

**New York State Sales Tax Treatment of Payments Made Under the
Federal Consumer Assistance to Recycle and Save Act of 2009 (CARS Act)**

On June 24, 2009, the Federal government enacted the Consumer Assistance to Recycle and Save Act of 2009 (CARS Act). The CARS Act directs the National Highway Traffic Safety Administration (NHTSA) to establish a program to provide incentives to replace vehicles that are not fuel efficient. Under the program, a payment is provided by the Federal government when an owner of a vehicle meeting statutorily specified criteria turns in that vehicle and purchases or leases a new vehicle meeting certain requirements. This memorandum explains how the New York State sales tax applies to the payments made to participating automobile dealers pursuant to the CARS Act.

NHTSA will set up the Cars Allowance Rebate System Program (Program) to administer the provisions of the CARS Act. The Program is intended to encourage consumers to turn in a less fuel-efficient vehicle and purchase or lease a new, more fuel-efficient vehicle. Under the Program, consumers will not receive vouchers or money directly from the government. Instead, participating automobile dealers will credit the applicable payment amount against the cost of purchasing or leasing an eligible new vehicle and then apply to NHTSA for reimbursement. NHTSA will then reimburse dealers for the amount of the credit through an electronic transfer of funds, provided the agency determines that all program requirements are met. Payment amounts will be either \$3,500 or \$4,500, depending on the type of vehicle being turned in and the type of new vehicle being purchased.

When a consumer purchases an eligible new vehicle under the Program, the consumer and the participating dealer will negotiate the purchase or lease price for the new vehicle. Once the price is established, the consumer will pay the purchase price to the dealer, less the amount that the Federal government will pay to the dealer under the Program on behalf of the consumer. The consumer will also turn in the old vehicle to the dealer.

Any vehicle turned in under the CARS Act is required to be destroyed and cannot be resold, with certain exceptions for sales of vehicle parts. Therefore, transactions qualifying under the Program will not involve a negotiated trade-in value for the vehicle being turned in. Instead, the consumer receives the benefit of the Program payment amount credited against the negotiated purchase price of the new vehicle. The dealer is then reimbursed by NHTSA for the Program payment amount allowed as a credit against the new vehicle's purchase price. The Program payment amount is given in addition to any other rebates or discounts advertised by the dealer or offered by the new vehicle's manufacturer.

Under these circumstances, when a dealer sells or leases a vehicle under this program to a New York resident, the dealer must collect state and local sales or use tax based on the full amount of the sale or lease price. Because payments under the CARS program represent partial payment for the purchase of an eligible new vehicle, those payments constitute receipts from the sale of tangible personal property and are thus subject to sales tax. The dealer's acceptance of

the vehicle turned in by the consumer is required by the Program and is not in part payment of the new vehicle's purchase price because the dealer receives full payment for the new vehicle in the form of cash from the consumer and the Program payment amount from the Federal government. However, any separate credit given by the dealer to the consumer for the scrap value of the vehicle being turned in that actually reduces the overall purchase or lease price of the new vehicle would be allowed as a reduction in the total receipt subject to sales tax.

Example: Individual X wishes to turn in his older, inefficient car for a new fuel-efficient model. Individual X goes to Dealer ABC and negotiates to purchase the new car for a price of \$24,800. The transaction qualifies for a CARS Program credit of \$4,500. In addition, the manufacturer of the new car is offering a rebate of \$2,000, and Dealer ABC is offering its own purchase discount of \$1,000. The terms of the transaction provide that the manufacturer's rebate is retained by Dealer ABC. Lastly, Dealer ABC gives Individual X a credit of \$300 against the negotiated price of the new car for the scrap value of the old car being turned in. The transaction is computed as follows:

<i>Purchase price:</i>	<i>\$24,800</i>
<i>Less - dealer discount:</i>	<i>1,000</i>
<i>Less - scrap value credit:</i>	<i>300</i>
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<i>Balance subject to sales tax:</i>	<i>\$23,500</i>
<i>Sales tax due at 8%:</i>	<i>1,880</i>
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<i>Subtotal:</i>	<i>\$25,380</i>
<i>Less - manufacturer's rebate:</i>	<i>2,000</i>
<i>Less - CARS Program payment:</i>	<i>4,500</i>
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<i>Net balance due:</i>	<i>\$18,880</i>

For more information on the CARS Program visit NHTSA's official Web site, www.cars.gov.

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.