

Florida Department of Revenue



Motor Vehicle Dealer Standard Industry Guide



PURPOSE

This guide provides an auditor with information on the subject industry. This information will assist an auditor in recognizing areas to test for compliance with Florida sales and use tax laws.

After reviewing this guide, an auditor will be better able to understand issues involving:

- Tax implications affecting the subject industry;
- Sales tax issues likely to surface relating to the subject industry; and
- Relevant statutes, rules, court cases and other technical documents

Helpful tax publications provided by the Department of Revenue available online (See hyperlinks):

Industry Specific:

[Sales and Use Tax on Motor Vehicles](#)
[Tax Information for Motor Vehicle Dealers](#)

General:

[Sales and Use Tax Guide for Business Owners](#)
[Audit Information](#)
[Florida Sales and Use Tax](#)
[Discretionary Sales Surtax](#)
[Sales and Use Tax on Tangible Personal Property Rentals](#)

These reference materials and the technical documents cited herein have been provided as informational guidelines for performing tax audits and are intended to be used as internal management memoranda. They are not rules, orders, or policy statements of general applicability, and as such, do not represent the formal position of the Florida Department of Revenue. No representation is made regarding the Department's opinion of the precedential value of the court cases cited herein. They are provided for informational purposes only. Statutes, rules, court cases, or other technical documents subject to change are current as of the publication date of this document. Refer to the Tax Law Library for an updated listing of such documents. The Tax Law Library can be accessed through the Department of Revenue web site:

<http://www.myflorida.com/dor/> or directly at <https://taxlaw.state.fl.us/>

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OVERVIEW OF METHODS OF OPERATION

New Car Dealers

New car dealers are franchised by the manufacturer supplying the automobiles. The dealer purchases the cars from the manufacturer and places them in inventory. This inventory includes the cars of display, demonstrator vehicles used by the sales personnel, and the “executive cars” driven by the executives of the dealership. The dealer may also use vehicles from the inventory in conduct of business, such as delivering parts and accessories.

When a vehicle is sold, the dealer creates a file that includes a copy of the invoice and the buyer’s order and any other pertinent documents. A second copy of the invoice is filed in a sales invoice file, usually in numerical sequence. An accounting copy, filed in the accounting department, contains additional information, printed on the reverse side of the copy. This information provides the basis for journal entries.

In addition to selling new vehicles, a new car dealer usually operates on-site repair facilities to perform warranty repairs, as well as general repairs, on vehicles made by a particular manufacturer or on other vehicles as required or requested. Dealerships may also operate auto body repair shops. They may also maintain a fleet of vehicles for long-term lease or short-term rental.

Used Car Dealers

A used car is usually acquired when accepted by a dealer as a trade-in toward the purchase of another vehicle. At the time of trade-in, the owner signs the title certificate, transferring ownership to the dealer. The dealer accepting the used vehicle may place it in inventory or may sell it, either to another dealer or at an auction, for the purpose of resale. When a vehicle is sold for resale, the selling dealer must obtain an annual resale certificate from the purchaser (See [TAA 90A055](#)).

Dealers that buy and sell only used cars may or may not maintain repair facilities or body repair shops.

Repair Facilities

Motor vehicle dealers operate repair shops to service and repair motor vehicles made by the franchising manufacturer. These shops range in size from large, complete repair facilities to small general maintenance shops. They make repairs covered by the manufacturer’s warranty, as well as other repairs needed by their customers. When the dealer cannot provide the repair services needed by the customer, the work is usually subcontracted to a local repair facility specializing in the needed repairs. A dealer’s repair shop operation is usually the most profitable part of the dealership. Some dealers may also operate separate paint and body shops. It is customary for each part of a dealer’s option to prepare and control its own repair orders.

A franchised dealer also maintains a parts department to provide accessories and repair parts for use in the dealer’s repair shop and for sale to other repairers and the general

public. The dealer is the source of genuine repair parts for use on the particular motor vehicles made by a particular manufacturer.

Vehicles for Lease and/or Rental

Motor vehicle dealers usually establish subsidiaries, separate divisions to handle the leasing, or rental of motor vehicles. The volume of activity may range from a few cars made available to customers while their cars are being repaired to a fleet of cars aggressively marketed for lease to the general public.

ACCOUNTING SYSTEMS

Most new car dealers must use a standard, computerized accounting system from the manufacturer they represent. The standard system generates sales invoices, monthly general ledgers, and inventory reports and requests, as well as sales journals. The accounting system is similar to the systems of other retail sale entities. Due to the dollar value of the inventory, vehicle dealers usually maintain a perpetual inventory system. Each sale is accounted for and inventory is reduced with each sale made and increased with each purchase made. Independent used car dealers may have computerized accounting systems, but most have very simple manual systems consisting only of sales invoices and sales journals.

Sales at wholesale and retail are recorded in the same way. Usually, the computerized accounting system calculates and records the sales tax charged to the customer.

With regard to financing, dealers normally finance their inventory, most frequently through the manufacturer of the vehicles they sell or through an outside financial institution. The vehicles the dealer sell are usually financed by a third party, again, either an outside financial institution or a credit acceptance corporation owned and operated as a subsidiary of the vehicle manufacturer. In the case of independent motor vehicle dealers, those that are authorized may finance their own sales. These types of arrangements are referred to as “lot financing” or “buy here, pay here.” In these situations, the process of repossessing vehicles and taking repossession credits must be properly accounted for because the same vehicle may be sold, repossessed, and sold again several times.

The accounting system of vehicle repair facilities is very similar to that of any other repair facility in that the property being repaired must be tracked for billing purposes and for identification purposes. The dealer must be sure that the customer is charged the proper selling price and that the correct property is returned to the correct owner.

The accounting system for repair parts is very similar to the accounting system for any high volume items. Inventory is usually maintained by the periodic method. There may be a picking system built into the accounting that alerts the salesperson to fill the customers order and check the inventory count for reorder. The system also calculates the cost and profit for the dealer as transactions are recorded.

Accounting for leased vehicles is similar to accounting for vehicle sales. As in the case of sales, leases may be arranged by third party financiers or by the selling dealer.

REGISTRATION

If you regularly sell or lease motor vehicles to someone else, you must register as a dealer and collect sales and use tax (See [212.18, F.S.](#), and [Rule 12A-1.060, F.A.C.](#)).

If you lease motor vehicles from someone else for the purpose of leasing to a third party, you are required to register as a dealer and collect sales and use tax. You must present a signed copy of your *Annual Resale Certificate* in order to lease vehicles tax-exempt.

If you own an out-of-state motor vehicle leasing company and lease any vehicles to persons in Florida, you are required to register as a dealer and collect sales and use tax.

Any out-of-state motor vehicle leasing company wishing to register a leased vehicle in Florida in order to obtain a Florida tag must register as a dealer and collect sales tax on the lease payments. The company must present proof of sales and use tax registration to the tag agency to exempt tax on the acquisition value. If the out-of-state leasing company is not registered with Florida for sales and use tax purposes, tax will be due upon registration of the leased vehicle in this state.

