



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0092
TELEPHONE (916) 324-1825
FAX (916) 322-4530
www.boe.ca.gov

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JAMES E. SPEED
Executive Director

February 4, 2003

Dear Interested Party :

Staff has reviewed comments received in response to our January 2, 2003, interested parties meeting regarding the proposed Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce*. After considering the comments and information provided to date, staff is recommending amendments to proposed Regulation 1620.1. In particular, staff is recommending a change in the time period within which the affidavit and documentation supporting a claim exemption may be filed. In addition, staff has added provisions to accommodate the concerns of lessors and persons who purchase more than one vehicle or trailer in a sales transaction, and has clarified the meaning of the term "remanufactured vehicle or trailer." Staff has also redesigned the affidavit used to claim this exemption that is incorporated into the appendix of the proposed regulation.

Enclosed is the *Second Discussion Paper* on this subject. This document provides the background, a discussion of the issue and explains staff's recommendation in more detail. Also enclosed for your review is a copy of the proposed Regulation 1620.1 (Exhibit 1).

A second interested parties meeting is scheduled for **February 13, 2003 at 10 a.m. in Room 122** to discuss the proposed amendments to Regulation 1620.1. If you are unable to attend the meeting but would like to provide input for discussion at the meeting, please feel free to write to me at the above address or send a fax to (916) 322-4530 before the February 13, 2003 meeting. If you are aware of other persons that may be interested in attending the meeting or presenting their comments, please feel free to provide them with a copy of the enclosed material and extend an invitation to the meeting. If you plan to attend the meeting on February 13, or would like to participate via teleconference, I would appreciate it if you would let staff know by contacting Mr. Peter Horton at (916) 324-0182 or by e-mail at peter.horton@boe.ca.gov prior to February 10, 2003. This will allow staff to make alternative arrangements should the expected attendance exceed the maximum capacity of Room 122 and to arrange for teleconferencing.

Any comments you may wish to submit subsequent to the February 13 meeting must be received by **March 3, 2003**. They should be submitted in writing to the above address. After considering all comments, staff will complete a formal issue paper on proposed Regulation 1620.1 for discussion at the **Business Taxes Committee meeting** scheduled for **April 23, 2003**. Copies of the formal issue paper will be mailed to you approximately ten days prior to this meeting. Your attendance at the April Business Taxes Committee meeting is welcomed and encouraged. The meeting is scheduled for **9:30 a.m.** in Room 121 at 450 N Street, Sacramento, California.

Please be aware that a copy of the material you submit may be provided to other interested parties. Therefore, please ensure your comments do not contain confidential information.

If you are interested in other topics to be considered by the Business Taxes Committee, you may refer to the "Board Meetings and Committee Information" page on the Board's Internet web site (<http://www.boe.ca.gov/meetings/meetings.htm#two>) for copies of Committee discussion or issue papers, minutes, a procedures manual and calendars arranged according to subject matter and by month.

We look forward to your comments and suggestions. Should you have any questions, please feel free to contact me at (916) 324-1825.

Sincerely,

Charlotte Paliani
Program Planning Manager
Sales and Use Tax Department

CP: ph

Enclosures

cc: (all with enclosures)

Honorable Carole Migden, Chairwoman
Honorable Claude Parrish, Vice Chairman
Honorable Bill Leonard, Member, Second District (MIC 78)
Honorable John Chiang, Member, Fourth District
Honorable Steve Westly, State Controller
Ms. Rita Perry, Board Member's Office, First District (MIC 71)
Ms. Mai Harvill, Board Member's Office, Second District (MIC 78)
Mr. Lee Williams, Board Member's Office, Second District (via e-mail)
Mr. Neil Shah, Board Member's Office, Third District
Mr. Romeo Vinzon, Board Member's Office, Third District
Mr. Matthew Zylowski, Board Member's Office, Third District
Mr. John Thiella, Board Member's Office, Fourth District (MIC 72)
Mr. Steven Kamp, Board Member's Office, Fourth District (MIC 72)
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Mr. Ramon J. Hirsig (MIC 43)
Ms. Janice Thurston (MIC 82)
Mr. Warren Astleford (MIC 82)
Mr. John Abbott (MIC 82)
Ms. Jean Ograd (via e-mail)
Mr. Jeff Vest (via e-mail)
Mr. David Levine (MIC 85)
Mr. Steve Ryan (via e-mail)
Ms. Jennifer Willis (MIC 70)

Mr. Dave Hayes (MIC 67)
Mr. Joseph Young (via e-mail)
Mr. Vic Anderson (MIC 40 and via e-mail)
Mr. Larry Bergkamp (via e-mail)
Mr. Geoffrey E. Lyle (MIC 50)
Ms. Lauren Simpson (MIC 50)
Mr. Peter Horton (MIC 50)
Ms. Cecilia Watkins (MIC 50)

SECOND DISCUSSION PAPER

New or Remanufactured Trucks and Trailers Purchased for Use In Interstate or Foreign Commerce

Proposed Regulation 1620.1, Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce

I. Issue

Should the Board adopt proposed Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce*, to clarify and implement the provisions of Revenue and Taxation Code sections 6388 and 6388.5?

II. Staff Recommendation

Staff recommends adoption of the proposed regulation, which:

- Provides definitions of key terms;
- Addresses the application of tax to sales of certain vehicles and trailers delivered to the purchasers in California;
- Provides criteria for properly completing an affidavit;
- Provides guidelines for lessors; and
- Provides record-keeping requirements for purchasers of the vehicles and trailers.

