

MOTOR VEHICLES, LICENSE AND REGISTRATION - Light vehicle license fees;

MOTOR VEHICLES, LICENSE AND REGISTRATION - Titling and registration of vehicles in inventory of motor vehicle dealers;

TAXATION - Taxes and fees on motor vehicles to be paid by dealers who apply for title and registration;

MONTANA CODE ANNOTATED - Sections 1-2-107, 15-8-202, 61-3-201, 61-3-202, 61-3-303, 61-3-317, 61-3-322, 61-3-501, 61-3-503, 61-3-531 to 61-3-534, 61-4-111.

HELD: A motor vehicle dealer may not obtain a "title only" from the Registrar's Bureau on a motor vehicle that is part of his inventory. If a dealer wishes to obtain a title on such a vehicle, he must also register the vehicle and pay any taxes or fees due on the vehicle.

25 September 1984

J. Fred Bourdeau
Cascade County Attorney
Cascade County Courthouse
Great Falls MT 59401

Dear Mr. Bourdeau:

You have requested my opinion concerning a question which I have phrased as follows:

May a motor vehicle dealer obtain a "title only" from the Registrar's Bureau on a motor vehicle that is part of his inventory, without registering the vehicle and without paying any taxes or fees that may be due on the vehicle?

Your letter informs me that some motor vehicle dealers in Montana have applied for and received a "title only" on the vehicles in their inventory, purportedly to enable them to provide the purchaser of the vehicle with a title at the time of purchase. You also indicate that in some Montana counties, when application is made for a "title only," any taxes or fees on the vehicle are not paid, as the vehicle is not actually "registered or reregistered" at that time. See § 61-3-501(1), MCA.

Analysis of this issue requires an examination of the statutes dealing with titling and registering of motor vehicles. Section 61-3-201, MCA, establishes the procedure for obtaining a new certificate of ownership (title) upon a transfer of an interest in a motor vehicle:

(1) Upon a transfer of any interest in a motor vehicle registered under the provisions of this chapter, the person whose interest is to be transferred shall write his signature with pen and ink upon the certificate of ownership issued for such vehicle in the appropriate space provided upon the reverse side of the certificate, and his signature shall be acknowledged before a notary public.

(2) Within 20 calendar days thereafter, the transferee shall forward both the endorsed certificate of ownership and the certificate of registration, together with the information required under 61-3-202, to the county treasurer, who shall forward them to the division. No certificate of ownership or certificate of registration may be issued by the division until the outstanding certificates are surrendered to that office or their loss is established to its reasonable satisfaction....

To obtain a title on a new motor vehicle, or on a transferred motor vehicle on which there exists an out-of-state title and/or registration certificate, the transferee must complete an application for title on a separate form and submit it to the county treasurer. Section 61-3-202(1), MCA, provides for issuance of a title by the Registrar's Bureau:

(1) Upon completion of the application for certificate of ownership, on forms furnished by the division, the county treasurer shall forward one copy of the application to the division, which shall enter the information contained in the application upon the corresponding records of its office and shall furnish the applicant a certificate of ownership....

An owner of a motor vehicle operated on the public highways of this state is required to file an application for registration or reregistration of the vehicle in the office of the county treasurer for the county in which the vehicle is owned or taxable. § 61-3-303, MCA. In 1981, the Montana Legislature devised a "light vehicle license fee" system to replace the former ad valorem tax system for most automobiles and light trucks. Under the new system, trucks having a rated capacity of three-quarters of a ton or less and automobiles are no longer subject to assessment for the purpose of determining personal property taxes. As to these types of vehicles, a "license fee," computed on the basis of the age and weight of the vehicle, is imposed in lieu of a property tax. See §§ 15-8-202, 61-3-503(2), 61-3-531 to 534, MCA. Motor vehicles other than those specifically exempted are subject to

assessment for the purpose of personal property taxation, pursuant to sections 15-8-202 and 61-3-503, MCA. Included in this group would be motorcycles and trucks having a rated capacity in excess of three-quarters of a ton. In any event, the statutes clearly require all taxes and/or fees due on a vehicle to be paid at the time application is made for registration or reregistration of the vehicle. §§ 61-3-303(2), 61-3-501(1), MCA.

Motor vehicle dealers, however, are not subject to the same statutory requirements concerning titling and registration of vehicles that are a part of their inventory. Section 61-4-111(1), MCA, provides:

(1) The provisions of 61-3-201(2) shall not apply in the event of the transfer of a motor vehicle to a duly licensed automobile dealer intending to resell such vehicle and who operates the same only for demonstration purposes. In such cases, the dealer shall not be required to make application for a new certificate of ownership or for registration during the period of his ownership of said vehicle.... [Emphasis added.]

