

Text of Proposed Amendments to California Code of Regulations

Title 18. Public Revenues

Section 1620.1. Sales of Certain Vehicles and Trailers for

Use in Interstate or Out-of-State Commerce.

Regulation 1620.1. Sales of Certain Vehicles to Non-Residents ~~and Trailers~~ for Use in ~~Interstate or Out-of-State Commerce.~~

(a) Definitions.

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

~~(1) Permanent Trailer Identification (PTI) Program. A registration program for commercial trailers as defined in Vehicle Code section 5014.1 administered by the Department of Motor Vehicles (DMV). Assessments made pursuant to the PTI program constitute a flat fee and are not based on the weight of a commercial trailer subject to the PTI program. In lieu of annual registration, DMV assesses a service fee every five (5) years.~~

~~(2) Purchaser's Agent. For purposes of this regulation, a purchaser's agent means a person authorized by the purchaser of a trailer to act on the purchaser's behalf in providing an exemption certificate from the sales or use tax to the seller of the trailer. To establish that a particular person is acting as the purchaser's agent, the purchaser must: 1) clearly disclose in writing to the seller the purchaser's intent to use an agent in the transaction, including the name of the purchaser's agent, and 2) obtain and retain, prior to the use of the agent, written evidence of the agent's status with the purchaser. An agent may include a registration service company engaged by either the purchaser or dealer who sells trailers. A dealer, manufacturer or remanufacturer may not act as the purchaser's agent with respect to a trailer that it sells or delivers to a purchaser.~~

(1) Dealer. "Dealer" means a person that is engaged wholly or in part in the business of selling or leasing vehicles, whether or not such vehicles are owned by the person.

(2) Department. "Department" means the California Department of Tax and Fee Administration.

(3) Remanufacturer and Remanufactured Vehicles. "Remanufacturer" A remanufacturer of vehicles or trailers means a person ~~that who~~ is licensed as a remanufacturer as defined in ~~by~~ the DMV pursuant to Vehicle Code section 507.8 by the Department of Motor Vehicles or licensed as a remanufacturer by the appropriate governmental agency in another state. "Remanufactured vehicle" ~~has the same meaning as set forth in~~ A remanufactured vehicle means a vehicle constructed by a remanufacturer and meeting the criteria of Vehicle Code section 507.5. A vehicle constructed in another state purchased from an out-of-state company will qualify as a remanufactured vehicle if it was constructed by a person ~~the out-of-state~~

~~company~~ is licensed as a remanufacturer by the appropriate governmental agency in that state and the vehicle meets that state's requirements to be the criteria established by that state for a remanufactured vehicle. ~~The sale of a~~ used vehicle as defined in Vehicle Code section 665 ~~or trailer alone~~ does not qualify as a sale of a remanufactured vehicle unless the vehicle ~~or trailer~~ otherwise qualifies as a remanufactured vehicle ~~or trailer~~ pursuant to applicable state laws.

~~(4) Single State Registration System (SSRS). A federally regulated program under which states monitor a motor carrier's compliance with federal registration and insurance requirements. Motor carriers generally must register with the state in which they have their principal place of business. In California, the program is administered by the DMV and covers only motor carriers of property. Compliance with the SSRS program requires eligible motor carriers to register annually with the DMV, report the number of vehicles operating in other states participating in the SSRS program, and to pay the requisite fees. "Vehicles" for purposes of SSRS registration means only self-propelled units and not trailers. SSRS filings do not identify individual vehicles.~~

~~(5) Trailer. For purposes of this regulation, trailer means a new or remanufactured trailer or semi-trailer with an unladen weight of 6,000 pounds or more. Any vehicle not designed for carrying persons or property on its own structure, such as an auxiliary dolly, does not qualify as a trailer for purposes of this regulation. Qualified trailers may be manufactured or remanufactured either inside or outside this state.~~

~~(6) United States Department of Transportation (USDOT) Number. A number issued by the Federal Motor Carrier Safety Administration (FMCSA) to any motor carrier located in the United States that is engaged in the transportation of property in interstate or foreign commerce. A USDOT number is assigned to a motor carrier and not to the motor carrier's individual vehicles.~~

~~(7) United States — Federal Maritime Commission (FMC) Number. A number issued by the Federal Maritime Commission to entities operating as common carriers in U.S. foreign commerce. An FMC number is assigned to an ocean carrier and to the ocean carrier's individual trailers.~~

~~(48) Vehicle. For purposes of this regulation, the term vehicle "Vehicle" means a new or remanufactured truck, truck tractor, semitrailer, or trailer with an unladen weight of 6,000 pounds or more; or a new or remanufactured trailer coach, or auxiliary dolly, ~~manufactured or remanufactured in this state and purchased from an out-of-state dealer for delivery in this state.~~ A vehicle is mobile transportation equipment subject to the provisions of Regulation 1661, Leases of Mobile Transportation Equipment, unless excluded by Regulation 1661.~~

(b) Application of Tax.