III. Other Alternative(s) Considered

No other alternatives have been submitted for consideration.

IV. Background

Statutory Authority

Under the Sales and Use Tax Law, a transfer of tangible personal property in California for consideration is subject to tax unless there is a statutory exemption. Although sales and use tax applies to the delivery and first use of tangible personal property in California, Revenue and Taxation Code (RTC) sections 6388 and 6388.5 provide specific exemptions from the sales and use tax on in-state deliveries of certain vehicles and trailers.

Section 6388 exempts the sale or purchase of a new or remanufactured truck, truck tractor, semitrailer, or trailer; or new or remanufactured trailer coach or auxiliary dolly, when:

- The truck or trailer has an unladen weight of 6,000 pounds or more (there is no weight limit for the trailer coach or auxiliary dolly),
- The vehicle is purchased by an out-of-state buyer from an out-of-state dealer for use outside the state,
- The manufacturer or remanufacturer delivers the vehicle to the buyer in-state, and
- The buyer removes the vehicle from the state within 30 days from the delivery date.

Similarly, section 6388.5 exempts the sale or purchase of certain new or remanufactured trailers

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when purchased for use out-of-state, or in interstate or foreign commerce. The purchase of a trailer manufactured or remanufactured outside the state is exempt if the trailer:

- Has an unladen weight of 6,000 pounds or more,
- Is delivered in-state to the buyer by the manufacturer, remanufacturer or dealer, and
- Is removed from the state by the buyer for use exclusively outside the state or exclusively in interstate or foreign commerce within 30 days from the delivery date.

When a trailer is manufactured or remanufactured inside the state, the sale or purchase is exempt if the trailer meets the first two conditions and the buyer removes the trailer from the state for use in out-of-state, interstate or foreign commerce within 75 days from the delivery date.

To obtain the exemptions, the purchaser must provide certain information to the manufacturer, remanufacturer or dealer making the delivery. For the section 6388 exemption, the purchaser must provide:

- Written evidence of an out-of-state registration for the vehicle, and
- An affidavit attesting that the purchaser is not a resident of California, the vehicle was purchased from a specified out-of-state dealer for use outside California, and the vehicle was removed from California within 30 days of delivery to the buyer.

The information to support the exemption allowed by section 6388.5 is similar to that required by section 6388. That is, the purchaser must provide the delivering manufacturer, remanufacturer or dealer an affidavit attesting that the trailer was purchased for use outside the state and was removed within the time limits established by law. The purchaser must also provide written registration information. However, there are differences resulting from amendments to RTC section 6388.5 enacted by Assembly Bill (AB) 1472 (Stats. 2001, Ch. 826). These amendments provide that either the purchaser or the purchaser's agent may provide written documentation to the delivering entity. In addition, the amendments allow an alternative to evidence of out-of-state registration. Purchasers of trailers subject to the permanent trailer identification (PTI) program administered by the California Department of Motor Vehicles (DMV) may provide evidence of the buyer's or lessee's United States Department of Transportation (USDOT) number or Single State Registration System (SSRS) filing. (Descriptions of the PTI, USDOT, and SSRS programs are provided in the following section on motor carrier regulation.)

The affidavit to be submitted is similar to that used for section 6388. The buyer or buyer's agent must attest that the vehicle was:

- Purchased from a dealer at a specified location for use exclusively outside the state or exclusively in interstate or foreign commerce, or both, and
- Removed from the state within the appropriate period of either 30 or 75 days.

The affidavits for both exemptions must be submitted on Form BOE-837, Affidavit for Section

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6388 or 6388.5 Exemption from the California Sales and Use Tax, which provides a claimant with the appropriate declarations required for the exemptions. A copy of this form is provided in the Appendix of proposed Regulation 1620.1.

To date, compliance with RTC sections 6388 and 6388.5 has been handled administratively. That is, the Board prepared Form BOE-837 for use as an affidavit and made it available to purchasers of qualified vehicles and trailers. While this system appeared to work well, amendments to RTC section 6388.5 enacted by AB 1472 added terminology and provisions to the statute that require definition and clarification. The proposed regulation responds to this need by:

- Providing definitions of terms used in the statute.
- Establishing timelines within which the affidavit must be filed and documentation provided.
- Clarifying the responsibilities of lessors who claim the exemptions on purchases of leasing inventory.

The provisions of the proposed regulation are detailed in the Staff Recommendation section starting on page 7.

Motor Carrier Regulation

As noted in the previous section, AB 1472 incorporates into RTC section 6388.5 references to the USDOT number, SSRS filing and PTI program. These references are all elements in the regulation of the interstate motor carrier industry and are briefly discussed in the following paragraphs.

The legal authority to regulate interstate trucking is given to the federal Department of Transportation (Transportation) and sub-agencies within Transportation. One sub-agency, the Federal Motor Carrier Safety Administration (FMCSA), has the responsibility of registering interstate motor carriers of property and, on registration, issuing them a USDOT number. Under federal law, it is illegal for interstate motor carriers, whether carrying property or passengers, to engage in interstate operations unless they are registered with Transportation. Once registered, interstate motor carriers must display their USDOT number on their vehicles in a prescribed manner. It should be noted that the USDOT number is issued to the motor carrier and not to an individual vehicle. Consequently, the same USDOT number will appear on all vehicles operated by that carrier.

