

M e m o r a n d u m**To** : Long Beach – Compliance (MMS)**Date** : November 23, 1964**From** : Tax Counsel (RHA) – Headquarters**Subject** : Automobile Use Tax - - Fleet Purchases

This is with reference to our telephone conversation several days ago regarding the application of use tax on passenger cars that are purchased by companies having fleet price purchasing powers. The automobiles are sometimes purchased for employees. This memo is written in lieu of sending a photocopy of my letter to A written on November 7, 1963. The letter related to a similar inquiry.

Vehicles sold to companies with fleet discounts are registered to the company and sales tax is paid by the dealer making the sale. The employee, however, actually pays for the vehicle, makes all financing arrangements, and takes delivery directly from the dealer.

A problem arises when the registration is transferred from the company to the employee and the question is whether use tax is due from the employee-transferee.

Two approaches to the use tax question have been advanced. One, the company may take a tax-paid purchases resold credit and the employee then pays the use tax when the vehicle registration is transferred to the employee. This is not the best solution, however because the sales tax may be greater than the use tax since the use tax is measured by the vehicle license fee figure which admittedly does not take into account any "extras." The second approach is the agency theory. The company is, in fact, acting as an agent for the employee when it makes the purchase on the employee's behalf. Thus, when sales tax has been paid, a BT-111 may be issued on the transfer from the company (agent) to the employee (principal).

Where sales tax was not paid on the fleet-priced purchase, no BT-111 should be given. This may arise where the vehicle is purchased out-of-state. Thus before a BT-111 is issued, the employee (applicant for transfer of registration) should present proof that tax was paid to the dealer when the vehicle was purchased.

RHA:md