~~(1) In General. Tax~~ In general, tax applies to the sale or storage, use, or other consumption of vehicles and trailers in this state except as provided in subdivisions (b)(2) and (b)(3).

~~(2) Exempt Sales of Vehicles for Use in Out of State or Foreign Commerce.~~

~~(A) Notwithstanding subdivision (b)(1),~~ However, under the Revenue and Taxation Code section 6388 exemption, tax does not apply to the sale or storage, use, or other consumption of a vehicle delivered in this state by the vehicle manufacturer or remanufacturer to a purchaser ~~that~~ who is not a resident of California for use ~~exclusively in out-of-state or foreign commerce~~ where the purchaser:

~~(1)1.~~ Purchases the vehicle from a dealer located outside this state,;

~~(2)2.~~ Removes the vehicle from this state within 30 days ~~from and~~ after the date of delivery,;

~~(3)3.~~ Provides a properly completed valid affidavit, which satisfies the requirements of subdivisions (c) and (d), to the manufacturer or remanufacturer that delivered the vehicle; that is accepted by such person in good faith, ~~stating~~. In the absence of evidence to the contrary, it is presumed that a manufacturer or remanufacturer accepted an affidavit in good faith if the affidavit contains all the essential elements required by subdivisions (c) and (d) and otherwise appears to be valid on its face.

a. ~~The name and location of the out of state dealer from whom the vehicle was purchased,~~

b. ~~The name and location of the in-state manufacturer or remanufacturer that delivered the vehicle to the purchaser and the date of delivery~~

c. ~~That the purchaser is not a resident of California,~~

d. ~~That the vehicle was purchased for use exclusively outside California,~~

e. ~~That the vehicle was removed from this state within 30 days of the delivery date, and~~

f. ~~The date of removal.~~

~~(4)4.~~ Provides written evidence of the out-of-state registration of the vehicle registration (state of registration, license plate number and vehicle identification number (VIN) or serial number) to the manufacturer or remanufacturer that delivered the vehicle within 60 days of providing the affidavit to the deliverer.

~~(B) Notwithstanding the forgoing provisions, it is rebuttably presumed that a vehicle registered outside California and apportioned for use within this state is not purchased for use exclusively outside this state.~~

~~(C) An affidavit for the providing of the information set forth in subdivision (b)(2)(A) is set forth in the Appendix to this regulation.~~

~~(3) Exempt Sales of Trailers for Use in Interstate, Out of State or Foreign Commerce.~~

~~(A) Notwithstanding the provisions of subdivisions (b)(1) and (b)(2), tax does not apply to the sale or storage, use, or other consumption of a trailer delivered in this state by the manufacturer, remanufacturer or dealer to a purchaser for use exclusively in interstate, out of state, or foreign commerce where all the following criteria are met:~~

~~1. The trailer is manufactured or remanufactured outside California and is removed from this state within 30 days from and after the date of delivery; or the trailer is manufactured or remanufactured within California and is removed from the state within 75 days from and after the date of delivery,~~

~~2. If the trailer is registered outside the state, 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 trailer showing the Vehicle Identification Number (VIN) or serial number; or, if the trailer is registered in-state under the PTI program, the purchaser or purchaser's agent provides the delivering manufacturer, remanufacturer, or dealer a copy of the federal document assigning or confirming the purchaser's or lessee's USDOT number, FMC number, or a copy of the current SSRS filing with the DMV. A purchaser or purchaser's agent may not use an FMC number if the purchaser has a current USDOT number. Evidence of registration outside California must be submitted to the dealer, manufacturer, or remanufacturer no later than 60 days after the timely providing of an affidavit described in subdivision (b)(3)(A)3. Evidence of a USDOT number, FMC number, or SSRS filing must be submitted with the affidavit,~~

