

MOTOR VEHICLE: TAX: BASIS FOR COMPUTING: Motor Vehicle registration tax must be based upon base price as listed on window sticker. Minn. Stat. § 168.013.

632e-1

August 18, 1994

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In your memorandum to Attorney General Hubert H. Humphrey, III, you present substantially the following:

FACTS

The Department of Public Safety, Driver and Vehicle Services Division (DVS) administers the motor vehicle registration tax provision in Minn. Stat. § 168.013, subd. 1a (1992). The tax is predicated on the vehicle's base value. DVS determines motor vehicle base values by referring to price lists provided by manufacturers for their vehicle models. These price lists include a category labeled "MSRP," or Manufacturer's Suggested Retail Price, assigned to each vehicle model. Each vehicle model is also described by a portion of the Vehicle Identification Number (VIN), hereinafter referred to as "VIN identifier," which is also included on the price lists. The VIN is a federally standardized motor vehicle identification system. DVS uses the VIN identifiers to administer the registration tax provisions by identifying vehicles according to their VIN identifiers and assigning the corresponding MSRP as the base value.

For most vehicles, different MSRPs are accompanied by different VIN identifiers, so using VIN identifiers to identify base values and administer the registration tax program is a simple matter. However, some manufacturers cluster different vehicle configurations under the same VIN identifier and assign each vehicle a different MSRP. The vehicles usually differ in configurations of engine type, transmission type, body type variations, standard equipment packages and/or available options. When multiple MSRPs are provided for vehicles with the same VIN identifier, administration of the registration tax program becomes very difficult. Moreover, under each of these VIN identifiers, DVS has considered all of the different configurations with their different MSRPs to be tax exempt equipment separately added to the same base vehicle, which base vehicle was intended to be the object of the taxable base value. Therefore, DVS uses each VIN identifier's lowest MSRP for the base value.

You then ask substantially the following:

QUESTION

Does Minn. Stat. § 168.013, subd. 1a(b) permit DVS to assign the lowest Manufacturer's Suggested Retail Price (MSRP) for each Vehicle Identification Number (VIN) identifier category as the motor vehicle's "base value" for purposes of the annual registration tax?

OPINION

We answer your question in the negative.

Minn. Stat. § 168.013, subd. 1a(a) sets the annual motor vehicle registration tax at "\$10 plus an additional tax equal to 1.25 percent of the base value." Section 168.013, subd. 1a(b) defines "base value":

'base value' means the manufacturer's suggested retail price of the vehicle including destination charge as reflected on the price listing affixed to the vehicle in conformity with United States Code, title 15, sections 1231 to 1233 (Public Law Number 85-506) or otherwise suggested by the manufacturer or determined by the registrar if no suggested retail price exists, and shall not include the cost of each accessory or item of optional equipment separately added to the vehicle and the suggested retail price.

Thus, in order to determine whether DVS' practice complies with this statute, two interrelated questions must be answered:

- (1) What is the "manufacturer's suggested retail price" (MSRP); and
- (2) What are "accessor[ies] or item[s] of optional equipment separately added to the vehicle and the suggested retail price."

Section 168.013, subd. 1a(b) is unambiguous in stating that the MSRP is found on the price listing affixed to the vehicle in conformity with 15 U.S.C. §§ 1231-1233, which is commonly referred to as the window sticker. The window sticker must be affixed to the new vehicle by the manufacturer prior to the delivery of the vehicle to any dealer. 15 U.S.C.

§ 1232. The price listing requirements for the window sticker are found in 15 U.S.C.

§ 1232(f), which states that the following information must be disclosed:

- (1) the retail price of such automobile suggested by the manufacturer;
- (2) the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment, physically attached to such automobile at the time of its delivery to such dealer, which is not included within the price of such automobile as stated pursuant to paragraph (1);
- (3) the amount charged, if any, to such dealer for the transportation of such automobile to the location at which it is delivered to such dealer;
- (4) the total of the amounts specified pursuant to paragraphs (1), (2), and (3).

15 U.S.C. § 1232(f). [Emphases added.]

Thus, several different prices are found on the window sticker, as reflected on the attached window sticker for a 1994 Jeep Cherokee Country: a base price, prices for separately listed options, a transportation or destination charge, and a total price. See Exhibit A.

