Introduction

This publication provides tax information for motor vehicle and watercraft dealers, and body/repair shops. See Publication 25 for general sales and use tax information.

Tax Commission publications are reference tools. They are not all-inclusive and should not be used as legal references.

Tax laws may change due to legislative action. Changes to law will override information in this publication.

Vehicles

In this publication, “vehicles” include highway vehicles, off-highway vehicles, motorcycles, trailers, semi-trailers, watercraft, aircraft and similar items. See UCA §59-12-102.

Vehicle Dealer Definition

A vehicle dealer is any person whose business is buying, selling or exchanging vehicles. The term includes lessors of vehicles who sell previously-leased vehicles.

Paying Sales Tax

Sales tax is due on all motor vehicle sales. Sales tax on any vehicle purchased from a motor vehicle dealer (including a body/repair shop) must be paid by the dealer on their *Sales and Use Tax Return.* Sales tax on a vehicle purchased from anyone other than a licensed vehicle dealer is paid by the buyer when titling the vehicle for the first time.

When titling a vehicle purchased from a third party, the buyer must state the price actually paid. If the Tax Commission finds that the purchase price was under-reported, the buyer must pay the difference in tax, plus interest, plus a penalty of up to 100 percent of the unpaid tax or $500, whichever is greater.

Determining Tax Base

Sales and use tax is assessed on the purchase price. The purchase price is the price a buyer pays, which can include cash payments, loan payoffs and trades.

The sales tax rate is based on the dealer’s location when a vehicle is bought from a dealer. The rate is based on the buyer’s address, as stated on the registration, when bought from a third party.

Motor vehicle sales between family members are not exempt from sales tax. **When paying off a family member’s loan and becoming the new owner, the loan payoff amount is taxable.**

What is Taxable

~~Charges for the~~The following ~~items~~ are taxable:

- Vehicle purchase price, after subtracting any trade-in or rebate credit
- Labor and parts to repair or renovate vehicles~~.~~
- Dealer preparation, commissions and similar fees
- Detailing

- Cleaning a vehicle's interior~~.~~
- Cleaning a vehicle's exterior when it includes cleaning the vehicle's interior~~.~~
- Setup fees (charges for any service necessary to complete the sale)
- Waste disposal, hazardous material handling or disposal, etc. (unless the charge is a tax on the customer that is required by Utah or federal law)
- Shop supply fees
- Add-ons (except emissions and safety)
- Vehicle theft protection packages if they include window etchings, glass engravings, security devices, or other vehicle modifications or additions
- ~~Extended~~Service plans and extended warranties, even when the sale of the vehicle qualifies for the authorized carrier exemption
~~• Extended warranties or service plans~~ (tax must be charged ~~at the time~~when the warranty is sold)
- Towing, when in connection with a taxable service (see *Towing Charges,* below)
- Freight (when charged to the dealer and passed on to the buyer)
- Deductibles collected at the time of service
- Document service fees (also called handling fees when a vehicle is not delivered)
- Theft Protection Plan (TPP)
- Vehicle tracking device
- Federal excise tax on used heavy trucks (title turned in)
- Inventory tax
- Dealer markup
- Tires, wheels and fuel
- Promark
- Mechanical Breakdown Insurance (MBI)
- Electronic registration processing fee (if registration fees are listed separately)

What is Nontaxable

The following are nontaxable:

- Manufacturer's rebates, whether paid to the buyer or kept by the dealer as a down payment
- Customer discount

- Parts and labor to honor in-house warranties and service plans, or charges to third-party service companies for nationally-honored plans
- Fees to transfer a warranty to a new owner
- Separate charges for interest, liability waivers or insurance
- Utah safety inspection fees
- County emission testing fees
- Separate charges for diagnostic testing that do not result in repairs
- Separately-stated fuel, parking or storage fees
- Charges for Guaranteed Auto Protection (GAP) coverage plans
- Sales of extended warranties when a vehicle sale (including watercraft and off-highway vehicles) qualifies for either the exclusive-use-outside-Utah exemption or out-of-Utah-delivery exemption
- Amounts paid to the Tax Commission on behalf of customers for titles, registrations, fee-in-lieu of property tax, license plates and temporary permits
- Adaptive driving equipment (see *Adaptive Driving Equipment,* below)

What is Exempt

Motor vehicles are exempt from sales or use tax when sold to:

- qualifying religious and charitable institutions;
- motor vehicle dealers for resale, including demonstrators (Rule R865-19S-82);
- agricultural producers (qualifying off-road vehicles only); or
- buyers who do not title/register or use the vehicle in Utah except to transport it to the state border.

