



CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

TAX POLICY BUREAU

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GovernorAMY TONG
Secretary, Government Operations AgencyNICOLAS MADUROS
Director

May 18, 2023

Dear Interested Party:

Enclosed is the Discussion Paper on proposed amended Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce* and newly proposed Regulation 1620.15, *Sales of Vehicles for Use Exclusively Out-of-State or in Interstate or Foreign Commerce*. We would like to invite you to discuss the issue and present any additional suggestions or comments. Accordingly, a virtual interested parties meeting is scheduled as follows:

June 8, 2023**9 a.m.****(Virtually via Microsoft Teams)**

You may join us on your computer or mobile app through [Microsoft Teams](#) or by calling 1-916-535-0987 and then entering the conference identification number 772 943 137. You are also welcome to submit your comments to me at the address or fax number in this letterhead or via email at BTFD-BTC.InformationRequests@cdtfa.ca.gov by June 22, 2023. You should submit written comments including proposed language if you have suggestions you would like considered during this process. Copies of the materials you submit may be provided to other interested parties, therefore, ensure your comments do not contain confidential information. Please feel free to publish this information on your website or distribute it to others that may be interested in participating in the meeting or presenting their comments.

If you are interested in other Business Taxes Committee topics refer to the CDTFA webpage at (<http://www.cdtfa.ca.gov/taxes-and-fees/business-taxes-committee.htm>) for copies of discussion papers and calendars of current and prior issues.

Thank you for your consideration. We look forward to your comments and suggestions. Should you have any questions, please feel free to contact Business Taxes Committee team member Robert Prasad at 1-916-309-5296, who will be leading the meeting.

Sincerely,

Aimee Olhiser, Chief
Tax Policy Bureau
Business Tax and Fee Division

AO:rp

Enclosures

cc: (all with enclosures)

Mr. Nicolas Maduros (MIC 104)
Mr. Christopher Schutz (MIC 83)
Ms. Trista Gonzalez (MIC 104)
Ms. Christine Castillo (MIC 104)
Ms. Susanne Buehler (MIC 43)
Ms. Michele Linton (MIC 105)
Mr. Jason Mallet (MIC 25)
Mr. Mike Skikos (MIC 47)
Mr. Harry Lucho (MIC 47)
Mr. Alfred Buck (MIC 70)
Mr. James Dahlen (MIC 57)
Mr. Jason Parker (MIC 49)
Mr. Steven Mercer (MIC 25)
Ms. Ester Cabrera (MIC 23)
Mr. Jeff Vest (MIC 85)
Mr. Mike Loretta (MIC 42)
Ms. Pamela Bergin (MIC 82)
Mr. Bradley Heller (MIC 82)
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Ms. Casey Tichy (MIC 85)
Mr. Cary Huxsoll (MIC: 82)
Mr. Scott Claremon (MIC: 82)
Mr. Brian Kimsey (MIC 62)
Mr. Chris Miller (MIC 48)
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Ms. Sandy Barrow (MIC 31)
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Mr. Greg Buehrer (MIC 44)
Mr. Gentian Droboniku (MIC 67)
Mr. Tom Trach (MIC 67)
Mr. Marc Alviso (MIC 104)
Ms. Claudette Yang (MIC 104)
Ms. Karina Magana (MIC 47)
Mr. Bradley Miller (MIC 92)
Ms. Tracie West (MIC 31)
Mr. Robert Wilke (MIC 50)
Mr. Robert Prasad (MIC 50)

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Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce*, and Regulation 1620.15, *Sales of Vehicles for Use Exclusively Out-of-State or in Interstate or Foreign Commerce*

Issue

The California Department of Tax and Fee Administration (CDTFA) proposes to amend Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce*, and adopt Regulation 1620.15, *Sales of Vehicles for Use Exclusively Out-of-State or in Interstate or Foreign Commerce*, to implement, interpret, and make specific the exemptions from sales and use tax provided by Revenue and Taxation Code (RTC) sections 6388 and 6388.5.

Background

RTC sections 6388 and 6388.5 provide exemptions for the sale or storage, use, or other consumption of certain vehicles. The exemption provided by RTC section 6388 applies to a new or remanufactured truck, truck tractor, semitrailer, or trailer with an unladen weight of 6,000 pounds or more, or a new or remanufactured trailer coach or a new or remanufactured auxiliary dolly if:

- It is purchased from a dealer located outside this state for use without this state;
- Delivered by the manufacturer or remanufacturer to the purchaser within this state;
- The purchaser drives or moves the vehicle from the manufacturer's or remanufacturer's place of business in this state to any point outside this state within 30 days after the date of delivery; and
- The purchaser furnishes the following to the manufacturer or remanufacturer:
 - Written evidence of an out-of-state registration for the vehicle;
 - The purchaser's affidavit that they are not a resident of California and that they purchased the vehicle from a dealer at a specified location without the state for use outside this state; and
 - The purchaser's affidavit that the vehicle was moved or driven to a point outside this state within 30 days of the date of delivery of the vehicle to the purchaser.

Prior to the legislative changes discussed below, the exemption provided by RTC section 6388.5 applied to a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more that has either been:

1. Manufactured or remanufactured outside this state if:
 - It is purchased for use without this state;
 - Delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state; and
 - The purchaser drives or moves the vehicle to any point outside this state within 30 days from and after the date of delivery.
2. Manufactured or remanufactured in this state if:
 - It is purchased for use without this state;
 - Delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state; and

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- The purchaser drives or moves the vehicle to any point outside this state within 75 days from and after the date of delivery.

Also, the exemption provided by RTC section 6388.5 only applied if the purchaser or the purchaser's agent furnishes the following to the manufacturer, remanufacturer, or dealer:

- Written evidence of an out-of-state license and registration for the vehicle. However, in cases where the vehicle is subject to the permanent trailer identification plate program under Vehicle Code section 5014.1 and is used exclusively in interstate or foreign commerce, or both, written evidence of the purchaser's or lessee's United States Department of Transportation number or Single State Registration System (SSRS) filing may be substituted for the written evidence of an out-of-state license and registration.
- The purchaser's affidavit attesting that they purchased the vehicle from a dealer at a specified location for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both.
- The purchaser's affidavit that the vehicle has been moved or driven to a point outside this state within the appropriate period of either 30 days or 75 days of the date of delivery of the vehicle to the purchaser.

2019 and 2020 Legislation Related to RTC section 6388.5

AB 321

Section 1 of Assembly Bill No. 321 (AB 321) (Stats. 2019, ch. 226) amended current RTC section 6388.5 to expand its exemption so it also applies to a new, used, or remanufactured truck with an unladen weight of 6,000 pounds or more. It also amended current RTC section 6388.5 so it becomes inoperative on January 1, 2024, and as of that date is repealed.

