Content #12

Out-of-State Delivery Exemption For Foreigner's

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Content #12A

Out-of-State Delivery Exemption For Foreigner's

(No tax is due)

Qualifications for Exemption

- ❖ The exemption applies to a nonresident **from a Foreign Country**.
- The Foreigner cannot take possession of the vehicle in Arizona. We must have the vehicle transported out of state.
- ❖ Each Foreign purchaser(s) must complete a separate ADOR exempt certificate (Form 5011) in order to determine if he qualifies for the exemption
- The Foreign purchaser(s) must also have a <u>legible</u> copy of a <u>current</u> valid **driver license** issued by the Foreign Country.
- In addition, the Foreigner must provide a valid <u>Passport</u> (or Canadian Nexus Card or Mexican Border Crossing Card) issued by the nonresident's country of origin.

Corporate Policy: When giving the Purchaser(s) the form 5011, the Salesperson must first update the Purchaser(s) on the law, using the following steps:

- o Notify the Purchaser(s) that Earnhardt representatives are <u>not</u> allowed to complete the form for them, but do want to cover a few things pertaining to the form.
- Then, show the Purchaser(s) the section 2 notation at the very bottom on the 1st page of the form and make sure they understand the notation.
- Next, show the Purchaser(s) the 2nd page and explain the affirmations the Purchaser(s) is/are making when signing the form.
- O Give a form to each Purchaser in the deal to complete and sign.
- o Upon completion, verify the Purchaser(s) qualify for the exemption.

~ADDITIONAL NOTES BASED ON TYPE OF PURCHASER~

- ❖ A Purchaser for a Trust must be listed as a Trustee in the Trust
- Business Entity's Agent must be listed in the Articles of Corporation as a member (i.e., Corp Officer, Partner, LLC member)
- If a Purchaser is a student, must be enrolled as a non-resident in an Arizona Educational Institution

Content #12B Out-of-State Delivery For Foreigner's

REQUIRED DOCUMENTATION / EXAMINATION

Trust Purchases (if applicable)

- Verify you have a copy of the Trust
- Verify the person(s) signing the purchase documentation is on the Trust
- Verify that we have all required signatures in order to substantiate the request. Review
 the Trust documents for a clause such as "a Trustee may not conduct business or act on
 behalf of our trust without the consent of the other Trustee".
- Verify the Trust name is on all other legal documents throughout the deal

Business Entity Purchases (if applicable)

- Verify we have a legible copy of a Business license, Transaction Privilege License or Articles of Corporation
- o Verify the address listed on the license or articles is from a Foreign Country
- Verify the same address and Foreign Country is listed on all purchase documentation
- Verify the Business Representative/Agent signing the purchase documentation is a member within the Articles of Corporation
- o Complete due diligence by searching the web to determine if the Business entity has nexus in Arizona.
- Verify the payment for the vehicle is issued in the Entity name (i.e., business check, credit card or financing)
- o Verify the Business entity name is on all purchase documentation

Arizona enrolled student (if applicable)

- o Verify we have a copy of a Student I.D. Card
- Verify Student is enrolled in an Arizona educational institution
- Verify have a statement from the educational institution reflecting Student is paying out-of-state tuition fees

❖ Foreign Passport or Canadian Nexus Card or border crossing card

Verify issued by the country of residency claimed

* Driver License of each Purchaser

- o Verify the license is of the actual Purchaser's
- o Verify issued to each Purchaser by Foreign Country
- Verify the address is listed as a Foreign Country
- Verify is valid and current (must have been reasonably issued prior to any dates in the deal; the further the issuance date of the license is from the date of the deal, the better)
- o If the Purchaser is a Trust
 - Verify the license is of a member on the Trust
- o If the Purchaser is a Business Entity
 - Verify the license is of the Business Representative/Agent signing on behalf of a business entity
 - Verify the license of the Representative/Agent is from the same Foreign Country as the Business Entity

