



## Sales Tax On Dealer Owned Vehicles

**Minnesota Sales Tax Is A Retail Tax.** In order to avoid multiple taxes, Minnesota law imposes sales tax – once – at the retail level. Sales tax is not due on wholesale transfers. When a business purchases inventory for resale, it presents an exemption certificate to the seller and the sales taxable event is delayed until the item is sold to a retail buyer. For example, when a department store purchases its inventory of office supplies, it presents an ST-3 Resale Exemption Form to its supplier. When it sells a box of staples, it collects and remits sales tax to the Minnesota Department of Revenue.

**Corresponding Use Tax Fills Hole.** But what if the intended wholesale transfer ends up being the final transfer? For example, what if our department store pulls a box of staples off the shelf for use by its employees in the sales office? Does the State of Minnesota miss out on its tax? No. In addition to taxing sales, the tax law imposes a comparable tax on taxable items pulled from inventory and used by a business. This tax is commonly known as a “use” tax. There is a place to declare taxable uses on a businesses’ sales tax return filed with the Department of Revenue.

**Dealer Use May Be Taxable.** When dealers purchase vehicles for resale but make use of them in their business, they receive similar treatment as the store buying and selling office supplies. Applying the general rule, no tax is due until the vehicle is sold or leased to a retail customer. Tax is collected on the selling price and remitted to the Deputy Register in the case of sales and remitted to the Revenue Department in the case of leases.

When a dealer drives the vehicle for its own business or allows a vehicle to be driven in a manner inconsistent with it being held strictly for resale, the general rule is that a “use” tax is due.

**Dealer Plate Privilege.** Even though the general rule under the sales and use tax laws is that all uses are taxable, new and used car dealers are afforded a special privilege by Minnesota Statute: the purchase and display of dealer plates. A portion of the fee paid for a dealer plate is considered registration tax. The balance of the dealer plate fee is designated by Minnesota statute as motor vehicle sales tax. Since the tax is already deemed collected, a dealer owned vehicle operated while lawfully displaying dealer plates never triggers a sales or use tax.

**Taxable Uses.** Applying the general rule and then the dealer plate exception, what follows are examples where the dealer use is taxable:

- Tow truck
- Parts truck
- Demos with regular plates – i.e. a manager’s wife’s demo
- Dealer’s daughter’s demo while at college
- Dealer owned car being used by a college coach – i.e. Wheels Club

- Used car – not displaying dealer plates - pulled off the lot to drive to the bank on dealership business
- Used car – not displaying dealer plates - pulled off the lot to go home for lunch

**Rental Vehicles.** This is a variant of the purchase for resale exemption. If a dealer registers and/or uses a vehicle as a rental vehicle, the dealer does not owe sales or use tax. Instead the dealer collects sales tax (and applicable 6.2% rental tax and 5% registration fee) from the renter.

**Service Contract Reimbursement Loaners.** This is a variant of a rental arrangement. The dealer doesn't owe sales or use tax. Instead the dealer collects sales tax (and applicable rental tax and 5% registration fee) from the service contract payor.

**Courtesy Service Loaners.** If a dealer registers and/or uses a vehicle as a “courtesy loaner” to loan to service customers as a matter of dealer good will and customer convenience, this is a taxable use to the dealer.

**Special Exemption For Warranty Loaners.** If a dealer registers and/or uses a vehicle to loan to service customers pursuant to a manufacturer's warranty that was built into the price of the vehicle being serviced or repaired, the dealer does not collect taxes on the warranty reimbursement payment and does not owe sales or use tax.

**Dealer Elects How To Pay Tax.** When a dealer applies for title/registration on a dealer owned vehicles that is not strictly held for resale and is not otherwise exempt from sales and use tax, the dealer has a choice:

- The dealer may pay the full sales tax to Driver & Vehicle Services Division along with the title application; or
- The dealer may elect to pay use tax to the Department of Revenue based on the reasonable rental value of the vehicle during the time of its taxable use.

## Q & A

Q-1 With respect to our inventory, what does it mean for a vehicle to be “held strictly for resale” to meet the general wholesale exemption. In what ways may we operate a vehicle in inventory that has current registration (no dealer plate) without losing its resale character and thereby triggering a use tax?

A-1 Here are some examples. A vehicle does not lose its “held for resale” status:

- While being transported, i.e. to and from the auction
- By road testing for mechanical difficulties
- When your vendor takes it for detailing or service
- When your employee takes it on a demo ride with a customer
- When you allow a potential buyer to take it home overnight

Q-2 So, what if my driver stops for lunch with a registered vehicle that he is transporting to the auction. Does that personal stop change the vehicle's character and trigger the tax?

