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Letter Ruling 77-13: Automobile Purchased in Massachusetts by a Non-Resident

May 3, 1977

In your recent letter, you inquired as to the sales tax liability of a New Hampshire resident purchasing a motor vehicle from a Massachusetts automobile dealer.

The Massachusetts sales tax is contained and set forth in General Laws, Chapter 64H. Pursuant to Section 6(b) thereof, sales of tangible property where the property is delivered to the purchaser out-of-state is exempt from the sales tax. Thus, if the New Hampshire purchaser in a bona fide transaction accepts delivery of the said automobile in New Hampshire, no sales tax applies.

However, if delivery of the automobile is made to the purchaser in Massachusetts, the sale is not exempt. Section 1(12)(a) defined "Sale" as "Any transfer of title or possession, or both, exchange, barter, lease, rental, conditional or otherwise, of tangible personal property for a consideration, in any manner or by any means whatsoever."

Relative to the sales tax, motor vehicles are treated differently than other forms of tangible personal property. Pursuant to Section 3(c), the sales tax on the purchase of a motor vehicle is "paid by the purchaser to the registry of motor vehicles in the manner prescribed by the commissioner. The vendor thereof shall not add the tax to the sales price and shall not collect the tax from the purchaser."

No dealer can make delivery of a motor vehicle to an out-of-state purchaser who takes delivery of the vehicle in Massachusetts without first receiving evidence that the required sales tax has been paid. This payment is made on Form ST-7R at either the registry or any state tax office and the dealer must retain evidence of payment in case of an audit.

For your information, an extensive memorandum has been issued by this Department dealing with numerous tax problems involving motor vehicles and is set forth in 2 C.C.H., Mass. Tax Reporter, Paragraph 63-030.45. Your attention is also called to the case of [Traynor v. State Tax Commission](#), Appellate Tax Board Docket No. 48053 (March 15, 1968), reported in 2 C.C.H., Mass. Tax Reporter, Paragraph 200-271, wherein it was held that a New York resident who purchases a trailer from a Massachusetts dealer is subject to the sales tax where title to the trailer passes in Massachusetts, despite the fact she accepted delivery outside Massachusetts (in an open field in New Hampshire) and had transferred all interest to her father, a Massachusetts resident, before delivery.

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/s/Owen L. Clarke

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