



Georgia Department of Revenue – Motor Vehicle Division Title Ad Valorem Tax Informational Bulletin Directly Financed Dealer Sales

December 13, 2013

Pursuant to O.C.G.A. § 48-5C-1(b)(1)(B)(xv), a qualifying used motor vehicle dealer in Georgia is eligible to sell used motor vehicles at a reduced rate of State and Local Title Ad Valorem Tax (“TAVT”) that is 2.5% less than the ordinary rate in effect on the date of purchase. This reduced rate is available for directly financing dealers, commonly referred to as “Buy Here, Pay Here” dealers. In order to qualify for the reduced rate of TAVT all requirements and limitations provided for in Department of Revenue Regulation 560-11-14-.17 must be met. A copy of this regulation is attached to this bulletin. Please note that the ordinary statewide TAVT rate is 6.5% for 2013, 6.75% for 2014, and 7% for 2015 - the 2.5% reduction will be applied against the applicable rate in the year in which the date of purchase occurred.

Requirements and Limitations:

In order to qualify, the used motor vehicle dealer must directly finance at least 90% of all motor vehicles it sells. Only those vehicles financed by the selling dealer or a Related Finance Company (RFC) may qualify for such reduced rate. If financing is provided by an RFC, 90% common ownership must exist between the selling dealer and the RFC. Only those sales financed pursuant to an installment note providing for at least a 24 month term or longer will qualify for the reduced rate. Qualifying dealers must retain (i.e., cannot assign) at least 90% of all installment notes. *See generally* Department of Revenue Regulation 560-11-14-.17. Finally, all liens and/or security interests must be recorded electronically through the Electronic Lien and Title (“ELT”) program. *See* Department of Revenue Regulation 560-10-12-.03.

Qualifying dealers should submit Form MV-DF1 along with the applicable registration fee to the Georgia Department of Revenue at the address listed on the form. Once certified, the qualifying dealer will receive a notice from the Department that authorizes sales at a reduced rate of TAVT.

The dealer should not begin to process transactions at the reduced rate until it has received a letter of certification from the Department. All transactions with a date of purchase on or after the date of the letter may be processed at the reduced rate.

FOR MORE INFORMATION

For more information on this subject, contact the Motor Vehicle Division at 1-855-406-5221, from 8:00 am to 4:30 pm EST, Monday through Friday, excluding holidays.

Persons with hearing or speech impairments may call our TDD number at 404-417-4302.

For forms and other information, visit our websites,

(<http://etax.dor.ga.gov> and www.newtitletax.com).

(1) As used in this regulation, the term:

(a) “Directly Financed Dealer Sale” means the sale of a motor vehicle by a Georgia used motor vehicle dealer as defined by O.C.G.A. § 43-47-2(17)(A) which:

1. Is financed by a Direct Finance Dealer or a Related Finance Company;
2. Is financed pursuant to an installment contract evidencing such transaction which allows for a deferred payment price for a minimum of twenty-four (24) months from the date of sale; and
3. Has either the Direct Finance Dealer or Related Finance Company listed as the lienholder on the Certificate of Title Application (Form MV-1).
4. The term does not include leases, rentals, or a retail sale of a motor vehicle in which a person other than the seller provides the financing for the sale and retains a lien on the motor vehicle as collateral.

(b) “Direct Finance Dealer” means a Georgia used motor vehicle dealer as defined by O.C.G.A. § 43-47-2(17)(A) which:

1. Is licensed in accordance with applicable law;
2. Is registered with the department pursuant to part (5) of this regulation; and
3. Sells no less than 90% of its motor vehicle inventory as Directly Financed Dealer Sales.

(c) “Related Finance Company” means an entity having at least 90% common ownership with a Direct Finance Dealer, as determined by the voting rights and value of ownership interests as set forth in the operating agreements or other governing documents of the respective entities, which:

1. Is licensed in accordance with applicable law; and
2. Is registered with the department pursuant to part (5) of this regulation.

