

TAXABILITY OF MOTOR VEHICLES

USED BY DEALERS

This memorandum revises TSB-M-83(13)S, dated May 24, 1983, by changing the definition of the term "short period" and explaining the current Tax Department policy on the use of motor vehicles held in a car dealer's inventory.

As stated in TSB-M-83(13)S, vehicles held in inventory exclusively for resale but used for demonstration to prospective customers are not taxable to the dealer if used solely for demonstration. Vehicles held in inventory for resale but used occasionally for business or pleasure by the dealer or one of his officers or employees, hereafter "mixed use vehicles," are subject to use tax. Use tax due on these "mixed use" vehicles must be reported under "purchases subject to use tax" and paid with the dealer's return which covers the period of use. Since no purchase, sale, or trade occurs when the taxable use begins or ends, and since a particular vehicle in inventory usually will be used in this manner for only a short period of time before being sold, dealers are allowed to pay tax based on depreciation instead of paying the tax usually due on a sale. The aforementioned policy remains unchanged.

Subject to the limitations and conditions described below, use tax on mixed-use vehicles may be computed by applying the state and local sales tax rate to an amount equal to 2% per month of the dealer's cost.

Prior to June 1, 1986, a short period of time was defined as six months or less. For the period June 1, 1983 through May 31, 1986, the six-month limitation is extended to twelve months without regard to mileage.

As of June 1, 1986, a motor vehicle dealer may apply the 2% depreciation method to a vehicle held in inventory for resale but used occasionally for business or pleasure by the dealer, his employees or officers if:

- (1) the vehicle is used by the dealer for six months or less as a "mixed use" vehicle with no mileage restriction, or
- (2) the vehicle is used by the dealer more than six months but no more than one year, and the mileage does not exceed 9000 miles for the entire 12 months.

If mileage exceeds 9000 miles between six months and twelve months of use, or if the vehicle is used by the dealer for more than twelve months, use tax is due based on the dealer's total cost of the vehicle plus penalties and interest computed from the date that a return for the occasion of first use would have been due. Credit for tax paid under the 2% method will be allowed.

A dealer's total cost of a new vehicle, for purposes of computing use tax, includes total invoiced cost plus delivery charge. On a used vehicle, the dealer's total cost includes purchase price or trade allowance plus the value of all repairs made to the vehicle since being acquired by the dealer.

Any vehicle assigned to a family member not actively associated with the business as an officer or employee who actually performs duties or services does not qualify for the 2% method of computing use tax. The "mixed use" vehicle must be held in inventory and be available for sale.

These additional guidelines apply when a vehicle is depreciated under the 2% method of depreciation:

- (1) A dealer may not seek a trade-in allowance on a vehicle which is depreciated under this method, regardless of whether the dealer operates as a single entity or as more than one entity.
- (2) A dealer may not depreciate or take an investment tax credit while computing use tax under the 2% method.
- (3) If a dealer does not comply with items (1) and (2), use tax is due on the dealer's total cost of the vehicle plus penalties and interest computed from the date that a return for the occasion of first use would have been due, with a credit for use tax paid under the 2% method.
- (4) A "mixed use" vehicle may be registered either in the dealer's name or used with dealer plates.
- (5) No tax is due from dealers for a vehicle loaned without charge to a high school driver education program.

Receipts from rentals of vehicles to customers as "loaners" are subject to sales tax when the customer is charged a market rate for such rental. Vehicles loaned to customers without a separate charge or at a rate which does not reflect the fair market rental are treated as "mixed use" vehicles subject to the 2% per month rules.

Computing Use Tax on a "Mixed Use" Vehicle

A car dealer purchases a new motor vehicle. His total cost consists of the invoiced price plus delivery charges. Use tax due on the "mixed use" of the vehicle is computed by multiplying the following:

- (1) The total cost by the 2% depreciation rule;
- (2) The result of #1 above by the number of months the vehicle was used by the dealer (use in any part of a month counts as a whole month) during the quarterly filing period; and
- (3) The result of #2 above by the appropriate tax rate.

Example:

Cost of vehicle	\$15,300
Depreciation rate (2%)	<u>x .02</u>
	\$306.00
Months used (2½)	<u>x 3</u>
	\$918.00
Tax rate (7% combined state and local rate)	<u>x .07</u>
Tax due on use	<u>\$ 64.26</u>

Records to be kept:

- (1) Stock number identifying the vehicle.
- (2) Name and title of person to whom vehicle is assigned.
- (3) Date assigned and date returned.
- (4) Mileage at date of assignment and date of return.
- (5) Disposition of vehicle.
- (6) Whether registration is in dealer's name or the vehicle is used with dealer plates.
- (7) Whether depreciation or an investment tax credit has been or will be claimed on the vehicle.
- (8) Whether a trade-in allowance has been or will be taken on the vehicle.

Effective January 16, 1987, the date of this memorandum, a dealer who withdraws a motor vehicle from inventory for use as a "mixed use" vehicle must keep records (previously listed) as use of the vehicle occurs. For the period between June 1, 1986 and the date of this memorandum, any records not maintained in this manner must be reconstructed from source documents. All required information must be maintained on "mixed use" vehicles, including "loaners" treated as such. If the records are not properly maintained for any vehicle, it will be assumed, for use tax purposes, that the vehicle is not a "mixed use" vehicle. Accordingly use tax will be due on the total cost of the vehicle, with interest and penalties from the date of first use, as described above, with a credit for tax paid under the 2% method.