

County Clerks
Sales and Use Tax Guide
for Automobiles
and Boat Transfers



August 2016

County Clerk's Sales and Use Tax Guide for Motor Vehicle and Boat Transactions

Dear County Clerks,

This sales and use tax guide is intended as an informal reference for clerks who wish to gain a better understanding of Tennessee sales and use tax requirements regarding motor vehicles and boats. It is not an all-inclusive document or a substitute for Tennessee sales or use tax statutes or rules and regulations. The information in this guide is current as of the date of publication. Tax laws, their interpretation, and their application can change due to legislative action, reviews, and court decisions.

Periodically, clerks are mailed or emailed information with updates on tax laws and policies. Be sure to read any letter or notice you receive carefully; this information may save you time and lessen administrative burden when dealing with your constituents.

The Department of Revenue offers a toll-free tax information line for clerks and all Tennessee residents. The number is (800) 342-1003. If calling from Nashville or outside Tennessee, you may call (615) 253-0600. The Department of Revenue also offers a telecommunications device for the deaf (TDD) line at (615) 741-7398.

Many answers are available directly on the Department of Revenue's website at www.TN.gov/revenue.

If you have questions, please do not hesitate to contact any of the offices listed below.

Sincerely,

Taxpayer Services Division

Tennessee Department of Revenue
Taxpayer Services Division
Andrew Jackson Building
500 Deaderick Street
Nashville, Tennessee 37242-1099

Toll-Free: (800) 342-1003
Out-of-State: (615) 253-0600
TDD: (615) 741-7398

Regional Offices

Memphis

3150 Appling Road
Bartlett, TN 38133
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Chattanooga

1301 Riverfront Parkway
Suite 203
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Jackson

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7175 Strawberry Plains Pike
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Knoxville, TN 37914
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Taxation Of Automobile And Boat Sales

Automobile Sales

Under Tennessee sales and use tax law, sales of motor vehicles, trailers, and off-highway vehicles are sales of tangible personal property subject to sales or use tax.

Occasional and isolated sales of motor vehicles between persons who are not motor vehicle dealers are included in the definition of "business" and thus are also subject to the sales and use tax. There are some exceptions, but generally each time there is a transfer of title to a motor vehicle, the transaction is subject to sales or use tax.

Sales between persons who are married, lineal relatives or spouses of lineal relatives, or siblings are excluded from the definition of "business" and are not subject to sales or use tax.

Lineal relative transfers include transfers between spouses, siblings, parents and children, grandparents and grandchildren, and great grandparents and great grandchildren.

The spousal qualifier only applies to lineal relatives (great grandparents, grandparents, parents, and children). It does not apply to siblings. So, a stepfather could sell to the spouse of a stepchild and vice versa, but a brother-in-law cannot sell to his sister-in-law under this exemption.

For more information on taxability of various types motor vehicle transfers, see Sales Tax on Automobile Transfers beginning on Page 17 of this tax guide. [Tenn. Code Ann. Section 67-6-102(8)(C).]

Boat Sales

Similarly, sales of boats are sales of tangible personal property subject to sales or use tax.

Occasional and isolated sales of vessels between persons who are not boat dealers are included in the definition of "business" and thus are subject to the sales tax.

With the same exceptions as motor vehicle transfers, generally each time there is a change of boat ownership/transfer of title, the transaction is subject to sales or use tax.

Sales Price

Automobile and boat dealers often separately itemize many charges to the customer. Clerks must distinguish between the taxable sales price of a motor vehicle or boat and nontaxable fees that are separately stated and passed through to the customer.

The Sales or Use Tax will be paid on the full amount charged for an automobile, trailer, or other motor vehicle or boat without any deductions for labor or other charges for preparing a motor vehicle or boat for sale, freight, federal excise tax, etc. The tax shall likewise be paid on the full amount charged for any accessories or parts sold with and installed on a motor vehicle or boat. Any installation labor in connection with a sale of accessories, or repair labor involved in installing, replacing or repairing parts on a motor vehicle or boat, is subject to the Sales or Use Tax. [Tenn. Sales and Use Tax Rule 1320-5-1-.03]

Charges made by a dealer to customers for title fees are considered "pass through" charges excludable from the sales price of the motor vehicle or boat. Title fees should be excluded from the sales or use tax base when they are listed separately on the customer's invoice or other bill of sale and are actually remitted for titling and registration of the customer's vehicle or boat.

Additionally, charges made for any other service necessary to complete the sale of the vehicle, such as documentary fees or prep fees are part of the sales price of the vehicle or boat. These charges should not result in additional local tax if the selling price of the vehicle or boat is in excess of the local maximum single article amount.

Motor vehicle and boat dealers will often pass the dealer's business tax liability to the purchaser by including a separate charge on

the invoice to the customer. Tenn. Code Ann. Section 67-1-112 allows any dealer the option to separately itemize and collect business tax. When an itemized charge for business tax is made on the invoice or other sales document, the amount of business tax must be included in the tax base for sales tax and business tax purposes.

Used vehicle and boat dealers may also offer financing to customers who otherwise cannot qualify for commercial financing of a motor vehicle or boat. Financing charges or interest from credit extended on sales of tangible personal property that are separately itemized on the customer's invoice or other sales document are not part of the sales price of the property and are not subject to tax. [Tenn. Sales and Use Tax Rule 1320-5-1-.25]

Insurance policies such as accident, collision, and Guaranteed Auto Protection (GAP) covering motor vehicles or boats are not included in the tax base when such charges are separately stated on the invoice.

