

P.R. 3/18/49  
MOTOR VEHICLES: Two per cent use tax on motor vehicles must be paid before Missouri title is obtained where person  
TAXATION: applying for title received motor vehicle as a gift from person who bought vehicle and paid state sales tax on such vehicle in a foreign state, when no Mo. sales tax has been paid on such motor vehicle.

February 4, 1949

FILED

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2-8  
Mr. G. H. Bates, Director  
Department of Revenue  
Division of Collection  
Jefferson City, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department and reading as follows:

"A young man graduating from school was given a car by his father as a graduation present but being unable to obtain the car in Missouri, he had another son purchase said car out of state, at which time a one per cent sales tax was paid in the state of purchase.

"The grantee now objects to paying the Use Tax as provided for in H. B. 258 and has asked that we secure an opinion from your office, because our Department had ruled that since the Missouri Sales Tax had not been paid by the donor, the grantee would be required to pay the tax upon titling said car in Missouri."

In a telephone conversation, you further stated that there is no contention made in this case that the person who is making the gift of the automobile in this case moved into Missouri more than 90 days after the time it was registered in such foreign state.

Subsection (c) of Section 11412, Laws of Missouri, 1947, Volume II, page 433, provides, in addition to all other taxes levied and imposed for the privilege of using the highways of this state, for the levying of a use tax equivalent to two per cent of the purchase price of a motor vehicle on all new and used motor vehicles purchased or acquired for use on the highways of this state which are required to be registered under the laws of this state. Such subsection further provides that the Director of Revenue shall issue an official

certificate of title and register the same only when the applicant presents evidence showing the Director that the motor vehicle is not subject to the tax, or if the vehicle is subject to the tax, it must be paid before the certificate of title is issued.

The tax imposed by subsection (c) of Section 11412 does not apply to the motor vehicles specifically exempted by subsection (d) of Section 11412. We find that the motor vehicle for which a Missouri title and registration is sought in this case does not come within any of the exemptions listed in subsection (d) of Section 11412, and is, therefore, subject to the tax imposed by subsection (c). The fact that the donor of a gift or the person who received title to the motor vehicle in some other state paid a sales tax upon such motor vehicle to such other state does not affect this matter in any way since only motor vehicles upon which the Missouri Sales Tax has been paid are exempt from the use tax under the provisions of subsection (d) of Section 11412, relative to payment of sales taxes.

#### CONCLUSION

It is the opinion of this department that where application is made for a certificate of title and registration of a motor vehicle which was received by a person as a gift from another person who purchased such motor vehicle in a foreign state and paid the sales tax to the foreign state thereon, but on which motor vehicle no Missouri Sales or use tax has been paid, that such person receiving the motor vehicle as a gift must pay to the Director of Revenue, before a certificate of title is issued, the use tax imposed by subsection (c) of Section 11412, Laws of Missouri, 1947, Volume II, page 433.

Respectfully submitted,

C. B. BURNS, JR.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

CBB:VLM