

Office of the
Inspector General
Commonwealth of Massachusetts

Gregory W. Sullivan
Inspector General

Investigation into
Vehicle Registration
Abuse

March 2010



The Commonwealth of Massachusetts
Office of the Inspector General

GREGORY W. SULLIVAN
INSPECTOR GENERAL

JOHN W. MCCORMACK
STATE OFFICE BUILDING
ONE ASHBURTON PLACE
ROOM 1311
BOSTON, MA 02108
TEL: (617) 727-9140
FAX: (617) 723-2334

March 17, 2010

Commissioner Navjeet Bal
Department of Revenue
100 Cambridge Street
Boston, MA 02114

Registrar Rachel Kaprielian
Massachusetts Department of Transportation
10 Park Plaza, Suite 3170
Boston, MA 02116

Dear Commissioner Bal and Registrar Kaprielian:

This report outlines the findings of an investigation conducted by the Office of the Inspector General, in cooperation with the Massachusetts Department of Revenue (DOR) and the Massachusetts Registry of Motor Vehicles (RMV) that has focused on Massachusetts residents allegedly purchasing and registering large recreational vehicles (RVs) through Limited Liability Companies (LLC) established in the State of Montana.

The three agencies investigated a small sample of RVs purchased with Montana LLCs to determine whether a larger investigation was warranted. Thus far, the preliminary investigation has collected nearly \$200,000 and led to enforcement action that has billed errant taxpayers for hundreds of thousands of dollars in taxes and fees.

In addition to enforcement action, the RMV has increased its monitoring of RV purchases, and plans to contact municipal tax collectors so municipalities can assess excise tax against these RVs.

This is just one of the many ways the Commonwealth can discourage tax evasion and ensure that all taxpayers contribute fairly and equitably.

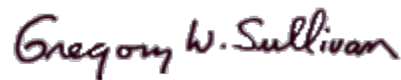
It has become a practice nationwide for individuals to set up LLCs in Montana for the sole purpose of avoiding taxes and fees in their respective home states. Massachusetts citizens using this scheme may be avoiding sales or use taxes, registration fees, excise taxes and the safety and emissions inspections for their vehicles. Montana has no sales tax, lower fees and a relatively simple process for creating an LLC. Montana also shields much of the information relating to LLC members.

For this investigation, we identified a sample of 23 Montana LLCs with Montana registered RVs whose members appear to be legal Massachusetts residents. We referred this list to DOR and the RMV. Both agencies initiated enforcement action against the taxpayers identified.

My office is available to continue working with DOR and the RMV to identify the full extent of possible tax and registration abuse through Montana and other out-of-state LLCs and to develop adequate deterrents against this abuse.

I commend the efforts of both agencies for their actions and look forward to continuing the partnership.

Sincerely,

A handwritten signature in dark ink that reads "Gregory W. Sullivan". The signature is written in a cursive, slightly slanted style.

Gregory W. Sullivan
Inspector General

cc: Jay Gonzalez, Secretary, Executive Office for Administration and Finance
Jeffrey Mullan, Secretary, Massachusetts Department of Transportation
Iris Lee, Bureau Chief, Filing Enforcement, Department of Revenue
Erin Deveney, Esq., Chief of Staff, Registry of Motor Vehicles

Investigation of Out-of-State Registrations

Introduction

An on-going investigation by the Office of the Inspector General (OIG) into the out-of-state registration of luxury recreational vehicles by Massachusetts residents has already netted the Commonwealth \$200,000 in sales and use tax. The Massachusetts Department of Revenue (DOR) and the Registry of Motor Vehicles (Registry) cooperated with the OIG's investigation of possibly illegal out-of-state registration of luxury recreational vehicles and motor homes (RVs) by Massachusetts residents. DOR has assessed nearly \$200,000 and is in the process of issuing additional assessments, including interest and penalties. The Registry has also initiated action against these residents for failure to register their vehicles, has increased its monitoring of RV purchases, and plans to contact municipal tax collectors so municipalities can assess excise tax against these RVs.

