

**TENNESSEE DEPARTMENT OF REVENUE
LETTER RULING # 12-06**

WARNING

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.

SUBJECT

The application of the Tennessee sales and use tax to dealer trade-ins.

SCOPE

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the Department by the taxpayer. The rulings herein are binding upon the Department, and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time. Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

FACTS

[TAXPAYER NAMES] (each respectively, the "Taxpayer") are car dealerships [REDACTED] that sell used and new motor vehicles in [LOCATION], Tennessee.

The Taxpayer has a customer that maintains a fleet of [REDACTED] vehicles. Periodically, this customer will trade in some of these vehicles and purchase replacement vehicles from the Taxpayer. [REDACTED].

RULING

In a sales transaction where a customer purchases more than one vehicle from a car dealer, is the sales price for Tennessee sales and use tax purposes calculated by aggregating the total price of all cars purchased from the dealer in the transaction and subtracting the aggregate value of all trade-ins received from the customer in the transaction?

Ruling: Yes. In a single sales transaction where a customer purchases more than one vehicle from a car dealer, the sales price for Tennessee sales and use tax purposes is calculated by aggregating the total price of all cars purchased from the dealer in the transaction and subtracting the aggregate value of all trade-ins received from the customer in the single transaction.

ANALYSIS

TENN. CODE ANN. § 67-6-202(a) (2011) imposes the sales tax on the sales price of each article of tangible personal property sold at retail in Tennessee. TENN. CODE ANN. § 67-6-102(81)(A) (2011) defines the term “sales price” in pertinent part as the “total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise.”

TENN. CODE ANN. § 67-6-510(a) (2011) allows for an adjustment to the sales price of an item when the purchaser trades in a similar used item as part of the transaction.¹ Specifically, TENN. CODE ANN. § 67-6-510(a) provides that “[w]here used articles are taken in trade, or in a series of trades, as a credit or part payment on the sale of new or used articles, the [sales tax] shall be paid on the net difference, that is, the price of the new or used article sold, less the credit for the used article taken in trade.” TENN. COMP. R. & REG. 1320-5-1-.02(1) (2000) explains TENN. CODE ANN. § 67-6-510(a), stating that “[w]hen 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. § 67-6-510(a) and the accompanying regulations do not specifically state that a dealer may accept more than one used item as a trade-in with respect to the purchase of another item. However, the language of the statute and regulations clearly contemplate that a transaction may involve more than one trade-in item in a single transaction. Importantly, TENN. CODE ANN. § 67-6-510(a) uses the plural term “articles,” stating that “[w]here used *articles* are taken in trade” a credit is allowed “on the sale of new or used *articles*” when calculating the sales price.

The Tennessee Court of Appeals has stated that the interpretation of a statute must not render any part of a statute “inoperative, superfluous, void or insignificant.” *Nissan North America, Inc. v. Haislip*, 155 S.W.3d 104, 106 (Tenn. Ct. App. 2004) (quoting *State v. Morrow*, 75 S.W.3d 919,

¹ The newly purchased property and the property traded in must be of a like kind and character. TENN. COMP. R. & REG. 1320-5-1-.02(2) (2000) requires that “[b]efore 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.”

921 (Tenn. 2002)). Here, the disallowance of the trade-in of multiple vehicles in a single transaction would impermissibly render the use of the plural term “articles” inoperative, superfluous, void or insignificant.

Accordingly, with respect to a single sales transaction, the Taxpayer may accept the trade-in of more than one used vehicle with respect to the purchase by its customer of one or more other vehicles. The sales price of the newly purchased vehicle or vehicles will be calculated by aggregating the total price of all vehicles purchased from the Taxpayer in that single transaction and subtracting the aggregate value of all trade-ins received from the customer in that same transaction.

Note that TENN. CODE ANN. § 67-6-523 (2011) imposes various sales and use tax recordkeeping requirements on dealers in Tennessee. In particular, TENN. CODE ANN. § 67-6-523(a) requires every dealer “to keep and preserve suitable records of the sales or purchases” that are subject to the sales and use tax and “to keep and preserve, for a period of three (3) years from December 31 of the year in which the associated return required ... was filed, all invoices and other records of goods, wares and merchandise, or other subjects of taxation” under the Retailers’ Sales Tax Act. TENN. CODE ANN. § 67-6-523(b) further provides that every dealer “shall secure, maintain, and keep for a period of three (3) years from December 31 of the year in which the associated return required by this chapter was filed a complete record of tangible personal property received, used, sold at retail, distributed or stored, leased, or rented within this state by the dealer, together with invoices, bills of lading, and other pertinent records and papers as may be required by the commissioner for the reasonable administration of” the sales and use tax laws.

Additionally, TENN. CODE ANN. § 67-1-113(a) (2011), which pertains to the general administration of taxes in Tennessee, requires all persons and entities subject to any tax administered by the Commissioner of Revenue to “keep and preserve suitable records from which the taxpayer and the commissioner can determine the Tennessee tax liability, if any.”

The Taxpayer must therefore document the single sales transaction in a manner that clearly identifies the vehicles involved in that particular transaction. In instances where the Taxpayer is required by the manufacturer or by law to retain separate documentation with respect to each vehicle involved in the single trade-in transaction, the Taxpayer may use, for example, a master sales agreement identifying each vehicle involved.

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APPROVED: Richard H. Roberts
Commissioner of Revenue

DATE: June 21, 2012