See Rule R865-19S-98.

Transfers of title are also exempt from sales or use tax when part of a qualifying business reorganization.

Impacted Community Taxes

Although they are subject to sales and use tax, sales of motor vehicles, aircraft, watercraft, modular homes, manufactured homes and mobile homes are exempt from the resort communities tax and the correctional facility tax. However, sales of off-highway vehicles, snowmobiles and trailers are not exempt.

Vehicles Bought Outside of Utah

A person living in Utah who buys a motor vehicle outside Utah must pay Utah use tax at the time of titling. A resident of another state who buys a vehicle in that state and brings it into Utah does not owe tax to Utah on the purchase if all sales or use taxes were paid to the other state. A valid, non-temporary registration card is evidence of such a payment.

A Utah resident who purchases a vehicle outside of Utah may take a sales and use tax credit for tax paid to the other state. A resident is someone who has established domicile in Utah for a period of six months or more during a calendar year. A vehicle owner must register their vehicle in Utah within 60 days of establishing residency.

Towing Charges

What is Taxable

Towing charges in connection with the sale or repair of tangible personal property are taxable.

**Example**

A towing company responds to a caller who asks the company to tow a vehicle to the tow company's repair shop and fix a flat tire. The towing and repair charges are taxable, even if separately stated on an invoice.

What is Exempt

Towing charges, without any sales or repair, are not taxable.

**Example**

A towing company responds to a caller who asks the company to tow a vehicle to a local garage for repair. Because the tow company only performs a service and does not repair tangible personal property or make any sales, the transaction is not subject to tax.

Sales to Employees

Sales to employees are subject to sales tax.

Demonstrator Vehicles

Owners and licensed sales staff can be assigned a demonstrator vehicle without being assessed sales or use tax.

Rental charges for demos are subject to tax. Rental charges include charge backs, whether or not formally called a rental. See Rule R865-19S-82.

Paint, Parts and Other Purchases for Resale

Vehicle repair and service businesses are not required to pay tax on their purchases of items they sell that become part of a customer's vehicle. Examples include: lubricants, welding rods, paint, wax, lacquers, body filler, repair parts, sublet repair labor; paint hardener and anti-rust products.

Consumable Shop Supplies

Amounts a body/repair/service shop pays for tangible personal property (other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam or other fuels) that are completely consumed in the performance of a taxable service are not subject to tax.

Cost of Parts

Parts used to repair a vehicle are taxable unless they are used to repair a vehicle recently sold under an implied warranty and/or to keep the customer's good will.

Lease Transactions

Leases are subject to the following tax rules:

- Leases and rentals of tangible personal property are subject to tax.
- The portion of up-front payments that are part of a purchase or lease price are taxable. The portion attributed to nontaxable charges (e.g., the payoff of a prior obligation, license/registration/titling fees, etc.) are exempt.
- Lessors must pay tax on payments they receive and credit against a lease. They must also collect tax on the sale of a vehicle at the end of a lease.
- Dealers must pay tax on payments they receive that are not forwarded to the lessor.
- A lease that includes a payoff or refinance of a prior obligation in which the lessor holds the title is taxable, unless the transaction fits the criteria excluding sale-leasebacks from the definition of retail sales in UCA §59-12-102.
- To receive trade-in credit on a leased vehicle, a customer must first buy the vehicle and pay any sales or use tax due on the purchase.
- The trade-in credit for an owned vehicle is allowed against a typical lease if the trade equity reduces the periodic lease payments to the lessor.

Courtesy Delivery

In-state Dealer Transactions

A dealer selling a vehicle must collect sales tax at the tax rate of its business location when another in-state dealer makes a courtesy delivery for the seller.

Out-of-Utah Dealer/Manufacturer's Transactions

A Utah dealer must collect Utah sales or use tax when making courtesy deliveries for an out-of-Utah dealer or manufacturer if the Utah dealer helps the buyer register and title the vehicle. The Utah dealer should not issue a dealer report of sale, but pay the sales tax directly to the Tax Commission at the time of registration.

Remote Sales

When a dealer who does not have a Utah business location sells a manufactured/mobile/modular home, motor vehicle, aircraft or watercraft, the location of the transaction is where the buyer receives the property.

Exemptions

**Caution:** A dealer may be held individually liable for tax if it is found the dealer was a part of a plan to improperly avoid tax.

