



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

August 27, 1951

Hon. Robert S. Calvert
Comptroller of Public Accounts
Austin, Texas

Opinion No. V-1257

Re: Construction of the motor vehicle use taxes levied by Subsections (a) and (b), Section 2, Section VII, House Bill No. 285, Acts 52nd Legislature, amending Section 2, Article 7047k, Vernon's Civil Statutes.

Dear Sir:

Your request for the opinion of this office reads in part as follows:

"Section VII, H.B. 285, Acts, Regular Session of the 52nd Legislature, Sections 2(a) and 2(b) reads as follows:

"Section 2. (a) There is hereby levied a use tax upon every motor vehicle purchased at retail sale outside of this State and brought into this State for use upon the public highways thereof by a resident of this State or by a person, firm or corporation domiciled or doing business in this State. Such tax shall be equal to one and one-tenth per cent (1.1%) of the total consideration paid or to be paid for said vehicle at said retail sale. The tax shall be the obligation of and be paid by the person, firm, or corporation operating said motor vehicle upon the public highways of this State.

"(b) When a person makes application for the initial certificate of title in this State on a particular motor vehicle, he shall pay a use tax on that motor vehicle in the sum of Fifteen Dollars (\$15). No certificate of title or motor vehicle registration for such motor vehicle shall be issued until the use

tax imposed by this subsection has been paid. However, a person is not liable for the tax imposed by this subsection if the sales or use tax imposed by any other provision of this Act has been previously paid upon such motor vehicle. It is the purpose of this subsection to impose a use tax upon motor vehicles brought into this State by new residents of this State.'

"We are outlining below what we construe the law to mean and shall appreciate your advising us whether or not we are correct. If we have misinterpreted the meaning of the law, you of course will give us your opinion.

"Section 2(a) means that the 1.1% tax is levied against a resident of this State who goes outside the State and purchases a motor vehicle and brings it back to Texas for use upon our highways. It also levies the tax against a person, firm or corporation that is now domiciled or doing business in Texas who goes outside the State and purchases a motor vehicle and brings it back into the State for use upon the highways. We think that a tax of 1.1% must be calculated upon the total consideration paid for the motor vehicle when it was purchased regardless of its value when brought to Texas for use upon our highways. As an example, if the purchase price of the motor vehicle was \$2,000, the tax would be \$22.00 even though it may have been used several years before it was brought into this State for use upon our highways.

"Section 2(b) levies the \$15.00 tax upon an individual resident of another State who has purchased a motor vehicle while a resident of that State and later moves to Texas to make this State his home or place of residence and registers the motor vehicle in Texas. It also levies the \$15.00 tax against a person, firm, or corporation whose domicile or place of residence is in another State and who later moves to Texas and establishes a

domicile in this State or moves here for the purpose of doing business in this State and brings a motor vehicle that has been purchased in another State and registers it in Texas for use upon our highways. We think the \$15.00 must be paid on the motor vehicle regardless of how long it had been used in the other State before it was brought to Texas for use upon our highways."

In amending Section 2, Article 7047k, Vernon's Civil Statutes, by enacting Section VII, H.B. 285, Acts 52nd Leg., 1951, ch. 402, p. 695, the words "a person" were added to the words "firm or corporation domiciled or doing business in this State" in subsection (a), and subsection (b) was added in its entirety.

It is clear that by the addition of the words "a person" the Legislature intended to levy a use tax upon motor vehicles purchased outside the State of Texas but which were brought into the State by individuals who were non-residents of Texas but who were domiciled or doing business in Texas. Motor vehicles belonging to individuals coming within that classification had heretofore not been subject to the tax, although motor vehicles so purchased and brought into Texas by firms or corporations domiciled or doing business in Texas had been subject to the tax. Your interpretation as to the legal effect of subsection 2(a) is in accord with a primary rule of statutory construction that where the language of the statute is clear and unambiguous and the intention of the Legislature as expressed in its enactment is clear, it is not necessary to add to or subtract from the statute, but it is for the courts to enforce it as written. Gaddy v. First National Bank, 115 Tex. 393, 283 S.W. 472 (1926).

Subsection 2(b) of the Act clearly states that the legislative intent in its enactment is to impose a use tax upon motor vehicles brought into Texas by new residents of Texas. Your interpretation of subsection 2(b) of the Act is in accord with the express declaration of legislative intent under the clear and unambiguous wording of the statute.

SUMMARY

Sec. 2, Art. 7047k, V.C.S., as amended by Sec. VII, Acts 52nd Leg., 1951, ch. 402, p. 695, requires the payment of a use tax equal to 1.1% of the total consideration paid or to be paid for a motor vehicle purchased at retail sale without the State of Texas and brought into Texas by a person domiciled or doing business in Texas. A use tax in the sum of \$15.00 is imposed on any motor vehicle brought into Texas by new residents of Texas, payable at the time of the issuance of the initial certificate of title in Texas.

Yours very truly,

APPROVED:

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CKR:wb

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