Section 2 of AB 321 also enacted a new version of RTC section 6388.5 to become operative on January 1, 2024, which is the same as RTC section 6388.5 read prior to the amendments made by section 1. Therefore, beginning January 1, 2024, the law will revert back to the pre-AB 321 exemption and RTC section 6388.5 will only apply to a new or remanufactured trailer or semitrailer.

In addition, section 6 of AB 321 provided for the amendments made to current RTC section 6388.5 to become operative on January 1, 2020. So, in the absence of further legislation, the expanded provisions for trucks are only operative January 1, 2020, through December 31, 2023.

SB 1473

Section 28 of Senate Bill No. 1473 (SB 1473) (Stats. 2020, ch. 371) replaced evidence of an SSRS with "Unified Carrier Registration System" (UCRS) in current RTC section 6388.5 so that, in cases where a vehicle is subject to the permanent trailer identification plate program under Vehicle Code section 5014.1 and is used exclusively in interstate or foreign commerce, or both, written evidence of the purchaser's or lessee's UCRS filing may be substituted for written evidence of an out-of-state license and registration. Section 28 also added provisions to current RTC section 6388.5 providing that, in cases where a vehicle is registered under the International Registration Plan

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(IRP) pursuant to Vehicle Code section 8052 and is used exclusively in interstate or foreign commerce, or both, written evidence of the purchaser's or lessee's United States Department of Transportation number or UCRS filing may be substituted for written evidence of an out-of-state license and registration. Also, section 33 of SB 1473 provides that SB 1473's amendments to current RTC sections 6388.5 do not constitute a change in, but are declaratory of, existing law.

In addition, section 29 of SB 1473 replaced SSRS with UCRS in new RTC section 6388.5, operative January 1, 2024. However, it did not add provisions to new RTC section 6388.5 for vehicles registered under the IRP. So, in the absence of further legislation, the provisions for vehicles registered under the IRP in current RTC section 6388.5 are only operative through December 31, 2023.

Regulation 1620.1

Current Regulation 1620.1 incorporates and clarifies the provisions of RTC sections 6388 and 6388.5 prior to the amendments made to RTC section 6388.5 by AB 321 and SB 1473. The regulation's appendix also includes a sample affidavit that purchasers, including lessors, can use to satisfy the statutes' affidavit requirements. The provisions of RTC section 6388 were not amended by the recent legislation discussed above.

Discussion

We considered solely amending Regulation 1620.1 to incorporate the amendments made to RTC section 6388.5. However, the way the regulation is currently written and differences between RTC sections 6388 and 6388.5, including differences in the vehicles to which their exemptions apply, made it difficult to solely update Regulation 1620.1. Therefore, we propose to amend Regulation 1620.1 so that it only includes and clarifies the provisions of RTC section 6388, and adopt new Regulation 1620.15 to include and clarify the provisions of RTC section 6388.5.

Proposed Amendments to Regulation 1620.1

As explained above, we propose to amend Regulation 1620.1 (see Exhibit 1) to delete the provisions that incorporate or clarify RTC section 6388.5. These provisions will be included in proposed Regulation 1620.15 discussed later. The amendments that we are proposing for Regulation 1620.1 are discussed in the order of the regulation's subdivision below.

Title

We propose to change the title of the regulation to "Sales of Certain Vehicles to Non-Residents for Use Out-of-State" since the provisions regarding RTC section 6388.5 are being removed from the regulation and the exemption provided by RTC section 6388 only applies to sales of certain vehicles to non-residents for use outside this state.

Subdivision (a)

Subdivision (a) includes definitions for terms used within the regulation. We propose to delete the current definitions for Permanent Trailer Identification (PTI) Program, purchaser's agent, and United States Department of Transportation (USDOT) Number and define the terms permanent

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trailer identification plate program or PTI plate program, purchaser's agent, and USDOT number in newly proposed Regulation 1620.15 because those terms are used in RTC section 6388.5, but not RTC section 6388.

We propose to add a new definition for the term dealer to the regulation because the term is used in RTC section 6388. It generally defines a dealer to mean a person that is engaged wholly or in part in the business of selling vehicles, whether or not such vehicles are owned by the person.

We propose to amend the definition for the term vehicle so the term only includes a new or remanufactured truck, truck tractor, semitrailer, or trailer with an unladen weight of 6,000 pounds or more, or a new or remanufactured trailer coach, or auxiliary dolly because the exemption provided by RTC section 6388 is limited to those vehicles. We also propose to delete the definition for the term trailer and the other references to trailers from the regulation since trailers are included in the amended definition of vehicle.

We propose to amend the definition of remanufacturer to clarify that a remanufacturer is a person that is licensed as a remanufacturer as defined in Vehicle Code section 507.8 by the Department of Motor Vehicles (DMV) or licensed as a remanufacturer by the appropriate governmental agency in another state.

We propose to amend the definition of remanufactured vehicle to clarify that it has the same meaning as set forth in Vehicle Code section 507.5 and that a vehicle constructed in another state will qualify as a remanufactured vehicle if it was constructed by a person licensed as a remanufacturer by the appropriate governmental agency in that state and the vehicle meets that state's requirements to be a remanufactured vehicle.

We also propose to amend the definition of remanufactured vehicle to clarify that the term used vehicle means a used vehicle as defined in Vehicle Code section 665.

In addition, we propose to entirely delete the definitions for the terms Single State Registration System (SSRS) and United States – Federal Maritime Commission (FMC) Number because SSRS was replaced with UCRS in RTC section 6388.5 and the term FMC Number is not used in RTC sections 6388 or 6388.5.

Subdivision (b)

We propose to combine current subdivisions (b)(1) and (b)(2)(A), renumber the combined text as subdivision (b), and renumber current subdivisions (b)(2)(A)1 through 4 as subdivisions (b)(1) through (4). We propose to revise those subdivisions to clarify that tax generally applies to vehicles, clarify that tax does not apply when the requirements for the RTC section 6388 exemption are satisfied, and incorporate the requirements for the exemption. We propose to revise renumbered subdivision (b)(3) to clarify that in the absence of evidence to the contrary, it is presumed that a manufacturer or remanufacturer accepted an affidavit in good faith if the affidavit contains the essential elements required by subdivision (c) (discussed below) and otherwise appears to be valid on its face. We propose to delete the requirements for a valid affidavit from current subdivision (b)(2)(A)3 and include clarified requirements for a properly completed affidavit in subdivision (c). We propose to delete current subdivision (b)(2)(B) because its

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presumption is inconsistent with RTC section 6388. We propose to delete current subdivision (b)(2)(C), which refers to the affidavit in the regulation's appendix, because we are also proposing to delete the affidavit in the appendix (discussed below). We also propose to delete current subdivision (b)(3) and include similar provisions in proposed Regulation 1620.15 (discussed below) because subdivision (b)(3) incorporates and clarifies provisions in RTC section 6388.5, but not RTC section 6388.

