



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

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REVENUE ADMINISTRATIVE BULLETIN 2019-19

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**SALES TAX REFUND PROCEDURES FOR DEALERS AND MANUFACTURERS OF
MOTOR VEHICLES, INCLUDING REFUNDS FOR MOTOR VEHICLES RETURNED
AFTER THE SALE OR RETURNED UNDER THE “LEMON LAW”**

Replaces Revenue Administrative Bulletin 1995-9

Pursuant to MCL 205.6a, a taxpayer may rely on a Revenue Administrative Bulletin issued by the Department of Treasury after September 30, 2006, and shall not be penalized for that reliance until the bulletin is revoked in writing. However, reliance by the taxpayer is limited to issues addressed in the bulletin for tax periods up to the effective date of an amendment to the law upon which the bulletin is based or for tax periods up to the date of a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired that overrules or modifies the law upon which the bulletin is based.

RAB-2019-19. This RAB sets forth the sales tax refund procedures that motor vehicle dealers and others who pay sales tax to the Secretary of State must follow. These procedures apply to situations where the purchaser returns a vehicle for a full or partial purchase price refund or where the dealer collects sales tax from the purchaser in error.

Overview of the Law

The General Sales Tax Act (“Act”) authorizes a refund or credit for goods that are returned for a full or partial credit or refund subsequent to purchase. Section 6b of the Act, MCL 205.56b, provides:

A taxpayer may claim a credit or refund for returned goods or a refund less an allowance for use made for a motor vehicle returned under 1986 PA 87, MCL 257.1401 to 257.1410, as certified by the manufacturer on a form provided by the department.¹

Dealers and manufacturers who collect and remit sales tax to the Secretary of State on the sale of a motor vehicle may therefore claim a full or partial credit or refund for vehicles that are returned

¹ MCL 205.56b.

by the purchaser.² Prior to the receipt of a refund or credit from the Department, however, the dealer or manufacturer must first refund or credit to the original purchaser the sales tax collected on the portion of the purchase price that was refunded. Section 10(1) of the Act states:

If a taxpayer refunds or provides a credit for all or a portion of the amount of the purchase price of returned tangible personal property within the time period for returns stated in the taxpayer's refund policy or 180 days, whichever is sooner, the taxpayer shall also refund or provide a credit for the tax levied under this act that the taxpayer added to all or that portion of the amount of the purchase price that refunded or credited.³

Not all goods returned to the seller are eligible for the refund or credit under Section 6b. As limited by Rule 16 of the General Sales and Use Tax Rules, the definition of "returned goods" excludes goods returned to the seller in any of the following ways:

- Repossession or recapture of merchandise by legal process;⁴
- Abandonment of contract;
- Voluntary surrender of goods without a refund or credit given for the amount paid; and
- Goods accepted in trade or barter.⁵

Section 6b specifically includes motor vehicles returned under Public Act 87 of 1986, MCL 257.1401 *et seq.*, commonly referred to as the "lemon law." The "lemon law" was enacted to allow defective motor vehicles to be returned directly to the manufacturer through a manufacturer buy-back. Because the purchase price of the buy-back is subject to various deductions for consumer use, the "lemon law" requires a motor vehicle to be returned for an amount less than the original purchase price. Motor vehicles returned under the "lemon law" are therefore eligible for a refund or credit under Section 6b according to the purchase price of the manufacturer buy-back.⁶

Application of the Law

In general, for any refund claim of a manufacturer or dealer involving a "returned good," the General Sales Tax Act requires the refund to be substantiated and claimed through a two-step process:

² Sales tax may be remitted to the Secretary of State for the sale of other tangible personal property, such as watercraft or certain manufactured homes. Returns of those goods are subject to the same provisions discussed within this RAB.

³ MCL 205.60(1).

⁴ But see *Ally Financial Inc v State Treasurer*, 502 Mich 484 (2018) (analyzing repossessed property under the bad debt deduction of MCL 205.54(i)).

⁵ Mich Admin Code, R 205.16(1).

⁶ At the time of the enactment of the "lemon law," the credit or refund for returned goods under the General Sales Tax Act was limited to transactions in which the *full* purchase price was refunded. As a result, motor vehicle buy-backs under the "lemon law" were technically ineligible for any credit or refund of tax. The legislature thereafter amended the Act through 1994 PA 127 to clarify that motor vehicles returned under the manufacturer buy-back provisions of the "lemon law" were indeed eligible for a refund or credit. Through that legislation, manufacturer buy-backs under the "lemon law" were eligible for refund or credit based on an amendment to the "returned goods" provision within the definition of "gross proceeds" in the General Sales Tax Act. That provision was later moved and reincorporated into Section 6b as part of broad legislation necessary for Michigan's participation in the Streamlined Sales Tax Project. See 2004 PA 173.

1. The purchaser first returns the motor vehicle to the manufacturer or dealer and receives a credit or refund from the manufacturer or dealer of the tax previously collected.
2. After documenting the credit or refund issued to the purchaser, the manufacturer or dealer claims a credit or refund in that same amount from the Department under Section 6b.

Indeed, under Section 10(1) of the Act, manufacturers and dealers who collected sales tax from the purchaser are required to credit or refund the sales tax collected on the portion of the purchase price refunded. Purchasers should therefore contact the manufacturer or dealer directly to seek a refund of any sales tax paid on the original purchase. In fact, because a manufacturer or dealer may not benefit from the collection of the tax, that manufacturer or dealer must first credit or refund the tax to the purchaser in order to receive a corresponding credit or refund from the Department.⁷ In other words, manufacturers or dealers must *first* credit or refund the amount to the purchaser before claiming a credit or refund of that amount from the Department under Section 6b.