In addition to the programs administered by Transportation, certain regulatory programs are delegated to the states by federal law. The SSRS program is one such program. Authorized by Title 49, United States Code (USC) section 14503, the SSRS program requires states to monitor a motor carrier's compliance with federal registration and insurance requirements. Under the program, a motor carrier must provide its administering state with:

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- Evidence of federal registration (the USDOT number),
- Proof of required insurance or self-insurance,
- The name of a local agent for service of process, and
- A list of the states in which the motor carrier operates and the approximate number of power units (truck or truck-tractor units) that it will operate in those states.

The list of states is used to calculate the fees due. A motor carrier pays the fees to the administering state in accordance with the fee schedule and the administering state distributes the appropriate amount of fees to the states on the list.

In California, a motor carrier fulfills its SSRS filing requirement by annually filing Forms RS-1 and RS-2 with DMV. In turn, DMV provides the carriers with a receipt that must be placed in each power unit, that is, truck or truck-tractor. As with the USDOT number, Forms RS-1 and RS-2 are filed on behalf of a motor carrier and do not provide information about individual vehicles.

The PTI program is not directly mandated by a federal statute, but was adopted in response to a rule change by a multi-jurisdictional program in which California participates: the International Registration Plan (IRP). The IRP, a program affiliated with the American Association of Motor Vehicle Administrators, facilitates commercial vehicle registration and operation among the 48 contiguous states and several Canadian provinces by providing a uniform system for collecting and allocating commercial vehicle operating fees. It allows a motor carrier operating in several states to pay all fees annually to the licensing authority in its home state. The home state authority then distributes the appropriate amount of the fees to the states in which the carrier operates.

California has been a member of the IRP since 1985, but, until recently, administered its trailer registration program on an exception basis. That is, California's registration program for commercial trailers was different than the other member states and these states were required to keep separate records for trailers registered in California. In 1999, the IRP rescinded all exceptions. As a result, California was required to conform its trailer registration program to the programs administered by other member states. Senate Bill (SB) 2084 (Ch. 861, Stats. 2000) achieved this conformity through the enactment of the Commercial Vehicle Registration Act (CVRA). The CVRA created the PTI program through the adoption of Vehicle Code (VC) section 5014.1. Under PTI, trailers are permanently registered in California and the registration is renewed every five years. Rather than having fees tied to vehicle weight as under the prior registration system, PTI fees are a fixed amount for all trailers.

DMV and the motor vehicle departments of other states also register power units with IRP approved programs. Under these programs, power units intended for use in interstate or foreign commerce, such as trucks and truck-tractors, are registered individually using the vehicle identification number (VIN), year, model, make, and owner information. Owners must also provide information as to the states in which the vehicle is to be operated and the approximate

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miles of use in those states. Using this information, DMV and other states provide each registered vehicle with an IRP cab card that identifies the vehicle and provides a listing of the states in which the vehicle may operate. Fees for all states in which the vehicle is to be operated are paid to the registering state. This state then distributes the fees to the appropriate states. Operators of the vehicle are required to pay additional fees when using the vehicle in states not listed on the cab card.

It should be noted that compliance with motor carrier regulation includes more programs, registrations, and reports than are summarized above. Because of the resulting complexity, motor carriers frequently contract with registration service companies or rely on the truck or trailer dealers to file the needed documents. These entities are the “agents” referred to in the AB 1472 amendments to RTC section 6388.5.

A table of acronyms and other information concerning the regulation of commercial trucking is attached as Exhibit 2.

V. Discussion

Industry Comments

The initial draft of proposed Regulation 1620.1 was provided to interested parties on December 13, 2002. An interested parties meeting to discuss the initial draft was held on January 2, 2003. Staff received a letter on the proposed regulation from the Utility Trailer Manufacturing Company (Utility) dated December 23, 2002. At the interested parties meeting, representatives from the California Trucking Association (CTA) provided comments.

Utility Letter

In its letter, Utility noted its fundamental acceptance of the proposed regulation, but questioned the proposed time period within which a purchaser had to submit an affidavit and documentation to the delivering entity. In particular, Utility questioned the proposed language in subdivisions 1620.1(b) and (c) that required the purchaser to provide:

- An affidavit “any time before the seller bills the purchaser for the property, or any time within the seller’s normal billing and payment cycle, or at the time of delivery to the purchaser, or at any time prior to delivery to the purchaser.”
- Evidence of out-of-state registration “no more than 60 days after the delivery date of the trailer.”

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Utility noted that the statutes do not require a time period. In addition, Utility noted that the 60-day period for providing out-of-state registration was less than the time allowed for removing trailers manufactured or remanufactured in California from the state. Utility also felt the timeline for the affidavit was vague and contrary to statutory language, which requires an affidavit only after the vehicle or trailer was moved from the state.

In response, staff notes that time periods, while not specifically addressed in RTC sections 6388 and 6388.5, are essential for the efficient administration of the exemptions on the part of both the Board and industry. In addition, the establishment of time limits is a prerogative held by the Board. RTC section 7051 provides that the Board may “prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement” of the Sales and Use Tax Law. The Board may use this authority to establish appropriate time periods for complying with statutory provisions, and has in fact done so with its adoption in 1977 of Regulation 1667, *Exemption Certificates*. However, staff does agree that the proposed time periods in the first draft were not practical given the necessities of the business environment in which transportation companies operate. Accordingly, staff has revised the regulation to provide that a purchaser furnish the deliverer:

- An affidavit within 30 days after the vehicle or trailer is removed from the state, and
- Written evidence of out-of-state registration within 60 days of providing the affidavit.