Subdivision (c)

We propose to reformat the first paragraph in subdivision (c) as subdivision (c)(1) and delete all the text from reformatted subdivision (c)(1) related to the provisions of RTC section 6388.5. In addition, we propose to add text to the end of subdivision (c)(1) to prescribe and clarify the requirements for a properly completed affidavit for the RTC 6388 exemption.

Revised subdivision (c)(1) requires a properly completed affidavit to be signed and dated by the purchaser and include:

- A. A description of the vehicle, including year, make and model, VIN or serial number, and unladen weight;
- B. The name telephone number, and out-of-state address of the purchaser;
- C. The name of the dealer and the address of the dealer's out-of-state location from which the vehicle was purchased;
- D. The name and address of the manufacturer or remanufacturer that delivered the vehicle to the purchaser;
- E. The date of delivery and date of removal of the vehicle; and
- F. A statement that the purchaser is not a resident of California, the vehicle was purchased from the dealer's specified out-of-state location for use outside this state, and was removed from this state within 30 days after the date of delivery of the vehicle to the purchaser.

In addition, we propose to add new subdivision (c)(2) to provide that a properly completed form provided by CDTFA for use as an affidavit for the RTC section 6388 exemption will satisfy the requirements of subdivision (c)(1). We propose to reformat the second paragraph in current subdivision (c) as subdivision (c)(3), revise it so it only incorporates and clarifies the provisions of RTC section 6388, and it does not incorporate or clarify the provisions of RTC section 6388.5. We also propose to delete the third paragraph in current subdivision (c) because we included similar provisions in renumbered subdivision (b)(3) (discussed above).

Subdivision (d)

We propose to amend subdivision (d) to clarify that the sale of a vehicle to a lessor qualifies for the RTC section 6388 exemption provided the sale and subsequent use of the vehicle meets the requirements in subdivision (b). We also propose to delete all the text that incorporates or clarifies the provisions of RTC section 6388.5 and the non-statutory requirements regarding lessees from subdivision (d).

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Subdivision (e)

We propose to amend subdivision (e) so it only requires purchasers to maintain records documenting that they purchased a qualifying vehicle, removed it from the state within 30 days after the date of delivery, and it was used outside the state, and provide those records to CDTFA upon request. We also propose to amend subdivision (e) to delete all the text related to the provisions of RTC section 6388.5.

Appendix

In addition, revised subdivision (c)(1) prescribes the requirements for a properly completed affidavit and revised subdivision (c)(2) provides that a properly completed form provided by CDTFA for use as an affidavit for the RTC section 6388 exemption will satisfy the requirements of subdivision (c)(1). Therefore, there is no need to include a form in the regulation for use as an affidavit for the RTC section 6388 exemption and we propose to delete the regulation's Appendix, which contains a form for use as an affidavit for the RTC section 6388 and 6388.5 exemptions.

Reference Note

We propose to delete the references to RTC sections 6388.5 and 6421 from the regulation's reference note because those sections are not implemented, interpreted, or made specific by the amended regulation. We also propose to add references to RTC sections 7053 and 7054 to the regulation's reference note because those sections are implemented, interpreted, and made specific by the record requirements in subdivision (e).

Proposed Regulation 1620.15

With the removal of the provisions regarding RTC section 6388.5 from Regulation 1620.1, we propose to adopt new Regulation 1620.15 to include and clarify the provisions of RTC section 6388.5 as amended by AB 321 and SB 1473 (see Exhibit 2). Below is a discussion of the proposed regulation by subdivision.

Title

We propose to name the regulation "Sales of Vehicles for Use Exclusively Out-of-State or in Interstate or Foreign Commerce" because the exemption provided by RTC section 6388.5 only applies to sales of vehicles for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both.

Subdivision (a)

We propose to include definitions for terms used within the regulation in subdivision (a). Some of the definitions are similar to definitions that are currently in or proposed to be added to Regulation 1620.1, and some are new definitions.

We propose to include new definitions for the terms dealer, International Registration Plan, lessee, purchaser, and Unified Carrier Registration System filing because those terms are used in RTC section 6388.5. We propose to include the same general definition of dealer in Regulation 1620.15 that we are proposing to add to Regulation 1620.1.

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We propose to define the term International Registration Plan or IRP to mean the International Registration Plan Agreement developed by the American Association of Motor Vehicle Administrators referred to in Vehicle Code section 8052. We propose to include new general definitions for the term lessee and the term purchaser. We also propose to define the term Unified Carrier Registration System filing or UCRS filing to mean a person's application for registration in the online federal registration system being implemented by the Federal Motor Carrier Safety Administration (FMCSA) in the United States Department of Transportation (USDOT), which was established and named the "Unified Carrier Registration System" pursuant to section 13908 of title 49 of the United States Code.

We propose to include definitions for the terms permanent trailer identification plate program or PTI plate program, purchaser's agent, remanufacturer, remanufactured vehicle, and USDOT number because the terms are used in RTC section 6388.5. The definition of permanent trailer identification plate program or PTI plate program is similar to the first sentence in the current definition of Permanent Trailer Identification (PTI) Program in Regulation 1620.1. It provides that permanent trailer identification plate program or PTI plate program means the registration program for assigning permanent trailer identification certificates and permanent trailer identification plates to certain trailers, pursuant to Vehicle Code section 5014.1, administered by the Department of Motor Vehicles (DMV). The definition of purchaser's agent is based upon the definition of Purchaser's Agent in current Regulation 1620.1 and clarifies that a purchaser must authorize a person to act as its agent in writing prior to using the person as an agent to furnish the evidence and affidavit required for the RTC section 6388.5 exemption. The definitions of remanufacturer and remanufactured vehicle are based upon the definitions of remanufacturer and remanufactured vehicle in current Regulation 1620.1. The definition of remanufacturer also clarifies that the term remanufacturer is defined in Vehicle Code section 507.8 and that the term includes a person licensed as a remanufacturer by the appropriate governmental agency in another state. The definition of USDOT number is based on the definition of United States Department of Transportation (USDOT) Number in current Regulation 1620.1, but was revised to more closely match the FMCSA's description of a USDOT number at <https://www.fmcsa.dot.gov/registration/do-i-need-usdot-number>.

We propose to include a new definition for the term vehicle that only includes the vehicles to which the RTC section 6388.5 exemption applies. We also propose to divide the definition of vehicle into two subdivisions, (A) and (B), that apply to purchases in different periods because the current version of RTC section 6388.5 will become inoperative on January 1, 2024, and the version of RTC section 6388.5 enacted by section 2 of AB 321 will become operative on January 1, 2024, which is the same as current RTC section 6388.5 read prior to the amendments made by section 1 of AB 321, operative January 1, 2020. Therefore, subdivision (a)(10)(A) provides that for purchases prior to January 1, 2020, and on or after January 1, 2024, the term vehicle means a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more. Subdivision (a)(10)(B) provides that for purchases on January 1, 2020, through December 31, 2023, the term vehicle means a new, used, or remanufactured truck or a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more.

