



Arkansas Insurance Department

Mike Huckabee, Governor

Mike Pickens, Commissioner

BULLETIN NO. 02-2002

March 5, 2002

TO: ALL LICENSED AUTOMOBILE, AND PROPERTY AND CASUALTY INSURERS, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: PAYMENT OF SALES TAXES ON A TOTAL LOSS WHEN A FIRST PARTY CLAIMANT RETAINS SALVAGE

Questions have arisen related to an insurer's obligation to pay a sales tax when a first party claimant elects to have an actual cash value (ACV) settlement and retain salvage on a vehicle which has been determined to be a total loss.

The Department refers the insurers and other interested parties to Arkansas Insurance Department Rule and Regulation 43 § 10 (a). Rule 43 § 10 (a) states:

(a) When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one (1) of the following methods must apply:

(1) The insurer may elect to offer a replacement automobile which is a specific comparable automobile available to the insured. All applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile must be paid at no cost to the insured other than the policy deductible. The offer and any rejection thereof must be documented in the claim file.

(2) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile, including all applicable taxes, license fees and other fees actually incurred incident to transfer of evidence of ownership of a comparable automobile. Such cost may be determined by.

It is the Department's position that should the first party claimant elect a cash settlement on the actual cash value of the vehicle following a total loss, and the first party claimant desires to retain the salvage on the vehicle, the insurer is required to pay the first party claimant's sales tax for the purchase of a comparable automobile. The current wording in Rule 43 § 10 (a) is such that in either settlement option listed in that subsection, there is a requirement by the insurer to pay sales tax to the first party claimant, regardless of whether or not the claimant retains salvage on the vehicle. It is the Department's further interpretation that in determining the measure of damages in cases where the first party claimant retains the salvage on the vehicle, the settlement on the value of the vehicle which also include the fees, taxes, and costs referred to in Rule 43 § 10 (a) may be reduced by the value of the retained salvage, less the deductible. Also note that in the event there is a total loss of an automobile, under Ark. Code Ann. § 23-89-211(a), the insurer must include with the payment an itemized list stating the amount attributable to the value of the automobile and the amount attributable to the sales tax on an automobile of that value.

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