In this regard, although the procedures set forth within Section 12(11) of the Act, MCL 205.62(11), allow certain purchasers to claim a refund of sales tax paid directly from the Department, those procedures only apply where the purchaser failed to claim an exemption at the time of purchase.⁸ The credit or refund for “returned goods” is not an exemption that could have been claimed at the time of purchase and does not qualify for the procedures of Section 12(11). Thus, only the manufacturer or dealer who collected and remitted tax to the Department may claim a credit or refund for returned goods under Section 6b. Manufacturers and dealers who collected and remitted tax under the General Sales Tax Act must make a valid claim under Section 6b for a credit or refund to be granted. The statute of limitations for refund claims is generally four years from the date set for filing of the original return.⁹ Thus, for returned vehicles, a dealer or manufacturer’s claim for credit or refund under Section 6b must be made within 4 years of the filing date for the original return reporting that transaction.

a. General Sales Tax Refund Procedures for Dealers and Manufacturers

To qualify for a refund or credit under Section 6b, the manufacturer or dealer must have refunded or credited to the purchaser the tax previously collected by that manufacturer or dealer. The vehicle must also be returned to the original dealer or manufacturer who collected and remitted sales tax at the time of the original purchase. Vehicles returned to a dealer other than the original dealer are treated as goods exchanged in trade and not eligible for the credit or refund as a “returned good” under Section 6b.

The credit or refund under Section 6b is equal to the tax paid on the portion of the original purchase price credited or refunded to the purchaser. For example, if the purchaser pays \$600 of tax on a \$10,000 motor vehicle purchase and returns the vehicle for a \$9,000 refund after deductions for consumer use, then the sales tax collected on the portion of the refunded purchase price is \$540. The credit or refund that the dealer may claim is therefore \$540 under Section 6b, as long as the

⁷ MCL 205.73(4).

⁸ MCL 205.62(11).

⁹ MCL 205.27a(2).

same amount was first credited or refunded to the purchaser under the general provisions of Section 10(1).

Any manufacturer or dealer who claims a sales tax credit or refund for a returned vehicle must retain supporting documentation regarding the credit for audit purposes.¹⁰ This includes the following:

1. Documentation that full or partial exchange, refund, or credit was given to the purchaser;
2. Documentation of the original purchase; and
3. Documentation that sales tax has been credited or refunded to the purchaser in accordance with the provisions of Section 10(1) of the Act.

A manufacturer or dealer may be entitled to a refund for reasons other than a returned vehicle such as, for example, an error in calculating the sales tax liability or the collection and payment of sales tax in error. In these cases, the manufacturer or dealer may claim a refund generally supported by the same refund procedure and supporting documentation identified above. The manufacturer or dealer remains subject to the provisions of Section 10(1) with regard to any credit or refund related to tax that had been previously collected from the purchaser and must therefore credit or refund tax to the purchaser prior to claiming a credit or refund from the Department.

b. Sales Tax Refund Procedure for Manufacturer Buy-Back Agreements Under the "Lemon Law"

The "lemon law" allows for the manufacturer buy-back of motor vehicles in certain cases. A dealer is not a principal in "lemon law" buybacks. Dealers should therefore neither refund the sales tax originally paid by the purchaser nor claim any credits for "lemon law" buybacks on their sales, use, and withholding tax returns. Only the original manufacturer of the motor vehicle may claim a credit or refund related to the buy-back under the "lemon law."

The "lemon law" requires the amount paid to the purchaser through the manufacturer buy-back to be offset by certain deductions related to the purchaser's use of the property.¹¹ For example, the original purchase price is generally reduced by a reasonable allowance for the purchaser's use of the vehicle, as well as for any appraised damage beyond normal use of the vehicle. A refund to the consumer that deducts the consumer's use, appraised damage beyond normal use, or mileage is not eligible for a credit or refund under Section 6b unless the provisions of the "lemon law" are followed. This includes a requirement for manufacturer certification of the amount credited or paid to the purchaser (see procedure below).

Any manufacturer may request a credit or refund related to the manufacturer buy-back under the "lemon law," even if the manufacturer is not otherwise required to file Michigan sales, use, and withholding tax returns in Michigan. Prior to claiming a credit or refund from the Department under Section 6b, however, the manufacturer must first refund the tax to the original purchaser. To request

¹⁰ MCL 205.68(1).

¹¹ MCL 257.1403(2).

a refund pursuant to Section 6b, the manufacturer must submit all of the following documents to the Department with their claim:

1. Copy of title application (forms RD-108 or TR-11L) of original purchaser showing validations as proof of Michigan tax paid;
2. Copy of the manufacturer's buy-back agreement or arbitration decision stating the buy-back dollar figure given to the original purchaser; and
3. Proof that the purchaser has been refunded the original purchase price, less any deductions, and any corresponding amount of sales tax originally paid, including an executed copy of an affidavit similar to the one at the end of this bulletin.

The refund claim and all of the above items must be submitted to:

Michigan Department of Treasury
Technical Services Section
PO Box 30698
Lansing, MI 48909

**AFFIDAVIT TO BE COMPLETED WHEN CREDIT OR REFUND IS GRANTED FOR
A RETURNED MOTOR VEHICLE UNDER ACT 87 OF THE PUBLIC ACTS OF 1986**

The undersigned certifies that the following new motor vehicle has been accepted as returned,

_____ from _____,
Year, Make & Model V.I.N. Number Consumer's Name

and the motor vehicle was replaced or a refund was issued on _____
Date

to the above-named Consumer in accordance with the provisions of Public Act 87 of 1986.

Full Original Purchase Price _____

Less: Allowance for Consumer's Use _____

Less: Appraised Damage Not Attributable to
Normal Use or to the Defect or Condition _____

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Manufacturer

Authorized Representative, Title

Date