GAP insurance provides that, if a total loss accident or theft occurs, the dealer or other issuer of financing will eliminate any debt the purchaser owes at the time of the loss that is in excess of the value of the vehicle

Rebates and Discounts

The sales or use tax law defines "sales price" as, and applies the tax to, the total amount of consideration received by the seller for the item being sold.

When a manufacturer's rebate is offered on an item of tangible personal property, the sales tax is assessed on the full sales price before the application of a rebate.

Sales Price (continued)

When the consumer receives a price break because the seller received the manufacturer's rebate, the total amount received by the seller for the sale has not changed. The seller simply receives a portion of the consideration from the customer and a portion through the rebate amount from the manufacturer.

If a single item with a total sales price of \$20,000 has \$5,000 in manufacturer's rebates applied, making the total amount the consumer pays only \$15,000, the consumer still owes sales and use tax on the full \$20,000 sales price before application of the rebates. The sales price of \$20,000 has not changed, even though the consumer received a payment break because a portion of the sales price is rebated to the dealer by the manufacturer.

In addition, if the consumer pays full price at the time of purchase and then applies for the rebate after the purchase is completed, the dealer has also received the full sales price for the item being sold.

If the dealership discounts the price of the vehicle or boat and does not receive compensation for the discounted amount from any third party, sale tax is due on the actual amount received by the seller after the discount is applied.

Accommodation Fee Credit

There is a deduction from sales price for the reimbursement paid by a third party (automobile manufacturer) to a car dealer for selling or leasing a motor vehicle at a discount to the manufacturer's or dealership's employee. It is a third party reimbursement of an employee discount that would normally be included in the sales price except for the

exemption found in Tenn. Code Ann. Section 67-6-394.

Trade-Ins

When an item of tangible personal property is taken in trade as a credit or part payment on the sale of new or used articles, the sales and use tax shall be computed and paid on the net difference between the sales price of the new or used article sold and any credit actually given for the used article accepted in trade. [Tenn. Code Ann. Section 67-6-510(a)]

Before any credit may be allowed for items taken in trade or trade-ins, the item so traded must be of a like kind and character of that purchased, and indicated as "trade-in" by model and serial number, where applicable, on an invoice given to the customer. [Tenn. Sales and Use Tax Rule 1320-5-1-.02]

There are no other general limitations to the trade-in process. Neither the statute nor the rule requires that proof be given that tax was paid previously, whether in Tennessee or in another state, on the traded in item in order to receive any trade-in credit. Further, the statute applies to all trade-in situations, not just to motor vehicles or boats.

Any recovery which may be received or allowed as a result of insurance may not be considered as a trade-in, and no credit may be given or allowed for such recoveries. [Tenn. Sales and Use Tax Rule 1320-5-1-.02(4)]

When a trade-in is involved in the purchase of a motor vehicle which has been imported for use in this State, the vehicle which was traded-in for the new vehicle must have been previously registered in the State of Tennessee in the name of the person importing the new vehicle into the State before any credit may be given for the

Sales Price (continued)

allowance given for the trade-in. [Tenn. Sales and Use Tax Rule 1320-5-1-.03(6)]

A trade-in vehicle *does* have to be titled in the name of the person trading it in on the purchase of another vehicle. The vehicle being purchased is not required to be titled in the same name as the vehicle that was traded in for the sales tax credit to be available. Someone cannot trade in a vehicle that is not titled and registered to them. (For example: A father cannot trade in his daughter's vehicle to purchase one for himself.) Further, it is unlawful for someone claiming to own a vehicle to possess an executed certificate of title without the name of the transferee appearing on the certificate of title. [Tenn. Code Ann. Section 55-3-127(e).]

In order to receive a trade-in credit, actual credit must be given on the invoice or other sales document given to the customer at the time of purchase from the dealer. If the dealer pays the customer for the item being "traded in" and the customer then pays the full amount of the sales price, no trade-in credit is allowed. Sales tax is owed on the full purchase price. A trade-in deduction is limited to the total sales price of the purchased vehicle or boat.

Warranty or Service Contracts

The sale of an extended warranty or service contracts covering the repair and maintenance of tangible personal property is subject to sales tax. Effective October 1, 2015, the purchase of a warranty or service contract is subject to use tax. Warranty or service contracts are taxable in Tennessee when the contract is sold in conjunction with tangible personal property that is subject to sales tax, the contract covers tangible personal property located in Tennessee, or the location of the covered tangible personal property is

unknown but the purchaser's address is in Tennessee. [Tenn. Code Ann. Section 67-6-208]

If a Tennessee resident purchases a warranty or service contract in conjunction with the purchase of a vehicle or boat in another state, and moves that vehicle or boat back to Tennessee, then use tax is due on the price of the warranty contract, as well as the vehicle or boat moved to this state.

Warranty or service contracts sold in Tennessee to nonresidents in conjunction with the exempt sale of vehicles and boats removed from Tennessee pursuant to a "3-Day Affidavit" or Certificate of Interstate Delivery by Seller are not subject to sales or use tax.

Separate charges for warranty or maintenance contracts are not part of the sales price of a motor vehicle or boat. Charges for warranty or maintenance contracts must be taxed separately from the motor vehicle or boat. The combined state and local sales tax rate must be applied to the entire sales price of a warranty or maintenance contract. Single article taxation does not apply to warranty or service contracts.

Repairs and Installation

When a motor vehicle or boat seller makes repairs to a vehicle or boat and then includes a charge for those repairs on the invoice when the motor vehicle or boat is sold, the charge indicated on the invoice for the repair services becomes part of the sales price of the vehicle or boat that is subject to Tennessee tax.

