

NOTICE TO OUT OF STATE MOTOR VEHICLE DEALERS AND LESSORS

Application of the New Motor Vehicle Tire Fee

7/23/04

Effective August 1, 2004, Public Law 2004, c.46 establishes a fee of \$1.50 on each new motor vehicle tire sold in New Jersey, including new tires transferred as part of the sale or lease of a new or used motor vehicle, and those transferred as part of a repair or replacement. The law imposes the Motor Vehicle Tire Fee on the transactions subject to the sales tax imposed by the New Jersey Sales and Use Tax Act; however, the Motor Vehicle Tire Fee will be reported and paid apart from the sales and use tax.

DEALERS:

In many cases, an out of state motor vehicle **dealer** does not have any physical presence in New Jersey, but rather, is voluntarily registered to collect and remit the New Jersey tax on behalf of its New Jersey customers when the customer takes delivery of the vehicle outside of New Jersey. The Division has determined that the Motor Vehicle Tire Fee is not due on such transactions. This determination does not affect the out of state dealer's obligation to collect and remit the 6% tax due on the sale of a motor vehicle to a New Jersey resident, as required by reason of its New Jersey registration.

If an out of state dealer's transactions with New Jersey customers are limited to collecting and remitting the tax on sales of motor vehicles delivered to customers outside of New Jersey, the dealer may complete and return the Subjectivity Waiver or follow the on-line link. The dealership will be removed from the Division's record of businesses subject to collecting the Motor Vehicle Tire Fee.

LESSORS:

In New Jersey, the **lessor** is considered the retail consumer of property purchased for lease. N.J.S.A. 54:32B-2(e)(3). Therefore, when an out of state leasing company purchases a vehicle from a New Jersey dealer, the leasing company is required to pay the Motor Vehicle Tire Fee to the dealer, unless the lessor can provide a New Jersey sales tax exemption certificate issued by their lessee. Under New Jersey law, if the lessee can claim an exemption from sales tax, the lessee may pass this exemption on to the lessor, thereby exempting the lessor from paying the tax on the lease. (These exempt transactions are documented by the leasing company's completion of the Lessor's Certification (ST-40), which must be provided to the lessee.)

Since the Motor Vehicle Tire Fee is only imposed on transactions subject to sales tax, if the lease transaction is exempt from tax, the Motor Vehicle Tire Fee is also not due. Possible exemptions include leases to lessees that are qualified exempt organizations or governmental entities; leases of trucks entitled to the commercial truck exemption; leases of limousines to a limousine company; leases of buses to a bus company.

If an out of state leasing company purchases a vehicle from an out of state dealer, even if it is then leased to a New Jersey lessee, the Motor Vehicle Tire Fee is not due as long as the vehicle is delivered to the lessee from a location outside of New Jersey. Since the sale of the motor vehicle to the lessor takes place outside of New Jersey, the sale is not subject to New Jersey sales tax, so the Motor Vehicle Tire Fee is also not applicable.

Out of state motor vehicle leasing companies that are NOT required to collect the Motor Vehicle Tire Fee should complete and return the Subjectivity Waiver form or follow the on-line link provided in the July 1 letter. The leasing company will be removed from the Division's record of businesses required to collect the Motor Vehicle Tire Fee.

Additional information concerning the Motor Vehicle Tire Fee is available at:

<http://www.state.nj.us/treasury/taxation/pdf/mvtirenotice.pdf>