Farmers

Repair parts and labor for farm tractors and equipment (not including registered vehicles) are exempt from sales and use tax. The seller must have an exemption certificate on file. *Implement of Husbandry* certificates for off-highway farm machinery are not considered registration. Sales and repairs of registered vehicles are not exempt.

Interstate Sales

Sales to consumers are exempt from Utah sales tax when a vehicle, watercraft or merchandise is delivered by a Utah dealer to an out-of-Utah location. Delivery must be made by the dealer or by common carrier. The *Affidavit for Exclusive Use Outside of Utah* (form TC-721A) does not apply to these transactions. The dealer must attach a note to the temporary permit indicating out-of-Utah delivery and mail it to the Tax Commission together with the fee. The dealer must keep a verification of delivery using an *Affidavit of Out-of-State Delivery* (form TC-757). It is not necessary to send a copy of this form to the Tax Commission.

Authorized Carriers

Sales tax law allows an exemption for sales, leases or uses of:

1. vehicles by an authorized carrier;

2. aircraft, if the buyer or lessee is the holder of a certificate issued by the Federal Aviation Administration authorizing the holder to engage in interstate commerce;

3. locomotives, freight cars, railroad work equipment, or other rolling stock operating under credentials issued by the U.S. Surface Transportation Board; and

4. tangible personal property installed on a vehicle that is sold to or leased by an authorized carrier, provided that the property is installed before the vehicle is placed in service for the first time.

"Authorized carrier" is defined as "in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA)."

The exemption applies only to vehicles with a gross vehicle weight of 26,001 pounds or more. This weight restriction means the maximum gross laden weight of the vehicle, combination of vehicles, and load carried or drawn, for which the motor vehicle is registered.

Use form TC-719, *Sales Tax Exemption Affidavit for Authorized Interstate Carriers*, to document the exemption.

Trailer Dollies

A trailer dolly (converter gear) is equipment, consisting of wheels, at least one axle and a fifth wheel, that is attached to the king pin of a semi-trailer and converts it to a full trailer. A trailer dolly must be licensed and registered as a separate trailer and used in combination with other qualified vehicles. Purchases of trailer dollies are exempt when purchased by authorized carriers and operated under IRP and IFTA.

Auxiliary Equipment

Purchases of auxiliary equipment permanently installed in or on a vehicle as part of a sale or lease transaction are exempt from sales tax.

Multiple Trailers

Trailers and semi-trailers purchased separately from a power unit, or in numbers in excess of available power units, are exempt when purchased for use in combination with exempt vehicles. However, a trailer purchased or leased for use as a temporary office, storage facility or other use not associated with highway transportation is not allowed the exemption.

Nonresident Military Personnel Stationed in Utah

Military personnel stationed in Utah are not exempt from Utah sales or use tax unless they qualify for the exclusive-use-outside-Utah exemption, explained below.

Nonresident Students Attending Utah Schools

A student living and attending school in Utah is not exempt from Utah sales or use tax unless they qualify for the exclusive-use-outside-Utah exemption, explained below.

Resale/Re-lease

A completed exemption certificate must be on file to claim a resale/re-lease exemption. See form TC-721.

Trade-in Exemption

An allowance for a trade-in of tangible personal property on the purchase of a vehicle may be excluded from the amount on which the tax is computed. For this credit to apply, the trade-in must be part of a single transaction between only two parties. A customer who trades in a leased vehicle must first buy the vehicle and pay any sales or use tax due on that purchase before receiving a trade-in credit.

**Note:** An even exchange is not a taxable event.

A single transaction means both the trade-in of the old vehicle and the purchase of the new vehicle take place at the same time and are documented in the same contract, buyer's order and other paperwork. A transaction includes a fixed allowance for the trade-in vehicle, a fixed sale price for the new vehicle, an obligation for the seller to both sell the new vehicle and accept the trade-in, and an obligation for the buyer to buy a specific vehicle. The single-transaction criteria are not violated in a case where a buyer receives a new vehicle after a finished transaction due to the fact that it is ordered from a factory.

The trade-in credit may be allowed if the person trading in a vehicle does not appear as the owner on the title; however, the Tax Commission will follow up on such transactions and assess the buyer for any taxes due on the acquisition of the trade-in vehicle. The owner of a vehicle not yet titled in the buyer's name may be required to show all sales or use taxes have been paid on the vehicle purchase if the trade-in credit has been allowed.

Trades of services (e.g., advertising, legal, accounting, etc.), equity in real property, and items taken for sale on consignment do not qualify for the trade-in credit. A credit given for a trade on a future purchase is not part of a purchase transaction and does not qualify for the credit.