If the dealer installs additional equipment on the motor vehicle or boat and includes a charge for the equipment and the installation cost on the customer's invoice, the charge

Sales Price *(continued)*

becomes part of the sales price of the vehicle or boat that is subject to sales or use tax.

Sales Tax Exemptions

Sales to Nonresident Purchasers

Tennessee law allows a buyer to purchase a motor vehicle in Tennessee and have up to three days to remove the motor vehicle to another state without having to pay sales or use tax on the purchase.

The retail sale of boats, motorboats, and other vessels that are subject to registration in this state that are removed from Tennessee to another state within three days after purchase are also tax exempt.

A Seller/Purchaser Affidavit of Exemption for Motor Vehicles, Boats, and Vessels Sold For Removal From Tennessee Within Three Days (see page 20), also known as a 3-Day Affidavit, must be completed indicating the city and state to which the item will be delivered.

The exemption includes off-highway motor vehicles as defined in Tenn. Code Ann. Section 55-3-101(c)(2). Items not installed, such as life jackets, ski accessories, and ropes, or purchases of trailers only without a boat will not qualify for use of the 3-Day Affidavit. [Tenn. Code Ann. Sections 67-6-343, 345]

The 3-Day Affidavit exemption includes but is not limited to:

- Automobiles
- Motorcycles including dirt bikes
- Snowmobiles
- Sand and dune buggies or other "all terrain vehicles" (ATVs)
- Boats (boat trailers when purchased with a boat)
- RVs
- Manufactured or mobile homes

The sale is also exempt if the dealer, or one of his employees, actually makes delivery of the vehicle or boat to a point outside the State of

Tennessee. A "Certificate of Interstate Delivery by Seller for Automobiles, Other Motor Vehicles, Aircraft, and Boats" (see page 17) must be completed at the time of sale. The dealer must retain the certificate to document delivery out of state.

Sales to Members of the Armed Forces

Tenn. Code Ann. Section 67-6-303 exempts from sales and use tax sales of motor vehicles to certain members of the armed forces. Eligible purchasers are those who are engaged in *active full time military service stationed on orders in Tennessee*. Stationed on orders in Tennessee includes being stationed at Fort Campbell, Kentucky. Eligible purchasers include:

- Army, Navy, Air Force, Marine Corps, Coast Guard performing duty under Title 10, U.S.C.
- Tennessee National Guard who participate in the Active Guard and Reserve Program (AGR)
- Reserve members of Army, Navy, Air Force, Marine Corps, Coast Guard who participate in the AGR

Eligible purchasers also include the following that are called into active duty and *stationed in a combat zone*. However, their exemption period expires 90 days after the date of release from combat zone.

- Tennessee National Guard
- Reserve members of Army, Navy, Air Force, Marine Corps, Coast Guard

Vehicles that may qualify for exemption include:

- Motor vehicles defined in Tenn. Code Ann. Section 55-1-103(3)
 - Automobiles, trucks, and motorcycles
- Off-highway motor vehicles defined in Tenn. Code Ann. Section 55-3-101(c)

Sales Tax Exemptions *(continued)*

- All-terrain vehicles (ATVs), dirt bikes, dune buggies and similar vehicles
- Mobile homes and house trailers

The vehicle must be registered in Tennessee pursuant to Tennessee Code Annotated Title 55 and must be both titled and registered in the name of the qualifying individual, either alone or jointly with a spouse or lineal relative.

For purposes of this exemption, a "lineal relative" is the member's great-grandparents, grandparents, parents, children, grandchildren, and great-grandchildren. For the military motor vehicle exemption, "lineal relative" does not include a sibling as a qualifying lineal relative.

Note: Do not confuse the lineal relative criteria for military member purchases with the exemption criteria for a transfer of motor vehicle between lineal relatives.

Vehicles that do not qualify for exemption include: leased or rented motor vehicles, trailers and semi-trailers, motor vehicles not registered under Title 55 such as a farm tractor and manufactured homes.

A manufactured home is a special type of mobile home or house trailer built on a permanent chassis that is at least eight feet wide and forty feet long when it is in transport mode or is at least three hundred twenty square feet when erected.

To be eligible for this exemption, the military purchaser must provide to the seller or the county clerk where applicable a copy of the official orders indicating where the individual is stationed.

If the member qualifies for the exemption because of participation in the AGR program, the purchaser must also provide documentation of his or her status as a member of the AGR program.

Please note that the motor vehicle **does not** have to be purchased in Tennessee for the exemption to be available. The provision requiring the vehicle to be purchased in Tennessee was removed from the statute by the Tennessee General Assembly in 2007.

The exemption is also not limited to motor vehicles purchased by the military member while stationed in Tennessee. Motor vehicles purchased prior to the member's stationing in Tennessee will be eligible for the exemption upon the members assignment to a location in Tennessee.

Other Exempt Purchases

Motor vehicle and boat dealers and lessors purchasing motor vehicles or boats for sale or lease may purchase such vehicles or boats on a Certificate of Resale without payment of Tennessee sales or use tax at time of purchase.

Agencies of the United States Government, the government of the State of Tennessee, and county and city governments located in Tennessee may purchase motor vehicles or boats for the use of the government entity to give away without payment of Tennessee sales or use tax upon presentation of the Tennessee Government Certificate of Exemption.