In our opinion, the price listed pursuant to 15 U.S.C. § 1232 (f)(1) (the "base price" on Exhibit A) is the MSRP referred to in Minn. Stat. § 168.013, subd. 1a(b). It is readily apparent that neither section 1232(f)(2) nor section 1232(f)(3) are MSRPs. That leaves a choice between section 1232(f)(1) and section 1232(f)(4). In our judgment, section 1232(f)(1) is the MSRP for several reasons.

First, the parallel language and structure of the statutes suggests that section 1232(f)(1) is the state's definition of MSRP. Section 168.013, subd. 1a(b) refers to "manufacturer's suggested retail price." The identical words are simply reordered in section 1232(f)(1) as "retail price . . . suggested by the manufacturer." This language is not found in section 1232(f)(4). Also, neither the state definition of MSRP nor section 1232(f)(1) include the accessories and options. Indeed, the identical language is used to describe these separately listed cost items in section 1232(f)(2) and their exemption from the MSRP in

subdivision 1a(b), i.e., "each accessory or item of optional equipment." These items' inclusion in the section 1232(f)(4) price but exclusion from both the state MSRP and section 1232(f)(1) suggests that the latter two refer to the same MSRP.

Second, the federal legislative history supports the above interpretation. It refers to section 1232(f)(1) as the "suggested price of the car," and to section 1232(f)(4) as the "total manufacturer's suggested retail price" (emphasis added). 1958 U.S. Code Cong. and Adm. News, p. 2903.

Third, if the MSRP were section 1232(f)(4), it would not have been necessary to separately specify the transportation or destination charges in subd. 1a(b), because they are already included in section 1232(f)(4).

Fourth, a parsing of the statutory language leads to the conclusion that the separately added items exempt from state tax are the section 1232(f)(2) items. As noted before, the state exemption language and section 1232(f)(2) are very similar, with each bracketed portion having its counterpart in the other statute: "[each accessory or item of optional equipment] [separately added] [to that vehicle] [and the suggested retail price]" (subd. 1a(b)) almost certainly refers to "[each accessory or item of optional equipment], [physically attached to such automobile at the time of its delivery to such dealer, which is not included within the price] [of such automobile] [as stated pursuant to paragraph (1)]" (section 1232(f)(2)). Note that the counterpart to the "suggested retail price" in subd. 1a(b) is the price in "paragraph (1)" i.e., section 1232(f)(1), referenced in section 1232(f)(2). Importantly, the counterpart to the "separately added" language is the portion referring to items attached to the vehicle at delivery but not included in the base price. Also, even though the equipment categorized by the manufacturers as optional came from the factory attached to the vehicle, they are nevertheless separately listed by the manufacturers on the window sticker. As a result, they are separately

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added to the section 1232(f)(1) base price, just as are the items listed pursuant to section 1232(f)(2) when computing the total pursuant to section 1232(f)(4).

The options are also not included in the manufacturers' own price list MSRPs. Although the different price list MSRPs reflect the different vehicle configurations of engine type, transmission type, body type variations and/or available options, analysis of the price lists indicates that their MSRPs do not include equipment categorized by the manufacturer as options but which are in fact added to the vehicle at the factory. Thus, they appear to be "separately added" to the vehicle. Since the options are separately added to both the vehicle and to the section 1232(f)(1) price, the section 1232(f)(1) price is the "suggested retail price" referenced at the end of section 168.013, subd. 1a(b). It should also therefore be the "manufacturer's suggested retail price" referenced at the beginning of section 168.013, subd. 1a(b), which is the base value when combined with the destination charge.

The fifth reason why the MSRP in section 168.013, subd. 1a(b) is the section 1232(f)(1) price is that the different model configurations of standard equipment are included in the section 1232(f)(1) price listed on the window sticker. The standard features are also included in the MSRPs on the manufacturer's price list which become the window sticker MSRPs. They are not "separately added" to a base vehicle and to the suggested retail price as required under section 168.013, subd. 1a(b) for exemption from tax.

Because the exempt equipment must be "separately added" to the vehicle and the suggested retail price, and the suggested retail price refers to the section 1232(f)(1) price reflected on the window sticker, all equipment included in the section 1232(f)(1) price is included in the base value and subject to the tax. The standard equipment in their various configurations are included in the section 1232(f)(1) price and are thereby part of the base value and subject to the tax.

Finally, the manufacturer's price list MSRP, which DVS has used as the MSRP under subd. 1a(b), appears to be the same actual dollar amount as the section 1232(f)(1) price on the window sticker. For the Jeep, the section 1232(f)(1) or base price of \$19,366 is nearly identical to the MSRP of \$19,266 on the manufacturer's price list for the model code corresponding with the VIN identifier (J78). See Exhibits A and B. The \$100 difference is probably due to a mid-year price hike (the price list is dated August, 1993 and the window sticker was provided in March, 1994).

