

Amend Section 7205.1 of the Revenue and Taxation Code to clarify that the definition of motor vehicles is limited to passenger vehicles and light-duty pickup trucks.

Source: Sales and Use Tax Department

Section 7205.1 was added by Senate Bill 602 (Ch. 676, Stats. 1995) in an effort to change the allocation of the Bradley-Burns Uniform Local Use Tax for leases of automobiles. Instead of the 1 percent tax being allocated to the county “pool” in which the lessee resides, where each taxing jurisdiction within the county receives its proportionate share of this use tax, SB 602 required, in the case of a motor vehicle being leased by a new car dealer, that the tax be allocated to the place of business of that dealer. SB 602 further required that, for lessors other than new car dealers, the tax be allocated to the place of business of the dealer from whom that lessor purchased the vehicle.

Section 7205.1 defines “motor vehicles” as defined in Section 415 of the Vehicle Code. Section 415 of the Vehicle Code defines a motor vehicle as any vehicle that is self propelled. However, based on the legislative intent of SB 602, the Board interpreted motor vehicles as applying only to passenger vehicles and pickup trucks under one ton.

The Office of Administrative Law (OAL) recently disapproved proposed Regulation 1803.5, *Long Term Leases of Motor Vehicles*, on the basis that the definition of “motor vehicles” in the regulation is narrower than, and inconsistent with, the definition provided in Section 7205.1. OAL noted that while the Board’s proposed definition appeared to be consistent with the Legislature’s intent when it enacted the statute, the actual language used in the section was too unambiguous and specific to allow for interpretation by the Board.

This proposal would amend Section 7205.1 to clarify the definition of motor vehicles is limited to self-propelled passenger vehicles and light-duty pickup trucks for the purpose of allocating local use tax imposed with respect to a lease of a new or used motor vehicle. Additionally, this proposal would provide that this amendment is not a change in, but rather is declaratory of, existing law.

The Board sponsored a similar bill in 1997. Senate Bill 529 (Wright) would have clarified the definition of motor vehicles. However, SB 529 met opposition due to an unrelated issue and the Local Sales and Use Tax provisions were amended out of the bill with the understanding that the Board would continue to administer the statute as applying only to passenger vehicles and light-duty pickup trucks and would adopt a regulation accordingly.

Section 7205.1 of the Revenue and Taxation Code is amended to read:

7205.1. (a) Notwithstanding any other provision of law, in connection with any use tax imposed pursuant to this part with respect to the lease (as described in Sections 371 and 372 of the Vehicle Code) of a new or used motor vehicle (as defined in subdivision (d) Section 415 of the Vehicle Code) by a dealer or leasing company, the place of use for the reporting and transmittal of the use tax shall be determined as follows:

(1) If the lessor is a California new motor vehicle dealer (as defined in Section 426 of the Vehicle Code), or a leasing company, the place of use of the leased vehicle shall be deemed to be the city in which the lessor's place of business (as defined in Section 7205 and the regulations promulgated thereunder) is located.

(2) If a lessor, who is not a person described in paragraph (1), purchases the vehicle from a person as so described, the place of use of the leased vehicle shall be deemed to be the city in which the place of business (as defined in Section 7205 and the regulations promulgated thereunder) of the person from whom the lessor purchases the vehicle is located.

(3) The place of use as determined by this subdivision shall be the place of use for the duration of the lease contract, notwithstanding the fact that the lessor may sell the vehicle and assign the lease contract to a third party.

(b) Except as described in subdivision (a), this section shall not apply if the dealer or leasing company entering into the lease agreement is located outside of California.

(c) (1) The provisions of this section that are applicable to a California new motor vehicle dealer shall apply to lease transactions entered into on or after January 1, 1996.

(2) The provisions of this section, applicable to a leasing company, shall apply to lease transactions entered into on or after January 1, 1999.

(d) As used in this section, the following definitions shall apply:

(1) "City" means a city, city and county, or county.

(2) "Motor vehicle" means any self-propelled passenger vehicle (other than a house car) or light-duty pickup truck.

~~(32)~~ "Leasing company" means a motor vehicle dealer (as defined in Section 285 of the Vehicle Code), that complies with all of the following:

(A) The dealer originates lease contracts, described in subdivision (a), that are continuing sales and purchases.

(B) The dealer does not sell or assign those lease contracts that it originates in accordance with subparagraph (A).

(C) (i) The dealer has annual motor vehicle lease receipts of fifteen million dollars (\$15,000,000) or more per location.

(ii) For purposes of this subparagraph, only those periodic payments required by the lease shall be considered in determining whether a lessor has annual receipts of fifteen million dollars (\$15,000,000) or more. Amounts received by lessors attributable to capitalized cost reductions or amounts paid by a lessee upon his or

her exercising an option shall not be considered in determining whether a lessor has annual lease receipts of fifteen million dollars (\$15,000,000) or more.

(e) If the lessor is not a dealer described in paragraph (1) of subdivision (a), or a person who is described in paragraph (2) of subdivision (a) as purchasing from a dealer, the use tax shall be reported to and distributed through the countywide pool of the county in which the lessee resides.

SECTION 2. The Legislature finds and declares that, since the enactment of this section in Statutes 1995, Chapter 676, it has been uncertain as to exactly the types of motor vehicles that are included. The statute is hereby amended to explain that the provisions of this section were not intended to include motor vehicles other than the traditional family passenger-hauling vehicles such as automobiles, minivans, and sport-utility vehicles. Light-duty pickup trucks were also intended to be included, because significant numbers of pickup trucks under one-ton capacity are sold or leased primarily for the purpose of transporting family members. Therefore, the legislature finds and declares that this act does not constitute a change in, but is declaratory of, existing law. It is the intent of the Legislature in enacting this act to clarify the law and to affect all applicable proceedings.