

GREAT EXCHANGE – RATES AND VEHICLES: BUYING A VEHICLE FROM THE U.S. TO BRING TO CANADA

In less time than it takes to get a coffee at a Tim Horton drive-through during the morning rush, a Canadian could be *legally* driving their U.S. purchased vehicle in Canada. In as little as five minutes¹, the entire Canadian Border process could be completed over the counter at any one of the many Canadian Ports of Entry (border crossings). It's much simpler than you may think and the savings could be substantial.

What's involved?

KNOW BEFORE YOU GO!

Doing a little homework could result in substantial savings. As the Canadian dollar's buying power continues to increase relative to the U.S. dollar, buying a U.S. pre-owned vehicle might be a smart choice. Knowing what to expect could make the drive into Canada smooth and painless; failing to do what's required could mean driving back to the U.S. with a vehicle that cannot be registered in Canada.

GENERALLY

NAFTA (North American Free Trade Agreement) allows Canadians to import passenger vehicles from Mexico and the U.S. *duty free*. To qualify for this duty free status, these vehicles must meet Canada Border Services Agency (CBSA) and Transport Canada requirements and must be manufactured in the U.S. or Mexico. Whether a vehicle is purchased domestically or from the U.S., GST/HST and provincial/territorial taxes will be required for vehicle registration, plating and insuring.

THE VENDOR: DUTIES AND RESPONSIBILITIES:

Vendors may be Licensed Dealers or individuals. A Licensed Vendor's obligations when selling a vehicle to a non-resident are no different than when selling a vehicle to a U.S. resident, save for collecting/remitting State taxes, plating (permanently) the vehicle and complying with franchise agreements regarding territorial restrictions. The private individual can merely sign over Title to the vehicle and the buyer is on his own – remember the saying “buyer beware.”

The Dealer-Vendor may wish to assist the Canadian buyer by securing two items: Recall Clearance Letter and Title/Ownership documentation.

A recall clearance letter states that there are no outstanding recalls/defects on your vehicle. The recall letter may be come from either the manufacturers head office or the vendor (only authorized dealers no re-sellers) and must be on company letterhead. This letter must include the author's address, the signor's title and authority, the VIN of the purchased vehicle, and say “this vehicle has no outstanding recalls.”

While clear title is not a prerequisite for either the Canadian or U.S. authorities, any financing that may be secured in the U.S. by the Canadian buyer would have to be well documented and be readily apparent that the financing is related to the Canadian buyer and the vehicle.²

¹ Telephone Conversation with Canada Customs, Ambassador Bridge, Windsor, Ontario, dated March 21, 2006.

² Telephone Conversation with CBP, Ambassador Bridge, Detroit, Michigan, dated March 21, 2006.

Additionally, the U.S. Department of Homeland Security – Custom Border Patrol (CBP) will want to see a letter executed by the secured party (lien holder) authorizing that the vehicle may leave the U.S. clear title, on the other hand, (especially important when purchasing the vehicle from a private individual) would alleviate any concerns related to other parties other than the U.S. vendor and the Canadian buyer.

DUTIES AND RESPONSIBILITIES OF THE CANADIAN (CITIZEN OR PERMANENT RESIDENT): WHAT YOU SHOULD KNOW AND DO FOR A SMOOTH DRIVE ACROSS THE BORDER

Before purchasing a U.S. vehicle, the buyer should do their homework. Know before you go. The buyer should make sure that the vehicle they wish to purchase is recognized as importable under Canada's Registrar of Imported Vehicle (RIV) regulations and what it will cost to retrofit the vehicle to comply with the Transport Canada's safety and emission regulations (it may be as simple as daytime running lights).

Before buckling up for their drive back to Canada, the buyer will need to have submitted Title to CBP at the Port of Entry where they wish to cross. At least seventy-two hour before crossing, the buyer may fax a copy of the title documents advising CBP that they will be exporting a vehicle to Canada. At this point, they should also have Provincial Insurance on the vehicle. Before driving to Canada, the buyer will stop on the U.S. side of the border crossing and present CBP with the original title, the faxed letter and their other documents for inspection. Having checked that the vehicle is not stolen, and that any lien holders have authorized the export, CBP will stamp the title with "FOR EXPORT."

Once on the Canadian side of the border crossing, the buyer will present their documents for inspection. In as little as five minutes, a Canadian Customs Agent will have you driving in Canada.

Armed with their title, "FOR EXPORT" stamp, Title documents (Original Certificate of Title, sales receipt, clear title or lien holder letter authorizing export) the Canada Customs Agent will complete the necessary paperwork and collect the buyer's nonrefundable provincial Registrar of Imported Vehicles' fee of \$209³ (\$224 in Quebec) and GST. Ensuring that your vehicle complies with Transport Canada's List of Vehicles Admissible from the United States and verifying that all your documentation matches (they also check the Red Book to ensure that the Receipted purchase price is consistent with the vehicle's value – and may require GST to be paid on the basis of the Red Book value), Form 1 will be issued to the buyer (which must be kept in the vehicle until the vehicle is licensed in the Province). A buyer may use their personal exemption (up to \$750 CAN if they were outside of Canada for seven or more days) to reduce the value of the vehicle for GST purposes.

The buyer may now drive into Canada with Form 1 as their proof of ownership for Canadian purposes. Within ten to fifteen days, the buyer will receive a package from RIV with an inspection document (Form 2) detailing what must be done to bring the vehicle into compliance for Provincial registration.

Daytime running lights are required on vehicles registered in Canada. Unless the imported vehicle has this feature, the buyer will have to complete this and other necessary modifications within forty-five days of importation so that it may pass Transport Canada's federal inspection (Canadian Tire has been contracted by the RIV to perform this inspection). The buyer should have Form 1, Form 2, the Clearance Letter and all receipts for parts and labor performed to the

³ If the vehicle is 15 years or older, the RIV is waived.

vehicle. Upon passing the federal inspection (a new Canadian Certification label will be mailed within seven days), Form 1 will be stamped and the buyer may then present to the provincial/territorial licensing authority.

PAYING TAXES – WHEN IS ENOUGH, ENOUGH?

There is no doubt that the Canadian buyer will be paying provincial and GST (at the Canadian border); the question is, however, whether they will also have to pay U.S. State taxes. Michigan's laws require that a Vendor-Dealer collect taxes on the sale of a vehicle to a consumer. While there are reciprocity provisions as between states, the Secretary of State for Michigan was quick to point out that unless the vehicle is delivered outside of Michigan, the Michigan Dealer-Vendor is required to collect tax.⁴ Placing the vehicle with a shipping or trucking company (where they act as the buyer's export/import agent) or having the dealer delivering the vehicle to the U.S. border crossing could comply with the State laws.

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WEBSITES AND PHONE NUMBERS:

- CBP = U.S. Department of Homeland Security – Customs Border Patrol – Ambassador Bridge, Detroit: 313-963-4408
- CBSA = Canada Border Services Agency – <http://www.cbsa-asfc.gc.ca> (1-800-461-9999 or 506-636-5064 (outside Canada))
- Michigan Department of State – <http://www.michigan.gov/sos> (517-322-1460)
- RIV = Registrar of Imported Vehicles – <http://www.riv.ca> (1-888-848-8240 or 416-626-1803 (outside Canada))
- Transport Canada – <http://www.transportcanada.ca> (613-990-2309)

⁴ Telephone Conversation with Michigan's Secretary of State Office, Lansing, Michigan, dated March 21, 2006.