CTA Comments

CTA also noted the same concerns about the timelines, as did Utility. In addition, CTA had the following comments or questions:

- Are “remanufactured vehicles” the same as “used vehicles”?
- Leasing companies generally are not issued USDOT numbers and do not make SSRS filings. What documentation should they provide for exempt trailers that are registered under PTI?
- Transactions may include the sale of multiple vehicles or trailers. For example, a transportation company may purchase 1,000 trailers and take delivery over 6 months. Should the company provide 1,000 separate affidavits?

CTA also suggested that the affidavit reference proposed Regulation 1620.1.

As noted in the discussion of Utility’s concerns, staff proposes revised timelines for the submission of affidavits and documentation. In addition, staff proposes the following revisions

- Clarify in subdivision (a)(3) that used vehicles are not the same as remanufactured vehicles and provide references to the Vehicle Code sections that define “remanufacturers” and “remanufactured vehicles.” A copy of these statutes is in Exhibit 3.

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- Insert subdivision (d), which allows a lessor to use its lessee's USDOT number.
- Add provisions to subdivision (c) that allow purchasers to file one affidavit and append a list of vehicles purchased.

Staff also inserted a reference to Regulation 1620.1 in the affidavit.

Staff Recommendation

The proposed regulation recommended by staff clarifies and implements RTC sections 6388 and 6388.5. It is also consistent with RTC section 6388.3, which requires the Board to "prepare and distribute a standard form or forms for the purchaser affidavit required by Section 6388 and 6388.5." In addition to the changes noted above, the proposed regulation has the following provisions:

- Subdivision 1620.1(a) defines key terms used in the statutes, including "trailer," "vehicle," "remanufactured vehicle," and "purchasers agent," permanent trailer identification program (PTI), single state registration system (SSRS), and United States Department of Transportation (USDOT) number.
- Subdivision 1620.1(b) addresses the application of tax. Subdivision (b)(1) states the general application of tax, namely, that tax normally applies to a sale or use of a vehicle or trailer in the state. Subdivisions (b)(2) and (b)(3) detail the criteria that would qualify a purchaser for an exemption on the sale or use a vehicle or trailer.
- Subdivision 1620.1(c) provides the criteria for a proper affidavit. It provides that a purchaser must provide an affidavit to a purchaser within 30 days after removing a vehicle or trailer from the state and allows a purchaser of multiple vehicles or trailers the option of filing one affidavit and appending a list of vehicles or trailers purchased. The subdivision also defines "good faith" for purposes of accepting an affidavit.
- Subdivision 1620.1(d) has guidelines for lessors who claim the exemptions.
- Subdivision 1620.1(e) requires purchasers that claim the 6388 or 6388.5 exemption to maintain records supporting their claim. These records must be provided to the Board upon request.

It should be noted that subdivision 1620.1(e) is primarily motivated by the inadequacy of the documentation required by RTC section 6388.5. As noted on page 3, purchasers of PTI-registered trailers may be granted the exemption when they file an affidavit and a copy of an SSRS filing or USDOT number. However, these documents demonstrate only that a purchaser's motor carrier business is engaged in interstate commerce. They do not document that the purchaser is using a specific trailer in interstate, out-of-state or foreign commerce as required by the statute, or that the trailer was removed from the state within the time limits required by statute. Since a timely filed affidavit with proper documentation accepted in good faith shifts the liability for tax from the deliverer of the trailer to the purchaser, it is imperative that purchasers

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document their eligibility for the exemption and provide this information to the Board on request.

In addition to the provisions above, the proposed regulation includes a copy of the affidavit, Form B0E-837, in an appendix. Staff proposes a number of revisions to the affidavit in formatting and information requested. The primary formatting change is to expand the form to two pages. Page 1 includes the information that must be furnished and the attestation of the information's accuracy. Page 2 details the qualifying criteria for the RTC section 6388 and 6388.5 exemptions and provide instructions for completing the affidavit. The additional information that must be provided by the purchaser includes:

- The name and location of the dealer from whom the vehicle or trailer was purchased.
- The name and address of the vehicle or trailer's lessee, if applicable.
- The date the trailer was moved out of California.

VI. Summary

Proposed Regulation 1620.1 will clarify and implement the provisions applying to exemptions allowed by RTC sections 6388 and 6388.5 for certain vehicle and trailer sales.

Prepared by the Program Planning Division, Sales and Use Tax Department

Current as of 01/31/03

Second Discussion.doc rev. 7-8-02

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Regulation 1620.1. SALES OF CERTAIN VEHICLES AND TRAILERS FOR USE IN INTERSTATE OR OUT-OF-STATE COMMERCE

Reference: Sections 6388, 6388.3, 6388.5, and 6421, Revenue and Taxation Code.

(a) DEFINITIONS

(1) PERMANENT TRAILER IDENTIFICATION (PTI) PROGRAM. A registration program for commercial trailers as defined in Vehicle Code section 5014.1 administered by the Department of Motor Vehicles (DMV). Assessments made pursuant to the PTI program constitute a flat fee and are not based on the weight of a commercial trailer subject to the PTI program. In lieu of annual registration, DMV assesses a service fee every five (5) years.

