



## Ohio Administrative Code

### Rule 5703-9-36 Sales and use tax, negative equity in motor vehicle sales and leases.

Effective: September 23, 2017

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(A) "Negative equity" is a term applied when a motor vehicle purchaser is trading in a vehicle with a current value that is less than the amount owed on the existing loan for that vehicle. For example, a customer trades in a motor vehicle to a dealer in connection with the purchase of another vehicle. The dealer allows a five thousand dollar trade-in credit towards the purchase of the second vehicle, but the customer still owes seven thousand dollars on the existing loan. The negative equity amount is two thousand dollars.

(B) A motor vehicle dealer may state the amount of negative equity several ways on a retail buyer's agreement. How the trade-in allowance, negative equity, or loan payoff amount is displayed on the retail buyer's agreement determines if it is part of the total vehicle price paid for the newly acquired vehicle and subject to sales tax. If the negative equity amount is included by the dealer in the total vehicle price, it will be included in the base on which sales tax must be charged. If it is not included in the total vehicle price, the negative equity amount will not be included in the calculation of sales tax.

(C) The examples below will show several situations involving the application of Ohio sales and use tax to sales of motor vehicles when the purchaser is trading in a vehicle with negative equity. All examples will involve the same assumed facts: A dealer is selling a motor vehicle to a purchaser for the negotiated cash price of twenty-five thousand dollars; the purchaser is trading in a vehicle; the dealer allows the purchaser a trade-in credit of five thousand dollars towards the purchase of the newly acquired motor vehicle; the trade-in vehicle has an outstanding loan balance of seven thousand dollars; the negative equity amount is two thousand dollars; the consumer has consented to include the negative equity amount as part of the current transaction; documentary fees are assumed to be two hundred fifty dollars; title fees are assumed to be fifteen dollars. The applicable tax rate, for the purpose of the examples is assumed to be seven per cent.

To reflect the difference in the treatment of trade-in vehicles when determining the amount subject to sales tax, the examples are given both as a purchase of a new vehicle and as a purchase of a used



vehicle. (Note: for purposes of these examples only, all figures, including tax, have been rounded to the nearest dollar.) For the examples involving sales of new vehicles, sales tax is calculated by subtracting the applicable trade-in allowance from the total vehicle price to arrive at a "tax base." The "tax base" is multiplied by the applicable sales tax rate, seven per cent in each example. Calculation B in each example reflects this calculation. For the examples involving sales of used vehicles, sales tax is calculated on the total vehicle price as Ohio law does not allow a deduction from price for the value of a trade-in.

Example 1: In this example, the dealer includes the negative equity amount in the total vehicle price. In this example, the negative equity is itemized. However, whether the negative equity is separately itemized or simply reflected in the base vehicle price (See example 2 below), when negative equity is added to the base vehicle price, it is subject to the tax.

#### Example 1a: New Vehicle Transaction

Base Vehicle Price	\$25,000
Negative Equity	\$ 2,000
Doc Fee	\$ 250
Total Vehicle Price	\$27,250

Total Vehicle Price	\$27,250
Trade-in Allowance	(\$ 5,000)
Tax Base	\$22,250
Tax @7.00%	\$ 1,558

Total Vehicle Price	\$27,250
Tax	\$ 1,558
Title Fee	\$ 15
Total Due/Amount Financed	\$28,823

#### Example 1b: Used Vehicle Transaction



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Base Vehicle Price	\$25,000
Negative Equity	\$ 2,000
Doc Fee	\$ 250
Total Vehicle Price	\$27,250

Total Vehicle Price	\$27,250
Tax @ 7.00%	\$ 1,908

Total Vehicle Price	\$27,250
Tax	\$ 1,908
Title Fee	\$ 15
Total Due/To Be Financed	\$29,173

Example 2: In this example, the dealer increases the base vehicle price by the negative equity amount. Unlike example 1, the negative equity amount is not separately itemized. However, as noted in example 1, the result would be the same if the negative equity were itemized separately before calculating the total vehicle price. The dealer in this example also increases the trade-in allowance to the full amount of the consumers outstanding loan balance (seven thousand dollars).

2a: New Vehicle Transaction

Base Vehicle Price	\$27,000 (includes \$2,000 negative equity without itemization)
Doc Fee	\$ 250
Total Vehicle Price	\$27,250

Total Vehicle Price	\$27,250
Trade-in Allowance	(\$ 7,000) (increases allowance by \$2000 to offset negative equity)
Tax Base	\$20,250
Tax @7.00%	\$ 1,418



Total Vehicle Price	\$27,250
Tax	\$ 1,418
Title Fee	\$ 15
Total Due/To Be Financed	\$28,683

### 2b: Used Vehicle Transaction

Base Vehicle Price	\$27,000
Doc Fee	\$ 250
Total Vehicle Price	\$27,250

Total Vehicle Price	\$27,250
Tax @ 7.00%	\$ 1,908

Total Vehicle Price	\$27,250
Tax	\$ 1,908
Title Fee	\$ 15
Total Due/To Be Financed	\$29,173

Example 3: In this example, the dealer does not include the negative equity amount in the total vehicle price. Rather, the negative equity is shown as an additional amount due to a third party (perhaps financed) after the computation of the total vehicle price.

### 3a: New Vehicle Transaction

Base Vehicle Price	\$25,000
Doc Fee	\$ 250
Total Vehicle Price	\$25,250

Total Vehicle Price	\$25,250
Trade-in Allowance	(\$ 5,000)
Tax Base	\$20,250



Tax @7.00%	\$ 1,418
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Total Vehicle Price	\$25,250
Tax	\$ 1,418
Title Fee	\$ 15
Negative Equity (Amounts Paid To Others)	\$ 2,000
Total Due/To Be Financed	\$28,683

### 3b: Used Vehicle Transaction

Base Vehicle Price	\$25,000
Doc Fee	\$ 250
Total Vehicle Price	\$25,250

Total Vehicle Price	\$25,250
Tax @ 7.00%	\$ 1,768

Total Vehicle Price	\$25,250
Tax	\$ 1,768
Title Fee	\$ 15
Negative Equity (Amounts Paid To Others)	\$ 2,000
Total Due/To Be Financed	\$29,033

(D) In the case of a motor vehicle lease, if the lease agreement includes an amount for negative equity or a payoff for a previous loan or lease, that amount is part of the total amount paid by the lessee and is part of the price and subject to sales and use tax.