Foreigner Exemption - Form 5012

- Verify that a separate form was completed by each Purchaser, and that both are in the deal.
- Verify Section 1 Seller's information is complete
- Verify section 2 Purchaser's information was fully completed by the Purchaser
- Verify a Foreign Country physical address & is listed on the form for the Purchaser, even though the driver license may have a PO Box listed.
- Verify both purchasers qualified as a Foreigner
- Verify for Business Entities
 - The Representative/Agent's name, personal address, phone #, & auto insurance are listed in the applicable lines.
 - The Business Entity's information is completed as well in the applicable lines.
- Verify that every question on 1st page is answered and initialed by the Purchaser or Representative/Agent. Exceptions:
 - Student <u>is not</u> required to answer questions 1-3 of form 5012; however the Spouse of the Student <u>is</u> required to answer all of the questions on form 5012 (unless also a AZ Student)
 - Verify the Purchasers actually qualified as nonresidents
- Verify page 2 (Purchaser Affirmation) was completed and signed by the Purchaser or the Representative/Agent.

❖ Additional Form 5012 Review

- Verify the documents in the deal to determine if there is anything that is contradicting the answer.
- o Business entities, run a web search on line to find out if the business has nexus in Arizona

Auto Insurance Card

- Verify the policy number is the same listed on the form 5012
- Verify the copy denotes the Foreigners Address
- Verify the insurance card is for the Purchaser(s
- o For a Business Entity
 - Verify the insurance card is for the Representative/Agent

- Verify the name and address of the Purchaser (or) Business Entity is listed on all legal documents throughout the deal.
 - o Form 5012
 - o Form 5010
 - o Buyers Order
 - o Credit application / Purchasers Statement (if applicable)
 - o 90-day nonresident registration permit

❖ Out-of-State Delivery - Form 5010

Verify both pages of the form are in the deal (Sellers Page and Purchasers Page)

If delivery is by transporter:

- Under SELLER CERTIFICATION, the second box is checked and person named in DELVERY OF VEHICLE has signed and dated the form.
- Verify date is same as on Bill of Lading.
- o Verify following notarization is on the same date and notarized by our notary.
- o The second page is **NOT** needed (Replaced by BOL noted further below)

If delivery is by our Agent across the border:

- Under SELLER CERTIFICATION, the first box is checked and person named in DELVERY OF VEHICLE has signed and dated the form.
- Verify notarization is on the same date and has been notarized by an out-of-state notary.
- The second page is to be filled out by the Purchaser/Representative, starting with Purchaser's information.
- Verify Purchaser/Representative has signed and dated 2nd page with the same date as our Agent on the 1st page.
- Verify Purchaser's/Representative's signature has also been notarized by an out-of-state notary on the same date as the notary on the 1st page.
- Our Agent is to keep both pages of Form 5010 (to be placed in deal).

❖ Bill-of-Lading (BOL) – (if applicable)

- Verify a copy of the BOL is in deal
- o Verify BOL notes:
 - Make, Model & VIN of the vehicle in the deal
 - Where the vehicle was picked up and the address where it is to be delivered
 - Date when the transport picked up the vehicle (Verify date is the same date as delivery date on the 1st page of the Form 5010)
- Verify there is evidence we paid for transportation (billing and/or check)

❖ Delay of Delivery Form – (if applicable)

- o Form is needed if there is more than a 3 day discrepancy between:
 - The B/O date versus the form 5010 Notarized Date of Delivery
- Verify that a box is marked and is signed by the Mgr handling the transaction

❖ 90-day nonresident registration permit

- o Verify a copy is in the deal
- o Verify the copy denotes the out-of-country, nonresident address
- Verify the issued date is within one day of the 5010 Delivery Dates. If not, a written statement reflecting reasonable grounds is required.
- O Does NOT need the permit affidavit signed; it was replaced by the 2nd page of form 5012



MEMORANDUM

DATE:

April 29, 2010

TO:

Larry Storjohann, Robbyn McDowell, GM's, Controllers and Office Managers

FROM:

Lorrie Terrazas

Internal Audit Director

RE:

Tax Exemptions for Foreigners

This memo is driven by the many questions in regards to Foreigner Exemptions. Please use this memo as guidance when considering Foreigners as tax exempt and please note that the basic exempt requirements noted below ARE NOT the full requirements. (Refer to the Tax Reference Guide under the following exemptions to get the full details.)

