

M e m o r a n d u m

580.0310

To : Occasional Sales (ALC)**Date :** December 2, 1981**From :** Headquarters – Legal (RLD)**Subject :** Section 6388 and 6388.5
Revenue and Taxation Code

This is in reply to your October 28, 1981 memorandum regarding the application of the sales and use tax exemptions provided by Sections 6388 and 6388.5, Revenue and Taxation Code, to vehicles that are subject to prorate registration in California. You asked, assuming that all other provisions of the exemptions are complied with, whether a vehicle may be "base titled" in California without losing the exemption.

We have been advised by the Department of Motor Vehicles that the Uniform Vehicle Registration Proration and Reciprocity Agreement, into which California has entered, requires that a vehicle that is "base titled" in California must be principally dispatched and garaged in California.

Section 6388 has a requirement that the purchaser furnish an "affidavit attesting that he is not a resident of California and that he purchased such vehicle from a dealer at a specified location without the State for use outside this State".

It does not appear that a vehicle which is base titled in California would be purchased for principal use outside California as required by Section 6388. Further, the court in Garrett Corp. v. State Board of Equalization, 189 Cal.App.2d 504; was faced with determining whether a corporation was a nonresident for purposes of Section 6366, Revenue ad Taxation Code. The court held that the word "resident" in the statute was not limited to a domiciliary concept by contemplated any factual place of abode of some permanency, more than a more temporary sojourn.

We believe that a person who maintains a garage or dispatch station in California to qualify for base titling a vehicle is a "resident" for sales and use tax purposes and does not qualify for the exemption provided by Section 6388.

The fact that a vehicle is base titled in California will not cause a loss of the exemption provided by Section 6388.5 unless the purchaser is claiming that the vehicle is purchased for use "exclusively outside this state".

We hope this answers your questions. If you need further information, feel free to write again.