

Florida

Department of Highway Safety and Motor Vehicles

Division of Motorist Services

PROCEDURE TL-08	SUBJECT: SALES AND USE TAX -- TRANSFER OF MOTOR VEHICLES, MOBILE HOMES, AND VESSELS
<p>DESCRIPTION: This procedure provides information and instructions to guide employees and agents of the department in determining proper sales tax to be collected when transferring ownership of a motor vehicle, mobile home, or vessel.</p> <p>PROVISIONS OF LAW: This procedure is governed by the following:</p> <p> Chapter 212, Florida Statutes Chapter 320, Florida Statutes Chapter 605, Florida Statutes Chapter 607, Florida Statutes Chapter 617, Florida Statutes Section 193.075, Florida Statutes Section 212.02(15)(a), F.S Section 212.06(10), Florida Statutes Section 212.08(3), Florida Statutes Section 212.08(7)(1), Florida Statutes Section 212.08(7)(m), Florida Statutes Section 320.13, Florida Statutes Section 320.015(2), Florida Statutes Section 320.08(3)(d), Florida Statutes Section 320.081, Florida Statutes Part 1 of Chapter 634, Florida Statutes Rule 12A-1, Florida Administrative Code Rule 12A-1.007(25), Florida Administrative Code Rule 12A-1.064(4), Florida Administrative Code Florida Department of Revenue Tax Information Publication - Expansion of the Exemption for Certain Farm Equipment Florida Department of Revenue Tax Information Publication - Exemption for Farm Trailers Weighing 12,000 Pounds or Less or a qualified nonprofit organization under, </p> <p>FORMS: Form HSMV 82040 Application for Certificate of Title with/without Vehicle Registration Form HSMV 82041 Application for Vehicle/Vessel Certificate of Title and/or Registration Form HSMV 82091 Reassignment Supplement to a Certificate of Title Form HSMV 82994 Motor Vehicle Dealer Title Reassignment Supplement Form DR-123 Department of Revenue Affidavit for Partial Exemption of Motor Vehicle Sold to a Resident of Another State </p>	
<p><i>Revision(s) to this Procedure: Reformatted procedure, changed DOR link in Section II, Note, Page 3, and Section III, J, Page 10, form DR-123, Affidavit for Partial Exemption of Motor Vehicle Sold for Licensing in Another State, and updated DOR link to Motor Vehicle Sales Tax Rates by State, Pages 4, 10, and 17.</i></p>	
EFFECTIVE DATE Immediately	REVISION DATE 04/11/16

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DOCUMENTATION, AND SPECIAL INSTRUCTIONS:

A. SALES TAX COLLECTIONS:

1. Florida law requires sales tax to be collected on the sales price of a motor vehicle, mobile home, or vessel. In the case of a straight sale, six (6) percent tax will be collected on the total sales price. Straight sales are those sales that do not involve a trade-in of a motor vehicle, mobile home, or vessel. Effective July 1, 2010, the maximum total sales tax and discretionary sales surtax to be collected on a vessel is \$18,000. See the Florida Department of Revenue Tax Information Publication 10A01-07 at the following link:
<http://dor.myflorida.com/dor/tips/tip10a01-07.html>.
2. In the case of sales involving trade-ins at a dealership, sales tax must be collected on the amount of the difference between the trade-in allowance of the item being traded and the sale price of the motor vehicle, mobile home or vessel being purchased. The trade-in motor vehicle, mobile home or vessel may be provided by a third-party other than the purchaser. The trade-in motor vehicle, mobile home or vessel does not have to be titled in the name of the purchaser, to be used for trade-in credit, as long as the motor vehicle, mobile home or vessel trade-in and the motor vehicle, mobile home or vessel purchase are part of a single transaction. In the case of a casual sale, sales tax must be collected on the amount of the difference between the trade-in allowance of the item being traded and the sale price of the motor vehicle, mobile home, or vessel being purchased.

Items being traded must be a motor vehicle, mobile home, or vessel.

In addition to the six (6) percent sales tax, some counties impose a local discretionary sales surtax. See the Florida Department of Revenue Discretionary Sales Surtax Information at the link below for more information:
http://dor.myflorida.com/Forms_library/current/dr15dssr15.pdf
3. Discretionary sales surtax is calculated on motor vehicles, mobile homes, or vessels when the residence address of the purchaser on the certificate of title or registration is located within a discretionary surtax county. Discretionary sales surtax only applies to the first \$5,000 of the sales price.
4. Sales tax exemption information may be specified on one of the following forms:
Form [HSMV 82040](#), Application for Certificate of Title with/without Vehicle Registration, accurately completed; OR

Form HSMV 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, accurately completed.
5. If a motor vehicle, mobile home, or vessel transaction is handled by a dealer, the dealer must collect sales tax and any discretionary sales surtax, if applicable, and advise the department of the amount of sales tax collected. This may be done in the following manner:
 - a. The amount of tax collected may be shown on the Florida Certificate of Title being transferred.

