as a remanufacturer by the appropriate governmental agency in another state. "Remanufactured vehicle" has the same meaning as set forth in Vehicle Code section 507.5. A vehicle constructed in another state will qualify as a remanufactured vehicle if it was constructed by a person licensed as a remanufacturer by the appropriate governmental agency in that state and the vehicle meets that state's requirements to be a remanufactured vehicle. A used vehicle as defined in Vehicle Code section 665 does not qualify as a remanufactured vehicle unless the vehicle otherwise qualifies as a remanufactured vehicle pursuant to applicable state laws.

(8) Unified Carrier Registration System Filing. "Unified Carrier Registration System filing" or "UCRS filing" means a person's application for registration in the online federal registration system being implemented by the Federal Motor Carrier Safety Administration (FMCSA) in the United States Department of Transportation (USDOT), which was established and named the "Unified Carrier Registration System" pursuant to section 13908 of title 49 of the United States Code.

(9) USDOT Number. "USDOT number" means a number issued by the FMCSA to a person registered to operate commercial vehicles transporting passengers or hauling cargo in interstate or foreign commerce. A USDOT number is assigned to a person and not to the person's individual vehicles.

(10) Vehicle.

(A) For purchases prior to January 1, 2020, and on and after January 1, 2029, "vehicle" means a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more.

(B) For purchases on January 1, 2020, through October 7, 2023, "vehicle" means a new, used, or remanufactured truck or a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more.

(C) For purchases on October 8, 2023, through December 31, 2028, "vehicle" means a new, used, or remanufactured truck or a new, used, or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more.

(b) Application of Tax.

In general, tax applies to the sale or storage, use, or other consumption of vehicles in this state. However, under the Revenue and Taxation Code section 6388.5 exemption, tax does not apply to the sale or storage, use, or other consumption of a vehicle delivered in this state by the manufacturer, remanufacturer, or dealer to a purchaser within this state for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both, where all the following requirements are met:

(1) The purchaser drives or moves the vehicle to a point outside this state: (A) Within 30 days after the date of delivery if the vehicle was manufactured or remanufactured outside this state; or (B) Within 75 days after the date of delivery if the vehicle was manufactured or remanufactured in this state.

(2) The purchaser or purchaser's agent provides the delivering manufacturer, remanufacturer, or dealer a copy of the current out-of-state license and registration for the vehicle showing the state of registration, license plate number, and Vehicle Identification Number (VIN) or serial number.

(A) If the vehicle is registered with the DMV under the PTI plate program and used exclusively in interstate or foreign commerce, or both, the purchaser or purchaser's agent may provide the delivering manufacturer, remanufacturer, or dealer a copy of a federal document assigning or confirming the purchaser's or lessee's USDOT number or a copy of the purchaser's or lessee's current UCRS filing, instead of providing a copy of the current out-of-state license and registration for the vehicle.

(B) If the vehicle is registered under the IRP entered into pursuant to Vehicle Code section 8052, the purchaser or purchaser's agent may provide the delivering manufacturer, remanufacturer, or dealer a copy of a federal document assigning or confirming the purchaser's or lessee's USDOT number or a copy of the purchaser's or lessee's current UCRS filing, instead of providing a copy of the current out-of-state license and registration for the vehicle, but only if the vehicle was purchased on or before December 31, 2028.

(3) The purchaser or purchaser's agent provides a properly completed affidavit, which satisfies the requirements of subdivisions (c) and (d), to the delivering manufacturer, remanufacturer, or dealer that is accepted by such person in good faith. In the absence of evidence to the contrary, it is presumed that a manufacturer, remanufacturer, or dealer accepted an affidavit in good faith if the affidavit contains the essential elements required by subdivision (c) and appears to be valid on its face.

(c) Affidavit.

(1) An affidavit is properly completed if the purchaser or purchaser's agent signs and dates the affidavit, provides it to the manufacturer, remanufacturer, or dealer that delivered the vehicle to the purchaser after the vehicle is removed from this state, and it includes:

(A) A description of the vehicle, including year, make and model, VIN or serial number, and unladen weight;

(B) The name, telephone number, and address of the purchaser;

(C) The name and address of the dealer from which the vehicle was purchased, and the address of the specific location from which the vehicle was purchased if it was different from the dealer's address;

(D) The name of the manufacturer or remanufacturer that manufactured or remanufactured the vehicle and the state where the vehicle was manufactured or remanufactured;

(E) The name and address of the dealer, manufacturer, or remanufacturer that delivered the vehicle to the purchaser in this state;

(F) The date of delivery and date of removal of the vehicle; and

(G) A statement that the vehicle was purchased from the dealer at the specified location for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both, and that the vehicle was removed from this state within the appropriate period of either 30 days or 75 days after the date of delivery of the vehicle to the purchaser.

(2) A properly completed form provided by the California Department of Tax and Fee Administration (Department) for use as an affidavit for the Revenue and Taxation Code section 6388.5 exemption will satisfy the requirements of subdivision (c)(1).

(3) For transactions that include the purchase of more than one vehicle from the same location, the purchaser or purchaser's agent need not provide a separate affidavit for each vehicle but may instead append a list of the vehicles included in the transaction to one affidavit. The list must a description of each vehicle, as required by subdivision (c)(1)(A), provide the date each vehicle was delivered and the date each vehicle was removed from this state, and specify whether each vehicle was manufactured or remanufactured outside or inside this state. The purchaser or purchaser's agent must also provide a copy of the current out-of-state license and registration for each vehicle, as required by subdivision (b)(2), or a copy of a federal document assigning or confirming the purchaser's or lessee's USDOT number or a copy of the purchaser's or lessee's current UCRS filing if permitted under subdivision (b)(2)(A) or (B).

(d) Lessors. The sale of a vehicle to a lessor qualifies for the exemption from sales and use tax provided by Revenue and Taxation Code section 6388.5 provided the sale and subsequent use of the vehicle meets the requirements in subdivision (b). However, a lessor must provide the name and address of the lessee on the affidavit required by subdivision (b)(3) if the documentation provided pursuant to subdivision (b)(2) shows that the vehicle is registered in the lessee's name, assigns or confirms the lessee's USDOT number, or includes a copy of the lessee's current UCRS filing.

(e) Documentation to be Maintained by Purchasers. Purchasers of vehicles shall maintain records documenting that a vehicle qualifying for the Revenue and Taxation Code section 6388.5 exemption was removed from this state within either 30 days or 75 days after the date of delivery of the vehicle, as required by subdivision (b)(1), and was used exclusively out-of-state, or exclusively in interstate or foreign commerce, or both. A purchaser must provide the records to the Department upon request.

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Sections 6388.3, 6388.5, 7053 and 7054, Revenue and Taxation Code.