(2) PURCHASER'S AGENT. For purposes of this regulation only, a purchaser's agent means a person authorized by the purchaser of a trailer to act on the purchaser's behalf in providing an exemption certificate from the sales or use tax to the seller of the trailer. To establish that a particular person is acting as the purchaser's agent, the purchaser must: 1) clearly disclose in writing to the seller the purchaser's intent to use an agent in the transaction, including the name of the purchaser's agent, and 2) obtain and retain, prior to the use of the agent, written evidence of the agent status with the purchaser. An agent may include a registration service company engaged by the purchaser or dealer who sells trailers. A dealer, manufacturer or remanufacturer may not act as the purchaser's agent with respect to a trailer that it sells or delivers to a purchaser.

(3) REMANUFACTURER / REMANUFACTURED VEHICLE. A remanufacturer of vehicles or trailers means a person who is licensed by the DMV pursuant to Vehicle Code section 507.8. A remanufactured vehicle means a vehicle constructed by a remanufacturer and meeting the criteria of Vehicle Code section 507.5. A vehicle purchased from an out-of-state company will qualify as a remanufactured vehicle if the out-of-state company is licensed as a remanufacturer by the appropriate governmental agency in that state and the vehicle meets the criteria established by that state for a remanufactured vehicle. The sale of a used vehicle or trailer alone does not qualify as a sale of a remanufactured vehicle unless the vehicle or trailer otherwise qualifies as a remanufactured vehicle or trailer pursuant to applicable state laws.

(4) SINGLE STATE REGISTRATION SYSTEM (SSRS). A federally regulated program under which states monitor a motor carrier's compliance with federal registration and insurance requirements. Motor carriers generally must register with the state in which they have their principal place of business. In California, the program is administered by the DMV and covers only motor carriers of property. Compliance with the SSRS program requires eligible motor carriers to register annually with the DMV, report the number of vehicles operating in other states participating in the SSRS program, and to pay the requisite fees. "Vehicles" for purposes of SSRS registration means only self-propelled units and not trailers. SSRS filings do not identify individual vehicles.

(5) TRAILER. For purposes of this regulation only, a "trailer" means a new or remanufactured trailer or semi-trailer with an unladen weight of 6,000 pounds or more. Any vehicle not designed for carrying persons or property on its own structure, such as an auxiliary dolly, does not qualify as a "trailer" for purposes of this regulation. Qualified trailers may be manufactured or remanufactured either inside or outside this state.

(6) UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT) NUMBER. A number issued by the Federal Motor Carrier Safety Administration (FMCSA) to any motor carrier located in the United States that is engaged in the transportation of property in interstate or foreign commerce. A USDOT number is assigned to a motor carrier and not to the motor carrier's individual vehicles.

(7) VEHICLE. For purposes of this regulation only, the term "vehicle" means a new or remanufactured truck, truck tractor, semitrailer, or trailer with an unladen weight of 6,000 pounds or more; or a new or remanufactured trailer coach, or auxiliary dolly, manufactured or remanufactured in this state and purchased from an out-of-state dealer for delivery in this state.

(b) APPLICATION OF TAX

(1) IN GENERAL. Tax applies to the sale or use, storage, use, or other consumption of vehicles and trailers in this state except as provided in subdivisions (b)(2) and (b)(3).

(2) EXEMPT SALES OF VEHICLES FOR USE IN OUT-OF-STATE OR FOREIGN COMMERCE.

(A) Notwithstanding subdivision (b)(1), tax does not apply to the sale or use, storage, use, or other consumption of a vehicle delivered in this state by the vehicle manufacturer or remanufacturer to a non-California resident purchaser who is not a resident of California for use exclusively in out-of-state or foreign commerce where the purchaser:

1. Purchases the vehicle from a dealer located outside this state,

2. Removes the vehicle from this state within 30 days from and after the date of delivery,
3. Provides an valid affidavit to the manufacturer or remanufacturer, that is accepted by such person in good faith, that reports stating:
 - a. The name and location of the out-of-state dealer from whom the vehicle was purchased,
 - b. The name and location of the in-state manufacturer or remanufacturer that delivered the vehicle to the purchaser and the date of delivery
 - c. That the purchaser is not a resident of California,
 - d. That the vehicle was purchased for use exclusively outside California, and
 - e. That the vehicle was removed from this state within 30 days of the delivery date and the date of removal.

4. Provides evidence of out-of-state vehicle registration (including the vehicle VIN or serial number) to the manufacturer or remanufacturer within 60 days of providing the affidavit to the deliverer.

(B) Notwithstanding the forgoing provisions, it is rebuttably presumed that a vehicle registered outside California and apportioned for use within this state is not purchased for use exclusively outside this state.

(C) ~~A sample An affidavit containing these provisions to the deliverer is provided in the appendix for the providing of the information set forth in subdivision (b)(2)(A) is set forth in the Appendix to this regulation.~~

(3) EXEMPT SALES OF TRAILERS FOR USE IN INTERSTATE, OUT-OF-STATE OR FOREIGN COMMERCE.

(A) Notwithstanding the provisions of subdivisions (b)(1) and (b)(2), tax does not apply to the sale or use storage, use or other consumption of a trailer delivered in this state by the manufacturer, remanufacturer or dealer to a purchaser for use exclusively in interstate, out-of-state, or foreign commerce where all the following criteria are met:

1. The trailer is manufactured or remanufactured outside California and is removed from this state within 30 days from and after the date of delivery; or the trailer is manufactured or remanufactured within California and is removed from the state within 75 days from and after the date of delivery.