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- b. The amount of tax collected may be shown on forms [HSMV 82091](#), Reassignment Supplement to a Certificate of Title, or [HSMV 82994](#), Motor Vehicle Dealer Title Reassignment Supplement, when applicable.
- c. On new motor vehicles, mobile homes, or vessels or those with out-of-state proof of ownership sold by a dealer, the amount of tax collected may be shown on form [HSMV 82040](#), Application for Certificate of Title with/without Vehicle Registration.

When a dealer collects sales tax, they must enter their firm name, dealer license number (if applicable), sales tax registration number and signature when completing one of the above forms. If sales tax is not applicable, the dealer's information (dealer's name, address and dealer's license number, if applicable) must still be shown on the reassignment document, as this information is required to be entered into FRVIS.

- d. A sale by a Florida motor vehicle dealer to a resident of another state, within the United States, is taxable in an amount equal to the sales tax which would be imposed on such sale in the purchaser's state of residence. For more information, see the following link: <http://dor.myflorida.com/dor/tips/tip16a01-01r.html>.

However, the amount of sales tax collected from the out of state resident must NOT exceed Florida's state sales tax rate of six (6) percent. No Florida discretionary sales surtax is imposed on these types of sales. When the "Motor Vehicle Sales Tax Rates by State and Tax Credit Application" indicates a state charges a "usage" or "excise" tax, sales tax is not applicable (**See Miscellaneous Information F. on page 12**).

Example: Another state charges 0% sales tax on new and used motor vehicles but charges a 6% motor vehicle "usage tax."

Action: Florida would not charge the out of state resident sales tax for the motor vehicle.

At the time of the sale the purchaser shall execute a notarized statement of his intent to license the vehicle in his state of residence within 45 days from the date of purchase, and

1. Pay Florida sales tax to the dealer making the sale or to the appropriate tax collection agency in the case of a private sale, in an amount equivalent to the sales tax in the purchaser's state of residence,
and
2. Furnish the dealer making the sale or the tax collection agency with a signed copy of the notarized statement which the dealer shall retain in his/her records,
and
3. Submit the original notarized statement to the appropriate sales tax collection agency in his state of residence.

The Department of Revenue prescribes form [DR-123](#), Affidavit for Partial Exemption of a Motor Vehicle sold for Licensing in Another State, to be completed by the purchaser and furnished to the selling dealer or appropriate sales tax collection agency. Click the following link for the Department of Revenue form [DR-123](#).