In the State of Arizona, there are only two tax exemptions for which "Foreigners" qualify. They are:

• INTERSTATE COMMERCE - Basic exemption requirements are as follows:

- o The order for the vehicle must have originated outside of Arizona
- o The "Foreign" purchaser must not have been in Arizona when the order originated.
- The selling dealer is responsible for the cost of transporting the vehicle. However, we can recoup the cost from the purchaser.
- The vehicle must be delivered outside of Arizona, preferably to the state from where the vehicle will be exported.
 - It is highly recommended to have documentation (a note) in the deal that the customer will be exporting the vehicle
- o A 90-day nonresident drive out permit should be issued for the vehicle

• EXEMPT CERTIFICATES REQUIRED:

Form 5000

• OUT-OF-STATE DELIVERY - Basic exemption requirements are as follows:

- The "Foreigner" must prove they are from a different country in which they reside (via a Current Foreign passport or Border crossing card.) and their DL must be from the same country
- The selling dealer is responsible for the cost of transporting the vehicle. However, we can recoup the cost from the purchaser.
- o Arrangements to have the vehicle delivered by transporter must be arranged by the selling dealer.

- The selling dealer is responsible for the cost of transporting the vehicle (can recoup the cost from the purchaser).
- o The vehicle must be delivered outside of Arizona, preferably to the state from where the vehicle will be exported.
 - It is highly recommended to have documentation (a note) in the deal that the customer will be exporting the vehicle
- o A 90-day nonresident drive out permit must be issued for the vehicle

EXEMPT CERTIFICATES REQUIRED

- Form 5012
- Form 5010 (with BOL if applicable)

In both exemptions, you will notice that "Foreign" purchaser's ARE NOT allowed to take delivery of the vehicle in Arizona!

Question: Many have questioned whether or not a Foreign Dealer qualifies for the exemption of Sale for Resale. This means that the foreigner can take delivery of the vehicle at our dealership.

Answer: In discussion with ADOR, they reminded us that we must be able to take the exempt documentation in "good faith". Therefore, being that the Foreigner is taking delivery of the vehicle in Arizona, we cannot really take it good faith that the vehicle is being used in the other country for resale purposes. It was highly recommended that we do not practice this exemption with Foreigners. If we do, the only protection we would have is if we (Earnhardt's) handle all the exportation and costs of exportation for the purchaser. In previous discussions, we chose not to do so.

EXPORTATION DOCUMENTATION: We DO NOT want to complete any exportation documentation documents for the foreign purchaser; it is the purchaser's responsibility. We can however, give the purchaser information that is required, as long as it pertains to the deal in which the vehicle was sold. It is also ok for us to sign the exportation documents as verification that we were the selling dealer. However, make sure that whoever signs the document reviews the document to verify that the vehicle information is accurate.

Reminder to refer to your Tax Reference Guide for the full detail of the Interstate Commerce and Outof-State requirements and also include this memo in the same reference guide for future assistance!

Address: 7300 W. Orchid Lane • Chandler, AZ 85226 • Phone: (480) 783-4629 • Fax: (480) 783-4626

* Need a Form for each purchaser (a separate form)

* Must have out of state DL.

* Must have passport or border chossing card



Arizona Department of Revenue CERTIFICATE TO ESTABLISH RESIDENCY IN A FOREIGN

ARIZONA FORM 5012

COUNTRY PURSUANT TO A.R.S. § 42-5009(1)