Do not overstate or duplicate credits on trade-downs or trades on nontaxable sales.

See Tax Commission Rules R865-19S-30 and R865-19S-72.

Donations to Exempt Entities

A dealer who donates a vehicle (or other property), or who provides use to an organization that would be exempt if a sale had been made, is not required to either collect or pay sales or use tax on the value or use of the donated property.

Foreign Diplomat Vehicles

Sales and leases of motor vehicles to foreign diplomats are exempt ONLY IF the dealer receives a *Motor Vehicle Tax-Exemption Letter* signed by the U.S. Department of State, Office of Foreign Missions (OFM) or the American Institute in Taiwan (AIT). *Diplomatic Tax Exemption Cards* DO NOT exempt vehicle purchases from sales tax.

Adaptive Driving Equipment

Adaptive driving equipment is mobility-enhancing equipment installed on a motor vehicle. Examples include a wheelchair or scooter lift, equipment to secure a wheelchair in transit, a swivel seat, a hand or foot control, a steering aid, etc.

Sales of adaptive driving equipment not yet installed in a motor vehicle are exempt from sales tax. If the adaptive driving equipment was installed in a vehicle by a previous owner, it is exempt if:

- the vehicle is purchased from a dealer, and
- the price of the equipment is stated separately in the sales contract.

Exclusive Use Outside Utah

Certain vehicle sales are exempt from Utah sales tax if the vehicle is registered in another state and either not used in Utah or used in Utah only for:

1. non-business purposes for 30 days or less in a calendar year, or
2. business purposes for the time needed to transport it to the state border.

The following vehicles qualify for this exemption:

1. Vehicles that must be registered under the Motor Vehicle Act
2. Off-highway vehicles (snowmobiles, all-terrain vehicles and motorcycles)
3. Watercraft (motorboats and sailboats) that must be registered under the *State Boating Act.* See UCA §73-18-6.

- In addition to a boat itself, the exemption applies to items that are part of the original sales transaction if permanently installed in or on the boat. Examples include convertible tops, swim platforms, trim tabs, radios, stereos, speakers, depth finders, spot lights, running lights, antennas, auxiliary batteries, fuel tanks, water tanks, inboard engines, inboard/outdrives, auxiliary outboard mounting brackets, horns, winches, sails, sail halyards, etc.
- Equipment that is not part of the original transaction for the sale of the boat, or not permanently installed to the boat, does not qualify for the exemption. Examples includes water skis, fishing equipment, other water sports gear, anchors, fire extinguishers, safety equipment, life jackets, ice chests, tool kits, spare parts, camping gear, bumpers, flotation devices, ropes, paddles, etc.

• Boats that are not required to be registered (kayaks, canoes, rowboats, inflatable boats, etc.) do not qualify unless designed to be propelled by motor or sail.

4. Boat trailers

• A boat trailer qualifies regardless of unladen weight. The exemption also applies to certain accessories attached to a trailer (e.g., winch, sideboard, spare tire, etc.) that are part of the original sales transaction.

5. Outboard motors

• Any outboard motor qualifies, regardless of horsepower, fuel supply or energy source. Also included are a motor's remote control and fuel supply tank or battery when included in the original sale.

• Inboard/outdrive units sold separately from a boat do not qualify.

To claim the exemption, complete form TC-721A, *Sales and Use Tax Exemption Affidavit for Exclusive Use Outside of Utah.*

See UCA §59-12-104.

Non-qualifying items must be separately stated and separately priced on the invoice or contract of sale to enable proper handling for sales tax purposes.

Credit for Tax Paid to Another State

Utah allows credit for sales tax properly due and paid first to another state. Since sales tax is a tax on a transaction and not on property, it is due at the point of sale.

If a sale takes place in Utah and either the buyer completes form TC-721A in error, or the dealer accepts TC-721A in error, no credit is allowed by Utah for any tax paid to another state, since tax was legally due first to Utah.

Commuting Between Certain States for Work

Utah has agreements with Idaho and Wyoming that allow a person having a primary residence in one of those states to commute to another one for work using a vehicle registered with the state of primary residence.

The agreements are specifically for vehicle registration and do not waive any other fees or taxes levied by any state.

Out-of-Utah Deliveries

The *Affidavit for Exclusive Use Outside of Utah,* form TC-721A, does not support exemption for out-of-Utah deliveries of motor vehicles.

The seller must keep evidence of the out-of-Utah delivery to verify the exemption. *Affidavit of Out-of-State Delivery,* form TC-757, may be used as evidence of this exemption.