In all cases subject to this investigation, Massachusetts residents used Limited Liability Companies (LLC) created in the State of Montana to purchase and register vehicles. Aggressive marketing by resident agents¹ based in Montana has led to a wave of individuals and business establishing Montana LLCs for the sole purpose of avoiding taxes, fees, and other expenses. For example, Montana does not have a sales tax while Massachusetts currently has a 6.25 percent sales tax rate. Montana collects limited information about the principals of corporations thereby making it difficult to identify the home state of LLC members. Although resident agents in Montana market that the use of these LLCs is legal in Montana, it may not be legal in Massachusetts if it is being used to avoid or evade taxes, fees, and other financial responsibilities.

This action by Massachusetts residents deprives the Commonwealth, municipalities, and taxpayers of:

- Sales tax or use tax paid to the Commonwealth upon the purchase of a vehicle;
- Yearly excise tax payments to municipalities where the RVs are garaged;
- Title and registration fees to the Commonwealth;
- Assurance of public safety because of the lack of annual vehicle inspections.

¹ According to Black's Law Dictionary, a resident agent "is a person in a jurisdiction authorized to accept service of process for another, especially a corporation." In practice many states require corporations to retain an agent and these agents may provide business related services to a corporation or individual such as a mailing address for receipt of official documents, annual filings, etc.

Background

During the past year, the OIG investigated the purchase and registration of 32 vehicles (both RVs and automobiles) by 23 Montana LLCs. In all cases, the member(s) of the LLC was a Massachusetts resident with no financial or physical presence in Montana other than an LLC listing in Montana's business registry that uses a Montana based resident agent's office as the LLC's mailing address. The OIG estimated that for these 32 vehicles alone, Massachusetts and the municipalities where these vehicles have apparently been garaged, have lost an estimated \$250,000 in sales (or use) tax (not including interest and penalties), excise taxes and various registration and other fees.

Use of the LLC

According to the Internal Revenue Service, an LLC is a business structure permitted by individual state statutes in which the owners of the company are known as members. Individual statutes regarding LLC's vary among states. In Montana, an individual may create an LLC by themselves or through a resident agent. Using an agent is convenient in that the applicant does not need to travel to Montana; the applicant legally empowers the agent to act on their behalf both to create and maintain the LLC on an ongoing basis. For an additional fee, the agent may also receive and handle mail and correspondence pertaining to the LLC including the registering of vehicles in the LLC's name in Montana. Average agent fees are significantly less than the total taxes, registration fees, etc. required to be paid in the LLC member's home state versus those paid in Montana. For example, a \$200,000 RV purchased for garaging in Massachusetts might cost an owner approximately \$15,000 in sales/use tax, Registry fees, and local excise taxes for the first year. For about \$1,500, the owner can establish a Montana based LLC and pay Montana registration fees and save \$13,500 in the first year; a significant savings. The owner will continue to save hundreds of dollars per year by just avoiding local excise taxes in Massachusetts.

Montana statutes and practices protect the identity of LLC members thereby making it extremely difficult to trace individuals associated with the LLC. In other states, like Massachusetts, the names of members of an LLC formed in that state can be found in the records of the Secretary of State or corporate registry in addition to resident agent information. In Montana, only resident agent information is readily available through their Secretary of State's office, and not the names of LLC members.

Resident agents are easy to find in Montana. The Montana Secretary of State's Office lists dozens of resident agents on its website and an internet search for "Montana Resident Agent" or "Montana RV" returns many more companies advertising services related to creating LLCs and registering vehicles in Montana. Montana has 967,440 residents² with nearly 50,000 registered LLCs³ compared to Massachusetts which has

² U.S. Census Bureau

6,497,967 residents and 78,563 registered LLCs.⁴ In other words, Montana has an LLC for every 19 residents while Massachusetts has an LLC registered for every 83 residents. In most cases, resident agents provide a legitimate business purpose. However, in Montana, these legitimate business purposes appear to have been stretched to include creating “shell” corporations for the sole purpose of avoiding or evading taxes and other financial responsibilities in other states. The marketing of these resident agents is aimed at a national audience and not necessarily a Montana one. For example, some Montana resident agents appear to have named their businesses to mirror this new found business function such as “Tax Free RV,” and “A Sales Tax Solution.” Others have website addresses such as *www.rvtax.com* and *www.montanarv.net*. Since Montana does not have a sales tax, this marketing is presumably aimed at taxpayers in other states.