FOR PURPOSE OF A STATUTORY DEDUCTION PROVIDED BY ARS § 42-5061, SUBSECTION (A)(14) OR (A)(4); OR ARS § 42-5004 (A)(4) Earnhardt Rapresentative must Complete SECTION 1 - INFORMATION TO BE SUPPLIED BY SELLER. SELLER'S NAME AND ADDRESS: MAKE: YEAR: MODEL: 90 DAY PERMIT NO: VIN NO.: SALES PRICE: PRICE ADJUSTMENTS: NET PRICE: TOTAL TAXES PAID: (Applicable) Cash price + Adds includes city Rebate + Trade Taxable And DRIVER'S LICENSE NO. OF COUNTRY OF ISSUANCE: PURCHASER (or Entity Rep.): PASSPORT NO. OR OTHER COUNTRY OF ISSUANCE: Slee Current GOVT, ISSUED ID: Purchaser Must Camplele. SECTION 2 \cdot TO BE COMPLETED BY PURCHASER (OR ENTITY REPRESENTATIVE) PURCHASER'S FULL NAME: COUNTRY: TELEPHONE NO. OF RESIDENCE ADDRESS: AUTO INSURANCE COMPANY: POLICY NO .: IF PURCHASER IS A FOREIGH NONRESIDENT ENTITY, COMPLETE THE FOLLOWING: TAX ID NO.: FULL BUSINESS ADDRESS: QUESTIONS TO BE ANSWERED AND INITIALED BY PURCHASER (OR ENTITY REP.): NOTE: DO NOT answer questions 1, 2, and 3 if you are a Nonresident Student enrolled at an Arizona Educational Institution paying out-of-state tuition fees. (PROVIDE COPY OF CURRENT STUDENT I.D. CARD) False Initial lam a resident of a state in the United States. do not have a valid passport or other government issued travel identification issued by the Country in which I reside...... I am engaged in a trade, profession or occupation in Arizona in other than agricultural work or temporary seasonal work....... 4. I am employed in the State of Arizona. I have placed my children in an Arizona public school (K-12) without payment of nonresident tuition...... 6. Lattend an Arizona educational institution and pay resident status tuition rates...... 7. I am an individual, partnership, company, firm, corporation or association that mainteins a main office, a branch office or warehouse facilities in this state and that bases and operates a motor vehicle in this state. 8. I am an individual, partnership, company, firm, corporation or association that operates a motor vehicle in intrastate transportation, for other than seasonal agricultural work..... 9. I am purchasing this vehicle for transfer to a resident of Arizona. 10. Thave a valid driver's license issued by a state in the United States...... 11. I am registered to vote in the State of Arizona...... 12. The Resident status income tax returns, or business tax returns in the State of Arizona..... 13. The insurance policy listed above (other than a temporary binder) is issued under the laws of Arizona.......

SECTION 2 INFORMATION THAT INDICATES AN ARIZONA ADDRESS OR AN ANSWER OF TRUE TO ANY OF THE ABOVE QUESTIONS, WILL MAKE THIS PURCHASER INELIGIBLE FOR THE STATUTORY DEDUCTIONS LISTED AT THE TOP OF THIS PAGE.

** refers to the custodial pavent custodial parent that children in Az school - True.

If the purchaser is the custodial parent thus children in Az School - False.

AFFIDAVIT OF NONRESIDENCY IN FOREIGH COUNTRY

AFFIRMATIONS OF PURCHASER:

- I will not register this vehicle in Arizona and will not use this vehicle in Arizona for other than purely temporary or transitory purposes.
- I will personally be liable for an amount equal to the state, county and city taxes that would have applied to a non-exempt sale, plus penalties and interest computed from the date of sale, if this vehicle is registered in Arizona within 365 days of the date of sale.
- I will personally be liable for an amount equal to the state, county and city taxes that would have applied to a non-exempt sale, plus penalties and interest computed from the date of sale, if I have provided false information on this certificate.
- I understand that in Arizona, it is a Class 5 Felony to "knowingly prepare, present or ald, procure or advise in preparing or presenting any return, affidavit, claim or other document which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the taxpayer authorized or required to present the return, affidavit, claim or document.* [See A.R.S. § 42-1127(B)(2)]
- I understand that I will be subject to criminal penalties if I have either omitted required information or provided false information on this certificate. [See A.R.S. § 42-1127(B)(4)]

I have verified that the driver's license and passport information provided on Page 1 is correct.

I hereby certify that the information I have provided on this Certificate is true, accurate and complete. Further, if I am the representative of a foreign nonresident entity, I certify that I am authorized to execute this Certificate on behalf of the foreign nonresident entity named above.

Si	g	ned	b	y:
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Purchaser or Entity Representative

Date



> Need a 90 Day permit - noting the address of the Foreign Country

No Longer Need - 90 Day Permit Affidavit - This Page replaces the Affidavit.

To be Completed by the Seller!!