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Subdivision (b)

We propose that subdivision (b) explain the application of tax and clarify the requirements for the exemption provided by RTC section 6388.5. We propose that it explain that tax generally applies to vehicles, clarify that tax does not apply when the requirements for the RTC section 6388.5 exemption are satisfied, and incorporate and clarify the statutory requirements for the RTC section 6388.5 exemption. We propose that subdivision (b)(1) incorporate the requirement to remove a vehicle to a point outside this state within 30 days or 75 days after the date of delivery, subdivision (b)(2) incorporate the requirement to provide a copy of the out-of-state license and registration for the vehicle or written evidence of the purchaser's or lessee's USDOT number or UCRS filing, when permitted, to the manufacturer, remanufacturer, or dealer, and subdivision (b)(3) incorporate the requirement to provide the purchaser's affidavit to the manufacturer, remanufacturer, or dealer. We propose that subdivisions (b)(2) and (3) clarify that the documents must be provided to the delivering manufacturer, remanufacturer, or dealer. We also propose that subdivision (b)(3) require an affidavit to be accepted in good faith and provide a presumption that an affidavit was accepted in good faith if the affidavit contains the essential elements required by subdivision (c) and appears to be valid on its face.

Subdivision (c)

We propose that subdivision (c)(1) incorporate and clarify the requirements for a properly completed affidavit for the RTC 6388.5 exemption. It requires a properly completed affidavit to be signed and dated by the purchaser or purchaser's agent, provided to the manufacturer, remanufacturer, or dealer that delivered the vehicle to the purchaser after the vehicle is removed from the state, and include:

- (A) A description of the vehicle, including year, make and model, VIN or serial number, and unladen weight;
- (B) The name, telephone number, and address of the purchaser;
- (C) The name and address of the dealer from which the vehicle was purchased, and the address of the specific location from which the vehicle was purchased if it was different from the dealer's address;
- (D) The name of the manufacturer or remanufacturer that manufactured or remanufactured the vehicle and state where the vehicle was manufactured or remanufactured;
- (E) The name and address of the dealer, manufacturer, or remanufacturer that delivered the vehicle to the purchaser in this state;
- (F) The date of delivery and date of removal of the vehicle; and
- (G) A statement that the vehicle was purchased from the dealer at the specified location for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both, and that the vehicle was removed from this state within the appropriate period of either 30 days or 75 days after the date of delivery of the vehicle to the purchaser.

We propose to provide in subdivision (c)(2) that a properly completed form provided by CDTFA for use as an affidavit for the RTC section 6388.5 exemption will satisfy the requirements of subdivision (c)(1). We also propose that subdivision (c)(3) provide procedures that allow a

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purchaser or purchaser's agent to provide a single affidavit listing multiple vehicles that were purchased from the same location in the same transaction.

Subdivision (d)

We propose that subdivision (d) clarify that the sale of a vehicle to a lessor qualifies for the RTC section 6388.5 exemption provided that the sale and subsequent use of the vehicle meet the requirements in subdivision (b). We also propose that subdivision (d) require a lessor to provide the name and address of the lessee on the affidavit required by subdivision (b)(3) if the documentation provided pursuant to subdivision (b)(2) shows that the vehicle is registered in the lessee's name, assigns or confirms the lessee's USDOT number, or includes a copy of the lessee's current UCRS filing.

Subdivision (e)

We propose that subdivision (e) require purchasers to maintain records documenting that they purchased a qualifying vehicle, removed it from the state within either 30 days or 75 days of the date of delivery, and it was used exclusively out-of-state or in interstate or foreign commerce, and provide those records to CDTFA upon request.

Summary

The CDTFA proposes amendments to Regulation 1620.1 so that it includes and clarifies the provisions of RTC section 6388 and does not include provisions regarding RTC section 6388.5. In addition, CDTFA proposes new Regulation 1620.15 to incorporate and clarify the provisions of RTC section 6388.5, including the amendments to RTC section 6388.5 made by AB 321 and SB 1473. We welcome any comments, suggestions, and input from interested parties on this issue. We also invite interested parties to participate in the June 8, 2023, interested parties meeting. Interested parties are encouraged to express opinions and make suggestions about our proposed language. The deadline for interested parties to provide written submissions regarding the topic of this discussion paper is June 22, 2023.

Prepared by the Tax Policy Bureau, Business Taxes Committee Section

Current as of 5/1/2022

1620.1. Sales of Certain Vehicles to Non-Residents and Trailers for Use ~~in Interstate or Out-of-State Commerce.~~

(a) Definitions.

The following terms have the following meanings for purposes of this regulation:

~~(1) Permanent Trailer Identification (PTI) Program. A registration program for commercial trailers as defined in Vehicle Code section 5014.1 administered by the Department of Motor Vehicles (DMV). Assessments made pursuant to the PTI program constitute a flat fee and are not based on the weight of a commercial trailer subject to the PTI program. In lieu of annual registration, DMV assesses a service fee every five (5) years.~~

~~(2) Purchaser's Agent. For purposes of this regulation, a purchaser's agent means a person authorized by the purchaser of a trailer to act on the purchaser's behalf in providing an exemption certificate from the sales or use tax to the seller of the trailer. To establish that a particular person is acting as the purchaser's agent, the purchaser must: 1) clearly disclose in writing to the seller the purchaser's intent to use an agent in the transaction, including the name of the purchaser's agent, and 2) obtain and retain, prior to the use of the agent, written evidence of the agent's status with the purchaser. An agent may include a registration service company engaged by either the purchaser or dealer who sells trailers. A dealer, manufacturer or remanufacturer may not act as the purchaser's agent with respect to a trailer that it sells or delivers to a purchaser.~~

(1) Dealer. "Dealer" means a person that is engaged wholly or in part in the business of selling vehicles, whether or not such vehicles are owned by the person.

~~(23) Remanufacturer and Remanufactured Vehicles. A remanufacturer "Remanufacturer" of vehicles or trailers means a person that who is licensed by the DMV as a remanufacturer as defined in pursuant to Vehicle Code section 507.8 by the Department of Motor Vehicles (DMV) or licensed as a remanufacturer by the appropriate governmental agency in another state. A remanufactured "Remanufactured vehicle" has the same meaning as set forth in means a vehicle constructed by a remanufacturer and meeting the criteria of Vehicle Code section 507.5. A vehicle constructed in another state purchased from ~~an out-of-state company~~ will qualify as a remanufactured vehicle if it was constructed by a person ~~the out-of-state company~~ is licensed as a remanufacturer by the appropriate governmental agency in that state and the vehicle meets ~~the criteria established by that state's requirements to be state or a remanufactured vehicle.~~ The sale of a used vehicle as defined in Vehicle Code section 665 or trailer alone does not qualify as a ~~sale of a remanufactured vehicle unless the vehicle or trailer otherwise qualifies as a remanufactured vehicle or trailer pursuant to applicable state laws.~~~~