Qualified nonprofit entities authorized for the Tennessee sales and use tax exemption on purchases of tangible personal property or taxable services for the use and consumption

Sales Tax Exemptions (continued)

of the nonprofit entity, or to give away, may purchase motor vehicles or boats for such purposes without payment of Tennessee sales or use tax upon presentation of their Tennessee nonprofit certificate of exemption.

Holders of Tennessee Agricultural Certificates of Exemption are authorized to purchase livestock trailers exempt from Tennessee tax upon presentation of a copy of the Tennessee Agricultural Certificate of Exemption. Such certificate holders **cannot** purchase automobiles, trucks, or trailers for use over-the-road exempt from sales tax.

Persons who have qualified with the federal government or other state regulatory agency as a common or contract carrier may purchase motor vehicles with a gross vehicle wheel rating (GVWR) of Class 3 (16,000 pounds) or above, and trailers, semi-trailers, and pole trailers that will be used to transport passengers and cargo principally in interstate or foreign commerce. "Principally" means more than 50% of the operational time of the motor vehicle. The purchaser must provide a copy of the common or contract carrier designation and must complete the Application for Sales Tax Exemption for Interstate Commerce Motor Vehicles and Trailers (RV-F1300401). (See page 22)

Gifts

When a motor vehicle or boat is presented to a person as a gift from another entity, there is no Tennessee use tax due on the value of the gifted vehicle from the recipient. The entity making the gift should have paid any Tennessee sales or use tax due on the vehicle or boat when obtained by the entity making the gift.

A "gift vehicle" or "gift boat" is a vehicle or boat transferred to a recipient for which the

giver did not receive any type of consideration. A "consideration" does not have to be money. A consideration could be a swap of merchandise, a favor or work performed for the giver in exchange for the vehicle, forgiveness of an indebtedness owed by the giver to the recipient, or any other situation in which the giver received any type of benefit from the recipient. In these types of situations, the transfer of the vehicle or boat is subject to Tennessee tax.

In a gift situation, the giver and the recipient must jointly complete the Affidavit of Nondealer Transfer of Motor Vehicle or Boat form. (See page 23)

Any gift transaction not supported by a properly completed Affidavit of Nondealer Transfer of Motor or Boat Form documenting the gift transfer will be subject to assessment of Tennessee use tax on the "blue book" value of the vehicle or boat. Alternately, the taxpayer may obtain an appraisal from a reputable motor vehicle or boat dealer for use as the basis for Tennessee tax assessment.

Relocation - Motor Vehicles

A person relocating to Tennessee on a bona fide change of residence from another state can import the person's personal motor vehicle or personal manufactured home into Tennessee without payment of Tennessee use tax. This use tax exemption for personal motor vehicles of persons relocating to Tennessee does not apply to property, including motor vehicles, of businesses relocating to Tennessee.

A military member whose home is in Tennessee, who has been stationed outside Tennessee for a period of time, and who is now returning to Tennessee after that period of duty is over is not deemed to be moving

Sales Tax Exemptions (continued)

into Tennessee on a bona fide change of residence. The same would apply to a student who has been outside Tennessee for studies at an educational institution. [Tenn. Code Ann. Section 67-6-210(b)]

Relocation - Boats

Effective July 1, 2014, the use tax exemption for personal motor vehicles that is available as a result of a person moving their bona fide residence to Tennessee has been extended to the relocation of certain boats as well.

Exemption exists if the boat has a fair market value of less than \$10,000 at the time of importation into Tennessee and is used solely for personal use, and if the owner can provide proof that the vessel was properly registered in the previous state. [Tenn. Code Ann. Section 67-6-210(c),]

Otherwise, use tax is due based on the fair market value of the boat when relocated to Tennessee. To determine the fair market value for boats, one may research the N.A.D.A. Marine Appraisal Guide. The new Tennessee resident may also obtain an appraisal of the boat from a reputable boat dealer.

Credit for sales or use tax paid in another state is given if the individual relocating to Tennessee supplies proof of the tax payment. For a tax credit to be available, the tax paid to the other state must be either sales or use tax. Credit against the Tennessee sales or use tax will not be given for payments of property taxes or other fees/taxes imposed by other states or countries.

Example:

A boat was purchased in Kentucky by a then Kentucky resident in March 2012 for \$25,000.

Tax was paid at a 6% rate equaling \$1,500. The person moves to Tennessee with the boat in March 2013. The boat has a fair market value of \$21,000. Tax would be calculated as follows:

- (a) The 7% general state sales tax rate applies to the fair market value of \$21,000. ($\$21,000 \times 7\% = \$1,470$).
- (b) The local option tax rate applies to the first \$1,600 of the fair market value. The local option tax rate in Davidson County is 2.25%. ($\$1,600 \times 2.25\% = \36 .)
- (c) The state single article tax applies to the fair market value from \$1,600.01 up to \$3,200 (second \$1,600 of the fair market value). The state single article tax rate is 2.75%. ($\$1,600 \times 2.75\% = \44 .)
- (d) In this example, the total Tennessee tax due before credit is given for the Kentucky tax paid is \$1,550. ($\$1,470 + \$36 + \$44 = \$1,550$.)
- (e) The new Tennessee resident owes \$50 in Tennessee tax on the relocated boat after credit is given for the Kentucky tax paid. ($\$1,550 - \$1,500 = \$50$.)

Loaner Vehicles

The purchase, lease, or rental of a vehicle by a dealer that provides the vehicle to its customer free of charge as a loaner vehicle while the customer's vehicle is being repaired is not a taxable transaction. The vehicle is considered to be provided in conjunction with the sale of the dealer's repair services

The dealer may purchase, lease, or rent the vehicle on the dealer's Certificate of Resale without payment of sales tax to the supplier. The dealer should mark the "Other" line on the Certificate of Resale and enter "purchase

Sales Tax Exemptions *(continued)*

of loaner vehicle" in the space provided for an explanation of the type of purchase.