You can register to collect and/or report tax via the Department's Internet site. Go to www.myflorida.com/dor and click on [e-Services](#). If you do not have Internet access, you can complete a paper *Application to Collect and/or Report Tax in Florida* (([Form DR-1](#)) See "For Information and Forms").

After your registration application is approved, you will receive a *Certificate of Registration* (Form DR-11), an *Annual Resale Certificate* (Form DR-13), and your tax return forms. The *Annual Resale Certificate* may be used to purchase goods tax-exempt that will be resold in your regular business operations. If the goods purchased for resale are later used (not resold), you must report and pay use tax on those items, plus any applicable penalties and interest. There are additional liabilities for intentional misuse of a resale certificate.

Motor vehicle dealers that operate a vehicle repair facility at the dealership may purchase repair parts tax-exempt by providing suppliers with a copy of their *Annual Resale Certificate*. When parts are removed from the dealer's inventory to repair a customer's vehicle, the entire charge for the repair (including parts and labor) is subject to tax.

See [Section 212.07, F.S.](#) (See [Rule 12A-1.039, F.A.C.](#) and [Gulf Capital Corporation vs. Florida DOR, 01-6-FOF; 01-0174, 9/25/01](#)).

Motor vehicle sales or leases may be subject to the lead-acid battery fee, new tire fee, and rental car surcharge. For more information, ask for a [Solid Waste and Motor Vehicle Fees](#) brochure.

SPECIAL CONSIDERATIONS

The sale, use, or storage for use in this state of any motor vehicle is taxable on the full sales price, without any deductions for such components, as dealer's prep, federal

manufacturer's excise taxes, freight, handling, delivery, commission, repossession, advertising, future free service, vendor's single interest insurance, or any other expenses or costs. The waste tire and battery disposal fees are also included in the taxable base. However, tag, title, registration, licensing, and lien recordation fees are excluded from the taxable selling price. The "Lemon Law," Motor Vehicle Warranty Enforcement Act (MVWEA) fee is also not subject to sales tax.

Collection and Computation of Taxes Due

The state sales tax rate is 6 percent. This rate should be used by applying the effective tax brackets to the taxable base to determine the amount of tax due. The tax is paid by the ultimate consumer and is collected by the retailer at the time of the sale.

To compute the amount of tax to be collected, a dealer must first determine the taxable base—the amount on which the tax is to be calculated. To determine the taxable base, the dealer must take into consideration the retail sales price, the amount of any trade-in allowance, and whether the sale qualifies as an exempt sale. Once the taxable base is determined, the applicable tax rate is applied to the taxable base to determine the amount of tax to be collected.

Alternative Method for Estimated Tax

Motor vehicle dealers may use an alternative method available to calculate their estimated sales tax. To qualify for the alternative estimated sales tax method; a dealer must have made at least one sale of a motor vehicle with a selling price of \$200,000 or more in the previous state fiscal year. The state fiscal year is from July 1 through June 30. Dealers must apply before October 1 of each year and be approved by the Department to use this alternative method (See [Section 212.11\(4\)\(d\), F.S.](#) and [TIP 98A-01-016](#)).

Promotional Campaigns

Promotional campaigns, such as "Free tires for Life" associated with the sale of tangible personal property. As provided in [TAA03A-029](#), the customer signs an ancillary contract, "Free Tires for Life Statement," at the time of the sale, evidencing the acceptance of the terms contained with that contract, then such contract is a part of that agreement to abide by the terms and conditions stated therein. Accordingly, as part of the agreement to the vehicle exclusively serviced by the dealer, pursuant to the schedule provided in the manufacturer's owner manual including one alignment every 15,000 miles which ever comes first, the cost of the free tires provided, to the dealer's customer, is included in the taxable "maintenance charge" for servicing the vehicle. Thus, the dealer does not owe any use tax on the replacement tires. The dealer will be subject to the \$1.00 waste tire fee, as a charge to the dealer for the privilege of engaging in the business, pursuant to the provisions of [Sections 403.718, F.S., Rule 12A-1.001\(6\)\(b\), F.A.C., and TIP 03A01-20](#).

Guaranteed Auto Protection (GAP)

Guaranteed auto protection offered to individuals who finance a motor vehicle is not subject to sales tax. GAP insurance offers protection against financial liability for an individual who has financed a new or used vehicle to obtain insurance for paying the difference between the outstanding loan balance and the actual cash value of a financed vehicle that has been declared a total loss due to an un-recovered theft or physical damage. Applying the tests used by the court in [Department of Revenue v. B & L Concepts, 612 So.2d 720 \(Fla. 5th DCA 1993\)](#), GAP is not part of the “sales price” and therefore, is not subject to sales tax (See [TAA 02A-044](#)).

Trade-in Allowances

Sales tax should be computed at the rate of 6% of the total sales price of a motor vehicle, minus any trade-in allowance, pursuant to [Section 212.09, F.S.](#), and [Rule 12A-1.007\(1\)\(b\), F.A.C.](#)

The amount of the trade-in allowance or credit is deducted from the sales price of the new or used vehicle before computing the amount of the tax due (See [Section 212.09, F.S.](#)). When the amount of the trade-in allowance against the sales price of a motor vehicle is equal or exceeds the sales price of the motor vehicle being purchased, such as an “even trade” or “trade down,” no tax is due (See [TAA 88\(A\)-293](#)).

The owner of the trade-in does not have to be the purchaser of the motor vehicle receiving the benefit of the reduction in sales price. The owner must approve of the trade-in.

Sales of Vehicles to Residents of Other States

The Florida Statutes allow a partial exemption from sales tax to purchasers who are residents of other states. The selling dealer must collect sales tax on the sale of the vehicle based on the sales tax rate for such a transaction in the state where the vehicle will be registered (See current and past TIP’s on Motor Vehicle Sales Tax Rates by State and Credit Application). The purchaser must provide the selling dealer with a notarized statement that the vehicle will be registered in the other state within 45 days from the date of purchase (***Form DR-123, Affidavit for Partial Exemption of Motor Vehicle Sold for Licensing in Another State.***). The partial exemption does not apply if the vehicle is purchased by a nonresident corporation or partnership when an officer of the corporation is a resident of this state, a stockholder of the corporation who owns at least 10 percent of the corporation is a resident of this state, or a partner in the partnership who has at least 10 percent ownership is a resident of this state. However, if the Non-resident Corporation or partnership removes the vehicle from this state within 45 days of purchase and does not bring it into this state within 180 days, the partial exemption may apply regardless of the residency of the owners or officers of the purchasing entity (See [Section 212.08\(10\), F.S.](#), [Rule 12A-1.007, F.A.C.](#), and [TIP 97A-01-25](#) on how to report these sales on the sales and use tax return (DR-15)).

Sales and Leases of Motor Vehicles to Foreign Diplomats and Consular Employees

Tax-exempt sales or leases of motor vehicles to foreign diplomats and consular employees may not be documented by presentation of the tax exemption card issued by the U.S. Department of State. Motor vehicle dealers are required to first contact the OFM for verification of the tax-exempt status of a foreign diplomat or consular employee (See [TIP 04A1-08](#) and [TIP 03A01-18](#)).

