



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

January 15, 1958

Hon. Robert S. Calvert  
Comptroller of Public Accounts  
Capitol Station  
Austin, Texas

Opinion No. WW-338

Re: Whether the Motor Vehicle  
Sales Tax levied by  
Article 7047K, V.C.S.,  
applies where an auto-  
mobile dealer secures  
a motor vehicle from a  
manufacturer to be used  
by a salesman for demon-  
stration purposes when  
no consideration is  
involved?

Dear Mr. Calvert:

In your letter request you submit to us the following  
question:

"Where an automobile dealer has secured  
a vehicle from the manufacturer and has the  
manufacturer's certificate and wishes to let  
a salesman have the vehicle to use for demon-  
stration purposes, and no consideration was  
involved, would the tax be due?"

Section 3 (b) of Article 7047K, V.C.S., provides:

"The term 'retail sale' or 'retail sales'  
as herein used shall include all sales of motor  
vehicles except those whereby the purchaser  
acquires a motor vehicle for the exclusive  
purpose of resale and not for use."

Article 7047K only levies the tax upon a "sale" of  
a motor vehicle. If the transfer of the motor vehicle to the  
automobile dealer constitutes a "sale" the tax will apply as  
you state the motor vehicle is to be used for "demonstration  
purposes." The dealer did not acquire same for the exclusive  
purpose of resale, but acquired it for use, that is for use  
as a demonstrator. Attorney General's Opinion O-3742. How-  
ever, you state that "no consideration was involved." This  
being true there was not a "sale" involved. Even if the  
transaction could be termed a sale, no tax would be due for

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the simple reason that 1.1% of the sale price--which is nothing--amounts to a tax of .0000.

S U M M A R Y

The motor vehicle sales tax levied by Article 7047K, V.C.S., does not apply to transactions where an automobile dealer, without a consideration, acquires a motor vehicle from a manufacturer to be used as a demonstrator.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By *W. V. Geppert*  
W. V. Geppert  
Assistant

WVG:gs

APPROVED:

OPINION COMMITTEE

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REVIEWED FOR THE ATTORNEY GENERAL

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