Investigation

An initial OIG review identified a sample of more than 80 Montana LLCs with an apparent connection to Massachusetts (i.e., a mailing address, location of RV purchase, name of LLC member etc.) Further review generated a smaller sample of 23 LLCs linked to 32 vehicles that the OIG referred to the DOR and the Registry. OIG research included requesting information from the State of Montana, questioning RV dealers, obtaining information through subpoena from various RV dealers, and through site visits and surveillances of possible RV garaging locations within Massachusetts.

Most of the 32 vehicles in the final sample appear to have been garaged in Massachusetts. All of the vehicles had been purchased by or transferred to Montana LLCs whose members are Massachusetts residents, maintain Massachusetts driver’s licenses, own businesses or work in Massachusetts, own property and/or reside in Massachusetts, and vote or hold professional licenses in Massachusetts. Additionally, all identified RVs that had been purchased using financing of some kind identify the LLC member as an individual and not the LLC as a corporate entity as the purchaser, owner, and responsible party for the loan.

Sample RVs Identified by OIG

<u>Vehicle</u>	<u>Purchase Price</u>	<u>Estimated 5% Sales Tax Avoided</u>
2009 Freightliner Coach	\$335,345	\$16,767
2005 Spartan Motor Coach	332,800	16,644
2006 Freightliner Motor Home	290,584	14,529

³ State of Montana, Office of the Secretary of State

⁴ Commonwealth of Massachusetts, Office of the Secretary of State

Conclusion

The OIG working in cooperation with the DOR and the Registry has identified an issue that has impacted Massachusetts. The issue involves LLCs established in the State of Montana for the expressed purpose of avoiding or evading taxes and fees in Massachusetts. Individuals and businesses use these LLCs to make purchases thereby avoiding relevant sales and other taxes. The LLCs are also used to register vehicles in Montana that are otherwise garaged and operated in Massachusetts. These registrations help the LLC members avoid title and registration fees and avoid vehicle inspections.

Based on the OIG investigation, the DOR has already collected and/or assessed \$200,000 in taxes against 10 of the 23 LLCs in the OIG sample. As this was a small sample, the OIG believes statewide collections from a larger scale investigation could potentially result in the collection of substantial additional amounts. However, the statutes and practices of Montana make investigation difficult. The OIG recommends that DOR and the Registry contact officials in Montana to determine how Massachusetts and Montana can work together to detect and prevent LLC fraud including obtaining information from resident agents through the Montana Secretary of State.

The OIG appreciates the cooperation and assistance of the DOR and the Registry in pursuing potential fraud that deprives communities of revenue and that may be creating unsafe road conditions through the use of uninspected vehicles.

Attachment A

Mattapan

OIG investigators observed the RV and Jeep Liberty pictured below at a home in Mattapan, MA. Both vehicles were clearly visible from the street. Although the license plate of the RV is not visible from the street, the vehicle matches the description of an RV purchased by and registered through a Montana LLC of which the residents of the Mattapan location are the sole members. The Montana license plate of the Jeep Liberty is clearly visible from the street and the vehicle is registered to the same Montana LLC as the RV.

RV matching description of Montana RV:



Jeep Liberty with Montana Tag:



Bridgewater

OIG investigators observed the RV pictured below at a home in Bridgewater, MA. The RV was clearly visible from the street had a Montana license plate. The description of the RV and the Montana plate number matched that of an RV purchased by and registered through a Montana LLC of which the residents of the Bridgewater location are the sole members.

RV matching description with matching Montana Tag:





Middleboro

OIG investigators observed the RV pictured below at a home in Middleboro, MA. The RV was clearly visible from the street had a Montana license plate. The description of the RV and the Montana plate number matched that of an RV purchased by and registered through a Montana LLC of which the residents of the Middleboro location are the sole members.

RV matching description with matching Montana Tag:





Massachusetts RV Dealership

The RV pictured below was observed by OIG investigators parked in the service lot of a Massachusetts RV dealership. This RV was not included in the sample used in this report.