A-2 No, but if your driver takes a detour to visit a family member, use tax is probably due.

Q-3 Sometimes we ask one of our mechanics to road test a registered vehicle in inventory for several days to try and duplicate a mechanical problem. He may drive it for several days back and forth to work and may do personal errands. Does this trigger a use tax?

- A-3 No, if the use is occasional and bona fide. However, road testing should not be used as a ploy to shield a personal use from tax.
- Q-4 OK, let's talk about our options to pay the tax. Our practice is to pull a light truck from our new vehicle inventory for our use picking up and delivering parts to and from various vendors and customers. We usually keep it in service for 8 months to a year. It depends on our estimate of the used vehicle market. We sell it when it makes most economic sense (or perhaps to satisfy a particular customer need). We then pull another new truck out of inventory and start all over. The trucks are worth about \$25,000. Economically, it doesn't seem to make sense to pay \$1625 (.065 \* \$25,000) in sales tax every 10 months or so. That works out to over a \$160 per month in sales tax.
- A-4 OK
- Q-5 If I elect to pay the sales tax up front, am I permitted to take a sales tax credit for the trade in value of the first truck against the purchase price of the next truck put into service.
- A-5 No. You can't trade a car with yourself. There's no transaction to apply the trade-in sales tax credit.
- Q-6 I have a separate, licensed leasing company. Could my leasing company purchase the vehicle tax-free and turn around and lease it to me – charging me monthly payments and the upfront lease sales tax?
- A-6 Yes, that works. The lease agreement should be structured on comparable terms as would be negotiated in an "arms length" transaction. Note that the lease should have an initial term of at least 6 month in order to transfer the obligation to provide no-fault insurance from the lessor to the dealership lessee. Also, note that if the dealership buys out the lease sooner than 4 months into the transaction, there may be sales tax consequences for the leasing company.
- Q-7 I don't have a leasing company. Is there another way I can pay less tax?
- A-7 Yes, you have an election to make. When you register the parts truck in the dealership name, the DVS will not insist on payment of the \$1625 sales tax up front. Instead Minnesota Statutes allow dealers the option to pay sales tax on the value of their use of the vehicle during the time it is in service.
- Q-8 So, how does this work?
- A-8 The concept is to pay use tax as you go.
- Q-9 If I elect this option, how do I determine the value on which I pay tax?
- A-9 The statute doesn't fully answer the question. It merely states that if a dealer "...uses a vehicle...the dealer may elect to pay ...use tax...based on the reasonable rental value of the vehicle."

However the Minnesota Department of Revenue issued Revenue Notice #05-05, which addresses the issue directly. The Revenue Notice applies the IRS Annual Lease Value Table to the Base Value of the vehicle to determine the "reasonable rental value."

For example, using the table, an automobile with a base value of \$25,000 would have a daily rental value of \$17.12.

A copy of the Revenue Notice is attached to this Memo. It is also on line at:  
[http://www.taxes.state.mn.us/taxes/sales/publications/revenue\\_notices/content/rn\\_05\\_05.pdf](http://www.taxes.state.mn.us/taxes/sales/publications/revenue_notices/content/rn_05_05.pdf)

Q-10 Where do I get base value information?

A-10 From the DVS web site. Use your DVS login.

Q-11 Are base values different for new and used vehicles?

A-11 Yes. If the vehicle has a model year designation of the same or 1 year before the date that it is in service, use 100% of the base value. For 2 or 3 model years old, use 90% of the base value. For 4 or 5 model years old, use 75%. For the 6<sup>th</sup> model year, use 60% and for the 7<sup>th</sup> 40%.

Q-12 Do I need to worry about the 6.2% rental tax and the 5% rental registration fee when I calculate the use tax?

A-12 No. There is no use tax component to the rental car add-on taxes and fees.

Q-13 How about local taxes?

A-13 Yes. They will apply if the dealership garages the vehicle in a geographic location subject to the local taxes.

Q-14 How do I report the use tax?

A-14 The tax is not paid to the Deputy Registrar. It is paid on your regular (most dealers report monthly) sales tax return to the Minnesota Department of Revenue.

Q-15 How does the State know that I'm paying the sales tax on my monthly report?

A-15 No system is perfect. The tax system relies on voluntary compliance with audit and penalties for non-compliance.

Q-16 Are we required to keep track of taxable uses?

A-16 Yes. All businesses must keep track of taxable uses and retain records to support the value of the use and payment of the tax. MADA suggests dealers keep a file of vehicles used in the business and keep track of the taxable use and the time that the tax was paid.

Q-17 Does this mean that the dealer examiner who checks my customer files for compliance with the dealer record keeping requirements will be rummaging through my monthly sales tax reports?