Dealer License Plates

Both new and used car dealers purchase dealer license plates (tags). Each motor vehicle dealer required to purchase one or more dealer license plates must pay an annual use tax of \$27 for each dealer license plate purchased. Dealer tags are valid for use on motor vehicles owned by the dealer to whom the tags are issued while the vehicles are being held in inventory for sale in the regular course of business or while being operated in connection with the dealer's business. Dealer tags are not valid for use on vehicles for hire (See [Section 212.0601, F.S., TAA 99A-052, and TIP 8701-14](#)).

REPAIR CENTERS

When a registered dealer repairs a vehicle for a customer and the repair includes parts, sales tax is due on the total charge, including labor. If no parts are used and the repairing dealer can prove that the repair was a service repair only, no tax is due on the repair (See [Sections 212.02, 212.05, 212.06, 212.08\(9\)\(10\), F.S. and Rule 12A-1.006, F.A.C.](#)).

The following list is a brief description of many repairs/services performed by new and used motor vehicle dealers and the tax implications on them:

- **Lube Jobs** – Charges for lubrication services, including grease jobs and oil changes, are taxable.
- **Tire Service** – The charge made for repairing flat tires is taxable. The charge for wheel balancing or tire mounting is exempt, only when no parts are used.
- **Repairs to Vehicles Held in Inventory for Sale** – When a registered dealer has repairs made to a vehicle held in inventory for sale, no sales tax is due on the repair bill. Tax will be collected when the vehicle is sold.
- **Insurance Claim Repairs** – When a registered dealer makes repairs to a vehicle in an insurance claim, if parts are used, sales tax is due on the repair. If no parts or materials are used, no sales tax is due.
- **Repairs to Vehicles Used as Rentals** – When parts are used to repair a vehicle that is used exclusively for rental purposes, no tax is due on the repair, if tax is collected on the rental of the vehicle.
- **Wrecker/Towing Services** – Wrecker or towing charges are not taxable if the dealer separately states the charge on the invoice.
- **Car Wash Services** – The charge for a plain car wash, where only detergent or water softener is added to the water, is exempt from tax. The purchase of the detergent and water softener is taxable to the dealer. The charge for a wash job where wax, silicones, or any other substance is added that forms a protective film or

coating is taxable to the customer. The purchases of the wax, silicones, or other substances are exempt to the dealer. Wash jobs done by the dealer or its employees in preparing a car for sale are exempt from sales or use tax.

- **Shop Materials.**

LOANER VEHICLES

No sales or use tax is due on a vehicle that is loaned at no charge by a dealer under any of the following conditions:

- The vehicle is loaned to a person whose vehicle is being repaired, adjusted, or serviced by the dealer providing the replacement vehicle.
- The vehicle is loaned to a high school for use in its driver's education and safety program.
- The vehicle is loaned for demonstration purposes, provided that the dealer has obtained a dealer's license plate for the vehicle and has paid the \$27 use tax on the plate.

Other loans of a motor vehicle at no charge by the dealer are subject to use tax based on the annual lease value as determined by the Internal Revenue Service's *Automobile Annual Lease Value Table* (See [Sections 212.02\(20\), 212.0601, and 212.0606, F.S., TAA 98A-080, and TIP 98A01-14,](#)

LEASED VEHICLES

The lease of motor vehicles for 12 months or more are taxable in Florida if the vehicle is registered in Florida. Sales tax does not apply to the lease or rental of a commercial motor vehicle to one lessee or renter for a period of at least one year when sales tax on the purchase price of the vehicle was paid by the lessor.

Florida sales and use tax will apply to a long-term motor vehicle lease agreements entered into after July 1, 1998 where the vehicle was leased and registered in another state prior to being removed and registered in Florida. Florida will allow credit for any tax paid in the other state when: the other state requires the tax to be paid up-front, and it is not an option; the other state lawfully imposes the tax on the lessee; the other state does not allow a credit or a refund from that state; and, the tax imposed by the other state must be a like tax, as provided in [Section 212.06\(7\), F.S.](#) If the tax rate of the other state is less than the rate imposed by Florida, which would include the state tax rate of 6 percent and the county surtax rate, if applicable, the monthly lease payments will be subject to the difference of the tax paid to the other state and the rate imposed by Florida. For states where the legal incidence of the tax falls on the lessor, Florida will not allow a credit even though the lessee may be contractually obligated to reimburse the lessor for the expense (See [Sections 212.05\(1\)\(c\), 212.06\(7\), and 212.06\(10\), F.S., TAA 01A-063, and TAA 00A-048.](#)

In addition, to the sales tax due on the lease of motor vehicle designed to carry fewer than nine (9) passengers, there is also a rental car surcharge that is due (See [Section 212.0606, F.S., Rule 12A-16.002, F.A.C., and TAA 95A024.](#)) The surcharge is due at the rate of \$2.00 per day or any part of a day. The surcharge applies to the first 30 days the vehicle is leased or rented, regardless of whether the vehicle is licensed in Florida. If the lease or

rental agreement is renewed for an additional period, the surcharge applies to the first thirty days of the renewal period. The surcharge is not due on the lease of trucks, truck trailers, motorcycles, mopeds, camping trailers, travel trailers, van conversions, and recreational vehicles with living facilities. The leasing dealer collects the surcharge from the lessee and remits the surcharge to the department on a monthly basis. The surcharge is due on long-term lease agreements; however, the surcharge is not due on such agreements after the first thirty (30) days. If a motor vehicle is rented in another state and is driven into Florida, and the lease or rental charge is paid in Florida, the surcharge applies. If a motor vehicle is rented in Florida and driven to another state, and the lease or rental charge is paid in another state, the surcharge does not apply. If a motor vehicle is rented in Florida and the lease or rental charge is paid in Florida, the surcharge applies whether or not the vehicle is removed from Florida.

The rental car surcharge does not apply when a vehicle is rented or leased directly to an organization that is exempt from sales and use tax, such as a church or governmental entity. The exemption certificate required for sales and use tax will satisfy the requirements for exempting the surcharge. Any person who has obtained a Direct Pay Permit from the Department of Revenue that allows self-accrual of sales tax on purchases or leases of tangible personal property may provide a copy of the permit to the lessor of the vehicle, which relieves the lessor from collecting and remitting the surcharge.

The amount of the surcharge must be separately stated on any invoice, charge ticket, or other evidence of rental and is due and payable when the lease or rental payments are to be made by the lessee or renter. The surcharge is remitted to the Department on the ***Solid Waste and Surcharge Return (Form DR-15SW)*** and is due in the same manner as sales and use tax returns. There is no dealer's collection allowance applicable to the rental car surcharge. The surcharge is subject to sales and use tax and discretionary sales surtax, but it is not included in computing estimated sales and use taxes. The electronic funds transfer provisions do not apply to the surcharge.