~~(4) Single State Registration System (SSRS). A federally regulated program under which states monitor a motor carrier's compliance with federal registration and insurance requirements. Motor carriers generally must register with the state in which they have their principal place of business. In California, the program is administered by the DMV and covers only motor carriers of property. Compliance with the SSRS program requires eligible motor carriers to register annually with the DMV, report the number of vehicles operating in other states participating in the SSRS program, and to pay the requisite fees. "Vehicles" for purposes of SSRS registration means only self-propelled units and not trailers. SSRS filings do not identify individual vehicles.~~

~~(5) Trailer. For purposes of this regulation, trailer means a new or remanufactured trailer or semi-trailer with an unladen weight of 6,000 pounds or more. Any vehicle not designed for carrying persons or property on its own structure, such as an auxiliary dolly, does not qualify as a trailer for purposes of this regulation. Qualified trailers may be manufactured or remanufactured either inside or outside this state.~~

~~(6) United States Department of Transportation (USDOT) Number. A number issued by the Federal Motor Carrier Safety Administration (FMCSA) to any motor carrier located in the United States that is engaged in the transportation of property in interstate or foreign commerce. A USDOT number is assigned to a motor carrier and not to the motor carrier's individual vehicles.~~

~~(7) United States – Federal Maritime Commission (FMC) Number. A number issued by the Federal Maritime Commission to entities operating as common carriers in U.S. foreign commerce. An FMC number is assigned to an ocean carrier and to the ocean carrier's individual trailers.~~

~~(38) Vehicle. For purposes of this regulation, the term vehicle "Vehicle" means a new or remanufactured truck, truck tractor, semitrailer, or trailer with an unladen weight of 6,000 pounds or more, or a new or remanufactured trailer coach, or auxiliary dolly, manufactured or remanufactured in this state and purchased from an out-of-state dealer for delivery in this state.~~

(b) Application of Tax

~~(1) In General. Tax in general, tax applies to the sale or storage, use, or other consumption of vehicles and trailers in this state, except as provided in subdivisions (b)(2) and (b)(3).~~

~~(2) Exempt Sales of Vehicles for Use in Out-of-State or Foreign Commerce.~~

~~(A) Notwithstanding subdivision (b)(1), However, under the Revenue and Taxation Code section 6388 exemption, tax does not apply to the sale or storage, use, or other consumption of a vehicle delivered in this state by the vehicle manufacturer or remanufacturer to a purchaser that who is not a resident of California for use exclusively in-out-of-state or foreign commerce where the purchaser:~~

~~1.(1) Purchases the vehicle from a dealer located outside this state;~~

~~2.(2) Removes the vehicle from this state within 30 days from and after the date of delivery;~~

~~3.(3) Provides a properly completed valid affidavit, which satisfies the requirements of subdivision (c), to the manufacturer or remanufacturer that delivered the vehicle, that is accepted by such person in good faith; In the absence of evidence to the contrary, it is presumed that a manufacturer or remanufacturer accepted an affidavit in good faith if the affidavit contains the essential elements required by subdivision (c) and otherwise appears to be valid on its face. -stating:~~

- ~~a. The name and location of the out-of-state dealer from whom the vehicle was purchased,~~
- ~~b. The name and location of the in-state manufacturer or remanufacturer that delivered the vehicle to the purchaser and the date of delivery~~
- ~~c. That the purchaser is not a resident of California,~~
- ~~d. That the vehicle was purchased for use exclusively outside California,~~
- ~~e. That the vehicle was removed from this state within 30 days of the delivery date, and~~
- ~~f. The date of removal.~~

~~4.(4) Provides written evidence of the out-of-state registration of the vehicle registration (state of registration, license plate number and vehicle identification number (VIN) or serial number) to the manufacturer or remanufacturer that delivered the vehicle within 60 days of providing the affidavit to the deliverer.~~

~~(B) Notwithstanding the forgoing provisions, it is rebuttably presumed that a vehicle registered outside California and apportioned for use within this state is not purchased for use exclusively outside this state.~~

~~(C) An affidavit for the providing of the information set forth in subdivision (b)(2)(A) is set forth in the Appendix to this regulation.~~

~~(3) Exempt Sales of Trailers for Use in Interstate, Out-of-State or Foreign Commerce.~~

~~(A) Notwithstanding the provisions of subdivisions (b)(1) and (b)(2), tax does not apply to the sale or storage, use, or other consumption of a trailer delivered in this state by the manufacturer, remanufacturer or dealer to a purchaser for use exclusively in interstate, out-of-state, or foreign commerce where all the following criteria are met:~~

- ~~1. The trailer is manufactured or remanufactured outside California and is removed from this state within 30 days from and after the date of delivery; or the trailer is manufactured or remanufactured within California and is removed from the state within 75 days from and after the date of delivery;~~

~~2. If the trailer is registered outside the state, the purchaser or purchaser's agent provides the delivering manufacturer, remanufacturer, or dealer a copy of the current out-of-state license and registration for the trailer showing the Vehicle Identification Number (VIN) or serial number; or, if the trailer is registered in-state under the PTI program, the purchaser or purchaser's agent provides the delivering manufacturer, remanufacturer, or dealer a copy of the federal document assigning or confirming the purchaser's or lessee's USDOT number, FMC number, or a copy of the current SSRS filing with the DMV. A purchaser or purchaser's agent may not use an FMC number if the purchaser has a current USDOT number. Evidence of registration outside California must be submitted to the dealer, manufacturer, or remanufacturer no later than 60 days after the timely providing of an affidavit described in subdivision (b)(3)(A)3. Evidence of a USDOT number, FMC number, or SSRS filing must be submitted with the affidavit,~~

~~3. The purchaser or purchaser's agent provides a valid affidavit to the manufacturer, remanufacturer, or dealer, that is accepted by such person in good faith, stating:~~

- ~~a. The name and location of the dealer from whom the trailer was purchased,~~
- ~~b. The name and location of the California dealer, manufacturer or remanufacturer that delivered the trailer to the purchaser and the date of delivery,~~
- ~~c. That the trailer was purchased for use exclusively outside the state, or exclusively in interstate or foreign commerce, or both,~~
- ~~d. That the trailer was removed from the state within the appropriate time periods provided for in subdivision (b)(3)(A)(1), and~~
- ~~e. The date of removal.~~

~~(B) An affidavit for the providing of the information set forth in subdivision (b)(3) to the deliverer is set forth in the Appendix to this regulation.~~

(c) Affidavit.