(2) Imposition

(a) Except as otherwise provided in this regulation, any motor vehicle purchased from a Direct Finance Dealer pursuant to a qualifying Directly Financed Dealer Sale shall be subject to the state and local title ad valorem tax at a rate equal to 2.5 percentage points less than the rate in effect pursuant to division (b)(1)(B)(ii) of O.C.G.A. § 48-5C-1.

(b) Any motor vehicle sold by a Direct Finance Dealer that is not a Directly Financed Dealer Sale shall not qualify for the reduced rate identified in part (2)(a) of this regulation.

(3) Transfer of Installment Contracts

(a) The reduced rate of state and local title ad valorem tax specified in part (2) of this regulation shall only apply to Direct Finance Dealers who retain, either directly or through a qualifying Related Finance Company, no less than 90% of the installment contracts originated from Directly Financed Dealer Sales.

(4) Disqualification

(a) Prepayment of an installment contract in part or in full by the owner of the motor vehicle before the expiration of the agreed upon term shall not disqualify the owner from the reduced rate of state and local title ad valorem tax provided by this regulation.

(b) Notwithstanding the allowance of prepayment of an installment contract as provided by part (4)(a) of this regulation, the Direct Finance Dealer may lose the right to provide a reduced rate in the event that their sales of motor vehicles are not at least 90% Directly Financed Dealer Sales. In determining compliance with this part, the department shall base such calculation on the ninety (90) days of business operations prior to the calculation being made. Such calculation shall be made:

1. Upon initial request for certification by the department;
2. Annually upon recertification; and
3. At the discretion of the department.

(c) In addition to the requirements of part (4)(b) of this regulation, the Direct Finance Dealer may lose the right to provide a reduced rate in the event that more than 10% of its Directly Financed Dealer Sales have liens released prior to twenty-four (24) months from the date of sale. Such calculation shall be made at the discretion of the department. In determining the percentage of liens that have been released, such calculation shall not take into account the following:

1. Liens foreclosed due to a vehicle being repossessed by the Direct Finance Dealer or Related Finance Company;
2. Liens released due to a vehicle being traded-in;
3. Liens released due to a vehicle being subject to a total loss claim or otherwise rendered as inoperable;
4. Liens released due to a vehicle being relinquished pursuant to O.C.G.A. § 10-1-780, et seq., also known as the “Georgia Lemon Law”; and

5. Liens released due to a vehicle being transferred to another owner as part of a legal proceeding.

(d) Upon disqualification pursuant to part (4)(b) or 4(c) of this regulation, the disqualified Direct Finance Dealer shall revert back to the rate specified in division (b)(1)(B)(ii) of O.C.G.A. § 48-5C-1 and shall be subject to such rate for a period of ninety (90) days. At the conclusion of the ninety (90) day period, the Direct Finance Dealer may be reinstated once again to the reduced rate upon a showing to the department that during the previous ninety (90) days that the Direct Finance Dealer has made a good faith effort to be in compliance with this regulation. If the Direct Finance Dealer has a subsequent violation of part (4)(b) or 4(c) of this regulation, the commissioner in his discretion may determine an amount of time in which the Direct Finance Dealer will be disqualified to receive the reduced rate in consideration of the facts and circumstances of the violation. Such a determination may be appealed to the commissioner by the Direct Finance Dealer.

(5) Registration

(a) A Direct Finance Dealer and its associated Related Finance Company must each register annually with the department prior to making Directly Financed Dealer Sales at the reduced rate provided by part (2)(a) of this regulation. Registration shall be made on a form prescribed by the commissioner and shall be accompanied by a registration fee equal to \$100.

(b) In order to be permitted to register, each entity must be in compliance with its state tax obligations.

(c) The commissioner may develop and implement continuing education programs to ensure compliance with this regulation as well as other applicable policies and procedures.

(d) The annual registration provisions contemplated by part (5) of this regulation shall be implemented in such manner as the commissioner shall prescribe.

Authority: O.C.G.A. §§ 40-2-12, 40-3-3, 48-2-12, 48-5C-1. **History:** Original Rule entitled "Directly Financed Dealer Sale" adopted. F. Nov.14, 2013; eff. Dec. 4, 2013.