2. If the trailer is registered outside the state, the purchaser or purchaser's agent provides the delivering manufacturer, remanufacturer, or dealer a copy of the current out-of-state license and registration for the trailer showing the Vehicle Identification Number (VIN) or serial number; or, if the trailer is registered in-state under the PTI program, the purchaser or purchaser's agent provides the delivering manufacturer, remanufacturer, or dealer a copy of the federal document assigning the purchaser's or lessee's USDOT number or a copy of the current SSRS filing with the DMV. Evidence of registration outside California must be submitted to the dealer, manufacturer, or remanufacturer no later than 60 days after the timely providing of an affidavit described in subdivision (b)(3)(A)3. Evidence of a USDOT number or SSRS filing must be submitted with the affidavit.

3. The purchaser or purchaser's agent provides an valid affidavit to the manufacturer, remanufacturer, or dealer, that is accepted by such person in good faith, stating:

- a. The name and location of the dealer from whom the trailer was purchased,
- b. The name and location of the California dealer, manufacturer or remanufacturer that delivered the trailer to the purchaser and the date of delivery.
- c. That the vehicle was purchased for use exclusively outside the state, or exclusively in interstate or foreign commerce, or both,
- d. That the vehicle was removed from the state within the appropriate time periods provided in subdivision (b)(3)(A)(1) ~~and (B)~~ and the date of removal.

~~A sample affidavit containing these provisions is provided in the appendix. Evidence of registration outside California must be submitted to the dealer, manufacturer or remanufacturer no more than 60 days after the delivery date of the trailer. Evidence of a USDOT number or SSRS filing must be submitted with the affidavit.~~

(B) An affidavit for the providing of the information set forth in subdivision (b)(3) to the deliverer is set forth in the Appendix to this regulation.

(c) AFFIDAVIT. An affidavit is valid ~~only~~ where a purchaser or, in the case of a claimed section 6388.5 exemption, a purchaser or purchaser's agent provides all relevant information required by subdivisions (b)(2) or (b)(3), signs and dates the affidavit, and ~~timely~~ provides it to the manufacturer or remanufacturer that delivered the vehicle to the purchaser; or to the manufacturer, remanufacturer, or dealer that delivered the trailer to the purchaser. ~~An affidavit is~~

~~considered timely if given within 30 days after the vehicle or trailer is removed from the state any time before the seller bills the purchaser for the property, or any time within the seller's normal billing and payment cycle, or at the time of delivery to the purchaser, or at any time prior to delivery to the purchaser.~~

~~For transactions that include the purchase of more than one vehicle or trailer, the purchaser need not file a separate affidavit for each vehicle or trailer, but may instead append a list of the vehicles or trailers included in the transaction, identifying each one by a vehicle identification number (VIN) or serial number. The purchaser must, however, report the date each vehicle or trailer was delivered and the date each was removed from the state and provide current out-of-state license and registration or USDOT number or SSRS filing for each vehicle or trailer, as required by subdivisions (b)(2) and (b)(3).~~

~~For purposes of this regulation it is presumed that the person who delivers a vehicle or trailer accepted the affidavit in good faith in the absence of evidence to the contrary.~~

~~**(d) LESSORS.** The sale of a vehicle or trailer to a lessor qualifies for the exemptions from sales and use tax provided by Revenue and Taxation Code sections 6388 and 6388.5 provided the sale and subsequent use as a leased vehicle or trailer meets the appropriate criteria detailed in subdivisions (b)(2) and (b)(3). In addition to the information required in these subdivisions, a lessor must provide the name and address of the lessee on the affidavit and, when applicable, documentation showing that the truck was registered outside the state on behalf of the lessor and lessee. If a leased trailer is registered under the PTI program, the lessor must provide the lessee's USDOT number or current SSRS filing.~~

~~**(e) DOCUMENTATION TO BE MAINTAINED BY PURCHASERS.** Purchasers of vehicles shall maintain internal records documenting that a vehicle allowed the exemption under RTC section 6388 was taken out of California within the time mandated by statute and was used exclusively outside the state. Purchasers of trailers shall maintain internal records documenting that a trailer allowed the exemption under section 6388.5 was taken out of state within the time mandated by statute and was used exclusively in out-of-state, foreign or interstate commerce. A purchaser must provide the supporting documentation to the Board upon request.~~

Draft

BOE-837 REV. X (DATE)

**AFFIDAVIT FOR SECTION 6388 OR 6388.5 EXEMPTION
FROM THE CALIFORNIA SALES AND USE TAX**

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

Revenue and Taxation Code (RTC) sections 6388 and 6388.5 provide exemptions from the taxes imposed on the sales, storage, use or other consumption of certain new and remanufactured vehicles and trailers. The RTC section 6388 exemption applies to the sale or use of certain new or remanufactured vehicles. The RTC section 6388.5 exemption applies to the sale or use of certain new or remanufactured trailers. Additional information about these exemptions and additional requirements to meet these exemptions is available on page 2 of this form and in Regulation 1620.1, *Sales of Certain Vehicles and Trailers for Use in Interstate of Out-Of-State Commerce*.

CHECK AND/OR FILL-IN ALL APPROPRIATE BOXES AND BLANKS BELOW

I have purchased a vehicle or trailer the sale and use of which is exempt from California sales and use tax per section 6388 6388.5.