~~(1) An affidavit is properly completed valid if the where a purchaser or, in the case of a claimed section 6388.5 exemption, a purchaser or purchaser's agent, provides all information required by subdivisions (b)(2) or (b)(3), signs and dates the affidavit, and provides it to the manufacturer or remanufacturer that delivered the vehicle to the purchaser or to the manufacturer, remanufacturer, or dealer that delivered the trailer to the purchaser within 30 days after the vehicle or trailer is removed from the state, and it includes:~~

- ~~(A) A description of the vehicle, including year, make and model, VIN or serial number, and unladen weight;~~
- ~~(B) The name telephone number, and out-of-state address of the purchaser;~~
- ~~(C) The name of the dealer and the address of the dealer's out-of-state location from which the vehicle was purchased;~~
- ~~(D) The name and address of the manufacturer or remanufacturer that delivered the vehicle to the purchaser;~~
- ~~(E) The date of delivery and date of removal of the vehicle; and~~

(F) A statement that the purchaser is not a resident of California, the vehicle was purchased from the dealer's specified out-of-state location for use outside this state, and was removed from this state within 30 days after the date of delivery of the vehicle to the purchaser.

(2) A properly completed form provided by the California Department of Tax and Fee Administration (Department) for use as an affidavit for the Revenue and Taxation Code section 6388 exemption will satisfy the requirements of subdivision (c)(1).

(3) For transactions that include the purchase of more than one vehicle from a dealer's specified out-of-state location or trailer, the purchaser need not provide a separate affidavit for each vehicle or trailer, but may instead append a list of the vehicles or trailers included in the transaction, identifying each one by its VIN or serial number. The purchaser must, however, include the date each vehicle or trailer was delivered and the date each vehicle was removed from this state, and provide evidence of current out-of-state license and registration for each vehicle or USDOT number, FMC number, or SSRS filing applicable to each vehicle or trailer, as required by subdivisions (b)(2) and (b)(3).

~~For purposes of this regulation, it is presumed that the person who delivers a vehicle or trailer to the purchaser accepted the affidavit in good faith in the absence of evidence to the contrary.~~

~~(d) Lessors. The sale of a vehicle or trailer to a lessor qualifies for the exemptions from sales and use tax provided by Revenue and Taxation Code sections 6388 exemption and 6388.5 provided the sale and subsequent use of the vehicle or trailer as leased tangible personal property meets the requirements appropriate criteria detailed in subdivisions (b)(2) and (b)(3). In addition to the information required in these subdivisions, a lessor must provide the name and address of the lessee on the affidavit and, when applicable, documentation showing that the vehicle or trailer was registered outside the state on behalf of the lessor or lessee. If a leased trailer is registered under the PTI program, the lessor must provide the lessee's USDOT number, FMC number, or current SSRS filing.~~

~~(e) Documentation to be Maintained by Purchasers. Purchasers of vehicles shall maintain internal records documenting that a vehicle qualifying for the Revenue and Taxation Code section 6388 exemption was removed from this state taken out of California within 30 days after the date of delivery the time mandated by statute and was used exclusively outside the state. Purchasers of trailers shall maintain internal records documenting that a trailer qualifying for the Revenue and Taxation Code section 6388.5 exemption was taken out of California within the time mandated by statute and was used exclusively in out-of-state, foreign or interstate commerce. A purchaser must provide the records supporting documentation to the Board Department upon request.~~

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Sections 6388, 6388.3, ~~6388.5~~ and 6421, 7053 and 7054, Revenue and Taxation Code.

Appendix

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AFFIDAVIT FOR SECTION 6388 OR 6388.5 EXEMPTION FROM CALIFORNIA SALES AND USE TAX

Revenue and Taxation Code (RTC) sections 6388 and 6388.5 provide exemptions from the taxes imposed on the sale, storage, use, or other consumption of certain new and remanufactured vehicles. The RTC section 6388 exemption applies to the sale or use of certain new or remanufactured vehicles. The RTC section 6388.5 exemption applies to the sale or use of certain new or remanufactured trailers. Additional information about these exemptions and additional requirements to meet these exemptions is available on the back of this form and in Regulation 1620.1, Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce.

CHECK AND/OR FILL IN ALL APPROPRIATE BOXES AND BLANKS BELOW

I have purchased a vehicle or trailer the sale and use of which is exempt from California sales and use tax per section 6388 6388.5.

Vehicle or Trailer Information:

The vehicle is a truck, truck tractor, trailer, semitrailer, trailer coach, or auxiliary dolly, described as:

MAKE & MODEL	VIN/SERIAL NO.		YEAR	PURCHASE PRICE	UNLADEN WEIGHT

MANUFACTURER/REMANUFACTURER	PLACE OF MANUFACTURE/REMANUFACTURE	DATE OF DELIVERY

The vehicle or trailer was moved outside California within 30 75 days of delivery (check one). Date moved: _____

Seller and Deliverer of Vehicle or Trailer:

I hereby certify that the vehicle or trailer described above was purchased from _____ (name of dealer or mfr/remfr.) located at _____ (dealer or mfr./remfr.'s address—street, city, state, zip code), and was delivered by _____ (name of California dealer or mfr/remfr.), located at _____ (California dealer or mfr/remfr.'s address—street, city, state, zip code)

Leasing and Registration Information:

The vehicle or trailer described above ~~Empty Checkbox is~~ ~~Empty Checkbox is not being leased.~~ If being leased, name and address of lessee:

Vehicle or trailer is licensed or registered in _____ (state where registered) (If a trailer is registered in California, provide owner's or lessee's USDOT number or FMC number)

Purchaser Information:

The purchaser is a ~~Empty Checkbox corporation~~ ~~Empty Checkbox limited liability company~~ ~~Empty Checkbox partnership~~ ~~Empty Checkbox sole proprietor,~~ which ~~Empty Checkbox is~~ ~~Empty Checkbox is not~~ a resident of California. The vehicle was purchased for use outside California (section 6388) or the trailer was purchased for use exclusively outside California or exclusively in interstate and foreign commerce, or both (section 6388.5). If the trailer or vehicle is registered outside California, a copy of the purchaser's or lessor's out-of-state registration, or license and registration, will be provided within 60 days from the date of this affidavit. If the trailer is registered in California under the PTI program, a copy of the purchaser's or lessee's USDOT number, FMC number, or current SSRS filing is attached.

I understand that if I do not meet the requisite exemption provisions detailed on the back of this form, I am required by the California Sales and Use Tax Law to report and pay tax, and interest and penalties (if appropriate), directly to the California State Board of Equalization, the tax to be measured by the purchase price of the above listed vehicle or trailer even though I have furnished an affidavit of exemption to the manufacturer, remanufacturer, or dealer.

PURCHASER'S NAME		
SIGNATURE OF PURCHASER OR PURCHASER'S AGENT	TITLE	
PRINT NAME OF SIGNATOR	PHONE NUMBER ()	DATE

For exemption requirements and instructions on completing this affidavit, please see back of form.

