

## CHAPTER 203

---

**TAXATION**

---

**HOUSE BILL 04-1241**

BY REPRESENTATIVE(S) Miller, Coleman, Crane, Hefley, Hodge, Jahn, Lee, Marshall, McFadyen, Ragsdale, Spence, Stafford, Stengel, Schultheis, and Weddig;  
also SENATOR(S) Chlouber, Cairns, Entz, Fitz-Gerald, Jones, Kester, and May R.

**AN ACT**

**CONCERNING CLARIFICATION OF THE EXISTING EXEMPTION FROM SALES AND USE TAX FOR PROPERTY PURCHASED FOR RESALE IN THE REGULAR COURSE OF BUSINESS TO APPLY TO ANY MOTOR VEHICLE PURCHASED BY A MOTOR VEHICLE DEALER PRIOR TO THE RETAIL SALE OF SUCH VEHICLE.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Motor vehicles that are purchased by motor vehicle dealers for resale in the state are not subject to retail sales and use taxes while the vehicles are held in inventory by the dealers prior to retail sale.

(b) At times, a motor vehicle dealer uses a motor vehicle that has been purchased for resale to promote the sale of a vehicle by permitting a current or prospective sales or service customer to temporarily use a vehicle to drive to and from the dealership and for incidental business and personal errands.

(c) An employee of a motor vehicle dealer is sometimes permitted to use a motor vehicle for incidental business and personal errands, but at all times such motor vehicle is still available for resale.

(d) Such uses of the motor vehicle are incidental to the primary purpose, resale to a consumer or user, for which the vehicle was originally acquired by the dealer.

(e) The department of revenue has determined that if a motor vehicle dealer uses a motor vehicle that has been purchased for resale, and such use is not classified as a nontaxable incidental fringe benefit for federal income tax purposes, the use

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

constitutes a removal of the vehicle from the dealer's inventory, resulting in imposition of the state use tax against the dealer for use of the vehicle.

(f) The general assembly, in enacting the retail sales and use tax, never intended the tax to apply to the incidental use of motor vehicles acquired primarily for resale by motor vehicle dealers prior to retail sale.

(g) It is the declared policy of the state of Colorado to retain the retail sales and use tax statutory scheme as enacted by the general assembly and, in order to ensure the statutory scheme is implemented as enacted, it is necessary to clarify that the retail sales and use tax does not apply and has never applied to the use of a motor vehicle acquired primarily for resale by a motor vehicle dealer while held in inventory prior to resale of the vehicle.

**SECTION 2.** 39-26-203 (1) (b), Colorado Revised Statutes, is amended to read:

**39-26-203. Exemptions - definitions.** (1) This part 2 is declared to be supplementary to the "Emergency Retail Sales Tax Act of 1935", part 1 of this article, and shall not apply:

(b) (I) To the storage, use, or consumption of any tangible personal property purchased for resale in this state, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business.

(II) FOR PURPOSES OF THIS PARAGRAPH (b), ANY MOTOR VEHICLE PURCHASED AND HELD FOR RESALE IN THIS STATE BY A LICENSED MOTOR VEHICLE DEALER, AS DEFINED IN SECTION 12-6-102 (13), C.R.S., WHO MEETS THE ELIGIBILITY REQUIREMENTS TO RECEIVE A FULL-USE DEALER PLATE SET FORTH IN SECTION 42-3-127 (6) (a) (I), C.R.S., SHALL BE CONSIDERED TO BE IN THE REGULAR COURSE OF BUSINESS AND SHALL NOT BE SUBJECT TO TAXATION UNDER THIS PART 2. A MOTOR VEHICLE SHALL BE CONSIDERED TO BE PURCHASED AND HELD FOR RESALE IF:

(A) THE MANUFACTURER'S CERTIFICATE OF ORIGIN OR CERTIFICATE OF TITLE FOR THE MOTOR VEHICLE IS ASSIGNED TO THE MOTOR VEHICLE DEALER;

(B) THE MOTOR VEHICLE IS INCLUDED IN A CURRENT LIST OF VEHICLES FOR RETAIL SALE THAT IS PREPARED BY THE MOTOR VEHICLE DEALER IN THE ORDINARY COURSE OF BUSINESS; AND

(C) AT ANY GIVEN TIME, THE MOTOR VEHICLE IS AVAILABLE TO BE PURCHASED AND DELIVERED TO A RETAIL CUSTOMER WITHIN THREE BUSINESS DAYS.

**SECTION 3. Repeal.** 42-3-117.7 (3) (b), Colorado Revised Statutes, is repealed as follows:

**42-3-117.7. Temporary special event license plates.** (3) (b) ~~Sales or use tax due in connection with a special event license plate or vehicle that will be issued such plate shall be paid before the special event license plate is issued.~~

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 26, 2004