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<p>B. SALES OR USE TAX IS APPLICABLE TO THE FOLLOWING CERTIFICATE OF TITLE TRANSACTIONS UNLESS AN EXEMPTION APPLIES (See C, pages 7 -9):</p> <ol style="list-style-type: none">1. Transfers from an individual to an individual.2. Transfers from a partnership to an individual.3. Transfers from a partnership to a corporation.4. Transfers from an individual to a corporation.5. Transfers from a corporation to a corporation (unless transferred by reason of corporate consolidation or merger).6. Transfers from a corporation to an individual, even if the individual is the sole shareholder of the corporation.7. When assuming a lien (transfer of equity). The amount paid and any unpaid balance due the seller or lienholder and assumed by the transferee are taxable.8. Transfers from a sole proprietorship which incorporates to the new corporation resulting from the incorporation. Any amount paid and any unpaid amounts assumed are taxable unless the presumption of taxability is overcome. In the absence of a stated consideration, the fair market value will be regarded as the basis for the computation of sales tax.9. When title to a boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government is transferred from a partnership to one of the individual partners, or from one of the individual partners to a partnership, or from one partnership to another partnership, it is taxable based upon the actual consideration, or if the consideration is not stated, on the fair market value of the vehicle.10. When title to a boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government is transferred from an individual, who may or may not be a stockholder, to a corporation, or from a corporation to an individual who may or may not be a stockholder, or from one corporation to another, or from a partnership to a corporation, or from a corporation to a partnership, it is presumed that a consideration flows from the transferee to the transferor, and if no consideration is stated, then it shall be presumed to be the fair market value of the vehicle. This is true even when the two corporations are owned by the same stockholders.11. Transfer to or from a trust for a consideration is taxable based on the cash or equivalent paid in exchange for the transfer plus the amount of any outstanding lien assumed. (It is exempt only if transferred for no consideration.)12. Motor vehicles, mobile homes, or vessels won through a contest are subject to sales tax on the retail value of the motor vehicle, mobile home, or vessel, unless the sales tax has been paid on the motor vehicle, mobile home, or vessel by the donor of the prize.	
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	<p>13. When the motor vehicle use is classified as a taxicab or the vessel use is classified as a water taxicab.</p> <p>14. All permanent residents of Florida must pay sales and use tax when titling or registering motor vehicles, mobile homes, or vessels in Florida. (<u>See D, Taxing Vehicles previously Titled out of State on page 10</u> for motor vehicles, mobile homes, or vessels registered in another state prior to being registered in Florida.)</p> <p>An exemption from payment of sales and use tax may apply when a member of the United States military, who is a permanent Florida resident stationed outside Florida, purchases a motor vehicle or vessel outside of Florida and titles and registers the motor vehicle or vessel in Florida. The military member must provide an affidavit (example shown as Exhibit C) attesting to all the exemption requirements.</p> <p>Another exception may also apply to individuals who are temporarily living in another state for six months or more, such as a student going to school in another state. The affidavit would also be required from the individual explaining the circumstances and stating they will not bring the motor vehicle or vessel into Florida for at least 6 months. This affidavit would be in addition to their other required documentation. If in doubt if the person is exempt, contact the Department of Revenue for confirmation.</p> <p>15. In the case of a casual sale when a temporary license plate is issued so that the motor vehicle can be taken to port to send overseas or taken to another state for title issuance. However, motor vehicles purchased by residents of other states are subject to the partial exemption if the motor vehicle is to be licensed in its home state within 45 days and the purchaser completes the partial exemption affidavit (form DR-123). <u>See, A. Sales Tax Collections, 5. d. on page 4.</u></p> <p>16. The removal of one party's name from a title in which the parties are joined by "OR" is not a taxable transfer between the parties. In the case of parties joined by "OR," each party is considered to own 100% of the motor vehicle, mobile home, or vessel; therefore, the removal of one party does not result in any additional ownership being bestowed on the remaining party. It is immaterial whether the party being removed from the title gives consideration to the party remaining on the title. The removal, addition, or transfer of one party's name from a title in which the parties are joined by "AND" is generally taxable unless one of the exemptions applies.</p>
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C. THE FOLLOWING SITUATIONS ARE EXEMPT FROM SALES TAX:

1. Even trade of another motor vehicle, mobile home, or vessel.
2. Trade down.
3. Divorce, a copy of the Divorce Decree must be submitted with the application for certificate of title.
4. Inheritance.
5. Gift (No lien assumed). This is a general rule when, at the time of transfer, no lien is assumed, and it is a gift from one individual to another individual.

However, a title transfer of a motor vehicle to a business entity from another business entity, to an individual from a business entity, or to a business entity from an individual is considered a gift **ONLY** when the presumption of taxability is overcome. The determination of whether this exemption applies must be made by the Florida Department of Revenue. The customer would be required to apply for a refund of the tax paid by submitting the necessary documentation proving the exemption under ([FAC rule 12A-1.007\(25\)](#)) directly to the Florida Department of Revenue.
6. Transfer of certificate of title by a dissolved corporation or limited liability company to one of its stockholders or managing members as part of the stockholder's or member's ratable portion of the corporation's assets. It does not constitute a sale of a motor vehicle or vessel by the dissolved corporation to the stockholder.
7. When a Florida licensed motor vehicle dealer or a vessel dealer applies for a Florida Certificate of Title in the dealership's name with or without a lien and the motor vehicle or vessel is being held in inventory for sale in the regular course of business, or is being operated in connection with such dealer's business with a dealer's license plate pursuant to [section 320.13, F.S.](#), if applicable.
8. Transfer of a certificate of title into the name of the surviving corporation by reason of corporate consolidation or merger in accordance with [Chapter 607](#) or [617, F.S.](#), or a reorganization as defined in section 368(a)(1), of the Internal Revenue Code, solely in exchange of stock.
9. When a corporation simply changes its name and files the change of name with the Florida Department of State. A copy of the name change documents must be attached to the application for certificate of title.
10. Redemption of a repossessed motor vehicle by the original customer or co-owner named on the title prior to the repossession, who defaulted on the loan, is not a sale and is not taxable (provided the redemption occurs within 90 days of the repossession).
11. Enrolled members of the Miccosukee or Seminole Tribe of Florida may purchase a motor vehicle, vessel, or mobile home exempt from tax when:
 - 1) the sale and delivery take place on tribal trust land or reservation of either the Seminole Tribe of Florida or the Miccosukee Tribe;
 - 2) the purchaser is a permanent resident of the reservation or trust land of the tribe of which the purchaser is an enrolled member; and