A-17 Sales and use tax audit will continue to be the province of the Minnesota Department of Revenue.

Q-18 So, we've talked about the parts truck that I put into service, does similar treatment apply to other dealer used vehicles?

A-18 Yes, these requirements would apply to tow trucks, service vehicles, demos not eligible for dealer plates and most other dealer uses. They don't apply to dealer plated vehicles, rental and lease vehicles.

- Q-19 Does “rental” includes situations where a service contract administrator reimburses the dealership?
- A-19 Yes. When a customer buys a service contract for a separate price when purchasing the vehicle and subsequently has a covered repair, if the service contract provides a rental car benefit, the dealership should bill the service contract vendor for sales tax, 6.2 % motor vehicle rental tax and the 5% registration fee.
- Q-20 You indicate that warranty reimbursement is different?
- A-20 Yes, when the customer buys a vehicle and a warranty is built into the purchase price, reimbursement that you receive from the warrantor (typically in the form of warranty reimbursement) is afforded special treatment. Similar to warranty parts where no tax is required on manufacturer’s reimbursement, there is no sales tax on the manufacturer’s reimbursement for warranty loaners.
- Q-21 You mentioned courtesy cars that I loan out to customers as being a taxable use. What’s the difference?
- A-21 If the vehicle is not loaned pursuant to a manufacturer’s warranty and the customer or a service contract administrator doesn’t pay tax, the state sees a taxable use by the dealership. That means if you put a vehicle into service to casually loan to service department customers, you should either pay the full tax up front to the Deputy Register or pay tax monthly (like the parts truck example) on the vehicle’s reasonable rental value.
- Q-22 We have several vehicles available to our service department that on any given day may be rented to a customer, loaned with reimbursement from a service contract administrator, loaned under factory warranty, courtesy loaned to one of our customers, or may sit idle. Can we try and keep track of how many days a particular vehicle is used as a courtesy loaner and just report rental value for those days on our use tax report?
- A-22 Yes. If you’re able and willing to keep track of vehicle use on a daily basis, Revenue Notice #05-05 suggests that you can pay for uses on a daily basis.
- Depending on your accounting procedures, it might be possible to always bill out loaner/rental usage in some fashion. If a charge is billed out for an exempt warranty loaner or for a rental vehicle where tax is collected, either the use is exempt or the tax collected. On the other hand, if the vehicle is loaned out as a customer courtesy, the charge for that use could be billed out to a dealership department. At the end of the month, the days for the courtesy uses could be added up and appropriate tax could be paid on your sales/use tax return.
- Q-23 Usually the vehicles that I use as courtesy loaners are older vehicles without much value. If they’re eligible for the \$10 flat tax, can I pay that up front and be all set?
- A-23 Yes.
- Q-24 My manufacturer makes payments to us to help defray our expenses in providing loaner vehicles to our service customers. These payments are called “Transportation Assistance Payments” or TAP. What are the sales tax consequences of these payments?
- A-24 If a dealership correctly reports sales and use tax on dealer owned vehicles as described in this Memo, then the proper amount of tax is being paid. No further tax would be due.

According to Sales Tax Fact Sheet 136, the Department of Revenue views a TAP payment as a service initiative to assist the dealer in providing alternate transportation to customers.

Q-25 We have an outside company that handles all of our customer loaners and rentals for us. In some cases, they bill the customer. In other cases, we pay the bill. How is this handled?

A-25 Tax is due just as if the vehicle were owned by the dealership. Your vendor should bill out sales tax, 6.2% rental surcharge and the 5% registration fee on all transactions except for warranty loaners.

Q-26 We've talked about vehicles where the dealership made an affirmative decision to put them into service at the dealership. In these cases I apply for title and registration and the vehicle is dedicated for some period of time. I can take care of the tax as you've described.

How about a situation where one of my employees or I informally take a currently registered vehicle off the used car lot to take to the bank, loan to a service customer or perhaps to take home at night as his demo? If I don't stick a dealer plate on it, is this truly taxable?

A-26 Yes. Each of these uses is taxable. You should report the reasonable rental value of the vehicle for each trip to the Department of Revenue on your sales and use tax return. The use may not be valued for less than a full day.

Q-27 What about enforcement?

A-27 If you make a fraudulent statement on a title application or a sales tax return, you can face fines and potentially jail time and loss of your franchise. Upon audit by the Department of Revenue, back taxes and penalties can be imposed. In addition if a dealer elects to pay use tax on a dealer used vehicle and then fails to report the use, the Revenue Department may charge tax on the full vehicle value upon audit.

Q-28 Our dealership is a member of MADA and I have more questions. Who should I contact?

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