ASSIGNMENT/TRANSFER OF BENEFICIAL INTEREST

The transfer of beneficial interest does not constitute a sale at retail subject to Florida sales and use tax since none of the transfers or subsequent transfers of the beneficial interests will require re-titling or re-registration of the leased vehicles. Since legal title to the leased vehicles continue to be vested in and held by the original owner (See [Section 212.02\(15\)\(a\), F.S.](#), and [TAA 02M-009](#)).

LIKE-KIND EXCHANGE OF MOTOR VEHICLES

[Sections 212.02\(15\)\(a\), F.S.](#), provides that the transfer of title or possession, or both of personalty and the flow of consideration in exchange for the transfer of title or possession, or both, of personalty, must be present for a transaction to constitute a "sale." An agreement to sale a motor vehicle to a taxable individual (sale to lessee) at the conclusion of a lease that qualifies for tax-free "like-kind" exchange treatment under Internal Revenue

Code Section 1031, the purchaser is required to pay Florida sales tax on the transaction. (See [Section 212.05\(1\)\(a\), F.S.](#), and [TAA 02A-002](#)).

TRANSFEEE LIABILITY

It is entirely possible that a dealership under audit will have changed owners during the period of audit coverage. [Section 212.10, F.S.](#), makes the current owner of a business liable for the tax liability of the previous owner if a certificate of clearance issued by the Department was not obtained from the previous owner. Few individuals observe this requirement, believing that the Department will hold the previous owner(s) liable for any tax deficiency incurred during the time they owned the business.

When a business or stock of goods is sold, any receipt or certificate the owner receives from the Department of Revenue indicating that taxes have been paid or that no tax is due are valid only after the Department has audited the seller's books and records. To protect the purchasing dealer from transferee liability, the seller or purchaser may request an audit of the seller's books and records. The Department of Revenue is authorized to use private auditors to perform the audit and charge the cost of the audit to the person requesting it.

SERVICE WARRANTIES

A motor vehicle dealer is required to collect sales tax when a customer purchases a motor vehicle service warranty from the dealer. A "service warranty" means any contract or agreement that indemnifies the holder of the contract or agreement for the cost of maintaining, repairing, or replacing tangible personal property, including motor vehicles. The partial exemption for the sale of a new or used motor vehicle to a resident of another state does not apply to the sale of a service warranty. The selling dealer is required to collect sales tax at the rate of 6 percent from the customer, as well as any discretionary sales surtax imposed in the county in which the dealer is located, on the total sales price of the service warranty. The \$5000 cap on discretionary sales surtax does not apply to the sale of a service warranty. The sale of a service warranty is not taxable if the contract covers a motor vehicle that is not subject to sales tax. For instance, if a church purchases a vehicle and a service warranty covering the vehicle, no tax is due on either the vehicle or the warranty purchase. The church has a consumer's certificate of exemption from the Department of Revenue and extends an exemption certificate (See [Rule 12A-1.038, F.A.C.](#), for suggested format) to the selling dealer. The dealer does not collect sales tax on the motor vehicle or the service warranty contract.

When a service warranty is cancelled and the dealer refunds the purchase price of the warranty, the dealer must refund the tax paid by the warranty holder. If only a portion of the purchase price is refunded to the warranty holder, the dealer must refund the tax paid by the warranty holder based on the same proration used to refund the purchase price. The dealer may request a refund from the Department of Revenue or take an equivalent credit on its sales and use tax return for the sales tax refunded to its customer.

When repairs are made to a vehicle under a service warranty, the payment of all or any portion of the claim by the service warranty issuer to the person making the repairs is not subject to sales tax. However, sales tax does apply to any amount paid that is not paid by the service warranty issuer directly to the person making the repairs, (e.g., deductibles paid

by the warranty holder; repairs not covered by the warranty; repairs paid directly by the customer who is subsequently reimbursed by the service warranty issuer). The person performing the repairs must note on the repair invoice the name of the service warranty issuer, the service warranty policy number, the issue date of the service warranty, the Florida sales tax number of the service warranty issuer, and the amount of the claim to be paid by the service warranty issuer. When a motor vehicle service warranty is sold in conjunction with the lease of a motor vehicle, tax is due at the time of the sale of the service warranty even though the amount of the premium is prorated over the term of the lease (See [Section 212.0506, F.S.](#) and [TIP 89A01-04](#),

[TAA 96A-036](#) addresses an “Emergency Road Service Contract” that provides that the contract falls under the provisions of [Section 624.124, F.S.](#), the contract is not a contract for “insurance” as that term is defined in [Section 624.02, F.S.](#), above. Consequently, since the contract is not “insurance” by statutory definition, the contract is not a contract that undertakes to indemnify another. Therefore, since [Section 212.0506, F.S.](#), applies only to service warranties and the definition of “service warranties” is defined therein is limited agreements which indemnify the holder, the contract is not a service warranty for the purposes of [Section 212.0506, F.S.](#) Accordingly, the levy of sales tax against service warranties under [Section 212.0506, F.S.](#), would not apply to this type of contract.

VEHICLES NOT HELD FOR RESALE

Except for motor vehicles held exclusively for leasing, motor vehicles that are capitalized in a fixed asset account and depreciated for income tax purposes are not being held for resale, and sales or use tax must be paid based on the cost price of the vehicle. If a manufacturer, distributor, dealer, or lessor registers a motor vehicle purchased for resale in anyone’s name other than that of the manufacturer, distributor, dealer, or lessor, the vehicle is no longer considered as being held for sale. Sales tax would be due at the time the vehicle is registered, based on the cost price of the vehicle, unless it is registered as a lease vehicle. If this is the case, then no use tax would be due, because sales tax would be collected on each lease payment. When a motor vehicle dealer assigns a motor vehicle to a person other than an employee or officer (such as relatives or business associates), it will be presumed that the motor vehicle is not in inventory for sale in the regular course of business or for operation in connection with the dealer’s business. Tax must be paid, measured by the purchase price of the motor vehicle. No use tax is due on a motor vehicle that is exclusively used by a dealer for loan to a high school for its driver’s education and safety program. When such a loan occurs, the vehicle may be titled in the dealer’s name without payment of tax, when the dealer furnishes the Department of Highway Safety and Motor Vehicles, Division of Motor Vehicles, an affidavit that the vehicle will be used for that purpose only (See [DOR 98-02 Fla. Automobile Dealer’s Association](#)).

OTHER CONSIDERATIONS

Sales at wholesale between dealers are common and should be supported by the annual resale certificate (See [Rule 12A-1.039, F.A.C.](#) and [TAA 90A055](#)).

Purchases of used cars by out-of-state dealers are common and these transactions should be supported by affidavits, as required by [Rule 12A-1.007 \(6\), F.A.C.](#)

All repairs of motor vehicles, electronics, and appliances are subject to the tax unless the repairman's records clearly reveal that no parts or lubricants were used (See [Rule 12A-1.006\(1\), \(4\), F.A.C.](#)).

