**Memorandum**

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| **Identifying Information:** | **When a motor vehicle domiciled and operated in Kansas must obtain Kansas registration.** |

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| **Tax Type:** | **Vehicles** |
| **Brief Description:** | **When a motor vehicle domiciled and operated in Kansas must obtain Kansas registration.** |
| **Keywords:** |  |

**Body:**

**M E M O R A N D U M**

TO: Law Enforcement Personnel and County Treasurers  
  
FROM: Department of Revenue, Legal Services  
  
  
It has been requested that the Kansas Department of Revenue issue an opinion as to when a motor vehicle domiciled and operated in Kansas must obtain Kansas registration.  
  
The relevant Kansas statutes are as follows:  
  
Subsection (n) of K.S.A. 1986 Supp. 8-126 defines the term “owner” as:

“A person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the “owner” for the purpose of this act.” (emphasis supplied)

Subsection (a) of K.S.A. 1986 Supp. 8-127 provides in pertinent part:

“Every owner of a motor vehicle . . . . intended to be operated upon any highway in this state, whether such owner is a resident of this state or another state or such motor vehicle. . . . is based in this state or another state shall, before any such vehicle is operated in this state, apply for and obtain registration in this state under the provisions of K.S.A. 8-126 to 8-149, inclusive, and acts amendatory thereof of supplemental thereto, except as otherwise provided by law or by any interstate contract, agreement, arrangement or declaration made by the director of vehicles. . .” (emphasis supplied)

K.S.A. 8-138a states:

“The provisions of this section shall apply only to the nonresident “owner” or “owners” of any motor vehicle constructed and operated primarily for the transportation of the driver or the driver and one or more nonpaying passengers. Such nonresident owners, when duly licensed in the state of residence, are hereby granted the privilege of operation of any such vehicle within this state to the extent that reciprocal privileges are granted to residents of this state by the state of residence of such nonresident owner. (emphasis supplied)

To determine if a motor vehicle must be registered in Kansas, the first step is to ascertain who the “owner” of the vehicle is. Under the above statute, the owner is either:  
  
1. The legal “title holder”, unless any of the following apply:

a. The “conditional purchaser”, if there is an agreement for a conditional sale with the right of

Purchase and immediate possession upon the agreed upon conditions being met; or

b. The “lessee”, if the lease is 30 days or more, and the lessee has an immediate right to possess

the vehicle. (The lessee is the person who leases the vehicle from the lessor.); or

c. The “holder of a security interest” who is entitled to possession. (i.e. the lienholder who

repossess after a default.)

After the “owner” of the vehicle is ascertained, the second step is to determine the residency of such owner. If the “owner” (i.e. title holder, conditional purchaser, lessee or security interest holder) is a Kansas resident, then such person must register the vehicle within the time frame allowed for in the attached Reciprocity list, which differs depending upon which state the person formerly resided in. If the “owner” (i.e. title holder, conditional purchaser, lessee or security interest holder) is not a Kansas resident, then the “owner” does not have to obtain Kansas registration, even though such vehicle may be domiciled in Kansas.  
  
The following scenarios will illustrate some of the more common situations which may be encountered:  
  
1. A person is the legal title holder of a vehicle and lives in Kansas

- The vehicle must be registered in Kansas. The “owner” is a Kansas resident.

2. A person is the legal title holder of a vehicle, lives in California, and “loans” the vehicle to

someone else (friend, relative, etc.), who lives in Kansas, and who drives the vehicle  
in Kansas for several years.

- The vehicle does not have to be registered in Kansas. The “owner” is a California resident,

not a Kansas resident, and thus under the statute, is entitled to have the vehicle operated in  
Kansas until such time as the “owner” (not driver) becomes a Kansas resident.

1. A person lives in Kansas, is the legal title holder of a vehicle and “loans” the vehicle to a

relative, friend, etc. who lives and operates the vehicle in California.

- The vehicle must be registered in Kansas. The “owner” is a Kansas resident.  
  
1. The legal title holder of a vehicle is a Missouri Company, which entrusts the vehicle to an

employee who lives, works and drives the vehicle in Kansas.

- The vehicle does not have to be registered in Kansas. The “owner” (Missouri Company)

is a Missouri resident, not a Kansas resident.

1. A person that lives in Kansas leases a vehicle from a Texas leasing company, that is the legal

title holder of the vehicle.

- The vehicle must be registered in Kansas. The “owner” (the lessee) is a Kansas resident.

Even though the Texas leasing company (the lessor) is the legal title holder, the lessee is  
the “owner” because under the statute the lessee supersedes the title holder as “owner”.

1. A Missouri Company leases a vehicle from a Texas leasing company, which is the legal title

holder of the vehicle and the Missouri Company entrusts the vehicle to one of its employees,  
who lives, works and operates the vehicle in Kansas.

- The vehicle does not have to registered in Kansas. The “owner” is the Missouri Company,

and not a Kansas resident.

1. A person that lives in Kansas and a person that lives in Missouri are both listed as co-legal

title holders of the vehicle.

- The vehicle must be registered in Kansas. One of the “owners” is a Kansas resident.  
  
1. A person who lives in Kansas and a person who lives in Missouri are both listed on the lease

of a vehicle which is leased from a Missouri leasing company that is the legal title holder of  
the vehicle.

- The vehicle must be registered in Kansas. One of the “owners” (lessees) is a Kansas resident.  
  
I hope the above scenarios will illustrate how some of the more common registration problems should be handled. However, if a situation arises which is not covered in the illustrations above, please feel free to contact me for any assistance I may be able to provide.  
  
  
Sincerely,  
  
Mark A. Burghart  
  
By: Mark E. Wettig  
  
Attorney  
Legal Services Bureau  
  
  
MAB:MEW:psp  
  
  
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