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<p>3) the individual purchaser displays a tribal identification card or letter issued by his or her tribe. The office handling such transaction must maintain a record of the sale, including the name of the customer, date of the sale, copy of tribal card or letter, description of the motor vehicle sold, and the amount of each sale.</p> <p>If delivery of the vehicle does not take place on the reservation, sales tax is due.</p> <p>12. An outboard motor is not included in the sales price of a vessel if the sale was made by a non-dealer, and the outboard motor is separately itemized. The vessel is still subject to sales tax.</p> <p>In the event of such a transaction, a copy of the executed bill of sale must accompany the title transfer application in order to document the reason for the payment of less than the full amount of the sales tax based on the assignor's total selling price recorded on the title document. The above exception is limited to casual sales between individuals. The sales tax exemption on the motor provisions of the exemption applies only to outboards.</p> <p>13. Any Off-Highway vehicle that is used exclusively on a farm or in a forest for agricultural purposes is exempt from sales tax, pursuant to section 212.08(3), Florida Statutes. See Exhibit D for a suggested tax exemption certificate.</p> <p>14. Transfer of a certificate of title from a partnership to one of the partners as part of the final dissolution of the partnership.</p> <p>15. The transfer of a motor vehicle title to a limited liability company pursuant to a consolidation or merger in accordance with Chapter 605, Florida Statutes, is not subject to tax.</p> <p>16. By order of the court which specifically awards the vehicle, vessel, or mobile home.</p> <p>17. Any parts, special attachments/lettering, and other like items added or attached to tangible personal property (e.g., motor vehicles) to assist a person with special needs (such as a wheelchair lift) are exempt when purchased pursuant to an individual prescription. The prescription signed by the certifying physician must be submitted with the application for this exemption.</p> <p>When purchased without an individual prescription, these items are subject to tax. However, the motor vehicle and the standard or optional equipment available on the motor vehicle remain subject to tax. <u>For more information see FAC Rule 12A-1.020(8). Select the word document for final notice adopted effective 07/12/2010 and scroll to (8).</u></p> <p>18. Motor vehicles sold by religious institutions and donated property (motor vehicles) sold by nonprofit organizations whose primary purpose is to provide special educational, cultural, recreational, and social benefits to minors are exempt. Tax cannot be imposed in the form of a use tax on the purchaser. Therefore, the transfer of title of a motor vehicle from a religious institution under section 212.08(7)(m), F.S. or a qualified nonprofit organization under section 212.08(7)(l), F.S., to another party is not subject to tax. For more information, see the Florida Statutes named above and see the DOR TIP at: DOR TIP-02A01-27.</p>	
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<p>The exempt religious institution or qualified nonprofit organization should provide the purchaser with a bill of sale identifying the exempt religious institution or qualified nonprofit organization and its Consumer's Certificate of Exemption number. The Consumer's Certificate of Exemption number will identify the entity as a religious institution by the last two digits of the number being 55, or a qualified Youth/Minor nonprofit organization by the last two digits being 60.</p> <p>Using form HSMV 82040, Application for Certificate of Title With/Without Registration, the purchaser should check the "Other" box under Section 9, Sales Tax Exemption Certification, and make the notation "Exempt under section 212.08(7)(m), F.S." for a sale by a religious institution, or "Exempt under section 212.08(7)(m), F.S." for a sale by a qualified nonprofit organization. The religious institution's or nonprofit organization's Consumer's Certificate of Exemption number should be noted on the application.</p>	
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D. TAXING VEHICLES PREVIOUSLY REGISTERED OUT OF STATE:

The owner of a motor vehicle, mobile home, or vessel who purchased it in another state, territory of the United States or the District of Columbia, six months or more prior to the time the motor vehicle, mobile home, or vessel was brought into this state is not subject to the six (6) percent Florida sales or use tax or local discretionary sales surtax, provided that the owner was subject to the taxing jurisdiction of the other state, territory, or District of Columbia. Documentary evidence must be shown that the motor vehicle, mobile home, or vessel was used for six months or more in such jurisdiction.

If the motor vehicle, mobile home, or vessel was purchased and used less than six months in another state, territory of the United States or the District of Columbia, the full amount of the six (6) percent Florida sales or use tax and local discretionary sales surtax is required to be paid before title and registration can be issued by the department.

However, a credit is allowed for a like tax paid in another state, territory of the United States or the District of Columbia, against the amount of Florida sales or use tax and local discretionary sales surtax.

See the Department of Revenue Motor Vehicle Sales Tax Rates by State at the following link: <http://dor.myflorida.com/dor/tips/tip16a01-01r.html>.

For credit allowed, ONE of the following would apply:

1. If the credit is equal to or greater than the amount imposed by this state, no additional tax is due.
2. If the credit is less than the amount imposed by this state, only the difference between the two would be due.