All of these foregoing factors lead to the conclusion that the MSRP in section 168.013, subd. 1a(b) refers to the price listed on the window sticker pursuant to section 1232(f)(1), or the "base price." The "base value" under Minn. Stat. § 168.013, subd. 1a(b) is, therefore, the 15 U.S.C. § 1232(f)(1) price plus the destination charge. It does not include accessories or options listed pursuant to section 1232(f)(2) or added at the dealer.

Also for these reasons, DVS' practice of using the lowest MSRP for each VIN identifier on the manufacturer's price list conflicts with section 168.013, subd. 1a(b). The MSRP must be listed on the window sticker. It appears from the available information and from the foregoing analysis that each of the several MSRPs under the same VIN identifier are listed as their own section 1232(f)(1) base prices on the window stickers for the respective vehicles. Therefore, each of these several MSRPs represent different base values for registration tax purposes.

DVS has suggested that the Legislature intended only to tax the more basic, pre-multiple-standard configuration vehicle, and, to capture some of the value of various combinations of extra equipment, added \$10 and 1/4% to the original proposal of 1% of base value. This may be the case; the legislative history is bare. However, the statutory scheme set in place does not leave room to accommodate DVS' proposed definitions of extra or added equipment, tied as it is to the federal law. Nor does the state statute permit adjustments to

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accommodate the administrative problems now apparent in using VIN identifiers to identify the base value and tax. To the extent that the VIN identifiers do not capture the information necessary to administer the registration tax, the administration system must be modified to comply with the statute.

Very truly yours,

HUBERT H. HUMPHREY III
Attorney General

RONALD S. LATZ
Assistant Attorney General

Jeep *117 11403*

CHEROKEE COUNTRY

1994 MODEL YEAR

VEHICLE DESCRIPTION

JEOP CHEROKEE 4WD 4DR COUNTRY
 Exterior Color:
 -UNTER GREEN METALLIC
 Interior Trim & Color: CHARCOAL
 FABRIC BUCKET SEATS
 Power Window:
 4.0 LITRE "POWER TECH SIX" ENGINE
 4 - SPEED AUTOMATIC TRANSMISSION

STANDARD EQUIPMENT INCLUDED AT NO EXTRA CHARGE (UNLESS REPLACED BY OPTIONAL EQUIPMENT)

- *COMMAND-TRAC PART-TIME SHIFT ON THE FLY 4WD SYSTEM
- *EXTRA QUIET INSULATION
- *FRONT AND REAR GAS SHOCK ABSORBERS
- *HALOGEN HEADLAMPS
- *CHAMPAGNE OR ARGENT LOWER BODY CLADDING
- *DUAL REMOTE CONTROL BREAKAWAY MIRRORS
- *ROOF RACK
- *15X7 ALUMINUM LATTICE WHEELS
- *P225/70 R15 OWL EAGLE GA TIRES
- *RECLINING WINGBACK CLOTH FRONT BUCKET SEATS
- *CLOTH FOLDING REAR SEAT WITH REMOVABLE CUSHION
- *AM/FM STEREO WITH FOUR JENSEN SPEAKERS & CLOCK
- *TINTED GLASS
- *FULL FLOOR CONSOLE W/ ARMREST, STORAGE AND CUPHOLDER
- *CHILD PROTECTION LOCKS - REAR DOORS
- *INTERMITTENT WINDSHIELD WIPERS
- *REAR WINDOW WIPER/WASHER
- *SPARE TIRE COVER
- *FRONT FLOOR MATS WITH CARPET INSERTS
- *LIGHT GROUP
- *LEATHER WRAPPED COLOR KEYED STEERING WHEEL

WARNING: This vehicle contains CFC-12, a substance which harms public health and environment by destroying ozone in the upper atmosphere.