When a rental car agency refuels an automobile and separately states this charge on the invoice, the amount charged for the gasoline should not be included in the amount subject to sales tax. Gasoline is taxed under [Chapter 206, F.S.](#), and this tax is included in the price posted on the pump. In addition, insurance purchased through the rental agency is not taxable as long as the insurance is optional (not required) and is separately stated on the invoice.

Long term leases for 12 months or more to an original lessee of a commercial vehicle, which has a gross weight of 10,000 pounds, or more may be taxed differently from rentals. The lessor has the option of paying the tax on the cost price at the time of purchase of the vehicle and not collecting tax on each lease payment (See [Rule 12A-1.007\(13\)\(b\) 2.F.A.C.](#)).

The subsequent sale of a rental vehicle by the owner/lessor is taxable, except when the vehicle is sold for resale.

Materials and supplies used in the performance of factory (manufacturer) warranty repairs are not subject to tax, when no charge is made to the customer and the cost of such materials and supplies is paid by the manufacturer.

Deductibles charged to the customer for repairs made pursuant to a warranty are subject to sales tax (See [Rule 12A-1.105 \(5\) \(a\), F.A.C.](#)).

Discretionary Sales Surtax (DSS)

A discretionary sales surtax is a locally imposed general sales tax at the county level. The surtax rates vary from zero, .5, .75, 1, to 1.5 percent. However, a county may impose a combination of surtaxes with combined rates up to 3 percent. The Florida Department of Revenue is responsible for the administration, collection, and enforcement of the discretionary sales surtax. The discretionary sales surtax is returned to the counties for funding local programs. Persons engaged in the business of selling or renting motor vehicles are required to charge, collect, and remit the surtax on their sales or rentals. Vehicles that are required to be registered in this state or are subject to the state tax imposed on sales and rentals may be subject to the surtax when the transaction occurs in a county imposing surtax (See [Sections 212.054](#) and [212.055, F.S.](#) and [Rule 12A-15, F.A.C.](#)).

For purposes of applying the surtax, a transaction involving a motor vehicle shall be deemed to have occurred in a county imposing surtax when the residence address of the purchaser shown on the registration or title document is in a surtax county. The surtax applies to the first \$5000 of the selling price of each motor vehicle but does not apply to the amount over \$5000.

When the dealer is located in a county that imposes surtax and the residence address of the purchaser shown on the registration or title document is in another county imposing surtax,

the dealer must collect the surtax at the rate imposed in the county identified as the purchaser's residence. The dealer must remit the surtax directly to the Department, using *Sales and Use Tax Return (Form DR-15)*.

Motor Vehicle Dealer Located in Surtax County

When the dealer is located in a county that imposes surtax and the residence address of the purchaser shown on the registration or title document is in the same county as the dealer, the motor vehicle dealer must remit the surtax directly to the Department on *Form DR-15* at the rate imposed in the county in which the dealer is located.

Motor Vehicle Dealer Located in a County Not Imposing a Surtax

When the dealer is located in a county that does not impose a surtax and the residence address of the purchaser or lessee shown on the registration or title document is in a county imposing a surtax, the dealer must collect the surtax from the purchaser or lessee at the rate imposed in that county and remit it directly to the Department, using *Form DR-15*.

If the address on the registration or title document is in the county in which the lessor/dealer is located, no surtax is due.

When the dealer is located in a county which imposes (surtax and the address on the registration or title document is in another county imposing a surtax, the lessor must collect and remit the surtax at the rate imposed in the county shown on the registration or title document to the Department of Revenue, using *Form DR-15*.

Solid Waste Fees

Any person who sells at retail in this state a new tire or a new or remanufactured lead-acid battery for use in a motor vehicle must pay a solid waste fee. The fee is \$1.00 for each new tire (the fee does not apply to recapped tires) and \$1.50 for each new or remanufactured lead-acid battery. The fee is due whether the tire or battery is sold at retail separately or as a component part of a motor vehicle. A retail sale does not include the sale of a new tire or a lead-acid battery to a person solely for the purpose of resale, provided the subsequent sale in this state is subject to the fee. Sales to governmental entities are not exempt from the fees (See [Sections 103.717, 403.718, and 403.7185, F.S., Rules 12A-12.001 and 12A-12.0011, F.A.C., and TIP 05A01-06](#)).

Fees Imposed on the Seller

The solid waste fee is imposed on the selling dealer (retailer), not the purchaser. The amount of the tire fee is required to be separately stated on the seller's invoice, but there is no similar requirement for the battery fee. The dealer may choose whether to separately state the battery fee and whether the additional cost is passed on to the purchaser. The retailer may increase the price of the battery by the amount of the fee (\$1.50) to recoup the retailer's cost of the fee, but this increase in price is considered to be an increase in the price of the battery and not a payment of the fee by the purchaser. In all circumstances, the tire and battery fees are to be included in the price upon which sales tax is computed.

Example: A dealer purchases a used motor vehicle for resale. The dealer installs a new battery and replaces the tires with four new ones before reselling the vehicle. A new tire, for use as a spare, is also included in the sale. The battery fee and the tire fee on the five tires must be paid by the dealer when the vehicle is sold in this state, provided the fees were not paid to the supplier at the time of purchase.

Example: A dealer sells a used motor vehicle with its original battery and tires. The battery fee would not be due by the dealer, since the fee is imposed on only new or remanufactured lead-acid batteries, sold in this state. No fee would be due on the tires, since the fee is imposed only on new tires.

Example: A dealer buys five used cars at an automobile auction and gives a resale certificate for both the sales tax and the fees. Four of the cars are later sold, but the fifth car is given to a member of the dealer's family as a gift. No battery fee would be due on the five cars, because the batteries are used. The use tax, calculated on the purchase price of the car, would be paid by the dealer when the fifth car is taken out of inventory to be given as a gift.

Example: A new car dealer imports new cars to be sold in this state. No sales tax or fees have been paid to the supplier. When the cars are sold, the dealer must pay the tire and battery fees. The sales tax collected from the customers would be calculated to include the fees paid by the dealer, as part of the sales price. The amount of the tire fee paid by the dealer would be stated on the customer's invoice. The dealer could elect whether or not to separately state the battery fee that is paid by the dealer on the customer's invoice. In all cases, the fee is paid by the seller on each new tire and each new or remanufactured battery and included in the taxable sales price the vehicle when sold to the customer.

Exempt Sales or Sales for Resale

Sales made solely for the purpose of resale are generally exempt from the Solid Waste Fees provided an annual resale certificate is issued to the seller.

Example: A tire wholesaler sells new tires to a used car dealer. The tire wholesaler is not making a retail sale, provided the tires are being purchased for resale in Florida and a valid annual resale certificate is provided by the used car dealer. When the used car dealer sells the vehicle upon which the tires are a component part, the fee will be paid by the used car dealer. The tire fee must be separately stated on the customer's invoice. If the tires are withdrawn from the dealer's inventory for any use, other than for resale, the fee will be due at the time the tires are taken out of the dealer's inventory and used.

