



State of Georgia

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## Department of Revenue

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### ANNOUNCEMENT CONCERNING TEMPORARY OPERATING PERMITS AND ELECTRONIC TITLE AND REGISTRATION

**MARCH 30, 2012**

The purpose of this announcement is to provide important information concerning fees and sales tax to dealerships participating in the Temporary Operating Permit (“TOP”) program and the Electronic Title and Registration (“ETR”) program.

#### **FAQ:**

**Can a dealership charge a fee to a customer when it issues a TOP in conjunction with the sale of an automobile?**

No. According to O.C.G.A. § 40-2-8(b)(2)(B)(i), TOPs “shall be issued without charge or fee therefore.”

**Can dealerships charge customers for ETR services?**

Yes. Unlike with TOPs, there is no law preventing dealerships from charging customers a fee for ETR services.

**Does a dealership need to add ETR service fees to the taxable “Sale Price” for the purpose of determining how much sales tax is due?**

Generally, only sales of tangible personal property are subject to sales tax; services are generally not taxable. However, where the transaction involves both the sale of tangible personal property *and* a service, the service *may* be taxable. It depends on whether the services are “necessary to complete the sale.”<sup>1</sup>

When determining what services are “necessary to complete the sale” and therefore required to be included in the taxable sale price, the Department has traditionally

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<sup>1</sup> O.C.G.A. § 48-8-2(34).

viewed **optional services** as separate from the taxable sale of tangible personal property. When the dealer requires customers to pay the ETR fee as a mandatory part of the automobile sale, the dealer must include the ETR fee in the sale price and collect sales tax. However, if the customer is not obligated to purchase ETR services when purchasing an automobile but has the option of purchasing the ETR service, the Department will treat the ETR fees as non-taxable service fees as long as the ETR fees are separately stated on the customer's invoice.

**What if a dealership mistakenly either charged a fee for TOPs or did not collect sales tax on a mandatory ETR service?**

For dealerships that were unaware of these rules, the Department will provide a good faith harbor through April 15, 2012. However, any violation occurring after this date may be pursued by the Department.

**To what extent may a dealership charge for services under a “doc fee”?**

The Department does not regulate the “doc fee” or other charges for dealer value-added services such as ETR.

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