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DEPARTMENT OF TREASURY
LANSING

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LETTER RULING 2015-1

LR 2015-1.

This Letter Ruling rescinds Letter Ruling 2014-2.

You have asked several questions about the so-called “tax on the difference” laws recently passed. Specifically, 2013 PA 160 and 2013 PA 234 (Act or Acts) reduce the tax base of eligible motor vehicle and titled watercraft purchases by altering the definitions of “sales price” and “purchase price” in the General Sales Tax Act and the Use Tax Act respectively. Effective December 15, 2013, credit given for eligible motor vehicles used as partial payment for another eligible motor vehicle will not be subject to tax on the agreed-upon value of the trade-in up to \$2,000.¹ Effective November 15, 2013, credit for the agreed-upon value of eligible titled watercraft used as partial payment for the purchase of a new or used titled watercraft is not subject to tax up to the full value of the trade-in. Your questions and our answers are listed below.

Q1. What vehicle qualifies as a “motor vehicle” for purposes of the Acts?

A1. Only a vehicle that is required to be registered and titled under the Michigan Vehicle Code (MVC)² or meets the MVC definition of “recreational vehicle”³ qualify for the deduction.

Q2. Do the Acts require both the traded-in watercraft and the purchased watercraft to be titled to qualify for the deduction?

A2. Yes, both the traded-in watercraft and the purchased watercraft must be titled to qualify for the deduction.

Q3. Does titled watercraft qualify for the deduction when used as partial payment for an eligible motor vehicle or recreational vehicle?

A3. Titled watercraft used as partial payment for a motor vehicle or recreational vehicle does not qualify for the deduction; likewise, a motor vehicle or recreational vehicle used as partial payment for a titled watercraft does not qualify for the deduction.

Q4. Are the Acts only applicable when the selling party is a watercraft dealer, new vehicle dealer, or a secondhand vehicle dealer?

¹ The Acts increase the amount of deduction that is available over time. For a schedule of increases see 2013 PA 160 and 2013 PA 234; MCL 205.51(1)(d)(xii) and MCL 205.92(f)(xii). The Acts require that the agreed upon value of the trade-in be separately stated on the invoice, bill of sale, or other document given to the purchaser.

² MCL 257.216.

³ MCL 257.49a.

A4. Yes, the deduction is limited to eligible titled watercraft and motor vehicles when the seller is either a watercraft dealer or a new or secondhand vehicle dealer under MCL 257.248.

Q5. Is a motor vehicle, recreational vehicle, or titled watercraft with negative equity eligible for the deduction?

A5. Yes. When a dealer accepts a trade-in vehicle or watercraft with negative equity it may pay off the customer's loan on the trade-in and then finance the difference between the loan amount it paid off and the amount of the trade-in, in addition to financing the new vehicle or watercraft. When a dealer accepts a trade-in motor vehicle or recreational vehicle with negative equity the dealer may claim the deduction up to the lesser of the applicable capped value of the trade-in or the agreed-upon value of the trade-in vehicle.⁴ When a dealer accepts a titled watercraft trade-in with negative equity the dealer may claim the deduction up to the agreed-upon value of the watercraft. The invoice, bill of sale, or other similar document must clearly state the amount represented by the agreed-upon value of the trade-in vehicle or watercraft. The dealer may not claim the deduction for any amounts that are not attributed to the value of the trade-in vehicle or watercraft. For example, if the agreed-upon value of a vehicle trade-in is \$1,000, but the dealer also agrees to pay off a loan balance of \$5,000, the dealer may only claim the deduction for \$1,000.

Q6. Does a consumer incur a use tax liability on the trade-in value of a vehicle or watercraft when he or she purchases a vehicle or watercraft from an out-of-state dealer?

A6. Yes. The deduction for motor vehicles and recreational vehicles is only available when the seller is a licensed Michigan dealership pursuant to MCL 257.248. Therefore, if a vehicle is purchased from a dealership that is not licensed in Michigan it is not eligible for the deduction.

The deduction for titled watercraft is available if the seller is a watercraft dealer in any state engaged in the business of regularly buying and selling watercraft.

Q7. Does the deduction apply to lease transactions?

A7. No, the deduction does not apply to lease transactions.

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⁴ The applicable capped amount increases annually. See MCL 205.51(1)(d)(xii) and MCL 205.92(f)(xii) to determine the current applicable capped amount.