Assembly Plant of Origin: TOLEDO, OHIO, U.S.A. Form 34-319-1006 (1/90)



PRICE INFORMATION

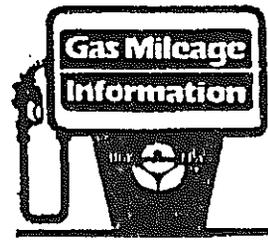
MANUFACTURER'S SUGGESTED RETAIL PRICE OF THIS MODEL INCLUDING DEALER PREPARATION

← **BASE PRICE FOR THIS MODEL: \$ 19,368.00** →

COUNTRY PACKAGE #26H	
* AIR CONDITIONING	
* TILT STEERING	
* SPEED CONTROL	
* AM/FM CASSETTE E.T. RADIO	
COUNTRY PACKAGE TOTAL	\$ 1,389.00
H.D. ALTERNATOR/BATTERY GROUP	NO CHARGE
POWER GROUP - 4-DOOR	\$ 532.00
* POWER WINDOWS & LOCKS	
* KEYLESS ENTRY	
4-WHEEL ANTI-LOCKING BRAKES	\$ 599.00
4-SPEED AUTOMATIC TRANSMISSION	\$ 897.00
"SELECT TRAC" 4WD	\$ 354.00
REAR WINDOW DEFROSTER	\$ 151.00
DUAL ELECTRIC REMOTE MIRRORS	\$ 100.00
FOG LAMPS	\$ 110.00
NO CHARGE AIR CONDITIONING	-\$ 838.00
TOTAL VEHICLE & OPTIONS	\$ 22,772.00
DESTINATION CHARGE	\$ 495.00
TOTAL BEFORE DISCOUNT	\$ 23,267.00
JEOP DISCOUNT	-\$ 575.00
← TOTAL PRICE: *	\$ 22,692.00 →

Compare this vehicle to others in the FREE GAS MILEAGE GUIDE available at the dealer.

CITY MPG
15



HIGHWAY MPG
19

Actual mileage will vary with options, driving conditions, driving habits and vehicle's condition. Results reported to EPA indicate that the majority of vehicles with these estimates will achieve between 12 and 18 mpg in the city, and between 16 and 22 mpg on the highway.

1994 CHEROKEE 4WD 8 CYL. 4.0L (242 CID), MULTIPOINT FUEL INJECTION, 4-SPEED AUTOMATIC TRANS. W/ LOCKUP TORQUE CONVERTER, FEEDBACK FUEL SYSTEM.

Estimated Annual Fuel Cost: \$ 1125

For Comparison Shopping, all vehicles classified as SPECIAL PURPOSE have been issued mileage ratings ranging from 12 to 28 mpg city and 14 to 29 mpg highway.

Exhibit A



THIS VEHICLE HAS THE OWNER'S CHOICE PROTECTION PLAN

770
POWERTRAIN OR
336

BUMPER-TO-BUMPER
See Limited warranty on dealer's literature and restrictions apply.



Jeep

CHRYSLER CORPORATION
1994 MODEL YEAR
JEEP
EFFECTIVE JULY 29, 1993

<u>JEEP</u>	<u>MODEL CODE</u>	<u>MANUFAC. SUGGESTED RETAIL PRICE</u>	<u>DESTINATION CHARGE</u>
WRANGLER: 'S' SE	YJL77 w/2_A,2_B Y1 Y2	\$11,390 ✓ 14,545 ✓	\$495 495
CHEROKEE: 2DR 2WD - SE w/2_D, 2_E - SPORT w/2_G, 2_H - COUNTRY	XJTL72 T 27 T 67 T 77	12,827 ✓ 14,984 ✓ 16,771 ✓	495 495 495
4DR 2WD - SE w/2_D, 2_E - SPORT w/2_G, 2_H - COUNTRY	XJTL74 T 28 T 68 T 78	13,837 ✓ 15,994 ✓ 17,781 ✓	495 495 495
2DR 4WD - SE w/2_D, 2_E - SPORT w/2_G, 2_H - COUNTRY	XJL72 J 27 J 67 J 77	14,312 ✓ 16,469 ✓ 18,256 ✓	495 495 495
4DR 4WD - SE w/2_D, 2_E - SPORT w/2_G, 2_H - COUNTRY	XJL74 J 28 J 68 J 78	15,322 ✓ 17,479 ✓ 19,266 ✓	495 495 495
2-Dr. RHD 2WD 4-Dr. RHD 2WD	XJUL72 XJUL74 B - 7 B - 8	16324 ✓ 17334 ✓	495 495
2-Dr. RHD 4WD 4-Dr. RHD 4WD	XJBL72 XJBL74 N - 7 N - 8	17809 ✓ 18819 ✓	495 495
GRAND CHEROKEE 2WD SE	ZJTL74 X 6	21,156 ✓	495
4X4 SE LIMITED	ZJL74 w/2_G Z 6 Z 7	22,096 ✓ 29,618 ✓	495 495

Exhibit B