

# Taxes, Taxes, and More Taxes

## If you don't pay the sales tax, you'll for sure pay the use tax

by Jordan Miller

If you're thinking of buying a car located in a different state than the one in which you live, there are sales and use tax implications you should be aware of.

Today, 45 states impose a sales tax. The total sales tax is frequently composed of two components: the actual state tax rate, which averages approximately 6%; and the local sales tax rate (city, county, etc.), which can add 1% to 5%. For convenience's sake, although there are exceptions, the state taxing authority generally collects both its piece of the pie and the local piece, and remits the local taxes to the proper jurisdictions.

And then there's the use tax. It is a way for the state to ensure that otherwise taxable transactions do not avoid the state's taxing authority; in other words, if you buy a car for \$100,000 in California from a private party and drive it home to Washington, your home state has still found a way to nick you for the taxes due.

There are two common instances when the state taxing authorities have a way to identify our use-taxable purchases and thus impose the tax (generally at the same rate as the relevant sales tax): 1) when we purchase items that need to be registered with the state, such as cars; and 2) when we purchase expensive items from businesses (i.e., repair shops or restoration facilities) that have recently undergone a state tax audit.

An example: The State of Washington imposes its sales and use taxes at the state rate of 6.5% (ignoring for now any local sales tax). An eBay seller located in Oregon, a state with no sales or use tax, is offering a 1989 BMW M6 at a "Buy it Now" price of \$20,000. There is no sales tax assessed at the time of purchase; however, when I attempt to register my vehicle in Washington as a resident, the Department of Licensing will refuse to license my vehicle until it is proven that the applicable Washington use tax (\$1,300) has been paid. Of course, this same payment would be required if the car were bought at an auction or from a dealer in Oregon.

When a vehicle is purchased in a state other than your home state, the sales- and use-tax law in the state of purchase holds sway. States generally take one of two approaches to this: Regardless of the place of delivery, a sale to a nonresident for use outside the state will be exempt from tax in the state of purchase, provided certain conditions at the time of sale are satisfied; or a sale to a nonresident of the state will be taxable if the vehicle is delivered to the nonresident inside the state of purchase.

As in the example above, Washington does not tax sales of vehicles to nonresidents (even when delivery of the vehicle takes place in Washington) provided that either the vehicle is immediately removed from Washington under a special trip permit, the vehicle is taken out of state by a licensed ICC carrier, or the nonresident buyer registers and licenses the vehicle at the delivery point under the laws of his or her home state. The seller of the vehicle must also retain evidence substantiating the fact that the sale was exempt from tax. Similarly, a Washington retailer can avoid collection of the tax by simply delivering the vehicle to the purchaser at a point outside the state (again, provided that the seller retains documentation of the exempt sale).

### THE GOVERNATOR WANTS HIS PIECE

In California, however, a sale to a nonresident is subject to California sales tax if the vehicle is delivered to the purchaser in California. To avoid the California sales tax, the vehicle must be delivered outside the State of California. Other states imposing a sales



*If you buy an M6 in Oregon, and take delivery in Washington, what kind of tax will you pay?*

tax would provide their residents with a credit of the use tax due for the sales taxes previously paid upon delivery in states that use an approach similar to California's.

Let's say that the deal on the M6 with the Oregon eBay seller fell through, but we've identified an equally nice example at a dealership in California for the same price. If delivery of the vehicle is made to me in California, California state sales tax will be imposed at the time of sale. The California state sales tax rate is 7.25% (again ignoring any local taxes). If I'm an Oregon resident, this vehicle just became 7.25% more expensive than if I purchased the vehicle in Oregon, and 7.25% more expensive than if the dealer had shipped me the vehicle. (Which makes a pretty good case for hiring a licensed carrier if you happen to pick up a few choice pieces at a Monterey auction and are taking them home to a lower tax rate than that of California's.)

On the other hand, the combined state and local tax rate in Seattle is about 9%. If I take delivery of the BMW at the dealership in San Diego, the dealer will collect tax on the sale at the total combined sales tax rate in effect at the location of the dealer, which in San Diego is approximately 7.75%. Therefore, when I register my car in Washington, I will be given a credit for the taxes paid in California and only have to pay use tax of an additional 1.25%, or \$250. I still end up paying the full tax, but at least I'm not paying part of it twice.