If a motor vehicle, mobile home or vessel was purchased in a foreign country, six (6) percent Florida sales or use tax and local discretionary sales surtax is required to be paid before a certificate of title and registration can be issued by the department. The amount upon which the tax is applied is the greater of the amount of the outstanding lien on the motor vehicle, mobile home, or vessel or the fair market value of the motor vehicle, mobile home or, vessel on date of entry. No credit is allowed for any sales or use tax paid to a foreign country.

When an active member (or his/her spouse) of the United States Armed Forces imports his/her motor vehicle from a foreign country, they are exempt from use tax if EACH of the following are met:

- The vehicle was purchased and used in a foreign country for six months or longer before being imported into Florida.
- The vehicle is being titled or registered in Florida for personal use by the active member and/or his/her spouse.
- Member provides proof of active military status. If the vehicle is being titled or registered to include the member's spouse or to the member's spouse, verification of the spouse's relationship to the active member is required.

If a vehicle/vessel was originally titled in Florida (sales tax was paid); was taken to another country and is returning from that country in the same owner's name, sales or use tax would NOT be due.

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<p>E. TAXING MOBILE HOMES:</p> <p>The transfer of a mobile home which bears a “MH” decal issued under the provisions of section 320.081, Florida Statutes, Florida Statutes, and which was purchased as living accommodations or for rental as living accommodations, is taxable. Transfers of mobile homes which have “RP” decals are exempt provided the land and mobile home are sold together.</p> <p>Taxation on mobile homes under section 193.075, F.S., as tangible personal property does not relieve the owner from the requirement of buying a mobile home decal under section 320.015(2), Florida Statutes.</p>	
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MISCELLANEOUS INFORMATION:

- A.** Credit shall be given for a like tax paid on a motor vehicle or vessel in another state including local taxes; i.e., county and/or city, as long as the tax is legally imposed on the sale of the motor vehicle or vessel. For example, a local property or ad valorem tax imposed on a motor vehicle or vessel in another state would not be a like tax for Florida's credit provisions.
- B.** For a licensed common carrier to obtain the "partial sales tax exemption (at the time of purchase)," it must extend a copy of its Sales and Use Tax Direct Permit that was issued by the Department of Revenue. Refer to [Rule 12A-1.064\(4\), Florida Administrative Code](#). The carrier must have the permit issued by the Department of Revenue prior to the purchase of the vehicle.
- C.** A "Definitions" page is attached as Exhibit A.
- D.** For information on "Discretionary Sales Surtax" (for each applicable county) visit the Department of Revenue website at the following link:
http://dor.myflorida.com/Forms_library/current/dr15dssr15.pdf.
- E.** To view "Florida Department of Revenue Tax Information Publications" go to the Department of Revenue's website located at: <http://dor.myflorida.com/dor/tips/>.
- F.** Visit the Department of Revenue's website for A schedule of "Sales Tax Rates and Tax Credit Application."
- G.** "Frequently Asked Questions and Answers" is attached to this procedure as Exhibit B.
- H.** A "Certificate of Entitlement for U.S. Military Service Personnel (Currently Stationed in a state other than Florida) Claiming an Exemption from Florida Sales Tax" is attached as Exhibit C.
- I.** For the Affidavit for Partial Exemption of Motor Vehicle Sold for Licensing in Another State, see form [DR-123](#) at the Department of Revenue's website.
- J.** An "Example of a Suggested Purchaser's Exemption Certificate for Certain Power Farm Equipment" is attached as Exhibit D.
- K.** Effective July 1, 2015, sales tax may not be imposed on that portion of the sales price below \$20,000 for a trailer weighing 12,000 pounds or less purchased by a farmer for exclusive use in agricultural production or to transport farm products from his or her farm to the place where the farmer transfers ownership of the farm products to another. The exemption is not forfeited by using a trailer to transport the farmer's farm equipment. The exemption does not apply to the lease or rental of a trailer. The exemption will apply whether or not the trailer is licensed under [Chapter 320, Florida Statutes](#), for highway use.

Example: Farmer purchases a cattle trailer weighing less than 12,000 pounds for a purchase price of \$26,000.00 for exclusive use in agricultural production or to transport cattle from his or her farm to a place where the cattle are sold. Sales tax will be imposed only on the purchase price that exceeds \$20,000.00, which in this example is \$6,000.00.

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The exemption will not be allowed unless the purchaser furnishes the seller a written certificate that the purchased items qualify for the exemption under [section 212.08\(3\), Florida Statutes](#).

An "Example of a Suggested Exemption Certificate For Farm Trailers Weighing 12,000 Pounds or Less" is attached as Exhibit E.

L.

Rebates provided by manufacturers to purchasers of tangible personal property are not discounts allowed between the dealer and the purchaser. The initial purchase of the item and the honoring of a rebate claim by the manufacturer are two separate and distinct transactions. Sales tax is calculated on the total sales price, without any deduction for the manufacturer's rebate. However, when a discount is issued by the dealer to the purchaser, sales tax is calculated on the price of the vehicle after the discount is applied.