In addition, if the dealer provides the loaner vehicle to its customer at no charge pursuant to a warranty contract between the customer and the manufacturer or warranty company and the dealer charges the manufacturer or warranty company for the customer's use of the vehicle, the charge paid by the manufacturer or warranty company is not subject to sales tax.

Note that if the dealer charges the customer for the loaner vehicle, the dealer can still purchase the vehicle on a Certificate of Resale but must collect sales tax on the charge made to the customer.

Single Article Application

The term "single article" refers to any item that is considered, by common understanding, to be a separate unit, apart from any accessories, extra parts, etc., and capable of being sold as an independent item or as a common unit of measure. Independent units sold in sets, lots, suites, or such groupings, are not considered to be single articles. The local option tax rate cannot exceed 2.75% and may be assessed only on the first \$1,600 of the purchase price of any single item of tangible personal property.

Sales of taxable services, amusements, custom computer software, and warranty or maintenance contracts are subject to the full local option tax.

If a consumer purchases an extended warranty plan and a single item of tangible personal property, the warranty plan is also taxable. Tax must be computed separately on the single article of tangible personal property and the warranty. Failure to separately state the price and compute the tax may result in assessment of the full local tax from the consumer. And, because an extended warranty contract does not qualify as tangible personal property, the local option tax rate applies to the entire purchase price, even if it exceeds \$1,600. There would be no state single article tax application to the price of the warranty contract.

Applications of the "single article" include:

Motor Vehicles

Parts and accessories for motor vehicles installed at the factory and delivered as original equipment will be treated as part of the unit. Parts and accessories that are installed by the dealer or distributor prior to, or at the time of, sale are included in the sale price and are also considered as part of the

unit. This also applies to parts or equipment required to be installed prior to the sale because of state or federal law. [Tenn. Code Ann. Section 67-6-702(d).]

Boats

Boat motors and any dealer installed accessories that are installed prior to the sale, freight, and labor, excluding trailers, will be treated as part of the boat unit in the same manner as parts and accessories for motor vehicles are treated for purposes of the single article local tax limitation. Items such as skis, ski ropes, personal flotation devices, and similar items are separate single articles. Boat trailers will be taxed as a separate single item.

Where a boat and trailer are sold together for one price, the Department allows the dealer to apportion the single price using an allocation of 90% of the price for the boat and 10% of the price for the trailer for purposes of calculating the single article local tax limitation.

State Tax on Purchases of Single Articles

An additional state sales or use tax at the rate of 2.75% is levied on the portion of the sales price, from \$1,600.01 up to and including \$3,200, of any single article sold.

This is a state tax only. This portion of the single article sales price is not subject to local tax.

Computing Sales Tax Due on Single Articles

Example 1: Assume that the total sales price, including all associated charges, of a single article (motor vehicle) is \$20,000. Tax computation would be calculated as follows on a single article sold in Davidson County in Tennessee:

Single Article Application (continued)

(a) The 7% general state sales tax rate applies to the total \$20,000 sales price. $\$20,000 \times 7\% = \$1,400$.

(b) The local option sales tax applies to the first \$1,600 of the sales price. The local option sales tax rate in Davidson County is 2.25%. $\$1,600 \times 2.25\% = \36 .

(c) The state single article sales tax applies to the sales price from \$1,600.01 up to and including \$3,200 (the second \$1,600 of the sales price). The state single article rate is 2.75%. $\$1,600 \times 2.75\% = \44 .

(d) In this example, the total sales tax is \$1,480.

Example 2: A boat dealer sells the customer a boat for \$6,141, a boat motor for \$4,000, and a boat trailer for \$1,000. The dealer also sells \$875 in dealer installed accessories and adds a \$275 charge for freight and a \$225 charge for labor. The total invoice sales price is \$12,516.

For sales tax purposes, the boat, motor, freight, accessories, and labor are one single article. The boat trailer is a separate single article.

(a) Because the total sales prices of each item is subject to the state sales tax, the total invoice sales price would be taxed at the state 7% general sales tax. $\$12,516 \times 7\% = \876 .

(b) The first \$1,600 of the combined sales price of the boat, motor, accessories, labor, and freight, and the \$1,000 sales price of the trailer are taxed at the local sales tax rate of 2.25%. $\$2,600 \times 2.25\% = \59 .

(c) The second \$1,600 of the combined sales price of the boat, motor, accessories, labor, and freight is taxed at the state single article

tax rate of 2.75%. The sales price of the trailer does not exceed \$1,600, so no state single article tax is due on the trailer. $\$1,600 \times 2.75\% = \44 .

(d) The total tax liability on this transaction is \$979.

Example 3: The dealer sells a boat, motor, and trailer with a trade-in. The dealer invoices the boat, motor, and trailer at a combined sales price of \$11,141. The dealer also invoices dealer installed accessories for \$875, freight for \$275, and labor for \$225. The total invoiced amount is \$12,516.

The value of the trade-in is \$5,650.

To determine the sales price of the boat, motor, accessories, freight, and labor (one single article), subtract the value of the trade-in from the invoice price of the combined boat, motor, and trailer. $(\$11,141 - \$5,650 = \$5,491)$

Then, multiply that result by 90%. $(\$5,491 \times 90\% = \$4,942)$

To determine the sales price of the boat trailer, subtract the value of the trade-in from the combined sales price of the boat, motor, and trailer. Multiply that result by 10%. $(\$11,141 - \$5,650 = \$5,491) \times 10\% = \549 .

