

Vermont Insurance Division

BULLETIN 58: Vermont Purchase and Use Tax - Settlement of Auto Total Loss

April 7, 1982

For the purposes of Regulation 79-2, the phrase applicable taxes relating to Automobile Physical Damage and Property Damage Liability total losses, is intended to embrace the following:

1. With respect to a First-Party Physical Damage Total Loss, the insurance company is only required to pay the insured for any actual lost Purchase and Use Tax, resulting from a covered loss and by virtue of which the insured is: (a) compelled to forfeit or incur the loss of existing credit for Purchase and Use Tax; or (b) incur the added expense of additional Purchase and Use Tax due to involuntary up-grading of replacement.

This recognizes that the Department of Motor Vehicles does not grant credit for any previous Purchase and Use Tax paid, if a replacement vehicle is not registered within 90 days after the transfer or termination of the registration of the totaled vehicle. The likelihood of involuntary up-grading instances remains remote; but possible.

If the insured voluntarily replaces the totaled vehicle within such 90 day period with one of greater value, i.e., unnecessary up-grading, the insured must incur the additional Purchase and Use Tax liability; this is not intended to be covered under most contemporary automobile Physical Damage Policies. (However, if the insured's policy provides (replacement cost) coverage for such an up-grading, the additional Tax liability must be paid by the insurance company. Few of these replacement cost type policies are presently being written.)

Conversely, if the insured voluntarily replaces the totaled vehicle with one of lesser value, there is no obligation on the part of the insurance company to pay the insured for the loss of any portion of the tax previously paid on the damaged vehicle being replaced (i.e., due to the inability to obtain a refund from the Department of Motor Vehicles for the resulting overpayment of such Tax).

2. With respect to a Third-Party Property Damage Liability claim for a totaled vehicle, the phrase applicable taxes includes the loss of any Purchase and Use Tax, or portion thereof, which was paid by, is payable by, or was otherwise creditable to the claimant and which is an item of actual damage or loss attributable to the act(s) or omission(s) of the negligent party. Naturally, comparative negligence could offset the liability for payment.

The detailed circumstances which are sometimes involved with total losses to vehicles (e.g., out-of-state taxes) may require additional examination and considerations. Nonetheless, this Bulletin should provide ample general guidelines for determining the amount of payment for (loss or liability for) the payment of applicable taxes.

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COMMISSIONER OF BANKING AND INSURANCE