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EXHIBIT A

DEFINITIONS

DISCOUNT	A discount is a portion of the selling price that is deducted in advance of the payment by the dealer. Discounts are NOT taxable.
DISCRETIONARY SALES SURTAX	Additional tax imposed by certain counties on motor vehicles, mobile homes, and vessels purchased by residents of that county.
REBATE	A rebate is a portion of the selling price that is given back to the buyer by either the manufacturer or the dealer after the payment of the full invoice amount. Rebates are taxable.
SALES TAX	A tax imposed by the state of Florida on motor vehicles, mobile homes and vessels sold in the state of Florida (sales tax is collected on the purchase price of the motor vehicle, mobile home or vessel less the retail value of the trade-in).
SERVICE WARRANTY	Any contract which indemnifies the holder of the contract for the cost of maintaining, repairing or replacing tangible personal property. This term includes motor vehicle warranties issued under Part 1 of Chapter 634, Florida Statutes .
USE TAX	A tax imposed by the state of Florida on the purchase of a motor vehicle, mobile home or vessel which was not purchased in Florida, but brought into and used in Florida during the first six months of ownership. Proof of an actual sales tax paid in other states may be allowed as a credit against this use tax. Motor vehicles or vessels previously registered in a foreign country are subject to the full use tax regardless of how long they have been owned or how much tax was paid in the foreign country. See the Department of Revenue Motor Vehicle Sales Tax Rates by State at the following link: http://dor.myflorida.com/dor/tips/tip16a01-01r.html .

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EXHIBIT B

FREQUENTLY ASKED QUESTIONS AND ANSWERS

NOTE: When tax is due, any county imposed discretionary sales surtax is also due.

1. Q. If a lienholder has released the title to add a name that is not on the original loan and is not being added to the loan, is sales tax due? (Example: Title is in the mother's name with an existing lien and lienholder releases the title to add the daughter's name, but the daughter's name is not being added to the loan.)
A. In order to have an application of sales tax, there first must be a sale of tangible property. Under the definition of the term "sale" in [section 212.02\(15\)\(a\), F.S.](#), a sale must involve the transfer of title or possession, or both, of tangible property for a consideration. Therefore, unless the daughter has paid or will pay consideration to the mother in the form of money, property, services, or other things of value to have her name added on the title, there is no consideration and, hence, no "sale" by statutory definition. Since there is no "sale," sales tax is not required.
2. Q. If a name is being added to a title and the loan, is sales tax due?
A. If the new party is being added to the loan with only joint liability, then the tax would be measured on one half of the outstanding balance of the underlying note at the time of the transfer, plus the amount of any cash or the equivalent paid in exchange for the transfer.

Joint Liability means the party being added is only responsible for their proportionate share of the outstanding liability. If there are 2 parties involved, the new party being added will be assuming 1/2 of the outstanding liability and tax would be due on that amount.

If the new party is being added to the note with joint and several liability, then the tax would be measured on the full outstanding balance of the underlying note at the time of the transfer, plus the amount of any cash or the equivalent paid in exchange for the transfer.

Joint and several liability means all parties are 100% liable for the outstanding liability. The party being added would owe tax on the full amount of the liability.

NOTE: Lenders rarely, if ever, authorize loans with joint liability. The tax collection agent should assume that the loan is being given with joint and several liabilities, and the customer will bear the burden of proving otherwise.

3. Q. A customer is given a motor vehicle, mobile home, or vessel as a gift. They borrow money using the motor vehicle, mobile home or vessel as collateral and proceed to process the title transfer into their name, recording the lien. Is sales tax due?
A. If the donor (seller) is also the lender (lienholder), the transaction is viewed as a sale and sales tax is due. However, if the donor (seller) of the motor vehicle, mobile home or vessel is not the lender (lienholder), then the "gift" is not viewed as a sale and sales tax would not be required.
4. Q. If a motor vehicle, mobile home or vessel was purchased (more than 6 months ago) in another state and never titled or registered in the customer's name, would the customer pay sales tax on the purchase price or the fair market value?
A. If the customer has evidence of the purchase price of the motor vehicle or vessel, sales tax would be due on the purchase price. However, if the taxpayer does not provide evidence of the purchase price, sales tax would be due on the fair market value of the motor vehicle or vessel.

