



Private Letter Ruling No. 07-015  
**Redacted Version**  
Sales Tax

**What is the applicability of sales or use tax to a replacement vehicle under the Louisiana  
“lemon” law or through manufacturer’s warranty?**

**December 4, 2007**

**Facts**

An automotive corporation is a distributor of passenger motor vehicles in the United States. It sells vehicles to authorized dealers who sell the vehicles to retail customers. The vehicles sold at retail are covered by a manufacturer’s warranty for specific time periods or mileage, whichever comes first. The vehicles are also subject to certain state and federal requirements regarding implied warranties. Louisiana’s lemon law provides for certain remedies if the manufacturer, its agents or authorized dealers do not conform the vehicle to an express warranty by repairing or correcting any defect or condition that substantially impairs the use and value of the motor vehicle to the consumer. Those remedies include replacement of the vehicle with a new vehicle, or accept the return of the vehicle from the consumer and refund the full purchase price.

**Ruling Requested**

Is sales or use tax applicable to a replacement vehicle provided to a retail customer pursuant to Louisiana’s lemon law or the manufacturer’s express warranty?

Is sales tax applicable to an upgrade in quality of vehicle or to options not part of the original sale?

Is sales tax applicable to any fees paid by the manufacturer or distributor to the dealer for processing the replacement?

What documentation is necessary to show that the vehicle is a “replacement” by manufacturer’s warranty or Louisiana’s lemon law?

**Legal Analysis**

For sales and use tax purposes, the replacement activity made under a manufacturer’s warranty due to defect in the originally sold vehicle may be considered part of the original sales transaction, not a separate transaction. There is no specific exemption in Louisiana law allowing

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sales taxes to not be paid on this activity. However, the Department will not consider a substitution under these circumstances a “return” and “sale” to the original customer. As long as the substitute vehicle is the value of the original and the substitution is a bona fide replacement under the warranty or Louisiana lemon law, the replacement does not trigger taxation. However, **if the original vehicle has been used to the extent that an additional sum is due by the purchaser to the dealer or manufacturer for depreciation of the asset, then that sum is taxable as a new transaction. Additionally, if the purchaser upgrades the vehicle in the replacement, then the cost of the upgrade or additional purchased options are a separate sales transaction and sales tax is due on the cost to the purchaser.** It is inconsequential for sales tax purposes whether the replacement vehicle is drawn from the dealer’s inventory with the manufacturer making payment to the dealer or is sent by the manufacturer to the dealer for pick-up by the customer.

The service provided by the dealer and compensated for by the manufacturer in facilitating the substitution of vehicle is not a taxable service under R.S. 47:301(14).

The Department will not at this time establish a specific document that must be used to show that a replacement vehicle has been provided to a customer under the manufacturer’s warranty or the Louisiana lemon law statute. However, documentation must show that the vehicle substitution is one triggered by causes sufficient to require the dealer or manufacturer to accept the first vehicle back and substitute the second in fulfillment of warranty requirements. It may be prepared by either the dealer or the manufacturer and identify the two vehicles and their vehicle identification numbers. The documentation must be signed by the representative of the dealer or manufacturer who authorizes the substitution and notarized. In addition to this, the Department of Motor Vehicles (“DMV”) will require certain information for documentation and recordkeeping purposes. Although the Department does not recognize the substitution as a ‘transaction’, the DMV will charge appropriate title, license and registration fees on the substitute vehicle.

I trust that this has been of assistance to you. You may telephone me if you have additional questions at 225-219-2780.

Sincerely,

Cynthia Bridges

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By: Johnette L. Martin

A Private Letter Ruling (PLR) is issued under the authority of LAC 61:III.101(C). A PLR provides guidance to a specific taxpayer at the taxpayer’s request. It is a written statement issued to apply principles of law to a specific set of facts or a particular tax situation and is limited to the matters specifically addressed. A PLR does not have the force and effect of law and may not be used or cited as precedent. A PLR is binding on the Department only as to the taxpayer making the request and only if the facts provided with the request were truthful and complete and the transaction was carried out as proposed. The Department’s position concerning the particular tax situation addressed remains in effect for the requesting taxpayer until a subsequent declaratory ruling, rule, court case, or statute supersedes it.