



August 30, 1955

[X]

Dear Mr. [X]:

This is in answer to your letter of July 29 concerning the extent of "dealer aid" which, under Sales and Use Tax Ruling 37, requires payment of sales tax by the dealer respecting cars sold by salesmen.

Your question concerns specifically the meaning of the fourth method enumerated in Ruling 37 in which dealer aid is furnished "by requiring or permitting the salesman to use the dealer's showroom or other facilities in making such sales." In your first question you are looking at new models on the dealer's floor, accompanied by his salesman. You decide not to purchase a new car but the salesman then suggests that you buy his demonstrator. After inspecting the demonstrator outside the showroom you decide to purchase it from X. Under these facts it is our opinion that the dealer is not liable for the tax, assuming, of course, that the salesman's demonstrator was not displayed to you in the showroom. The mere fact that you contacted the salesman in the showroom while looking at new cars does not, in our opinion, constitute "dealer aid."

In your second question, after looking at new cars on the dealer's floor you meet his salesman at lunch where he offers to sell you his demonstrator and you accept. The dealer does not appear in this situation to be in any way connected with the sale or providing any facilities for making the sales. In our opinion he is not liable.

In your next question, after visiting the dealer's showroom you see an ad in the paper and the seller turns out to be a salesman for the dealer. You purchase the salesman's demonstrator. It does not appear that the dealer has required or permitted the use of his showroom or other facilities. You ask if the answer would be different if you had previously dealt with the salesman in the showroom. Merely conferring with the salesman in the dealer's salesroom does not, in our opinion, constitute the use of the showroom in making the sales within the meaning of Ruling 37. We believe the use contemplated by the ruling is use of the showroom for display of the vehicle resulting in its sale. Accordingly, we do not believe the dealer liable for the tax.

In the foregoing we have assumed, based on the statement of the third paragraph of your letter, that methods 1,2, and 3 by which "dealer aid" may be furnished as enumerated in Ruling 37 are not involved as the aid described in those methods is not furnished. It is further assumed that the demonstrator purchased by you was not only not in the dealer's showroom at the time you agreed to buy it, but was not in the dealer's used car lot for the purpose of sale or other place where cars are displayed or held for sale by the dealer.

Very truly yours,

E. H. Stetson
Tax Counsel