FREQUENTLY ASKED QUESTIONS AND ANSWERS

5. Q. If a motor vehicle/vessel is purchased and driven, or shipped to Florida from a foreign country by a Florida resident, is the resident subject to a Florida title and sales or use tax?
- A. Yes.
- If the foreign title is signed over for transfer to the Florida resident, sales tax would be due on the purchase price.
 - If the foreign title being submitted is already in the Florida resident's name, a use tax would be due on the value of the motor vehicle/vessel at the time of application for title in this state. A credit is not allowed for any taxes paid to a foreign country.
6. Q. If a motor vehicle or vessel is driven, or shipped to Florida from a foreign country by a non-resident person, does the non-resident have to take title while here in Florida and pay a use tax before selling the motor vehicle or vessel?
- A. No. However, the Florida resident purchasing the motor vehicle or vessel from the foreign resident would pay sales tax on the purchase price.
7. Q. If a Florida resident is given a motor vehicle or vessel as a gift (by a resident from a foreign country) or trades even for the motor vehicle/vessel is a use tax due?
- A. No use tax is due in either situation.
8. Q. If an individual brings a motor vehicle or vessel in from out of the country and trades it to a Florida dealer, is sales or use tax due?
- A. No.
9. Q. If an individual transfers a certificate of title to add the name of his/her (sole proprietor) taxi cab company to the title, is sales tax due?
- A. No. Even though the motor vehicle or vessel will be used as a taxi, sales tax would not be due. This type of transaction is not a true transfer of ownership, as only the individual's business name is being added to his/her title.
10. Q. When a motor vehicle, mobile home or vessel is purchased in the state of Florida with a service warranty, is the service warranty taxable? (See Exhibit A for the definition of service warranty.)
- A. Yes, sales tax is due. However, the \$5,000 limitation for discretionary sales surtax does not apply to the service warranty.
11. Q. When a motor vehicle, mobile home or vessel is purchased in another state (and is being titled in Florida) with a service warranty, should sales/use tax be collected on the service warranty? (See Exhibit A for the definition of service warranty.)
- A. No.

EXHIBIT B (page 3, cont.)

12. Q. Does a church, synagogue, etc. have to file with the Department of Revenue (DOR) to be exempt from sales tax?
- A. Yes. The applicable entity must obtain a “Consumer’s Certificate of Exemption” from DOR in order to claim the exemption. If a non-exempt entity is included as the purchaser, the exempt entity would not be exempt from payment of sales tax.
13. Q. If an out of state resident purchases a motor vehicle in Florida and needs a Florida temporary license plate to drive the motor vehicle back to their home state (which is not reciprocal with Florida), what is the amount of sales tax that should be collected?
- A. The amount of sales tax due would be equivalent to the sales tax in the purchaser’s state of residence (see <http://dor.myflorida.com/dor/tips/tip16a01-01r.html>), even if that state is not reciprocal with Florida, provided a form DR-123 is completed. However, the amount of sales tax collected from the out of state resident must NOT exceed Florida’s state sales tax of six (6) percent, even if the motor vehicle was purchased from a Florida county with a discretionary sales surtax.
- It should be pointed out to the customer there is not a reciprocal agreement between their home state and Florida. Therefore, they would be required to pay the taxes again in their state, if their state does not allow credit for taxes paid to another state.
14. Q. If a purchaser receives a motor vehicle, mobile home, vessel as an even trade from the seller for labor, a horse, etc; would the purchaser be exempt from sales tax?
- A. No, sales tax would be due on the fair market value of the motor vehicle, mobile home or vessel. The even trade item(s) must be a motor vehicle, mobile home, vessel.
15. Q. When a motor vehicle is purchased, can a party purchasing a motor vehicle from a dealer use, as credit, a trade-in motor vehicle owned by a third party?
- A. There is no provision in [Section 212.09, Florida Statutes](#), which requires that a motor vehicle accepted in trade on the purchase of another new or used motor vehicle, has to be titled in the name of the party making the purchase. Therefore, a third party may offer its vehicle as a trade-in on the purchase of a motor vehicle by another related or unrelated party, so long as the purchase and trade-in are structured as a single transaction. In order for the purchase and trade-in to be considered a single transaction, the third party owning the vehicle being offered as a trade-in must assign the title directly to the motor vehicle dealer making the sale, and such motor vehicle must be identified on the sales contract as the trade-in motor vehicle.
16. Q. If a member of the military or his/her spouse purchases a motor vehicle in another country while assigned there and now brings the motor vehicle into the state, will sales tax be applicable?
- A. Not if certain conditions are met. View the applicable conditions at the Department of Revenue website: <http://dor.myflorida.com/dor/tips/tip15a01-14.html>.
17. Q. Are all transfers between a married couple exempt?
- A. Yes, the transfer of title between a married couple of marital property is exempt. This is true even if there is an outstanding lien. This exemption does not extend to other members of the family, unless the transfer is a gift.

EXHIBIT B (page 4, cont.)