Example: The used car dealer elects to pay the fees to the tire wholesaler on the purchase of the tires in lieu of purchasing them fee exempt. For the purpose of the fees, the wholesaler must treat the sale as a retail sale and must state the tire fees on the invoice. The used car dealer would indicate on its annual resale certificate, which is given to the wholesaler, that the certificate is used to exempt the sales tax only, and not the tire fee. When the used car dealer subsequently sells the tires, as a component part of a motor vehicle, the contract or invoice must state that appropriate tire fees have been paid. The tire fee need not be separately stated on the customer's invoice.

Example: An automobile dealer also operates an automobile repair facility. The dealer buys all batteries from a wholesaler, issuing an annual resale certificate. When a battery is taken from the dealer's inventory to be used in the repair of an automobile, the battery fee is paid by the dealer. The dealer may choose to increase the cost of the repair to include the amount of the battery fee or separately state the battery fee on the customer's invoice. However, the fee is still imposed on the dealer and not on the purchaser.

Example: The automobile dealer in the previous example pays the battery fees to the wholesaler. The wholesaler would treat this as a retail sale and pay the fees. When the batteries are resold, the automobile dealer is required to state on the invoice that the fees have been paid.

Example: A new car is sold to a tax exempt organization. The dealer would accept the purchaser's consumer's certificate of exemption, and no sales tax would be collected. The tire and battery fees would be paid by the car dealer at the time they were purchased by the car dealer or, if the dealer has given an annual resale certificate to the supplier, at the time the vehicle is sold to the tax exempt organization.

Credits for Returns and Exchanges

When a sale of a battery or tire is canceled or the tire or battery is returned to the dealer, a credit may be taken for fees already remitted.

Example: The sale is refunded in full. The dealer may take a credit on a subsequent return.

Example: The customer is given a new tire or battery in exchange for the one returned. The dealer cannot take a credit for the old tire or battery, but is not required to pay the fee on the new tire or battery. In this case, the dealer should note on the invoice that there has been an exchange and note the invoice on which the original fees were paid.

Example: The purchaser is given a partial refund or is given a credit for partial payment on a new tire or battery. The dealer cannot take a credit for the fee previously paid. In addition, a fee is due on the sale of the new tire or battery.

Motor Vehicle Warranty Enforcement Act (MVWEA) (Lemon Law)

A \$2.00 fee is to be collected by each motor vehicle dealer and each person engaged in the business of selling or leasing motor vehicles, from all consumers, including business entities. This fee is to be collected at the consummation of the sale of a new motor vehicle or, from all lessees, including business entities, at the time a one year or longer lease agreement for a new motor vehicle is entered into.

Each motor vehicle dealer and each person engaged in the business of leasing motor vehicles shall remit the \$2.00 fee to the county tax collector at the time of application for certificate of title.

The dealer is required to remit the \$2.00 fee on sales to nonresidents directly to the Department of Revenue using ***Form DR-35***.

The \$2.00 fee collected from the purchaser or lessee should not be included in the price upon which sales tax is computed.

Replacement of Motor Vehicle (Lemon Law)

When the manufacturer replaces a motor vehicle pursuant to the requirements imposed by the Lemon Law, the motor vehicle dealer must note on the sales invoice or other sales document, that the motor vehicle is a replacement vehicle under the provisions of [Section 681.104, F.S.](#), and must collect sales tax from the consumer on the amount of reasonable offset for use (See also [Sections 681.102 and 681.117, F.S.](#); and [Rule 12A-1.007\(23\), F.A.C.](#)).

A Reasonable offset for use means the number of miles attributable to a consumer up to the date of a settlement agreement or arbitration hearing whichever occurs first, multiplied by the purchase price of the vehicle and divided by 120,000 except in the case of a recreational vehicle, in which event it shall be divided by 60,000.

Example: The total sales price of the vehicle less trade-in allowance is \$18,000. The vehicle was driven 2,000 miles. Reasonable offset for use: $(2,000 \times \$18,000) / 120,000 = \300 . Tax to be collected: $(\$300 \times 6\%) = \18

Repossessions

A dealer who has remitted sales tax on the full selling price of a motor vehicle under a retained title, conditional sale, or similar contract may, upon repossession of the vehicle, take credit on a subsequent return or obtain a refund for that portion of the tax that is applicable to the unpaid balance of the contract. Purchaser has 90 days to reclaim or pay for motor vehicle, from date of repossession and no additional sales tax would be due.

The credit or refund must be claimed within 12 months following the month in which the vehicle was repossessed.

Form DR-95B, Schedule of Florida Sales or Use Tax Credits Claimed on Repossessed Motor Vehicles. should be completed for credits claimed on repossessions of motor vehicles.

The tax credit or refund is based on the sales price, excluding any finance charges or other nontaxable charges, and is calculated using the straight-line method of amortization. The collection allowance taken at the time the tax was originally paid to the state is deducted from the amount of refund or credit due.

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| Example: | Sales Price of Vehicle | \$12,982 |
| | Less Trade-In | - 2,000 |
| | Dealer’s Prep & Other | <u>250</u> |
| | Amount Financed | \$11,232 |
| | Finance Charges (36 months) | \$ 2,988 |
| | No. of payments remaining | 26 |

Calculation of credit or refund:

Monthly principle payment $(\$12,982 - \$2,000 + 250)/36 = \$312.00$

Tax applicable to remaining payments $(\$312 * 26) * 6\% = \486.72

Tax Credit/Refund $\$486.72 - \12.17 (collection allowance) = $\$474.55$

Notes:

- Although the monthly payments were \$395 per month for 36 months, the sales tax does not apply to finance charges.
- Collection Allowance is 2.5% of the first \$1,200 of tax.

The subsequent sale of a repossessed motor vehicle is subject to tax on the total sales price.

Bad Debts

A dealer who reported and paid the sales tax may take a credit or obtain a refund for any tax paid on the unpaid balance due on accounts determined to be uncollectible.

Credits are taken on subsequent sales and use tax return.

The credit or refund must be claimed within 12 months following the period in which the account is found to be worthless. That period is defined as any time within the dealer's fiscal year in which the account is charged off for federal income tax purposes. "Charged off for federal income tax purposes," means either the date the debt is written off the dealer's books or the end of the dealer's fiscal year. Therefore, the dealer is allowed to take a credit or obtain a refund for tax paid on an account written off as a bad debt beginning on the date the dealer deducts the bad debt account from its books through 12 months after the end of dealer's fiscal year. The date on which the dealer files a federal income tax return that includes the bad debt account is irrelevant and should not be used to determine the availability of a credit or refund.

A bad debt deduction may be claimed only with respect to the unpaid amount upon which tax has been paid.

If a dealer recovers any part of an amount previously claimed as a bad debt, the amount collected must be included in the first sales and use tax return filed after the collection occurred.