(a) Determine the state 7% sales tax by multiplying the invoice total (after deduction of the trade-in) $(\$12,516 - \$5,650)$ by 7%. $\$6,866 \times 7\% = \481 .

(b) Multiply the first \$1,600 of the sales price of the boat, motor, accessories, freight, and labor, and the \$549 sales price of the boat trailer by the local tax rate of 2.25%. $\$2,149 \times 2.25\% = \48 .

(c) Multiply the second \$1,600 portion of the sales price of the boat, motor, accessories,

Single Article Application *(continued)*

freight, and labor by the state single article tax of 2.75%. Because the sales price of the boat trailer did not exceed \$1,600, no single article tax is due on the boat trailer. $\$1,600 \times 2.75\% = \44 .

(d) The total tax due on this transaction is \$573.

Sales Tax On Automobile Transfers

Sales or use tax is due whenever vehicles are transferred from one entity or person to another. *There are a few exceptions.* Please see the following information to determine if the transfer is taxable or nontaxable.

Individuals

- Transfer of a vehicle to a spouse, sibling, child, grandchild, great grandchild, parent, grandparent, great grandparent or spouse of a lineal relative is **not subject to sales or use tax**. Use the Affidavit of Non-Dealer Transfer of Motor Vehicles and Boats form to report this transfer to the Department of Revenue is required.
- Transfer between spouses of a vehicle as a result of a divorce is **not subject to sales or use tax**. (Tenn. Code Ann. Section 67-6-306)
- Transfer of a vehicle from a sole proprietor's business to the sole proprietor personally is **not subject to sales or use tax**. Similarly, an individual who converts his/her personal vehicle to their sole proprietor business is **not subject to sales or use tax**.
- Transfer of a vehicle jointly owned by individuals who get the vehicle's title issued in only one of their names is **not subject to sales or use tax**.
- Transfer of a vehicle from one individual to another individual without any kind of consideration is **not subject to sales or use tax**. Use of the Affidavit of Non-Dealer Transfer of Motor Vehicles and Boats form to report a gifted vehicle between individuals is required. Payment of consideration such as cash, credit, loan assumption, or barter of labor, services or property for the transfer of a vehicle is not a gift of such vehicle.

- Sales to and transfers to certain members of the armed forces are **exempt from sales and use tax**. See Important Notice 07-07. Vehicles leased to members of the armed forces are subject to tax.

Non-Profits

- Vehicles sold, leased or transferred directly to a Tennessee qualified non-profit entity (67-6-322) are **exempt from sales and use tax**. A copy of the qualified organization's Tennessee sales and use tax exemption certificate must be provided to the retailer or the county clerk upon requesting title and registration. A fully completed Streamlined Sales Tax Certificate of Exemption form, which must include the Tennessee exemption number, may be used in place of the Tennessee exemption certificate.

Governmental Transfers

- Vehicles sold, leased or transferred directly to the Federal Government, State of Tennessee, a Tennessee county or municipality or an agency of these governments are **exempt from sales and use tax**. A fully completed copy of the Tennessee government certificate of exemption form or the Streamlined Certificate of Exemption form must be provided to the retailer or the county clerk upon requesting title and registration.

Corporations and Partnerships

- Transfers of vehicles from one corporation to another are **taxable**. This includes corporate mergers and reorganizations, even if exempt under federal income tax laws.

Sales Tax On Automobile Transfers

(continued)

- Transfers of vehicles between stockholders and a corporation are **taxable**.
- If a sole proprietor changes their business structure to a corporation, the transfer of automobiles is **exempt from sales tax** (Tenn. Code Ann. Section 67-6-223)
- Transfers of vehicles between separate partnerships or between a partner and the partnership are **taxable**.
- Transfers of vehicles caused by the automatic dissolution of a partnership of 3 or more partners are **not subject to tax**.
- Corporate name change only – Vehicle transfers are **not taxable** when there is no change in corporate structure. The corporation must provide the county clerk an amendment to charter indicating name change only. The amendment is filed with the Tennessee Secretary of State's office first – then, a copy can be given to the clerk for use when processing title and registration paperwork.
- If a partnership changes its business structure to an LLC, the transfer of automobiles is **not subject to sales tax**. (Tenn. Code Ann. Section 48-204-102(a) *The transfer of automobiles as a result of a general partnership or limited partnership converting to an LLC is not considered a transfer from one entity to another.*)
- If an individual forms an LLC and transfers her personal automobile(s) into the LLC, the transfer is **subject to sales and use tax**, unless the individual is the sole member of the LLC (a "single-member LLC"). (*There would be consideration in form of ownership interest in the LLC for the transfer of the vehicle from the individual. Definition of business includes transfers of vehicles between stockholders and a corporation. This would be treated in the same manner. This is not a change in business structure from sole proprietorship to incorporation that is covered by a specific exemption under 67-6-223.*)
- Transfers of automobiles between members and an LLC are **subject to sales and use tax**, unless the LLC is a single-member LLC and is disregarded as a separate entity for federal tax purposes.

