



Is Your Dealership Charging The Correct DMV Fees?

Almost every recent lawsuit we see alleges the dealership incorrectly charged the plaintiff for DMV fees and failed to provide a refund. Quite often the allegations are partially true. Many dealerships are grossly overestimating charges for Vehicle License Fees (VLF) and under estimating charges for Registration/Title/Transfer Fees on the standard Retail Installment Sale Contract (RISC). You should know what these fees are, how they are determined, and how to properly collect them from your customers.

RISC Line 2A

VLF is the portion of a consumer's registration fee that is tax deductible. VLF is an annual fee on the ownership of a registered vehicle in California in place of personal property tax. It is based on **.65%** of the market value of the vehicle (the RISC "cash price") and should be listed on line 2A of the RISC only. This line is separately itemized partly so a consumer can write it off for tax purposes.

Pursuant to the California Vehicle Code and case law, this amount can be estimated and should be identified as "estimated" on the RISC. (See Vehicle Code § 11713.4 and *Bermudez v. Fulton Auto Depo, LLC* (2009), 179 Cal. App. 4th 1318.) The **.65%** amount is based on the Revenue and Taxation Code § 10752. (See DMV Registration Procedures Manual, Section 3.075) Many dealerships believe VLF should be based on 2% of the market value and many DMS software programs are set at this amount. However, the 2% value is an old rate that changed on January 1, 2005! You should check your DMS program to make sure your settings are at or close to **.65%**.

RISC Line 2B

Registration/Title/Transfer Fees should be listed on line 2B of the RISC only. These various fees should include any current registration amounts due, the \$15.00 registration transfer fee due for a used vehicle, CHP fees, and all the other miscellaneous fees for the various funds, counties and districts. This amount should never be zero or "N/A" for the sale of a used vehicle since the \$15.00 registration transfer fee is always due. (See Vehicle Code § 9255) However, the amount should usually be more than \$15.00 due to the various other fees the dealership must collect from the consumer. If all your RISCs list \$15.00 on line 2B for a used car sale, your dealership is improperly estimating Registration/Title/Transfer Fees. This is a red flag for consumer attorneys! This line can also be estimated and therefore it is recommended that you insert "estimated" on this line as well. The online DMV Fee calculator can be used to estimate these amounts.

Collection of Penalties

The DMV Registration Procedures Manual (REG 611) states that dealerships can charge consumers for any penalties that accrued before the vehicle came into their inventory. (See Section 3.035) However, the DMV strongly recommends that you disclose to the consumer that you are collecting the penalties. Most consumers become angry when they learn that they have been charged penalties that accrued before they purchased the vehicle. As a general rule, most dealerships we work with do not collect penalties from their customers and consider this an overhead expense.

Refunds Are Mandatory

A dealership is required to provide refunds for any overestimated DMV Fees. (Vehicle Code § 11713.4) The Vehicle Code does not provide a time deadline, thus a court would infer they must be refunded within a reasonable period of time. The standard industry practice for most dealerships is to reconcile and refund DMV payments every thirty days. Consumer attorneys argue that if the consumer is overcharged for VLF, you must refund the customer this amount even if the consumer still owes you for Registration/Title/Transfer Fees. There is no case law directly on point. The standard industry practice is to provide a refund based on the total amount paid to DMV. Further, we have defeated these claims at the trial court level and in arbitration. Judges and arbitrators have found that providing a refund on VLF when other DMV fees are owed by the consumer would likely result in a windfall to the consumer. Further, refunding

overestimated VLF then collecting the same amount and more is simply a ministerial act with no actual damage to the consumer. Regardless, the best practice is to make sure you are charging as close to the correct amounts as possible and timely refunding any overcharged amounts.

Is There a Remedy for “Fee Lumping”?

Due to the onslaught of litigation over mislabeling the fees charged on Lines 2A and 2B (called “fee lumping”) of the RISC, the Rees-Levering Automobile Sales and Finance Act was amended in 2012. The amendment precluded a customer from seeking rescission (cancellation) of his contract for this technical violation. As a result, some dealerships might believe this is no longer a concern. However, consumer attorneys allege that “fee lumping” still entitles them to causes of action under the CLRA for an injunction and for other causes of action such as breach of contract, Bus. & Prof. Code Section 17200 claims, and fraud especially when refunds are not provided. For this reason, it is important to itemize these items correctly to avoid litigation and to provide the appropriate refunds.

Michael C. Rogers, Esq.
Representing the automotive industry since 1995

[Mike's Bio](#)