The above statute clearly exempts motor vehicle dealers from the normal requirement that the owner of a motor vehicle secure a new title and registration certificate for the vehicle, at least with respect to those vehicles that are part of the dealer's inventory. The question, therefore, is: If a dealer applies for a title on a vehicle owned by him and intended for resale, must the dealer also register the vehicle and pay the attendant taxes or fees, or may the Registrar's Bureau issue a "title only" on the vehicle? My research has disclosed that the Registrar's Bureau is not authorized to issue a "title only" to a motor vehicle dealer under the above-referenced circumstances. If a dealer applies for a title on a vehicle that is part of his inventory, despite the exemption provided to dealers by section 61-4-111(1), MCA, he must also register the vehicle and pay any taxes and fees.

The Montana statutes generally contemplate issuance of a title on a motor vehicle only if the vehicle is also registered. Under section 61-3-201, MCA, the transferee of an interest in a motor vehicle is required within 20

days to forward an endorsed certificate of ownership and a certificate of registration to the county treasurer, who forwards the documents to the Registrar's Bureau. The new owner also has 20 days to register the vehicle and pay the taxes or fees on the vehicle. §§ 61-3-303, 61-3-317, MCA.

The Registrar's Bureau is then authorized to issue a title for the vehicle, and the county treasurer is authorized to issue a certificate of registration. §§ 61-3-201, 61-3-202, 61-3-322, MCA. Under section 61-3-202(2), MCA, a new title issued by the Registrar's Bureau is required to contain the following relevant information:

....

(c) ... the name and complete address of any holder of a perfected security interest in the registered vehicle;

(d) a description of the registered vehicle, including the year built and serial number. [Emphasis added.]

....

When an interest in a motor vehicle is transferred by operation of law, or when a transfer is effected by anything other than a voluntary act of the person whose interest is transferred, a somewhat different procedure is followed. The executor, receiver, trustee, sheriff, or successor in interest of the person whose interest is transferred is required to apply directly to the Registrar's Bureau for a new title. Upon determining that the transfer is regular and that all requirements have been complied with, the Registrar's Bureau is authorized to issue a new title and the county treasurer is authorized to issue a certificate of registration to the person entitled thereto. § 61-3-201(3), MCA.

As a general proposition, no provision has been made in the statutes for issuance of a title on an unregistered vehicle under the circumstances described in your letter. If a dealer chooses to apply for a title on a vehicle that he is holding for resale, he must also register the vehicle as required by the statutes. In addition, dealers who choose to title their vehicles

despite the fact that they are not required to do so are not exempt from the requirement that they pay any taxes or fees due upon registration of the vehicle. See §§ 61-3-303(2), 61-3-501(1), MCA. I find support for this conclusion in the statutes providing for assessment and registration of motor vehicles. Section 15-8-202(1), MCA, provides in pertinent part:

....

(b) No tax may be assessed against motor vehicles subject to taxation that constitute inventory of motor vehicle dealers as of January 1. These vehicles and all other motor vehicles subject to taxation brought into the state subsequent to January 1 as motor vehicle dealers' inventories shall be assessed to their respective purchasers as of the dates the vehicles are registered by the purchasers.

(c) "Purchasers" includes dealers who apply for registration or reregistration of motor vehicles.... [Emphasis added.]

....

Section 61-3-501, MCA, provides in relevant part:

(1) Property taxes, new car taxes, light vehicle license fees, and fees in lieu of tax on a motor home or travel trailer must be paid on the date of registration or reregistration of the vehicle.

(2) If the anniversary date for reregistration of a vehicle passes while the vehicle is owned and held for sale by a licensed new or used car dealer, property taxes, light vehicle license fees, or the fee in lieu of property taxes abate on such vehicle properly reported with the department of revenue until the vehicle is sold and thereafter the purchaser shall pay the pro rata balance of the taxes or the fee in lieu of tax due and owing on the vehicle. [Emphasis added.]

I find that the Legislature intended the same definition of the term "purchaser" to apply in sections 15-8-202(1) and 61-3-501(2), MCA. See § 1-2-107, MCA. In other words, if a dealer applies for title and registration of a motor vehicle that is a part of his inventory, he will have the same obligations as any purchaser of the vehicle and will be required to pay any taxes or fees on the vehicle.

THEREFORE, IT IS MY OPINION:

A motor vehicle dealer may not obtain a "title only" from the Registrar's Bureau on a motor vehicle that is part of his inventory. If a dealer wishes to obtain a title on such a vehicle, he must also register the vehicle and pay any taxes or fees due on the vehicle.

Very truly yours,

MIKE GREELY
Attorney General