LLCs

- If a corporation changes its business structure to an LLC, the transfer of automobiles is not subject to sales and use tax. (*Tenn. Code Ann. Section 48-21-114(h) provides that the provisions of 48-21-109 and -114 have no effect on the application of taxes under Title 67. Therefore one must look to the sales and use tax laws. For sales and use tax purposes there is no transfer of an automobile to another entity. In addition, there is no consideration received for the transfer of the vehicle to the LLC.*)

Note to clerks: If the registrant is claiming an exemption because they are transferring their vehicle as the sole member of an LLC (SMLLC) pursuant to its formation, or because the transfer is between the sole member and the SMLLC that is disregarded as a separate entity for federal tax purposes, please have the registrant complete an affidavit detailing this exemption claim and submit the affidavit along with other required

Sales Tax On Automobile Transfers
(continued)

documentation to the Department of Revenue.

Trusts

- Transfers of vehicles from a trustee to another entity or individual for any consideration are **subject to sales and use tax**. Use of the Affidavit of Non-Dealer Transfer of Motor Vehicles and Boats form is required to report a transfer from a trustee to distribute to a beneficiary without any consideration. The distribution to the beneficiary is **not subject to sales or use tax**. A copy of the trust agreement should be provided to substantiate the \$0 sales price.

Miscellaneous

- Court-ordered reissues of titles do not cause individuals to owe sales tax. This can be for divorce or other legal reasons.
- When a business changes name and there is no change in the structure of the business, there is no sales tax due. Of

- If a court (bankruptcy, chancery, etc.) sets a price (value) on a vehicle, the clerk should use the value placed by the court.
- To title and register a vehicle purchased for a price less than 75% of the fair market value as determined by an authoritative automobile pricing guide (e.g. – NADA book), the seller and purchaser must complete the Affidavit of Non-Dealer Transfer of Motor Vehicles and Boats form to report this transfer to the Department of Revenue.
- **Only the actual amount of consideration paid to the seller is subject to sales and use tax. Similarly, a clerk must not just indicate 75% of the fair market value as the amount paid – the 75% criteria is merely a guideline instructing the clerk when to complete the required affidavit form. If the affidavit form is not completed or an appraisal is not provided by the purchaser, use tax is due on 100% of the vehicle's fair market value.**

TENNESSEE DEPARTMENT OF REVENUE

**SELLER/PURCHASER AFFIDAVIT OF EXEMPTION FOR MOTOR VEHICLES, BOATS,
AND VESSELS SOLD FOR REMOVAL FROM TENNESSEE WITHIN THREE DAYS**



(SECTIONS A AND B TO BE COMPLETED BY SELLER)

SECTION A:

1. Trade name of seller _____
2. Address _____
3. City _____ State _____ Zip Code _____
4. Sales and Use Tax registration number _____
5. Seller's telephone number _____

SECTION B: DESCRIPTION OF MOTOR VEHICLE OR BOAT

6. This article is a () motor vehicle or () boat
7. Make _____ Model _____ Year _____
8. Serial Number _____ Motor Number _____
9. (Boats only) Trailer Serial Number _____
10. Selling Price \$ _____ Trade-in \$ _____
11. Invoice Number _____ Date _____

I certify that, to the best of my knowledge, the article described above will be removed from the state of Tennessee by the purchaser described below within three days from date of purchase.

(Signature of dealer or authorized representative) Date _____

SECTION C: (TO BE COMPLETED BY PURCHASER)

Under penalties of perjury, I certify that the article described above is being purchased for removal from the state of Tennessee to the state of _____ within three days from date of purchase. I understand that any attempts to title or register this article in Tennessee will subject me to the appropriate sales or use tax.

1. Name of purchaser _____
 2. Address _____
 3. City _____ State _____ Zip Code _____
- _____
(Signature of Purchaser) Date _____

INSTRUCTIONS: This form must be completed in duplicate. The copy is to be provided to the purchaser and the original retained in the seller's file as a part of the transaction documents. **DO NOT ATTACH THIS TO YOUR SALES AND USE TAX RETURNS OR MAIL THE FORM TO THE DEPARTMENT OF REVENUE.**

TENNESSEE DEPARTMENT OF REVENUE
ANDREW JACKSON STATE OFFICE BUILDING
NASHVILLE, TENNESSEE 37242



**TENNESSEE SALES OR USE TAX
CERTIFICATION OF INTERSTATE DELIVERY BY SELLER
FOR AUTOMOBILES, OTHER MOTOR VEHICLES, AIRCRAFT, TRAILERS AND BOATS**

Trade Name of Dealer _____

Address of Dealer _____

City, State, Zip _____

Sales Tax Registration Number _____

Transaction Invoice Number _____ Date of Sale _____

Name of Purchaser _____

Address of Purchaser _____

City, State, Zip _____ Phone () _____

Description of Automobile, Other Motor Vehicle, Aircraft, Trailer, or Boat

Make _____ Model _____ Year _____

Serial Number _____ Motor Number _____ () New () Used

Total Selling Price \$ _____ Trade-in \$ _____ Net \$ _____

FAA Number _____

AFFIDAVIT OF DEALER AND CUSTOMER

State of Tennessee
County of _____

We, the undersigned dealer and customer or representative thereof, do hereby affirm that the named dealership will physically deliver the described article to (city) _____, (state) _____

to be titled or registered there if required by the laws of that state. We understand that falsification of this document for the purpose of tax evasion and the acceptance of possession of the article within Tennessee by the customer will subject the dealership to the appropriate sales tax, business tax, penalties, and interest as prescribed by law.