Vehicle or Trailer Information:

The vehicle is a truck, truck tractor, trailer, semitrailer, trailer coach, or auxiliary dolly, described as:

MAKE & MODEL	VIN/SERIAL NO.	YEAR	PURCHASE PRICE	UNLADEN WEIGHT
MANUFACTURER/REMANUFACTURER		PLACE OF MANUFACTURE/REMANUFACTURE		DATE OF DELIVERY

The vehicle or trailer was moved outside California within 30 75 days of delivery (check one). Date moved: _____

Seller and Deliverer of Vehicle or Trailer:

I hereby certify that the vehicle or trailer described above was purchased from _____
(Name of Dealer, Mfr./Remfr.)

located at _____, and was delivered by _____
(Dealer or Mfr./Remfr.'s Address - Street, City, State, Zip Code)

_____, located at _____
(Name of California Dealer, Mfr./Remfr.) (California Dealer or Mfr./Remfr.'s Address - Street, City, State, Zip Code)

Leasing and Registration Information:

The vehicle or trailer described above is is not being leased. If being leased, name and address of lessee: _____

Vehicle or trailer is licensed or registered in _____
State where Registered. If a trailer registered in California, provide owner's or lessee's USDOT Number

Purchaser Information:

The purchaser is a corporation Limited Liability Company partnership sole proprietor, which is is not a resident of California. The vehicle was purchased for use outside California (section 6388) or the trailer was purchased for use exclusively outside California or exclusively in interstate and foreign commerce, or both (section 6388.5). **If the trailer or vehicle is registered outside California, a copy of the purchaser's or lessor's out-of-state registration, or license and registration, will be provided within 60 days from the date of this affidavit. If the trailer is registered in California under the PTI program, a copy of the purchaser's or lessee's USDOT number or current SSRS filing is attached.**

I understand that if I do not meet the requisite exemption provisions detailed on page 2 of this form, I am required by the California Sales and Use Tax Law to report and pay tax directly to the California State Board of Equalization, the tax to be measured by the purchase price of the above listed vehicle or trailer even though I have furnished an affidavit of exemption to the manufacturer, remanufacturer, or dealer.

PURCHASER'S NAME

SIGNATURE OF PURCHASER OR PURCHASER'S AGENT	TITLE
PRINT NAME OF SIGNATOR	PHONE NUMBER ()
	DATE

For exemption requirements and instructions on completing this affidavit, please see page 2.

BOE-837 REV. 2 (4-02)

STATE OF CALIFORNIA

**AFFIDAVIT FOR SECTION 6388 OR 6388.5 EXEMPTION
FROM THE CALIFORNIA SALES AND USE TAX****BOARD OF EQUALIZATION****SECTION 6388 - NEW OR REMANUFACTURED VEHICLES PURCHASED FROM OUT-OF-STATE DEALER**

Applies to the sale, storage, use or other consumption of a new or remanufactured truck, truck tractor, trailer, or semitrailer, with an unladen weight of 6,000 pounds or more, or a trailer coach or auxiliary dolly, purchased from a dealer located **outside** California for use **outside** California, and delivered by the manufacturer or remanufacturer to the purchaser in California. The purchaser must

1. Remove the vehicle from this state within 30 days from and after the date of delivery,
2. Provide an affidavit to the manufacturer or remanufacturer, that is accepted by such person in good faith, stating:
 - The name and location of the out-of-state dealer from whom the vehicle was purchased,
 - The name and location of the in-state manufacturer or remanufacturer that delivered the vehicle to the purchaser,
 - That the purchaser is not a resident of California,
 - That the vehicle was purchased for use exclusively outside California, and
 - That the vehicle was removed from this state within 30 days of the delivery date.
3. Provides evidence of out-of-state vehicle registration (including the vehicle VIN or serial number) to the manufacturer or remanufacturer within 60 days of providing the affidavit to the deliverer.

Notwithstanding the forgoing provisions, it is rebuttably presumed that a vehicle registered outside California and apportioned for use within this state is not purchased for use exclusively outside this state.

**SECTION 6388.5 - NEW OR REMANUFACTURED TRAILERS PURCHASED FOR OUT-OF-STATE OR INTERSTATE
COMMERCE USE**

Applies to the sale, storage, use or other consumption of a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more purchased from a California or non-California dealer that was manufactured or remanufactured either within or without this state for use **exclusively outside** California or **exclusively in interstate or foreign commerce**, or both; and delivered by the manufacturer, remanufacturer, or dealer, to the purchaser in California. The purchaser or purchaser's agent must:

1. Remove the trailer from this state within 30 days from and after the date of delivery, if the trailer is manufactured or remanufactured outside California; or remove the trailer from the state within 75 days from and after the date of delivery, if the trailer is manufactured or remanufactured within California.
2. If the trailer is registered outside the state, provide the delivering manufacturer, remanufacturer or dealer a copy of the current out-of-state license and registration for the trailer showing the Vehicle Identification Number (VIN) or serial number. Evidence of registration outside California must be submitted to the dealer, manufacturer or remanufacturer no later than 60 days after the timely providing of an affidavit.
3. If the trailer is registered in-state under the PTI program, provide the delivering manufacturer, remanufacturer or dealer a copy of the federal document assigning the purchaser's or lessee's USDOT number or a copy of the current SSRS filing with the DMV. Evidence of a USDOT number or SSRS filing must be submitted with the affidavit.
4. Provide an affidavit to the manufacturer, remanufacturer or dealer, that is accepted by such person in good faith, stating:
 - The name and location of the dealer from whom the trailer was purchased,
 - The name and location of the California dealer, manufacturer or remanufacturer that delivered the trailer to the purchaser,
 - That the vehicle was purchased for use exclusively outside the state, or exclusively in interstate or foreign commerce, or both,
 - That the vehicle was removed from the state within the appropriate time periods.