~~3. The purchaser or purchaser's agent provides a valid affidavit to the manufacturer, remanufacturer, or dealer, that is accepted by such person in good faith, stating:~~

~~a. The name and location of the dealer from whom the trailer was purchased,~~

~~b. The name and location of the California dealer, manufacturer or remanufacturer that delivered the trailer to the purchaser and the date of delivery,~~

~~c. That the trailer was purchased for use exclusively outside the state, or exclusively in interstate or foreign commerce, or both,~~

~~d. That the trailer was removed from the state within the appropriate time periods provided for in subdivision (b)(3)(A)(1), and~~

~~e. The date of removal.~~

~~(B) An affidavit for the providing of the information set forth in subdivision (b)(3) to the deliverer is set forth in the Appendix to this regulation.~~

(c) Affidavit.

~~(1) An affidavit is properly completed if the valid where a purchaser or, in the case of a claimed section 6388.5 exemption, a purchaser or purchaser's agent, provides all information required by subdivisions (b)(2) or (b)(3), signs and dates the affidavit, and provides it to the manufacturer or remanufacturer that delivered the vehicle to the purchaser or to the manufacturer, remanufacturer, or dealer that delivered the trailer to the purchaser within 30 days after the vehicle or trailer is removed from the 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 out-of-state address of the purchaser;

(C) The name of the dealer and the address of the dealer's out-of-state location from which the vehicle was purchased;

(D) The name and address of the manufacturer or remanufacturer that delivered the vehicle to the purchaser;

(E) The date of delivery and date of removal of the vehicle from this state; and

(F) A statement that the purchaser is not a resident of California, the vehicle was purchased from the dealer's specified out-of-state location for use outside this state, and was removed from this state within 30 days after the date of delivery of the vehicle to the purchaser.

(2) A purchaser may use a form provided by the Department for use as an affidavit for the Revenue and Taxation Code section 6388 exemption. A properly completed form provided by the Department for use as an affidavit for the Revenue and Taxation Code section 6388 exemption will satisfy the requirements of subdivisions (c)(1) and (d).

(3) For transactions that include the purchase of more than one vehicle from a dealer's specified out-of-state location or trailer, the purchaser need not provide file a separate affidavit for each vehicle or trailer, but may instead append a list of the vehicles or trailers included in the transaction to one affidavit. The list must include a description of each vehicle, as required by subdivision (c)(1)(A), identifying each one by a VIN or serial number. The purchaser must, however, report and the date each vehicle or trailer was delivered and the date each vehicle was removed from this the state, and. The purchaser must also provide evidence of current out-of-state license and registration for each vehicle or USDOT number, FMC number, or SSRS filing applicable to each vehicle or trailer, as required by subdivisions (b)(42) and (b)(3).

For purposes of this regulation, it is presumed that the person who delivers a vehicle or trailer to the purchaser accepted the affidavit in good faith in the absence of evidence to the contrary.

(d) Lessors. The sale of a vehicle or trailer to a lessor qualifies for the exemptions from sales and use tax provided by Revenue and Taxation Code ~~section~~sections 6388 exemption and 6388.5 provided the sale and subsequent use of the vehicle or trailer as leased tangible personal property meets the requirements~~appropriate criteria~~ detailed in subdivision (b)~~subdivisions (b)(2) and (b)(3)~~. In addition to the information required in these subdivisions 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)(4) shows that the vehicle is registered in the lessee's name and, when applicable, documentation showing that the vehicle or trailer was registered outside the state on behalf of the lessor or lessee. If a leased trailer is registered under the PTI program, the lessor must provide the lessee's USDOT number, FMC number, or current SSRS filing.

(e) Documentation to be Maintained by Purchasers. Purchasers of vehicles shall maintain ~~internal~~ records documenting that a vehicle qualifying for the Revenue and Taxation Code section 6388 exemption was removed from this state~~taken out of California~~ within 30 days after the date of delivery~~the time mandated by statute~~ and was used exclusively outside the state. Purchasers of trailers shall maintain internal records documenting that a trailer qualifying for the Revenue and Taxation Code section 6388.5 exemption was taken out of California within the time mandated by statute and was used exclusively in out-of-state, foreign or interstate commerce. A purchaser must provide the records~~supporting documentation~~ to the Department~~Board~~ upon request.

Note: Authority cited: Sections 15570.22 and 15570.24, Government Code; Sections 20 and 7051, Revenue and Taxation Code. Reference: Sections 6388, 6388.3, 7053 and 7054~~6388.5 and 6421~~, Revenue and Taxation Code.

Appendix

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AFFIDAVIT FOR SECTION 6388 OR 6388.5 EXEMPTION FROM CALIFORNIA SALES AND USE TAX

Revenue and Taxation Code (RTC) sections 6388 and 6388.5 provide exemptions from the taxes imposed on the sale, storage, use, or other consumption of certain new and remanufactured vehicles. The RTC section 6388 exemption applies to the sale or use of certain new or remanufactured vehicles. The RTC section 6388.5 exemption applies to the sale or use of certain new or remanufactured trailers. Additional information about these exemptions and additional requirements to meet these exemptions is available on the back of this form and in Regulation 1620.1, Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce.

CHECK AND/OR FILL IN ALL APPROPRIATE BOXES AND BLANKS BELOW

I have purchased a vehicle or trailer the sale and use of which is exempt from California sales and use tax per section 6388 6388.5.

Vehicle or Trailer Information:

The vehicle is a truck, truck tractor, trailer, semitrailer, trailer coach, or auxiliary dolly, described as:

MAKE & MODEL	VIN/SERIAL NO.		YEAR	PURCHASE PRICE	UNLADEN WEIGHT
_____	_____	_____	_____	_____	_____
MANUFACTURER/REMANUFACTURER		PLACE OF			DATE OF
_____		MANUFACTURE/REMANUFACTURE			DELIVERY
_____		_____			_____

The vehicle or trailer was moved outside California within 30 75 days of delivery (check one).

Date moved: _____

Seller and Deliverer of Vehicle or Trailer:

I hereby certify that the vehicle or trailer described above was purchased from _____ (name of dealer or mfr/remfr.) located at _____ (dealer or mfr./remfr.'s address—street, city, state, zip code), and was delivered by _____ (name of California dealer or mfr/remfr.), located at _____ (California dealer or mfr/remfr.'s address—street, city, state, zip code)

Leasing and Registration Information:

The vehicle or trailer described above is is not being leased. If being leased, name and address of lessee: _____

Vehicle or trailer is licensed or registered in _____ (state where registered) (If a trailer is registered in California, provide owner's or lessee's USDOT number or FMC number)

Purchaser Information:

The purchaser is a corporation limited liability company partnership sole proprietor, which is is not a resident of California. The vehicle was purchased for use outside California (section 6388) or the trailer was purchased for use exclusively outside California or exclusively in interstate and foreign commerce, or both (section 6388.5). **If the trailer or vehicle is registered outside California, a copy of the purchaser's or lessor's out-of-state registration, or license and registration, will be provided within 60 days from the date of this affidavit. If the trailer is registered in California under the PTI program, a copy of the purchaser's or lessee's USDOT number, FMC number, or current SSRS filing is attached.**

I understand that if I do not meet the requisite exemption provisions detailed on the back of this form, I am required by the California Sales and Use Tax Law to report and pay tax, and interest and penalties (if appropriate), directly to the California State Board of Equalization, the tax to be measured by the purchase price of the above listed vehicle or trailer even though I have furnished an affidavit of exemption to the manufacturer, remanufacturer, or dealer.

PURCHASER'S NAME	_____	_____
_____	_____	_____
SIGNATURE OF PURCHASER OR PURCHASER'S AGENT	TITLE	_____
_____	_____	_____
PRINT NAME OF SIGNATOR	PHONE NUMBER (-)	DATE
_____	_____	_____

For exemption requirements and instructions on completing this affidavit, please see back of form.

**AFFIDAVIT FOR SECTION 6388 OR 6388.5 EXEMPTION FROM CALIFORNIA SALES AND USE TAX
SECTION 6388—NEW OR REMANUFACTURED VEHICLES PURCHASED FROM OUT-OF-STATE
DEALER**

Applies to the sale, storage, use, or other consumption of a new or remanufactured truck, truck tractor, trailer, or semitrailer, with an unladen weight of 6,000 pounds or more, or a trailer coach or auxiliary dolly, purchased from a

dealer located ~~outside~~ California for use ~~outside~~ California, and delivered in California by the manufacturer or remanufacturer to a purchaser who is not a resident of California. The purchaser must

1. Remove the vehicle from this state within 30 days from and after the date of delivery;

2. Provide a valid affidavit to the manufacturer or remanufacturer, that is accepted by such person in good faith, stating:

- The name and location of the out of state dealer from whom the vehicle was purchased
- The name and location of the in state manufacturer or remanufacturer that delivered the vehicle to the purchaser, and the date of delivery
- That the purchaser is not a resident of California
- That the vehicle was purchased for use exclusively outside California
- That the vehicle was removed from this state within 30 days of the delivery date, and
- The date of removal

3. Provide evidence of out of state vehicle registration (state of registration, license plate number, and VIN or serial number) to the manufacturer or remanufacturer within 60 days of providing the affidavit to the deliverer.

Notwithstanding the forgoing provisions, it is rebuttably presumed that a vehicle registered outside California and apportioned for use within this state is not purchased for use exclusively outside this state.

SECTION 6388.5 – NEW OR REMANUFACTURED TRAILERS PURCHASED FOR OUT OF STATE OR INTERSTATE COMMERCE USE

Applies to the sale, storage, use, or other consumption of a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more purchased from a California or non California dealer that was manufactured or remanufactured either within or without this state for use exclusively outside California or exclusively in interstate or foreign commerce, or both; and delivered by the manufacturer, remanufacturer, or dealer, to the purchaser in California. The purchaser or purchaser's agent must:

1. Remove the trailer from this state within 30 days from and after the date of delivery, if the trailer is manufactured or remanufactured outside California; or remove the trailer from the state within 75 days from and after the date of delivery, if the trailer is manufactured or remanufactured within California.

2. If the trailer is registered outside the state, provide the delivering manufacturer, remanufacturer or dealer a copy of the current out of state license and registration for the trailer showing the Vehicle Identification Number (VIN) or serial number. Evidence of registration outside California must be submitted to the dealer, manufacturer or remanufacturer no later than 60 days after the timely providing of an affidavit.

3. If the trailer is registered in state under the PTI program, provide the delivering manufacturer, remanufacturer or dealer a copy of the federal document assigning or confirming the purchaser's or lessee's USDOT number, FMC number, or a copy of the current SSRS filing with the DMV. The purchaser or purchaser's agent may not use the FMC number if the purchaser has a current USDOT number. Evidence of a USDOT number, FMC number, or SSRS filing must be submitted with the affidavit.

4. Provide an affidavit to the manufacturer, remanufacturer or dealer, that is accepted by such person in good faith, stating:

- The name and location of the dealer from whom the trailer was purchased
- The name and location of the California dealer, manufacturer or remanufacturer that delivered the trailer to the purchaser
- That the trailer was purchased for use exclusively outside the state, or exclusively in interstate or foreign commerce, or both

- That the trailer was removed from the state within the appropriate time periods, and
- The date of removal

INSTRUCTIONS

This affidavit must be provided to the entity delivering the vehicle or trailer no later than 30 days from the date the vehicle or trailer is taken outside California.

Fill in all sections and check all appropriate boxes. If the vehicle or trailer was sold and delivered by the same entity, write "Same" in sections for deliverer.

If a trailer is registered in California under the Permanent Trailer Identification Program (PTI), proof of a United States Department of Transportation (USDOT) number, Federal Maritime Commission (FMC) number, or current Single State Registration System (SSRS) filing must be attached to the affidavit.

If a vehicle or trailer is registered outside California, proof of out of state registration that includes the vehicle or trailer VIN or serial number must be furnished to the deliverer of the vehicle or trailer no later than 60 days after the purchaser provides the affidavit to the deliverer.

For transactions that include the purchase of more than one vehicle or trailer, you need not file a separate affidavit for each vehicle or trailer, but may instead append a list of the vehicles or trailers included in the transaction, identifying each one by a vehicle identification number (VIN) or serial number. You must, however, report the date each vehicle or trailer was removed from the state and provide copies of current out of state license and registration documents or USDOT number, FMC number, or SSRS filing applicable to each vehicle or trailer, as required.

Persons, who purchase a vehicle or trailer for the purpose of leasing it, qualify for the exemption if the lessee meets the respective exemption criteria summarized above. A lessor must provide the name and address of the lessee. On leases of trailers that qualify for PTI registration, the lessor must provide the lessee's USDOT number, FMC number, or current SSRS filing. For all other leases, the lessor must provide proof of out of state registration.

If you have questions about these exemptions or completion of the affidavit, please call (800) 400-7115.