(Print) Dealer's Name _____ (Print) Purchaser's Name _____

Signature _____ Signature _____

Subscribed and sworn to me this _____ day of _____, 2 _____

My commission expires the _____ day of _____, 2 _____

(Signed) _____
(Notary Public)

This certification must be prepared and executed in duplicate by the dealer and purchaser at the time of the sale of the article. The original is retained in the dealership file for audit purposes with a copy provided to the customer for his records or for use in his home state. DEALERS: DO NOT FORWARD COPIES WITH YOUR SALES OR BUSINESS TAX RETURNS. Failure of the dealer to actually deliver the article to a point outside of Tennessee will subject such dealer to the full tax plus penalties and interest as applicable.



TENNESSEE DEPARTMENT OF REVENUE

**APPLICATION FOR SALES TAX EXEMPTION
For Interstate Commerce Motor Vehicles and Trailers**

Dealer/Seller _____	Sales Tax Registration No. _____
Dealer Address _____ _____	Invoice No. _____
Name of Purchaser _____	Date of Sale or Lease _____
Purchaser Address _____ _____	If Long Term Lease: Name of Lessee _____
	Lessee Address _____ _____

If vehicle or trailer is leased, attach a copy of the lease contract.

Description of the Motor Vehicle or Trailer

Truck Semi-Tractor Trailer

Make _____	Model _____	Year _____
Serial Number _____	Motor Number _____	New <input type="checkbox"/> Used <input type="checkbox"/>
Sales Price _____	Trade-In Allowance _____	Amount Paid _____

Gross Vehicle Weight Rating Class _____ Lbs. _____ (not applicable to trailers)
(Regardless of their use, vehicles smaller than Class 3 (16,000 lbs., or less) are not exempt from sales and use tax.)

YES/NO (circle one) The motor vehicle or trailer will be used to transport passengers or cargo principally (more than 50%) in interstate or foreign commerce pursuant to Tenn Code Ann. Section 67-6-331.

(If the answer to this question is no, the exemption does not apply).

Check the Applicable Boxes

- The motor vehicle or trailer described above will be registered in the International Registration Program (attach copy); or
- The carrier has an Operating Authority/Permit issued by the Interstate Commerce Commission, Federal Highway Administration or the Federal Motor Carrier Safety Administration (attach copy); or
- The motor vehicle or trailer will be used to transport exempt commodities as defined by federal law.

I understand that falsification of this document for the purpose of tax exemption may be considered fraud and is punishable by law.

PURCHASER'S SIGNATURE _____ DATE _____

This application for exemption must be prepared and executed in **triplicate** by the dealer/seller and purchaser at the time of the sale of the motor vehicle or trailer. The original must be retained by the dealer/seller to substantiate the exemption claimed on its Sales and Use Tax return. The purchaser should retain a copy with the application for title and the title after it is issued. A copy must accompany the application for title and must be submitted to the Vehicle Services Division, Tennessee Department of Revenue, 44 Vantage Way, Suite 160, Nashville, Tennessee 37243-8050.

Do not mail this form to the Tennessee Department of Revenue.



TENNESSEE DEPARTMENT OF REVENUE

AFFIDAVIT OF NON-DEALER TRANSFERS OF MOTOR VEHICLES AND BOATS

- Relative transfer:** If a person is transferring a boat or motor vehicle to certain relatives, those relatives do not have to pay tax on the transfer of ownership. Tax-exempt relatives include spouses, siblings, and lineal relatives (children, grandchildren, great-grandchildren, parents, grandparents, and great-grandparents). Spouses of children, grandchildren, and great-grandchildren also qualify for tax exemption.
- Gift transfer or low selling price to person other than tax-exempt relatives.** A low selling price is 75% or less of the fair market value. Fair market value is determined by referencing the most recent issue of an authoritative automobile pricing manual, such as the N.A.D.A. Official Used Car Guide, SE Edition.

Seller or Transferor (Please Print)	Purchaser or Transferee (Please Print)
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____
Phone: _____	Phone: _____
FEIN or Drivers License No.: _____	FEIN or Drivers License No.: _____

Vehicle or Boat Information (To be completed by seller or transferor):

Year _____	Make _____	(VIN or Serial No.) _____
Date of Sale: _____	Fair Market value of the vehicle/boat: \$ _____	
Is there a lien? Y/N _____	If yes, what is the amount of the outstanding lien? _____	
If yes, who is the lienholder? _____		

If applicable, please state the relationship between Seller or Transferor and Purchaser or Transferee: _____

**This box to be completed if gift or low selling price only
Considerations involved in the transfer: (Please check all that apply)**

_____ Money involved: \$ _____

_____ Loan Assumption, loan pay-off, etc.: \$ _____

_____ Services or labor performed (Value): \$ _____

_____ Other: (Explain) _____

_____ Trade-in: (Trade-in must be of like kind, such as motor vehicle, motorcycle, boat, etc. in order to get sales tax credit for trade-in)

Trade-in value: \$ _____ Trade Description: _____
Year Make (VIN or Serial No.)

Total Sales Price: \$ _____ *(The sales price is the total amount of consideration paid by the purchaser or transferee, including any money paid to a third party, such as lienholder. If no consideration was given for the transfer, then the amount of the sales price is \$0.)*

If the sales price is lower than the average value please indicate the reason for the low price: _____

Under the penalties of perjury, I swear that the foregoing information is true and correct to the best of my knowledge, information and belief, and this document correctly state the total amount of consideration for the transfer of this vehicle or boat. I understand that failure to report proper consideration for the sale or transfer of the aforementioned vehicle or boat may result in assessment of applicable sales tax, penalty and interest against the purchaser.

Seller or Transferor's Signature(s)	Date	Purchaser or Transferee's Signature(s)	Date
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