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~~AFFIDAVIT FOR SECTION 6388 OR 6388.5 EXEMPTION FROM CALIFORNIA SALES AND USE TAX~~

~~SECTION 6388—NEW OR REMANUFACTURED VEHICLES PURCHASED FROM OUT-OF-STATE DEALER~~

~~Applies to the sale, storage, use, or other consumption of a new or remanufactured truck, truck tractor, trailer, or semitrailer, with an unladen weight of 6,000 pounds or more, or a trailer coach or auxiliary dolly, purchased from a dealer located outside California for use outside California, and delivered in California by the manufacturer or remanufacturer to a purchaser who is not a resident of California. The purchaser must~~

- ~~1. Remove the vehicle from this state within 30 days from and after the date of delivery,~~
- ~~2. Provide a valid affidavit to the manufacturer or remanufacturer, that is accepted by such person in good faith, stating:~~
 - ~~• The name and location of the out-of-state dealer from whom the vehicle was purchased~~
 - ~~• The name and location of the in-state manufacturer or remanufacturer that delivered the vehicle to the purchaser, and the date of delivery~~
 - ~~• That the purchaser is not a resident of California~~
 - ~~• That the vehicle was purchased for use exclusively outside California~~
 - ~~• That the vehicle was removed from this state within 30 days of the delivery date, and~~
 - ~~• The date of removal~~
- ~~3. Provide evidence of out-of-state vehicle registration (state of registration, license plate number, and VIN or serial number) to the manufacturer or remanufacturer within 60 days of providing the affidavit to the deliverer.~~

~~Notwithstanding the forgoing provisions, it is rebuttably presumed that a vehicle registered outside California and apportioned for use within this state is not purchased for use exclusively outside this state.~~

~~SECTION 6388.5—NEW OR REMANUFACTURED TRAILERS PURCHASED FOR OUT-OF-STATE OR INTERSTATE COMMERCE USE~~

~~Applies to the sale, storage, use, or other consumption of a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more purchased from a California or non-California dealer that was manufactured or remanufactured either within or without this state for use exclusively outside California or exclusively in interstate or foreign commerce, or both; and delivered by the manufacturer, remanufacturer, or dealer, to the purchaser in California. The purchaser or purchaser's agent must:~~

- ~~1. Remove the trailer from this state within 30 days from and after the date of delivery, if the trailer is manufactured or remanufactured outside California; or remove the trailer from the state within 75 days from and after the date of delivery, if the trailer is manufactured or remanufactured within California.~~

2. If the trailer is registered outside the state, provide the delivering manufacturer, remanufacturer or dealer a copy of the current out-of-state license and registration for the trailer showing the Vehicle Identification Number (VIN) or serial number. Evidence of registration outside California must be submitted to the dealer, manufacturer or remanufacturer no later than 60 days after the timely providing of an affidavit.

3. If the trailer is registered in-state under the PTI program, provide the delivering manufacturer, remanufacturer or dealer a copy of the federal document assigning or confirming the purchaser's or lessee's USDOT number, FMC number, or a copy of the current SSRS filing with the DMV. The purchaser or purchaser's agent may not use the FMC number if the purchaser has a current USDOT number. Evidence of a USDOT number, FMC number, or SSRS filing must be submitted with the affidavit.

4. Provide an affidavit to the manufacturer, remanufacturer or dealer, that is accepted by such person in good faith, stating:

- The name and location of the dealer from whom the trailer was purchased
- The name and location of the California dealer, manufacturer or remanufacturer that delivered the trailer to the purchaser
- That the trailer was purchased for use exclusively outside the state, or exclusively in interstate or foreign commerce, or both
- That the trailer was removed from the state within the appropriate time periods, and
- The date of removal

INSTRUCTIONS

This affidavit must be provided to the entity delivering the vehicle or trailer no later than 30 days from the date the vehicle or trailer is taken outside California.

Fill in all sections and check all appropriate boxes. If the vehicle or trailer was sold and delivered by the same entity, write "Same" in sections for deliverer.

If a trailer is registered in California under the Permanent Trailer Identification Program (PTI), proof of a United States Department of Transportation (USDOT) number, Federal Maritime Commission (FMC) number, or current Single State Registration System (SSRS) filing must be attached to the affidavit.

If a vehicle or trailer is registered outside California, proof of out-of-state registration that includes the vehicle or trailer VIN or serial number must be furnished to the deliverer of the vehicle or trailer no later than 60 days after the purchaser provides the affidavit to the deliverer.

For transactions that include the purchase of more than one vehicle or trailer, you need not file a separate affidavit for each vehicle or trailer, but may instead append a list of the vehicles or trailers included in the transaction, identifying each one by a vehicle identification number (VIN) or serial number. You must, however, report the date each vehicle or trailer was removed from the state and provide copies of current out-of-state license and registration documents or USDOT number, FMC number, or SSRS filing applicable to each vehicle or trailer, as required.

~~Persons, who purchase a vehicle or trailer for the purpose of leasing it, qualify for the exemption if the lessee meets the respective exemption criteria summarized above. A lessor must provide the name and address of the lessee. On leases of trailers that qualify for PTI registration, the lessor must provide the lessee's USDOT number, FMC number, or current SSRS filing. For all other leases, the lessor must provide proof of out-of-state registration.~~

~~If you have questions about these exemptions or completion of the affidavit, please call (800) 400-7115.~~

~~This database is current through 9/23/22 Register 2022, No. 38.~~

~~Cal. Admin. Code tit. 18, § 1620.1 App., 18 CA ADC § 1620.1 App.~~

1620.15. Sales of Vehicles for Use Exclusively Out-of-State or in Interstate or Foreign Commerce.

(New regulation to be added to the California Code of Regulations.)

(a) Definitions.

The following terms have the following meanings for purposes of this regulation:

(1) Dealer. "Dealer" means a person that is engaged wholly or in part in the business of selling vehicles, whether or not such vehicles are owned by the person.

(2) International Registration Plan. "International Registration Plan" or "IRP" means the International Registration Plan Agreement developed by the American Association of Motor Vehicle Administrators.

(3) Lessee. "Lessee" means a person that leases a vehicle from a purchaser.

(4) Permanent Trailer Identification Plate Program. "Permanent trailer identification plate program" or "PTI plate program" means the registration program for assigning permanent trailer identification certificates and permanent trailer identification plates to certain trailers, pursuant to Vehicle Code section 5014.1, administered by the Department of Motor Vehicles (DMV).

(5) Purchaser. "Purchaser" means a person that purchases or leases a vehicle from a dealer, manufacturer, or remanufacturer.

(6) Purchaser's Agent. "Purchaser's agent" means a person authorized in writing by a purchaser to act on the purchaser's behalf with regard to the purchase of one or more vehicles and furnish the evidence and affidavit required by this regulation to the delivering manufacturer, remanufacturer, or dealer on the purchaser's behalf.

(A) A purchaser must authorize a person to act as the person's agent in writing prior to the use of the person as an agent to furnish the evidence and affidavit required by this regulation and retain the document as evidence of the person's status as the purchaser's agent.

(B) To establish that a particular person is acting as the purchaser's agent for purposes of a specific transaction, the purchaser must clearly disclose the purchaser's intent to use an agent in the transaction and the name of the purchaser's agent to the seller in writing.