18. Q. Can a sales tax exemption allowance be given for a leased motor vehicle that was traded in by the lessee towards the purchase of a non-leased motor vehicle?
- A. No, because the lessee is not the actual owner of the motor vehicle that was being traded in.
19. Q. Can a Florida dealer sell a vehicle tax exempt to a purchaser if the dealer arranges the shipment of the vehicle?
- A. Yes, as long as the dealer keeps a copy of the Bill of Lading from the US Customs office and a [DR-123](#) signed by the purchaser.
20. Q. Can a Florida dealer sell a vehicle tax exempt to a purchaser and be issued a Florida Fast Title for US Customs purposes if the dealer arranges the shipment of the vehicle?
- A. Yes, as long as the dealer keeps a copy of the Bill of Lading from the US Customs office and a [DR-123](#) signed by the purchaser. The buyer must state the vehicle/vessel will not be used on the highways or waterways of the State of Florida.
21. Q. John owns a trailer that weighs 700 pounds and has had it registered in Florida. He has sold the trailer to Steven and has given him a bill of sale. Steven does not want to register the trailer as it will not be used on the public roads of Florida. Steven has now sold the trailer to Sam. Sam is registering the trailer in Florida and has a bill of sale from Steven and the bill of sale from John to Steven. Does sales tax have to be collected on the sale from John to Steven before we can register the trailer in Sam's name?
- A. No. Steven was not required to register the trailer because it was NOT being used on the public roads of Florida. Therefore sales tax is not required to be collected on the sale from John to Steven. See FAC rule [FAC rule12A-1.007](#) for more information.

EXHIBIT C

Certificate of Entitlement for U.S. Military Service Personnel (Currently Stationed in a State Other Than Florida) Claiming an Exemption from Florida Sales Tax

I _____, am a military member who has purchased the
(Name of Military member)
motor vehicle/vessel listed below in _____ while stationed outside of Florida:
(State)

(Year) (Make of Vehicle/Vessel) (Vehicle/Vessel identification Number)

I am certifying the following:

- I am a resident of the state of Florida.
- I am currently residing outside of Florida pursuant to military orders.
- The vehicle/vessel will be held outside of Florida for longer than 6 months.
- I will not bring the vehicle/vessel into the state of Florida within 6 months from the date of purchase, even for temporary reasons.
- I recognize that I owe tax to the state in which the motor vehicle was purchased, unless a specific exemption applies.
- I do not intend to avoid sales or use tax in any state by registering the vehicle/vessel in Florida.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Under the penalties of perjury, I declare that I have read the foregoing Certificate of Entitlement and the facts stated in it are true.

(Date)

(Signature of Military Member)

EXHIBIT D

Example of a Suggested Purchaser's Exemption Certificate for Certain Power Farm Equipment

This is to certify that the power farm equipment identified below, purchased on or after

_____ from _____

(date of purchase)

(Selling Dealer's Business Name)

was purchased, rented, licensed, or leased for the following purpose (check a box below):

() Power farm equipment for exclusive use on a farm or in a forest in the agricultural production of crops or products as produced by those agricultural industries included in [Section 570.02\(1\), Florida Statutes](#).

or

() Power farm equipment for exclusive use in fire prevention and suppression work for such crops or products, as produced by those agricultural industries included in [Section 570.02\(1\), Florida Statutes](#).

POWER FARM EQUIPMENT:

I understand that if I use the equipment for any purpose other than the one stated, I must pay tax on the purchase or lease price of the taxable item directly to the Department of Revenue. I understand that if I fraudulently issue this certificate to evade the payment of sales tax, I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony. The exemption specified by the purchaser may be verified by calling 1-800-352-3671.

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Purchaser's Name: _____

Purchaser's Address: _____

Name and Title of Purchaser's Authorized Representative: _____

By: _____

(Signature of Purchaser or Authorized Representative)

Title number: _____

(Title - only if purchased by an authorized representative of a business entity)

Date _____

EXHIBIT E

Example of a Suggested Exemption Certificate for Farm Trailers Weighing 12,000 Pounds or Less

This is to certify that the trailer described below, purchased on or after _____ (date) from _____ (Selling Dealer's Business Name) is purchased by a farmer for exclusive use in agricultural production or to transport farm products from his or her farm to the place where the farmer transfers ownership of the farm products to another.

DESCRIPTION OF TRAILER INCLUDING WEIGHT:

Note: Any portion of the sales price in excess of \$20,000.00 is subject to sales tax.

I understand that if I use the equipment for any purpose other than the one stated, I must pay tax on the initial \$20,000 of the purchase price of the trailer directly to the Department of Revenue. I understand that if I fraudulently issue this certificate to evade the payment of sales tax, I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third-degree felony.

The exemption specified by the purchaser may be verified by calling 800-352-3671.

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Purchaser's Name: _____

Purchaser's Address: _____

Name and Title of Purchaser's Authorized Representative:

By: _____
(Signature of Purchaser or Authorized Representative)

Date: _____