Frequent deliveries into another state may subject the seller to the other state's tax collection requirements.

The out-of-Utah delivery must be an essential part of the sale, and the seller must be required by the sales contract to physically deliver the vehicle across a state border to the buyer. The seller must make the delivery. See Rule R865-19S-44.

If the buyer returns the vehicle to Utah for use, the vehicle may be subject to Utah use tax, with credit allowed for tax due and paid first to the other state.

Repossession Credits

A sales tax credit is allowed for the repossession of a motor vehicle if the seller collected sales tax on the vehicle and resells the vehicle. The credit may be taken by a third-party seller that repossesses and resells a vehicle if the seller that collected the sales tax has gone out of business and does not have any outstanding sales and use tax liabilities.

Repossession credits are determined by the application of a ratio to the taxable base after a reduction for any down payment. The ratio is the unexpired portion (number of unpaid monthly payments) of the contract to the total length of the contract.

**Example**

The repossession credit is reduced by recoveries, other than the amount realized through the resale of the repossessed vehicle, to arrive at the net taxable base (gross amount before attorney or collection agency fees). The net taxable base is then multiplied by the sales tax rate in effect on the date of the original sale to calculate the repossession sales tax credit. If the tax rate has changed since the original sale, divide the repossession sales tax credit by the current tax rate to calculate an adjusted net taxable base.

1. Total taxable base $30,000.00
2. Down payment ($5,000.00)
3. Balance of taxable base (line a minus line b) $25,000.00
4. Number of full months unpaid at time of repossession 40
5. Total contract period 60
6. Ratio (line d divided by line e) 0.6667
7. Credit before recoveries (line c times line f) $16,667.50
8. Amount recovered **(excludes re-sale proceeds)** ($3,000.00)
9. Net taxable base (line g minus line h) $13,667.50
10. Tax rate from original sale 6.60%

11. Repossession credit
(line i times line j) $902.06

Show the net taxable base or the adjusted net taxable base on the proper line of the current sales tax return and attach an explanation.

Make certain of the amount originally taxed (consider rebates, price adjustments, discounts, etc.) and the rate of tax. Special computations are required for contracts calling for balloon payments at the end of the contract.

Sales Tax Refunds on Re-purchases

When re-purchasing a motor vehicle from a retail customer, motor vehicle manufacturers must refund sales tax paid at the time the vehicle was purchased.

A manufacturer may recover refunded sales tax by including the amount on the adjustment line of its Utah *Sales and Use* Tax Return. When recovering refunded sales tax, a manufacturer must include the following documentation with their return:

1. Name of the retail customer to whom sales tax was refunded
2. Name of the dealer from whom the customer bought the vehicle
3. Original purchase date
4. Date the vehicle was re-purchased by the manufacturer
5. The re-purchased vehicle's VIN.

Sales tax applies to any charges for the use of a vehicle (see *Determining Tax Base, Taxable Sales*, above).

A manufacturer recovering sales tax must keep all re-purchase paperwork for three years.

Purchases by Native Americans

Out of State Purchases

When an enrolled tribal member buys a vehicle out of state, the purchase is either:

1. not subject to tax if driven into Utah within a reservation boundary, or
2. subject to tax if driven into Utah outside the tribal boundary on its way to the reservation.

Purchases in Utah

When an enrolled tribal member buys a vehicle in Utah, the purchase is either:

1. not subject to tax if the vehicle is delivered to a location within the enrolled member's reservation; or
2. subject to tax if the vehicle is delivered to a location off the reservation.

A dealer must keep a copy of the enrolled member's tribal documentation (e.g., tribal card) and documentation of delivery to the enrolled member's reservation.

Leases

When a vehicle is leased in Utah off the reservation by an enrolled tribal member, but the primary property location is the reservation, the lease is not subject to tax.

Transfers to or from Trusts

Any vehicle transfers between a trust and its beneficiaries, trustees or members are subject to sales tax, if:

1. the trust is established as a separate legal entity;
2. there is an actual transfer of vehicle ownership; and
3. anything of value is received in exchange for the vehicle.

However, transfer of a vehicle to or from a trust where ownership of the vehicle before and after the transfer is substantially the same is considered an isolated transaction and is exempt from sales tax.

Transfers to or from a trust may be in the form of a gift where no payment is involved, in which case the transfer is not subject to sales tax. However, if payment of any kind is involved, the transfer is subject to sales tax.

Washing Vehicles in Dealer Inventory

Cleaning, washing and detailing vehicles is taxable unless the vehicle is held in resale inventory.