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MEMORANDUM

TO: Jeff Flora, Southwestern Association  
FROM: Jack Selzer and Jon Bunten  
DATE: November 20, 2009  
SUBJECT: Texas Statutes Regulating the Sale and Use of  
ATVs and UTVs/Worksite Vehicles

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Jeff,

Below are the questions you posed regarding Texas law on the sale and use of ATVs and UTVs/Worksite Vehicles and our answers to your questions. Please let us know if you have any questions or need any clarifications.

1. **Q:** *Does a Dealer have to have a license to sell an ATV and/or a Utility/ worksite Vehicle?*

**A:** Yes.

- V.T.C.A. Occupations Code Section 2301.001 et seq. requires all "motor vehicle" dealers to obtain a license from the Texas Department of Motor Vehicles.
- "Motor Vehicle," as used in Occupation Code Section 2301.001 et seq. is defined as "a fully self-propelled vehicle having two or more wheels that (i) has as its primary purpose the transport of a person or persons or property; (ii) is not manufactured for use on public streets, roads or highways, and (iii) has been issued a certificate of title."
- ATVs and utility vehicles meet this definition.
- ATV and utility vehicle dealers must obtain a license to sell the vehicles.

2. **Q:** *Is an ATV and a UTV/worksite vehicle classified as a motor vehicle?*

- **A:** Yes. According to V.T.C.A., Transportation Code §501.002(14)(D) the definition of "Motor Vehicle" includes all-terrain vehicle and recreational off-highway vehicle.

3. **Q:** What is the definition by law of an ATV and a UTV?

**A:**

ATV (a.k.a. All Terrain Vehicles)

- All Terrain Vehicles are defined in V.T.C.A., Transportation Code §663.001 and V.T.C.A., Transportation Code §502.001(1) as a motor vehicle that is:
  - Equipped with a saddle for the use of the rider(s);
  - Designed to propel itself with 3 or 4 tires in contact with the ground;
  - Designed by the manufacturer for off-highway use by the operator only; and
  - Not designed by the manufacturer for farming or lawn care.

UTV (a.k.a. Utility Terrain Vehicle)

- UTVs are not defined by Texas Statutes. However, Texas Statutes define Recreational Off-Highway Vehicle.

Recreational Off-Highway Vehicle

- Recreational Off-Highway Vehicles are defined in V.T.C.A., Transportation Code Section 502.001(19-a) as a motor vehicle that is:
  - Equipped with a non-straddle set for the use of the rider(s);
  - Designed to propel itself with four or more tires in contact with the ground;
  - Designed by the manufacturer for off-highway used by the operator only; and
  - Not designed by the manufacturer primarily for farming or lawn care.

4. **Q:** Does the sale of a new or used ATV or UTV/worksite vehicle to a producer who will utilize the unit in production of ag qualify for the ag exemption?

**A:** Yes.

- The general agriculture exemption is contained in V.T.C.A. Tax Code §151.316.
- Under the ag exemption, machinery and equipment used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of (A) food for human consumption, (B) grass, (C) feed for animal life; or (D) other agricultural products to be sold in the regular course of business is exempt from tax.
- The Texas Comptroller of Public Accounts clarified in a Tax Information dated February 2008 that ATVs that are used exclusively for the production of agriculture (such as spraying crops or feeding cattle) will qualify for the exemption.
- In order to qualify, the purchaser must complete an exemption certificate in full.

5. **Q:** Does the buyer have to register and title the ATV or UTV?

**A:** Title: Yes

Register: No

- According to V.T.C.A. Transportation Code §501.023, the owner of a motor vehicle must apply for a certificate of title.
- According to V.T.C.A., Transportation Code §501.002(14)(D) the definition of Motor Vehicle includes all-terrain vehicle and recreational off-highway vehicle.
- Therefore, ATVs and recreational off-highway vehicles must be titled.

- However, V.T.C.A. Transportation Code §502.006 provides that ATVs and off-highway recreational vehicles cannot be registered for operation on a public highway.

6. Q: *If [the answer to 5 is] yes – does this apply to both ag exempt sales and non-exempt sales?*

A.: Yes.

7. Q: Other Issues

A: