

Tax Information

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February 2008

MOTORCYCLES Sales Tax on Street-Legal and Off-Road Vehicles

Handling Texas sales tax on sales of motorcycles requires a dealer to be aware of the distinction between street-legal vehicles and off-road vehicles. The dealer calculates the tax base for street-legal vehicles differently from the tax base for off-road vehicles. This is because the motor vehicle tax law applies to street-legal vehicles, while the sale of off-road vehicles is governed by the sales and use tax law.

This Comptroller notice is to instruct dealers on the proper tax collection, to provide guidance to those dealers who may not have collected correctly, and to address issues about the agriculture exemption for street and off-road motorcycles.

Street-legal vehicles

Street-legal motorcycles are taxed under Texas Tax Code Chapter 152, motor vehicle sales tax, at 6.25 percent state tax only. There is no local tax on motor vehicle sales. County tax assessor-collectors collect the motor vehicle sales tax at the time of vehicle titling and registration.

The tax base is the sales price of the vehicle, *excluding* the local vehicle inventory tax (VIT) on the vehicle and documentary fees. The VIT is a local property tax on the motor vehicle dealer's inventory. Texas Tax Code Section 152.002 specifically excludes the VIT from the sales price.

Since 1971, the Comptroller's office has instructed dealers that documentary fees paid for preparing and

processing documents to title and/or register a motor vehicle at the county tax office are not part of "total consideration" paid for the vehicle and not subject to motor vehicle sales tax.

Off-road vehicles

Off-road vehicles are self-propelled vehicles designed for use off public streets and highways. Examples include dirt bikes, golf carts, foreign-made miniature motorcycles, all-terrain vehicles (ATVs) and other vehicles not designed or intended by the manufacturer to meet motor vehicle registration and safety inspections.

Sales of off-road vehicles are taxed under Texas Tax Code Chapter 151, limited sales and use tax, at 6.25 percent state tax, plus local sales taxes up to 2 percent. Dealers remit this sales tax directly to the Texas Comptroller.

The tax base is the total sales price of the off-road vehicle, *including* the local VIT and documentary fee. Texas Tax Code Section 151.007's definition of "sales price" does not list the VIT or the documentary fee as exclusions from tax. Dealers are responsible for collecting sales tax on the VIT and documentary fee charged in connection with the sale of an off-road vehicle.

Due to misunderstandings regarding the taxability of documentary fees, the Comptroller is instructing dealers to collect sales tax on documentary fees paid for off-road vehicles on a prospective basis, effective Nov. 1, 2006. Any tax correctly collected cannot be refunded. However, if a dealer did not collect tax on documentary fees paid

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for off-road vehicles prior to Nov. 1, the Comptroller will not hold the dealer liable for this error.

Agriculture exemption

Chapter 151 provides a limited sales tax exemption for equipment used in the production of farm and ranch products. The question arises whether off-road motorcycles and ATVs purchased by farmers and ranchers could qualify for the agriculture exemption.

The farm and ranch exemption is limited to equipment exclusively used in the production of agricultural products for sale. Off-road motorcycles and dirt bikes are presumed not to qualify for the exemption. Conversely, ATVs used exclusively to spray crops or to feed cattle will qualify for the exemption.

A customer claiming an exemption on an ATV purchase must complete an exemption certificate in full, including the reason for the exemption. A dealer can request either of the following two items from the customer to confirm the exemption claim for agriculture production in addition to, or as part of the information provided on, the exemption certificate: (1) the customer's Schedule F of the federal tax return or (2) the customer's permit number as shown on Comptroller Form 06-710, *Texas Agricultural*

Signed Statement for Purchasing Tax Free Dyed Diesel Fuel (this permit number begins with AG followed by 8 numbers). With such documentation, the dealer will be relieved from the responsibility of collecting tax on that sale. If it is later found that the customer did not use the ATV in an exempt manner, the customer will be held liable for the tax, penalty and interest on that purchase.

A dealer can check for a customer's fuels permit number by using the "Fuels License Search" or the alphabetical listing of the "Signed Statement Registration Numbers" located on the Comptroller's Web site at www.window.state.tx.us/taxinfo/fuels/diesel.html.

A dealer can elect to deny the exemption claim on a purchase but assign the right to a refund to the customer, so that the customer can pursue a tax refund from the Comptroller's office. The dealer can use Form 00-985, *Assignment of Right to Refund*, available on the Comptroller's Web site at www.window.state.tx.us.

Questions

If you have any questions about collecting motor vehicle or limited sales tax, you can contact the Comptroller's office by e-mail at tax.help@cpa.state.tx.us. or call toll free at (800) 252-1382.