OTHER ASPECTS OF THE BUSINESS

Most motor vehicle dealers provide vending machines for the sale of coffee, soft drinks and snacks to customers and employees. Some dealerships may even have a snack bar or a small restaurant on the premises. In addition, they may offer free coffee, soft drinks, sandwiches, pastries, etc. They may also sell souvenirs and other various items of tangible personal property. Dealerships also maintain racks with brochures and pamphlets, free for the customers' taking, advertising the various vehicles they offer for sale.

GLOSSARY OF TERMS

- ACV - Actual Cash Value:** The wholesale value assigned to a trade-in or purchase. The ACV will usually differ from trade-in allowance (the credit allowed customer on purchase of vehicle). ACV becomes cost adjusted by reconditioning costs and other costs. The ACV is determined by the dealer at the time of purchase or trade, based on valuation guides and adjusted for the specifics of each vehicle. ACV can be higher or lower than the trade-in allowance.
- Auto Auction:** Auto Auctions are generally of two types. Dealer auctions are open to licensed car dealers only. Public auctions are open to every one. Selling prices are set through competitive bidding on each vehicle rather than by the seller.
- Black Book** One of several publications listing wholesale and retail ranges of used vehicles.
- Broker:** A middleman who locates vehicles for other dealers, usually on a commission basis. A broker does not take title or possession of the vehicles, whereas a wholesaler takes possession and title of the vehicles.
- Buy Here/Pay Here Dealer:** A dealer that offers in-house dealer financing for the vehicles sold. (Dealer provides financing either on his or her own or through a separate finance company owned and run by the dealer. Usually the finance company will charge employees and office space with the dealership.)
- Deal:** The completed sale of a vehicle or truck to an individual or another dealer.
- Deductible:** The amount of a warranty claim which is required to be paid by the customer.
- Detailing:** To prepare a vehicle for resale. This usually includes cleaning, minor repairs and cosmetic work. Detailing is often used synonymously with reconditioning. This may be done by the dealer, an outside business, or individuals brought in to do the work.
- Documentary (DOC) Fee:** A fee charged for processing or handling the documentation of a sales transaction. May also be called procurement fee or processing fee.
- Extended Warranty:** Agreement between an insurance provider and a customer whereby the insurance company agrees to pay the cost of covered repairs on the customer's property during the term of the contract for a set one-time fee.
- F.A.D.A:** Florida Automobile Dealers Association
- F.I.A.D.A.:** Florida Independent Automobile Dealers Association
- Flooring/Floor Planning:** Costs incurred in obtaining inventory, usually through loans from a bank or other financial institution. Includes interest on the loans. Some dealers may be utilizing auction floor plans for the purchase of vehicles.
- Guidebook:** A book used to value trade-ins and vehicles in inventory. It is also used for sale purposes. The most common guidebooks used in the industry include the Kelley *Blue Book*, *NADA Used Car Guide*, "Black Book," "Red Book," "Gold Book," CPI Book, and Galves. There are other publications that may be used on a regional basis. Guidebooks are often referred to as the Black Book, Blue Book, Yellow or Gold Book. Each of these publications is recognized by the industry as one of the official used vehicle guides for determining values of used cars. The popularity of a particular book varies by region.

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| In-House Financing: | Financing provided by the dealer. Also known as Buy Here/Pay Here. |
| Lead Acid Battery: | A storage or secondary battery containing lead plates that will function as a battery when the electrolyte is added, and that is designed for use in motor vehicles, vessels, and aircraft. |
| LOC: | Line of credit, usually from a bank. A loan on which the dealer can take out money whenever needed; similar to a checking account with interest charged. The line has a maximum amount that can be outstanding at any time. Similar to floor planning, but not used solely for purchases of inventory. |
| Manufacturer's Certificate of Origin (MCO) Also referred to as Manufacture's Statement of Origin (MSO): | This is a document required by the Federal Trade Commission for each vehicle sold in this country by the manufacturer. The <i>M.C.O.</i> serves the same purpose as a title certificate until the property has been sold at retail. The <i>M.C.O.</i> must be surrendered to obtain a title certificate. |
| Manufacturer's Warranty: | A promise by a manufacturer of TPP (often time limited) that the TPP is reasonably fit for the general purpose for which it was sold. |
| N.A.A.A.: | National Auto Auction Association |
| N.A.D.A.: | National Automobile Dealers Association |
| N.A.D.S.: | National Auto Data Service |
| Net Sales Price: | Sales price less any trade-in allowance or discounts. |
| New Tire: | One that has never been used in the movement of a motor vehicle. |
| One Pay: | Single payment contract for delivery of vehicle. Allows dealer to deliver vehicle to customer immediately rather than waiting for loan approval. Customer usually is obtaining own financing and will pay the sales price in full once financing is provided by the lender. This is often reflected by a demand note from the customer. |
| Open Title: | A title signed by the seller that has the buyer's name left open or blank. Also called a skip title. Generally, transferring a vehicle with an open title is illegal. |
| Over allowance: | The excess of trade-in allowed over the auto's actual cash value. This is used as a means to close the deal. Usually, the difference is made up by decreasing the discount on the vehicle purchased. |
| Package Deal: | The purchase of two or more vehicles for a lump sum price. This generally occurs between dealers and is one way to sell a vehicle that otherwise would be difficult to move. |
| Rate Spread: | A rate spread occurs when a dealership had made arrangements to write vehicle loans for a financial institution. The dealership will pre-arrange the amount of interest rate that the financial institution will charge on vehicle loans to buyers. The dealership will then write loans at a higher rate and receive the excess interest generated by the loan as an income payment from the financial institution. |
| Reassigned Title: | A title transferred from dealer to dealer which may not require processing by the state in which the dealer operates. |

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| Reconditioning: | Any work done to prepare a vehicle for sale. Includes parts, labor, cleaning, and other work done on a vehicle. May be part of detailing or portering expense. |
| Registration: | This is another control used by the State. Registration is evidenced by the assigning of a unique number (license plate) to a vehicle or vessel. Registration provides for a means of taxation. |
| Related Finance Company (RFC): | A finance company owned and operated by the dealer. Shows up as a separate entity for tax purposes. |
| Repair Order: | Document describing the work to be done and often containing the total charges for parts, labor, and other costs. It is usually approved by the customer before the actual work is performed on the customer's property. |
| Repo: | Repossession of a vehicle when the purchaser defaults on the loan. |
| Repossessed TPP: | The limitation on claims for refund or receipt of credit is 12 months following the month in which the property is repossessed. |
| Service Warranty: | Any contract or agreement that indemnifies the owner of the TPP for the cost of maintaining, repairing, or replacing TPP whether or not parts are included. |
| Skip: | Reneged on payment of a loan. The term also applies to a buyer who cannot be located. |
| Sled: | A vehicle with an actual cash value of \$300 or less. |
| Source: | Department of Treasury, Internal Revenue Service, Training 3147-106(4-96)TPDS No. 84219B |
| Spiff: | A cash incentive paid to salesmen for selling a special vehicle, such as one that has been on the lot for a long time. |
| Spot Delivery: | A sales situation where the buyer takes the vehicle home subject to financing approval. If financing is not approved, the customer must return the vehicle. |
| Sublet: | To have work performed by outside vendors, usually when the dealer either is not equipped for the work, or is unable to perform the work within a reasonable time. |
| Tangible Personal Property: | Includes personal property which may be seen, weighed, measured or touched or is in <u>any manner</u> perceptible to the senses, including electric power or energy, boats, motor vehicles and mobile homes as defined in Section 320.01(1) and (2), aircraft as defined in Section 330.27, and all other types of vehicles see Section 212.02(19), F.S. |
| Title Certificate: | As a means of control, the State of Florida requires certain types of property to have a title certificate issued by the state. This certificate constitutes an official recognition of the ownership rights of the purchaser of the property and provides the seller with a means of confirming that he or she has ownership rights that can be transferred to the purchaser. |
| Trade-Down: | A retail customer trades a vehicle for one of lesser value. This will be found only with retail deals. |
| Trade-In: | An item taken in by a dealer as part of a deal on the sale of a vehicle from the dealer's inventory. Usually another vehicle, but may be a boat, motorcycle, |

