

FAQs

What is Assembly Bill 85 (AB 85)?

This bill will require any dealer, except a new motor vehicle dealer, to pay applicable sales tax to the Department of Motor Vehicles (DMV) within 30 days from date of sale for any vehicle sold at retail on or after January 1, 2021. The Department of Motor Vehicles will then transmit all sales tax collections to California Department of Taxation and Fee Administration (CDTFA).

The full text of the bill can be found [here](#).

What is Assembly Bill 82 (AB 82)?

This bill requires the Department of Motor Vehicles, through the adoption of regulations, to establish any additional requirements for the implementation of AB 85 and would prohibit a dealer from participating in the sale of a used vehicle without complying with the provisions described above.

The full text of the bill can be found [here](#).

What's the background on AB 85? What's the purpose?

The purpose of the bill is to increase revenue without increasing taxes, by requiring used dealers to remit sales taxes in conjunction with the registration of the vehicle versus paying taxes on a quarterly basis. The bill was passed and signed by the Governor on June 29, 2020.

When do these bills go into effect?

January 1, 2021.

Note: Please see additional details below in regard to the DMV's [proposed rules](#) related to a phased implementation approach to understand if your used vehicle dealership will likely need to comply with AB 85 on January 1, 2021 or at a later date.

I've heard that AB 85 will have a phased implementation... can you explain what that means?

The Department has established [proposed rules](#) for a phased-in approach to requiring used vehicle dealers to remit sales tax for each transaction to the DMV. The proposed rules would require a predetermined group of used vehicle dealers to begin reporting and submitting

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sales tax per transaction to the DMV on January 1, 2021, and the remainder of used vehicle dealers to begin reporting and submitting per-transaction sales tax on January 1, 2023.

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What used vehicle dealers are included in each phase of the implementation plan?

The [proposed rules](#) for the phased-in approach indicate that, in consultation with the California Department of Tax and Fee Administration (CDTFA), the DMV determined that dealers at a higher risk of failing to pay taxes, dealers who are relatively new to the used vehicle sales industry, and dealers who do not work with a business partner will benefit from additional oversight and should remit sales tax per transaction to the DMV starting on January 1, 2021. Specifically, the dealers that would need to comply with AB 85 on January 1, 2021, are in one of the four categories listed below:

1. The dealer has been licensed by the DMV for less than two consecutive years.
2. The dealer's Seller's Permit was reinstated after it was cancelled, suspended, revoked or voluntarily surrendered (anytime) within the last two years.
3. The dealer had an understatement of tax reporting from the California Department of Tax and Fee Administration (anytime) within the last two years.
4. The dealer does not participate in the department's Business Partner Automation program, as provided in Article 3.6.

The DMV is still determining how this bill will roll out to dealers. If they decide to do a phased approach, select dealers who meet the listed criteria will need to comply as of 1/1/2021 and it will roll out to additional dealers through 1/1/2023. If the DMV chooses not to phase the rollout, all used dealers will begin paying tax per transaction on 1/1/2021.

How will I know if I'm impacted by AB 85's phase 1 implementation?

The DMV recently mailed a notification to dealers who will need to comply with the Phase 1 implementation of AB 85. All other used vehicle dealers will need to begin reporting and submitting per-transaction sales tax on January 1, 2023. The DMV's drafted regulations offer more information about their implementation phases.

PROCESS/PRODUCT QUESTIONS

How will AB 85 impact/change my current process for remitting sales tax to CDTFA?

Your current process for remitting sales tax consists of filing returns and making payments directly with California Department of Tax and Fee Administration (CDTFA) on a quarterly basis. Once AB 85 takes effect, you will remit sales tax via the DMV's electronic registration database.

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The sales tax amount will be collected when completing a registration and titling transaction for each sold vehicle, in line with how applicable DMV registration and titling fees are currently collected. If a dealer is presenting their registration application in person at a field office or to a registration service, the dealer must pay sales tax with the application.

Will I need to report anything directly to CDTFA once AB 85 goes into effect?

Yes, you will still need to submit tax reports to CDTFA, regardless of whether you're paying via the registration database or through your current process.

How will I know what the applicable sales tax amount is for the vehicle I sold?

The applicable sales tax amount will be determined by the DMV and will be visible to you as a specific line item in the Total DMV Fees that are returned on the "Inventory & Fees" modal in the Dealertrack Reg & Title application.

How will I pay the sales tax for the vehicle I sold?

The applicable sales tax amount will be collected from you at the time you are processing a registration and titling transaction for the vehicle. This aligns with the way that other DMV fees are collected from you today — that is, Dealertrack will ACH the funds from your bank account on a nightly basis and make those funds available to DMV within the required timeframe.

What if I sell a car on 12/26/20 and don't process the DMV transaction until on or after 1/1/21? Will I have to pay sales tax directly to the department for this vehicle?

No. Sales tax will be remitted to CDTFA for any vehicle sales that occur prior to 1/1/21, just like you do today. AB 85 remittance of sales tax will only apply to vehicles with a sale date of 1/1/21 or later.

What happens if I don't remit sales tax according to the new rules?

The DMV must withhold the registration or transfer of registration of any vehicle sold at retail on or after 1/1/21 until you pay the sales tax to DMV.

If you fail to pay the sales tax, penalties and interest will be applied.

How are leases impacted by this bill?

Leased vehicles are considered sales, so if the dealer is eligible to pay sales tax under AB 85, sales tax will apply.

What if my customer is registering their vehicle in another state?

If your customer purchases and picks up the used vehicle at a California location, tax is due because the customer took possession in California. The tax collected with the Report of Sale document must be mailed to the DMV.

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What types of vehicles are considered “used vehicles” under AB 85?

The following types of vehicles are considered used vehicles: cars, motorcycles, trucks, recreational vehicles/motor homes, and trailers.

Are any types of vehicles excluded from AB 85?

Yes, vehicles that are not operated on public roads or subject to registration are not impacted. This includes off-highway vehicles, vessels, and snowmobiles.

For vehicle sales where a DMV application won't be submitted through BPA, how should the sales tax be remitted to DMV?

Sales tax payments for deals that are not processed through BPA can be mailed or brought into the DMV with the Transmittal sheet, or handled through an IBC.

What Taxable Value/Purchase Price amount should I use in Dealertrack's Reg & Title product to ensure the correct AB 85 sales tax is calculated?

Continue to use the same value that you use today for Taxable Value/Purchase Price. This amount typically does not reflect Smog Certification fees and Document Preparation fees. This amount should continue to be used, and will be the amount needed to calculate the appropriate AB 85 sales tax amount.