(C) A registration service company engaged by the purchaser, dealer, manufacturer, or remanufacturer may act as the purchaser's agent. A dealer, manufacturer, or remanufacturer may not act as the purchaser's agent with respect to a vehicle that it sells or delivers to the purchaser.

(7) Remanufacturer and Remanufactured Vehicle. “Remanufacturer” means a person that is licensed as a remanufacturer as defined in Vehicle Code section 507.8 by the DMV or licensed as a remanufacturer by the appropriate governmental agency in another state. “Remanufactured vehicle” has the same meaning as set forth in Vehicle Code section 507.5. A vehicle constructed in another state will qualify as a remanufactured vehicle if it was constructed by a person licensed as a remanufacturer by the appropriate governmental agency in that state and the vehicle meets that state’s requirements to be a remanufactured vehicle. A used vehicle as defined in Vehicle Code section 665 does not qualify as a remanufactured vehicle unless the vehicle otherwise qualifies as a remanufactured vehicle pursuant to applicable state laws.

(8) Unified Carrier Registration System Filing. “Unified Carrier Registration System filing” or “UCRS filing” means a person’s application for registration in the online federal registration system being implemented by the Federal Motor Carrier Safety Administration (FMCSA) in the United States Department of Transportation (USDOT), which was established and named the “Unified Carrier Registration System” pursuant to section 13908 of title 49 of the United States Code.

(9) USDOT Number. “USDOT number” means a number issued by the FMCSA to a person registered to operate commercial vehicles transporting passengers or hauling cargo in interstate or foreign commerce. A USDOT number is assigned to a person and not to the person’s individual vehicles.

(10) Vehicle.

(A) For purchases prior to January 1, 2020, and on and after January 1, 2024, “vehicle” means a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more.

(B) For purchases on January 1, 2020, through December 31, 2023, “vehicle” means a new, used, or remanufactured truck or a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more.

(b) Application of Tax.

In general, tax applies to the sale or storage, use, or other consumption of vehicles in this state. However, under the Revenue and Taxation Code section 6388.5 exemption, tax does not apply to the sale or storage, use, or other consumption of a vehicle delivered in this state by the manufacturer, remanufacturer, or dealer to a purchaser within this state for use exclusively outside this state or in interstate or foreign commerce, where all the following requirements are met:

(1) The purchaser drives or moves the vehicle to a point outside this state: (A) Within 30 days after the date of delivery if the vehicle was manufactured or remanufactured outside this state; or (B) Within 75 days after the date of delivery if the vehicle was manufactured or remanufactured in this state.

(2) The purchaser or purchaser's agent provides the delivering manufacturer, remanufacturer, or dealer a copy of the current out-of-state license and registration for the vehicle showing the state of registration, license plate number, and Vehicle Identification Number (VIN) or serial number.

(A) If the vehicle is registered with the DMV under the PTI plate program and used exclusively in interstate or foreign commerce, or both, the purchaser or purchaser's agent may provide the delivering manufacturer, remanufacturer, or dealer a copy of a federal document assigning or confirming the purchaser's or lessee's USDOT number or a copy of the purchaser's or lessee's current UCRS filing, instead of providing a copy of the current out-of-state license and registration for the vehicle.

(B) If the vehicle is registered under the IRP entered into pursuant to Vehicle Code section 8052, the purchaser or purchaser's agent may provide the delivering manufacturer, remanufacturer, or dealer a copy of a federal document assigning or confirming the purchaser's or lessee's USDOT number or a copy of the purchaser's or lessee's current UCRS filing, instead of providing a copy of the current out-of-state license and registration for the vehicle, but only if the vehicle was purchased on or before December 31, 2023.

(3) The purchaser or purchaser's agent provides a properly completed affidavit, which satisfies the requirements of subdivisions (c) and (d), to the delivering manufacturer, remanufacturer, or dealer that is accepted by such person in good faith. In the absence of evidence to the contrary, it is presumed that a manufacturer, remanufacturer, or dealer accepted an affidavit in good faith if the affidavit contains the essential elements required by subdivision (c) and appears to be valid on its face.

(c) Affidavit.

(1) An affidavit is properly completed if the purchaser or purchaser's agent signs and dates the affidavit, provides it to the manufacturer, remanufacturer, or dealer that delivered the vehicle to the purchaser after the vehicle is removed from the state, and it includes:

(A) A description of the vehicle, including year, make and model, VIN or serial number, and unladen weight;

(B) The name, telephone number, and address of the purchaser;

(C) The name and address of the dealer from which the vehicle was purchased, and the address of the specific location from which the vehicle was purchased if it was different from the dealer's address;

(D) The name of the manufacturer or remanufacturer that manufactured or remanufactured the vehicle and state where the vehicle was manufactured or remanufactured;

(E) The name and address of the dealer, manufacturer, or remanufacturer that delivered the vehicle to the purchaser in this state;

(F) The date of delivery and date of removal of the vehicle; and

(G) A statement that the vehicle was purchased from the dealer at the specified location for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both, and that the vehicle was removed from this state within the appropriate period of either 30 days or 75 days after the date of delivery of the vehicle to the purchaser.

(2) A properly completed form provided by the California Department of Tax and Fee Administration (Department) for use as an affidavit for the Revenue and Taxation Code section 6388.5 exemption will satisfy the requirements of subdivision (c)(1).

(3) For transactions that include the purchase of more than one vehicle from the same location, the purchaser or purchaser's agent need not provide a separate affidavit for each vehicle but may instead append a list of the vehicles included in the transaction, identifying each one by its VIN or serial number. The purchaser or purchaser's agent must, however, include the date each vehicle was delivered and the date each vehicle was removed from this state, specify whether each vehicle was manufactured or remanufactured outside or inside this state, and provide a copy of the current out-of-state license and registration for each vehicle, or a copy of a federal document assigning or confirming the purchaser's or lessee's USDOT number or a copy of the purchaser's or lessee's current UCRS filing if permitted under subdivision (b)(2)(A) or (B).

(d) Lessors. The sale of a vehicle to a lessor qualifies for the exemption from sales and use tax provided by Revenue and Taxation Code section 6388.5 provided the sale and subsequent use of the vehicle meets the requirements in subdivision (b). However, a lessor must provide the name and address of the lessee on the affidavit required by subdivision (b)(3) if the documentation provided pursuant to subdivision (b)(2) shows that the vehicle is registered in the lessee's name, assigns or confirms the lessee's USDOT number, or includes a copy of the lessee's current UCRS filing.

(e) Documentation to be Maintained by Purchasers. Purchasers of vehicles shall maintain records documenting that a vehicle qualifying for the Revenue and Taxation Code section 6388.5 exemption was removed from this state within either 30 days or 75 days of the date of delivery of the vehicle, as required by subdivision (b)(1), and was used exclusively out-of-state or in interstate or foreign commerce. A purchaser must provide the records to the California Department of Tax and Fee Administration upon request.

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Sections 6388.3, 6388.5, 7053 and 7054, Revenue and Taxation Code.