camping trailer or other items agreed on by the dealer and customer. Value of the item is deducted from the amount due on the sale of the vehicle purchased.

- Unwind:** Reversing a sale due a purchaser's inadequate credit or some other problem with the transaction.
- Upside Down:** A sales situation where the trade-in has an ACV less than the remaining loan amount on the vehicle.
- Used Car Log:** A record of all purchases of and sales of used vehicles, usually this shows the year, make, identification number, date purchased, date sold, whom it was purchased from and whom it was sold to. Requirements will vary from state to state. This book may be referred to as a *Police Book* or *State Log* in some parts of the country.
- Vehicle Identification Number (VIN):** The unique identification number assigned to a vehicle by the manufacturer. The VIN is used to specifically identify which vehicle is being sold or traded.
- Warranty Work:** Work performed on the customer's TPP to bring the TPP into conformance with the warranty. The manufacture is responsible for the cost, or the repair person is responsible for the cost of necessary work.
- Warranty:** Protection plan or guarantee on the vehicle and/or certain systems such as the drive train offered by a dealer. Length of warranty varies from dealer to dealer.
- Washout:** A series of sales transactions where the trade-in of a prior sale is sold partially in exchange for another trade-in. For example, Car A is sold for cash plus trade-in of Car B. Car B is then sold for cash and the trade-in of Car C
- Wholesaler:** Specializes in selling vehicles to other dealers for an agreed price. Unlike a broker, the wholesaler takes possession and title of the vehicle. They do not sell to the general public. These transactions may be subject to state and local sales taxes depending of your state requirements. Retail dealers also will sell wholesale to other dealers.

TAX STATUTES AND ADMINISTRATIVE RULES

| Topic | Statute | Rule (F.A.C.) |
|----------------------------|--|----------------------|
| Alternative Estimated Tax | 212.11(4)(d) | |
| Battery Fee | 403.718 | |
| Beneficial Interest | 212.02(15)(a) | |
| Dealer Plates | 212.0601 | |
| Deductibles | | 12A-1.105(5)(a) |
| Discretionary Sales Surtax | 212.054 212.055 | 12A-15 |
| Emergency Road Service | 624.02 624.124 | |
| Exemptions | 212.08(9)(10) | 12A-1.007 |
| Leased or Rentals | 212.05(1)(c) 212.06(7)(8)(10) 212.0606 | 12A-16.002 |
| Lemon Law | 320.27(1) 681.102 681.104 681.117 | 12A1.007(23)(24)(25) |
| Like-Kind Exchange | 212.05(1)(a) | |
| Loaner Vehicles | 212.02(20) 212.0601 212.0606 | |
| Long-term Leases | | 12A-1.007(13)(b)2. |
| New Tire Fee | 403.7185 403.717 | 12A-12.001 |
| Out-of-state Dealers | | 12A1.007 |
| Parts Sales | 212.05 | 12A1.016(1)(2) |
| Promotional Campaigns | 403.718 | 12A-1.00(6)(b) |
| Registration | 212.18 | 12A-1.060 |
| Rental Surcharge | 212.0606 | 12A16.002 |
| Repair Centers | 212.02 212.05 212.06 212.08(9)(10) | 12A-1.006 |

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|--|--|-------------------------------------|
| Repairs/Repairs of TPP | 212.02 212.05 212.06 | 12A-1.006(1)(4) |
| Residents of Other States Sales | 212.08(10) 212.05(1) 212.06(10) 212.0601 320.015 320.0815 | 12A-1.007 |
| Service Warranties Solid Waste Fees | 212.0506 103.717 402.7185 403.718 | 12A1.038 12A-.0011 12A-12.001 |
| Trade-in Allowances Wholesale Between Dealers | 212.09 | 12A-1.007(1)(b) 12A-1.039 |

COURT CASES IMPACTING THE INDUSTRY**Dept. of Revenue v. B& L Concepts**612 So.2d 720 (Fla. 5th DCA 1993)

Presents guidance in determining whether certain types of services should be taxable as part of the sale of tangible personal property.

Florida Automobile Dealer's Association

Declaratory Statement #98-02

When the dealer places the vehicle titled in its name (as a capital asset) back into its inventory in exchange for another vehicle that it then titles in its own name, it has effected a sale and a trade-in. [Sections 212.02\(16\)](#) and [212.09\(1\), Florida Statutes](#), provide that in this instance, the dealer is allowed to take a credit for the vehicle placed back into inventory under the circumstances outlined above.

TAX INFORMATION PUBLICATIONS (TIP)

| | |
|--|----------|
| Alternative Method Estimated Tax | 98A01-16 |
| Coupons, Discounts, Rebates, Free Merchandise and Other Promotional Gifts | 03A01-20 |
| Dealer's License Plates | 87A01-14 |
| Foreign Diplomats and Consular Employees | 03A01-18 |
| Partial Exemption | 97A01-25 |

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|------------------------------------|----------|
| Sales & Leases to Foreign Diplomat | 04A01-08 |
| Service Warranties | 89A01-04 |
| Solid Waste Fees | 05A01-06 |
| Use Tax / Loaners | 98A01-14 |

TECHNICAL ASSISTANCE ADVISEMENTS (TAA)

| | |
|--|---------|
| "Tires for Life" Sales Promotional Campaign | 03A-029 |
| "No charge" Vehicle Loans | 98A-080 |
| Auctions/ Resale Certificates | 90A-055 |
| Beneficial Interests in Leases of Motor Vehicles | 02M-009 |
| GAP Coverage | 02A-044 |
| Like Kind Exchange | 02A-002 |
| Motor Vehicle Auctions/Resale Records | 90A-055 |
| Motor Vehicle Even Trade | 88A-293 |
| Motor Vehicle Lease | 00A-048 |
| Motor Vehicle Leased | 01A-063 |
| Rental Car Surcharge/ Leased Vehicle | 95A-024 |
| Use Tax on Vehicles Loaned as Demonstrators | 99A-052 |
| Emergency Road Service Contract | 96A-036 |