ARIZONA DEPARTMENT OF REVENUE

CERTIFICATE TO ESTABLISH OUT OF STATE DELIVERY 5

ARIZONA FORM
5010

OF MOTOR VEHICLE TO NONRESIDENT

FOR PURPOSE OF THE STATUTORY DEDUCTIONS PROVIDED BY A.R.S. §§ 42-5061(A)(14) AND 42-6004 (A)(4)

This certificate is required to document the seller's out-of-state delivery of a motor vehicle to a nonresident purchaser, for purposes of the above exemptions from state transaction privilege tax and city privilege tax. If delivery is made by the seller or the seller's agent, this form must be fully completed and notanized in the state of delivery, and records of any expenses incurred in delivering the motor vehicle must be maintained by the seller. If the seller contracts with a licensed auto transporter or common carrier for the out-of-state delivery of the vehicle, the Purchaser Certification on page 2 is not required, and the seller's signature may be witnessed by an Arizona notary public.

SELLER'S NAME:	T	PT LICENSE NO.:	
ADDRESS:		PHONE NO.:	
CITY STATE ZIP:	Щ		
VEHICLE INFORMATION:			
YEAR / MAKE / MODEL:		VINNO.:	
NET SALES PRICE:		ADOT90 DAY PERMIT NO.:	
DELIVERY OF VEHICLE:			
ELIVERYADDRESS Address of where we		TYSTATE ZIP:	
AME OF PERSON DELIVERING VEHICLE: Should always be our ac	5-0V	PHONE NO.:	
the above vehicle to the delivery I certify, under penalty of perjury	y under the laws of the State of Ari	zona, that I have delivered th	
I certify, under penalty of perjury the above vehicle to the delivery I certify, under penalty of perjury above vehicle to a licensed auto above address and from whom it	y address indicated above. y under the laws of the State of Ari transporter or common carrier wh have received a bill of lading. (So	zona, that I have delivered the will deliver the vehicle to the Notice above.)	
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To be completed by purchaser or purchasers

PUNCHASER'S NAME (PLEASE PRINT): (612) KI	epresentative NAME	DRIVER'S LICENSE NO.:	STATE:
ADDRESS:			
CITY STATE ZIP:			
PURCHASER CERTIFICATION:			1
	ry under the laws of the State o		
delivery of the above vehicle a ourchased for use outside of Ar	at the delivery address indicated	on page 1, and that the	nis vehicle is
or one outside of Ar	izona.		
GNATURE OF PURCHASER OF REPRESENTATIVE			
GNATURE OF PURCHASERIOR DEPRESENTATIVE		DATE OF DELIVERY	
ON TONE OF TONO POEMOTIVE TREBETTATIVE		DATE OF DELIVERY	
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ate of ounty of this day of (PURCHASER OR REPRESENTATIVE)	— ∦ s be an o s Notary —, 20, before me personally app _, whose identity was proved to me o e person whose name is subscribed t	eared NOTAR	Y SEAL.

SELLER: Remit a copy of this form, and all other executed Form 5010's, to the Arizona Department of Revenue on a quarterly basis. Attach the associated Form 5011 or Form 5012 to each Form 5010 submitted. (See TPP 08-1 and Form 5010Q).

Mail to:

NONRESIDENT MOTOR VEHICLE PROGRAM - TPT AUDIT DIVISION ARIZONA DEPARTMENT OF REVENUE 1600 W. MONROE, ROOM 620 PHOENIX, AZ 85007

DELAYED DELIVERY FORM

Customer Name:

Check One		Estimated Date of Delivery
-	Purchased by phone. Will not be in AZ to sign papers until later date. Earnhardt's will store until delivery out of AZ.	
	Purchased and cannot take delivery until a later date. Earnhardt's will store until we can return for delivery out of AZ. Customer Signature:	
	Purchased waiting for Service repairs to be completed before delivery out of AZ. RO#:	
	4. Vehicle stored at Earnhardt's awaiting transport company to pick up and deliver to customer.	
NOTE:	This form is necessary when there are 3 or more days the Buyer's Order date and the Delivery date.	s between
	on provided by: Finance Mgr) Print Name	
	Signature	
Date:		