NJ AUTO INDUSTRY ALERT

Sales Tax To Decrease; Bill concerning Temporary Registrations For Out of State Consumers Advances and New Law Proposed To Limit Spot Delivery

December 12, 2017

Sales Tax Scheduled to Decrease

This is a reminder that the New Jersey sales tax rate will decrease from 6.875% to 6.625% effective January 1, 2018. The new sales tax rate is applicable to all dealership retail transactions. Dealers should make sure that they charge the new lower sales tax rate starting next month.

Bill Extending Time for Non-Resident Temporary Registrations Advances

Senate bill S3596 would increase the number of days a temporary registration is valid from 20 to 30 days if a vehicle is sold to an out of state consumer. The bill also allows for a second 30 day temporary registration if the title is lost or if a prior lien holder fails to turnover title. The effect of the bill would be to treat all consumers the same regardless of residency. New Jersey residents are already allowed thirty days for their first temporary registration and a second thirty day temporary registration if necessary. The Senate bill was reported out of the Senate Transportation Committee on December 4, 2017. A vote by the full Senate is expected to occur this legislative session. The corresponding Assembly bill, A1918, was approved by a vote of 76-0 on June 8, 2017.

Proposed Law To Limit Spot Delivery Introduced

Senate bill S3523 would prohibit the delivery of a vehicle by a dealer to consumer who is financing the purchase of the vehicle until the terms of the financing are finalized and a contract signed. Under the bill if a vehicle is delivered to a consumer prior to the assignment of a retail installment contract to a sales finance company or bank, the dealer and consumer would be bound by the terms of the retail installment sales contract. The bill is designed to protect consumers from taking delivery of vehicles believing their transactions are complete only to have a selling dealer advise that the financing was not approved and offering the consumer new less favorable terms in order to keep the vehicle. It is implicit in the bill is that there is no liability for a dealer if a bank or lender after accepting an assignment of a retail installment contract were to reject it based on the actions of the consumer such as submission of fraudulent financial information.

The bill provides that any spot delivery agreement is null and void and that any violation of the bill is a violation of the Consumer Fraud Act subjecting dealers to actions brought by the Attorney General's office for fines, attorney's fees and costs of collection as well as cease and desist orders or civil suits by retail consumers for treble damages (three times compensatory damages) and attorney's fees. The legislation was referred to the Senate Law and Public Safety Committee.

By: Anthony Bush of Eckert Seamans Cherin & Mellott, LLC

Anthony Bush is a Member in Eckert Seamans' Princeton Office with over two decades of experience with automotive issues. He counsels a wide spectrum of clients including automobile dealerships, operators of wholesale motor vehicle auctions, auto parts distributors, finance companies, and auto body repair facilities. Tony and Eckert Seamans have expertise representing dealers in consumer and corporate litigation, land use matters, business counseling, employment matters, franchise disputes, before the New Jersey Motor Vehicle Commission and New Jersey Department of Law and Public Safety, Division of Consumer Affairs, and in legislative and regulatory issues affecting the automotive industry.

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