INSTRUCTIONS –

*This affidavit must be provided to the entity delivering the vehicle or trailer no later than **30 days** from the date the vehicle or trailer is taken outside California.*

Fill in all sections and check all appropriate boxes. If the vehicle or trailer was sold and delivered by the same entity, write "Same" in sections for deliverer.

If a trailer is registered in California under the Permanent Trailer Identification Program (PTI), proof of a United States Department of Transportation (USDOT) number or current Single State Registration System (SSRS) filing must be attached to the affidavit.

If a vehicle or trailer is registered outside California, proof of out-of-state registration that includes the vehicle or trailer VIN or serial number must be furnished to the deliverer of the trailer no later than 60 days after the purchaser provides the affidavit to the deliverer.

For transactions that include the purchase of more than one vehicle or trailer, you need not file a separate affidavit for each vehicle or trailer, but may instead append a list of the vehicles or trailers included in the transaction, identifying each one by a vehicle identification number (VIN) or serial number. You must, however, report the date each vehicle or trailer was removed from the state and provide current out-of-state license and registration or USDOT number or SSRS filing for each vehicle or trailer, as required.

Leased Vehicles –

Persons who purchase a vehicle or trailer for the purpose of leasing it, qualify for the exemption if the lessee meets the respective exemption criteria summarized above. A lessor must provide the name and address of the lessee. On leases of trailers that qualify for PTI registration, the lessor must provide the lessee's USDOT number or current SSRS filing. For all other leases, the lessor must provide proof of out-of-state registration.

If you have questions about these exemptions or completion of the affidavit, please call (800) 400-7115.

Table of Acronyms Used in the Regulation of Commercial Trucking

Acronym – Title	Meaning/Purpose	Documents Produced
CVRA – Commercial Vehicle Registration Act	The provisions of the CVRA are in Senate Bill 2084, Chapt. 861, Stats. 2000. The CVRA enacted the IPT program and made a number of other changes to vehicle registration requirements.	N/A
FMCSA – Federal Motor Carrier Safety Administration	Starting January 1, 2000, the federal agency responsible for licensing and establishing insurance levels for for-hire motor carriers engaged in interstate or foreign commerce. FMCSA issues the USDOT number.	<ul style="list-style-type: none"> • USDOT number registration record.
IFTA – International Fuel Tax Agreement	An agreement among states in the United States and Canadian provinces simplifying fuel use tax reporting by motor carriers engaged in interstate and foreign commerce.	<ul style="list-style-type: none"> • IFTA License • Quarterly fuel use reports
IRP – International Registration Plan	A program to facilitate commercial vehicle registration among the 48 contiguous states and certain Canadian provinces for power units operating in interstate or foreign commerce. It provides a uniform system of collecting and allocating commercial vehicle operating fees. IRP allows a carrier operating in several states to pay all fees and licensing in its home state. The state then allocates fees to the states in which the vehicle is operated. In California, the IRP is administered by the Department of Motor Vehicles (DMV), Industry Operations Division.	<ul style="list-style-type: none"> • Registration record for each power unit registered. • An IRP cab card, which is carried in the registered vehicle. The cab card is used to validate registration in the state in which the vehicle is operating.

Acronym – Title	Meaning/Purpose	Documents Produced
MCP – Motor Carrier Permit	A permit issued by DMV to motor carriers who are engaged only in California intrastate commerce. A carrier wanting to engage in interstate or foreign commerce must apply to the FMCSA for a USDOT number.	<ul style="list-style-type: none"> Motor carrier permit.
PTI – Permanent Trailer Identification Program	A trailer registration program administered by DMV. Most trailers registered in California are subject to PTI. Registration fees are fixed rather than based on trailer weight. The registration is renewed every five years. Trailers may be used intrastate or interstate.	<ul style="list-style-type: none"> Registration record for each trailer registered in the PTI program.
SSRS – Single State Registration System	A federally mandated program administered by the states, which is used to monitor interstate motor carriers of property. Companies are required to file once a year with DMV and provide proof of federal registration for interstate trucking (the USDOT number) and proof of insurance. Fees are based on the number of vehicles being operated in participating states. Filers do not provide specific vehicle information, for example, VIN or registration numbers.	<ul style="list-style-type: none"> DMV Forms RS-1 and RS-2. Truck registration receipt.
USDOT Number – United States Department of Transportation Number	The number issued by the FMCSA authorizing a motor carrier to engage in interstate transportation of goods. A carrier without a USDOT may not legally transport goods in interstate or foreign commerce.	<ul style="list-style-type: none"> USDOT certificate.

Vehicle Code Sections on Remanufacturers and Remanufactured Vehicles

507.5. A "remanufactured vehicle" is a vehicle that has been constructed by a licensed remanufacturer and consists of any used or reconditioned integral parts, including, but not limited to, frame, engine, transmission, axles, brakes, or suspension. Remanufactured vehicles may be sold under a distinctive trade name. An existing vehicle which is incidentally repaired, restored, or modified by replacing or adding parts or accessories is not a remanufactured vehicle.

507.8. A "remanufacturer" is any person who for commission, money, or other thing of value, produces a vehicle that consists of any used or reconditioned integral parts, including, but not limited to, frame, engine, transmission, axles, brakes, or suspension which is subject to registration under this code. A remanufacturer is not a person who incidentally repairs, restores, or modifies an existing vehicle by replacing or adding parts or accessories.