



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

January 15, 1958

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

Opinion No. WW-338

Re: Whether the Motor Vehicle
Sales Tax levied by
Article 7047K, V.C.S.,
applies where an auto-
mobile dealer secures
a motor vehicle from a
manufacturer to be used
by a salesman for demon-
stration purposes when
no consideration is
involved?

Dear Mr. Calvert:

In your letter request you submit to us the following
question:

"Where an automobile dealer has secured
a vehicle from the manufacturer and has the
manufacturer's certificate and wishes to let
a salesman have the vehicle to use for demon-
stration purposes, and no consideration was
involved, would the tax be due?"

Section 3 (b) of Article 7047K, V.C.S., provides:

"The term 'retail sale' or 'retail sales'
as herein used shall include all sales of motor
vehicles except those whereby the purchaser
acquires a motor vehicle for the exclusive
purpose of resale and not for use."

Article 7047K only levies the tax upon a "sale" of
a motor vehicle. If the transfer of the motor vehicle to the
automobile dealer constitutes a "sale" the tax will apply as
you state the motor vehicle is to be used for "demonstration
purposes." The dealer did not acquire same for the exclusive
purpose of resale, but acquired it for use, that is for use
as a demonstrator. Attorney General's Opinion O-3742. How-
ever, you state that "no consideration was involved." This
being true there was not a "sale" involved. Even if the
transaction could be termed a sale, no tax would be due for

Hon. Robert S. Calvert, page 2 (WW-338)

the simple reason that 1.1% of the sale price--which is nothing--amounts to a tax of .0000.

S U M M A R Y

The motor vehicle sales tax levied by Article 7047K, V.C.S., does not apply to transactions where an automobile dealer, without a consideration, acquires a motor vehicle from a manufacturer to be used as a demonstrator.

Yours very truly,

WILL WILSON
Attorney General of Texas

By *W. V. Geppert*
W. V. Geppert
Assistant

WVG:gs

APPROVED:

OPINION COMMITTEE

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REVIEWED FOR THE ATTORNEY GENERAL

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