

# **VIT: Eliminating the Confusion**

By Michael W. Dunagan

Few dealer-compliance issues in Texas raise more questions than how to handle collecting and paying vehicle inventory tax (commonly referred to as VIT). Since VIT was instituted in 1994, this tax has raised more than its share of questions. A little background is helpful in understanding the “why” as well as the “how.”

Actually, VIT is not a separate tax. VIT is rather a method of placing a value on a dealer’s inventory for the purpose of calculating the amount owed on a tax that has been around for a very long time – the ad valorem or property tax.

Local governments have always been dependent on taxing their citizens to pay for the public services they offer, such as fire and police protection, schools, hospitals and road maintenance. One source of revenue is the sales tax charged by merchants on certain goods and services, which is then remitted to the state and redistributed to local taxing authorities. Motor vehicle sales tax is different in that it goes only to the state and county.

Another mainstay of local government revenue is the ad valorem tax. As the name implies, it is based on the value of property owned by taxpayers. Real estate is a good example of the kind of property taxed under the ad valorem system. Businesses also pay ad valorem tax on the value of their non real estate hard assets: equipment, fixtures, furniture and inventory. Typically, a business is responsible for reporting to the county appraisal district the value of its assets each year.

For most wholesale and retail businesses, inventory is a rather difficult asset to value. After all, inventory is constantly changing. New items come in, old items go out. And if, for whatever reason, a business decided to keep inventory low at a given times during the year, and high at others, it becomes even more difficult to place an accurate value on the inventory. For example, a retail merchant who usually keeps 200 units in inventory might decide to have only 50 units on January 1.

If the merchant happens to be a car dealer, he might be inclined to move some of his inventory units out of the county at the end of the year, or he might just slow down on ordering new units and sell his inventory down. If the appraiser knows that the dealer usually keeps more units, it may try to raise the value of the inventory to more than just the value of the units on hand on January 1. A dealer's ability to manipulate the timing of inventory on hand, and the creativity of appraisers in defeating such manipulation had, before VIT was established, created a huge cat-and-mouse game of hide the inventory. Valuation protests and litigation over the valuation of a dealer's inventory had become commonplace

It was just this problem that the VIT was created to cure. By tying the taxable value of inventory to prior sales, rather than physical units on hand, lawmakers sought to make the inventory valuation process on motor vehicles easier to enforce. From the perspective of car dealers – especially new car dealers – VIT offered a sweetener: the prospect of being able to attribute the amount of VIT owned to each vehicle sold and the ability to pass that amount on to buyers as a contract expense item.

Under the VIT scheme of things, dealers who make retail sales are required to comply with the state's special motor vehicle inventory appraisal procedures. By February 1 of

each year, dealers are required to file a “Dealer’s Motor Vehicle Inventory Declaration” with the county’s chief appraiser and file a copy with the county tax collector. The declaration form is issued by the state comptroller and should be available from the comptroller’s property tax division or the county appraiser’s office.

Additionally, dealers must file monthly reports with the county tax collector by the tenth of each month listing all sales for the prior month. Property taxes based on amount of retail sales prices must be paid with the statement. A special account is kept for each dealer by the tax collector. If, at the end of the year, when each taxing unit has established its tax rate, the dealer’s account is short of the necessary funds, a year-end statement will be sent. However, if the dealer’s account has a surplus, the surplus is kept and shared by the taxing authorities.

A fairly complicated formula is used to calculate the amount of inventory tax that is owed. First, the aggregate county tax rate (the total of tax rates from all taxing authorities within which the dealer’s lot is located) is calculated. By dividing this number by 12, the unit property tax value factor is determined (this will be a percentage). This factor is then multiplied by the sales price of each vehicle to determine the tax attributable to each vehicle sold. It is the total of the tax attributable to all retail sales for the reporting month that must be paid by the tenth day of the next month. While wholesale sales, fleet sales with a fleet permit, sales of trucks over 16,000 pounds, and repeat sales of the same vehicle in a calendar year are exempt from this tax, they must be listed on the monthly report.

Fortunately, most dealer software packages include VIT calculation procedures and will actually print out the reports that need to be filed. A dealer with such a system has only to remember to print it out, write a check, and put a stamp on an envelope.

Dealers who sell exclusively to other dealers do not have to make these reports. Their inventories will be valued as all other personal tangible property is valued for tax purposes. But occasional retail sales may trigger the reporting requirements.

### **Pass Through of Tax**

While VIT is actually one component of the dealer's ad valorem tax, state law allows dealers to pass on to retail buyers the unit tax attributable to that sale. The charge on a retail contract for the tax should be disclosed as "dealer inventory tax" and not misrepresented as a charge required by law or as the "buyer's inventory tax." While the VIT charge can be passed on to buyers, the law does not require that a dealer do so. In fact, the law is neutral on the issue, and an attempt to convince a buyer that the tax is a mandatory charge required by law to be added to the contract is incorrect and actionable. Addition of the tax on the contract is a negotiable item and a dealer can refuse to sell to a buyer who refuses to have it included. Conversely, a buyer can refuse to sign a contract that has it in.

### **Subsequent Sales Exemption**

A vehicle that has been repossessed or returned and is resold within the same calendar year as the first sale is exempt from the tax. Thus, the tax should not be charged to the

buyer and should not be paid with the monthly report. A subsequent sale of the same vehicle that occurs in the next calendar year will be subject to the tax.

The failure to comply with the dealer inventory tax law could subject a dealer to substantial fines for each day's violation. Additionally, the Motor Vehicle Division has refused to renew dealer licenses for retail dealers who are not listed in a county's dealer inventory tax list. Dealers who are required to file dealer inventory tax reports but who have failed to do so can expect to have their dealer licenses suspended or revoked.

Information about dealer inventory tax can be obtained from the State Comptroller's property tax division. Copies of the declaration form can be obtained from the county tax collector or the county appraisal district.