### REPAIRS AND RESTORATION

Just as with the purchase of a vehicle, each state has different rules with respect to repair services.

For example, nonresidents of Washington may be able

to ship tangible personal property to Washington service providers for repairs, cleaning, and other alterations without any Washington tax liability. This exemption covers charges for labor and materials. For this exemption to apply, however, the service providers must deliver the property to the nonresident owners outside Washington once the work is done. Alternatively, a service provider can deliver the property to a common carrier or bona fide private carrier consigned to the nonresident buyer outside Washington. Proof of out-of-state delivery should be retained by the repairman to substantiate the exemption.

In California, repair, installation, or reconditioning labor is generally exempt from the sales tax if it is itemized on the bill. However, when the retail value of the parts and materials furnished for repair work exceed 10% of the total repair charge, or if the repair person separately states amounts for parts and materials, then the repair person is treated as a retailer for those amounts and collects the corresponding sales tax on the value of the parts and materials.

With all of the above, it's not a matter of trying to avoid taxes. Rather, careful planning in advance can help mitigate the state sales and use-tax impacts of moving vehicles from one state to another, or at least remove the element of a less than appealing state tax bill. When considering a transaction involving significant automotive costs, a quick chat with your attorney or tax advisor should probably be on your agenda. ♦



*The state where the car is delivered can make a difference in taxes due*

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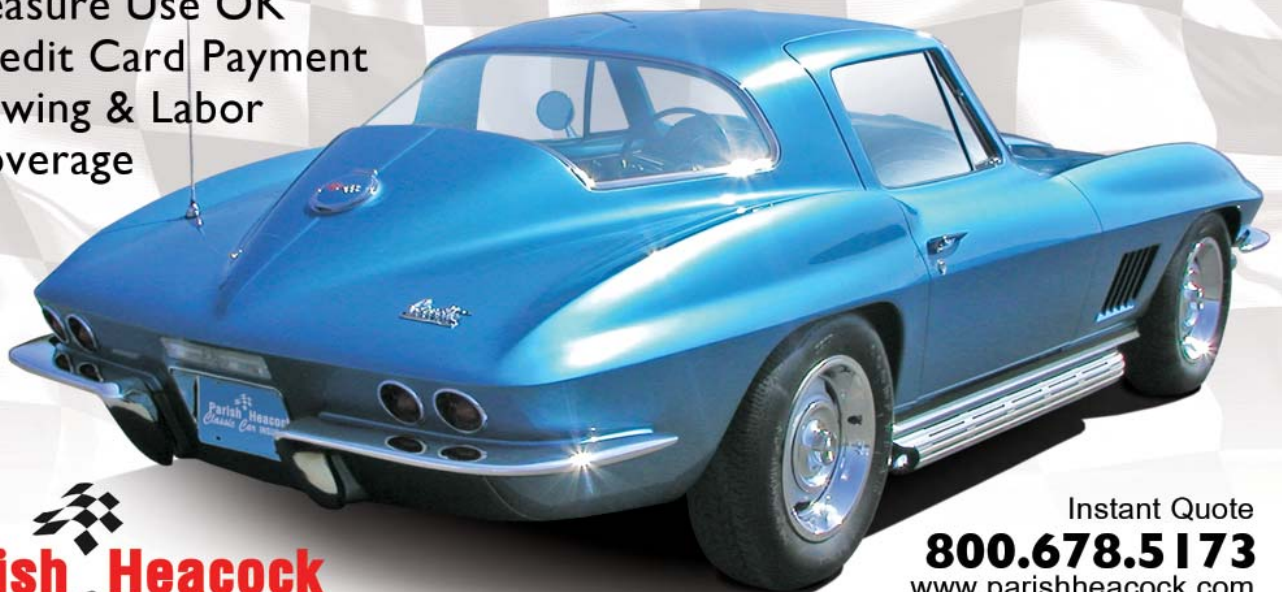
*JORDAN MILLER is an SCMer, attorney, and tax advisor specializing in state and local taxes. His comments here are general in nature and not a substitute for consultation with your attorney or tax advisor. He can be reached at [jordan.miller@mossadams.com](mailto:jordan.miller@mossadams.com).*

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