



FEBRUARY 2015

# TAX TOPICS

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Texas Comptroller of  
Public Accounts

## SALES AND USE TAX

### MOTORCYCLES: Sales Tax on Street-Legal and Off-Road Vehicles

The amount and type of tax due on motorcycles, all-terrain vehicles (ATVs) and utility vehicles is determined by whether the vehicle is street-legal or designed for off-road use. Motor vehicle tax applies to street-legal vehicles. Sales and use tax is due on off-road motorcycles, ATVs and utility vehicles.

#### Street-Legal Vehicles Designed for Highway Use

Street-legal motorcycles designed for highway use are taxed at 6.25 percent state tax only. There is no local tax on motor vehicle sales. The motor vehicle tax statutes are found in Chapter 152 of the Texas Tax Code.

County tax assessor-collectors collect motor vehicle sales tax at the time of vehicle titling and registration. The tax base is the total consideration paid for the vehicle less an allowance for a motor vehicle traded in and accepted by the seller as part of the consideration for the motor vehicle sold.

The total consideration paid for a motor vehicle does not include a charge for motor vehicle inventory tax (VIT) or a documentary fee charged for handling registration and titling. The VIT is a local property tax on the motor vehicle dealer's inventory excluded by Texas Tax Code Section 152.002. A documentary fee is considered a nontaxable charge occurring after the sale.

#### Off-Road Vehicles

Off-road vehicles are self-propelled vehicles designed for off-road (i.e., not on public streets and highways) use. Examples include dirt bikes, mini bikes or mini

motorcycles, all-terrain vehicles (ATVs), utility vehicles and other vehicles not designed or intended by the manufacturer to meet motor vehicle registration and safety inspection standards.

Off-road vehicles are subject to sales tax, not motor vehicle tax. The sales and use tax statutes are found in Chapter 151 of the Texas Tax Code. The state sales and use tax rate is 6.25 percent. Off-road vehicles are also subject to applicable local sales or use taxes up to 2 percent. Dealers are responsible for collecting the state and local taxes from purchasers and remitting those taxes to the Comptroller.

The Tax Code treats street-legal and off-road vehicles differently with regard to charges for the dealer's VIT and the documentary fee charged for the handling of registration and titling the vehicle. These taxes and fees are part of the taxable sales price of off-road vehicles. Dealers are responsible for collecting the state sales and local taxes on the VIT and documentary fees charged in connection with the sale of an off-road vehicle. The sales price does exclude the value of a trade used to reduce the selling price of a taxable vehicle, provided it is a type of property sold by the seller in the regular course of business.

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## MOTORCYCLES: SALES TAX ON STREET-LEGAL AND OFF-ROAD VEHICLES

### Agriculture and Timber Exemptions for Off-Road Vehicles

Tax Code Section 151.316 provides a sales and use tax exemption for machinery and equipment used exclusively in the production of agricultural and timber products for sale. The timber sales tax exemption applies only to machinery and equipment used exclusively in the production of timber products for sale.

Dealers may not accept in good faith a registration number/exemption certificate for a vehicle they know will not be used exclusively on a farm or ranch in the building or maintaining of roads or water facilities, or in the production of food for human consumption, grass, feed for animal life, or other agricultural products to be sold in the regular course of business. Any use of vehicles for any other purposes (such as recreational riding, hunting, wild life management, etc.) causes a loss of the exempt status, even if the vehicle is also used in the production of agricultural or timber products.

For example, a utility vehicle qualifies for the exemption if it is used exclusively on a farm to perform activities such as spraying crops, feeding cattle, building or repairing fences, but the exemption is lost if the same vehicle is also to be used for non farm production activities such as hunting or recreational riding. The purchaser is then liable for paying taxes on the vehicle if it was purchased tax free under an agricultural or timber exemption.

### A Word about Good Faith

A dealer must be familiar with the exemptions available for the items the dealer sells. A dealer should obtain a properly completed exemption certificate or a signed copy of the registration letter at the time the transaction occurs. The dealer must retain the exemption certificate or letter for at least four years following the completion of the last sale that is covered by the certificate or letter. Records may be required to be kept longer than four years as provided by Tax Code Section 111.0041.

### Claiming the Ag Exemption

Farmers, ranchers and timber producers must have an Ag/Timber Registration Number to make exempt purchases of qualifying items on or after Jan. 1, 2012. Persons claiming exemption from sales tax on ag machinery and equipment purchases must provide the retailer with a copy of the Texas Agricultural Sales and Use Tax Exemption Certificate, Form 01-924, or the purchaser may provide a signed copy of the Comptroller's confirmation letter containing the registration number. Timber operators must use the Texas Timber Operations Sales and Use Tax Exemption Certificate, Form 01-925 or signed copy of their confirmation letter containing the registration number.

For more information about exemptions from sales tax for agricultural equipment and the new registration requirement, please see Tax Exemptions for Agriculture (Pub. 94-101).

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