

HOUSE BILL NO. 1201

Introduced by

Representatives Carlson, Huether

Senators Robinson, Wardner

1 A BILL for an Act to create and enact section 57-40.3-02.1 of the North Dakota Century Code,
2 relating to motor vehicle excise tax imposed on motor vehicle leases; and to amend and
3 reenact subsection 5 of section 57-40.3-01, subsection 6 of section 57-40.3-04, and section
4 57-40.3-12 of the North Dakota Century Code, relating to the definition of purchase price,
5 exemptions from motor vehicle excise taxes, and administration of motor vehicle use taxes.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subsection 5 of section 57-40.3-01 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 5. "Purchase price" means the total amount paid for the motor vehicle whether
10 received in money or otherwise; provided, however, that when a motor vehicle or
11 other tangible personal property that will be subject to a sales or use tax imposed
12 by chapter 57-39.2 or 57-40.2 when sold or used is taken in trade as a credit or as
13 part payment on a motor vehicle taxable under this chapter, the credit or trade-in
14 value allowed by the person selling the motor vehicle shall be deducted from the
15 total selling price to establish the purchase price of the vehicle being sold and the
16 trade-in allowance allowed by the seller on a motor vehicle accepted as a trade-in
17 shall constitute the purchase price of a motor vehicle accepted as a trade-in. If a
18 motor vehicle is purchased by an owner who has had a motor vehicle stolen or
19 totally destroyed, a credit or trade-in credit shall be allowed in an amount not to
20 exceed the total amount the purchaser has been compensated by an insurance
21 company for ~~said~~ the loss but not to exceed the total amount of motor vehicle
22 excise tax paid. The purchaser must provide the director of the department of
23 transportation with a notarized statement from the insurance company verifying the
24 fact that the original vehicle was a total loss and stating the amount compensated

1 by the insurance company for the loss. The statement from the insurance
2 company must accompany the purchaser's application for a certificate of title for
3 the replacement vehicle. In instances in which a licensed motor vehicle dealer
4 places into the dealer's service a new vehicle for the purpose of renting, leasing, or
5 dealership utility service, the reasonable value of the vehicle replaced shall be
6 included as trade-in value provided the vehicle replaced has been subject to motor
7 vehicle excise tax under section 57-40.3-02 and if the new vehicle is properly
8 registered and licensed. "Purchase price" when the motor vehicle is acquired by
9 gift or by any other transfer for a nominal or no monetary consideration also
10 includes the average value of similar motor vehicles, established by standards and
11 guides as determined by the director of the department of transportation.
12 "Purchase price" when a motor vehicle is manufactured by a person who registers
13 it under the laws of this state means the manufactured cost of such motor vehicle
14 and manufactured cost means the amount expended for materials, labor, and other
15 properly allocable costs of manufacture except that, in the absence of actual
16 expenditures for the manufacture of a part or all of the motor vehicle, manufactured
17 cost means the reasonable value of the completed motor vehicle.

18 **SECTION 2.** Section 57-40.3-02.1 of the North Dakota Century Code is created and
19 enacted as follows:

20 **57-40.3-02.1. Tax imposed on motor vehicle lease.**

- 21 1. With respect to any lease for a term of one year or more of a motor vehicle with an
22 actual vehicle weight of ten thousand pounds [4535.92 kilograms] or less, all
23 receipts due or consideration given or contracted to be given at the initiation of the
24 lease and for the entire period of the lease, option to renew, or similar provision, or
25 combination thereof, are deemed to have been paid or given and are subject to
26 tax. Any tax due must be collected as provided in section 57-40.3-12 as of the
27 date of first payment under the lease, option to renew, or similar provision, or
28 combination thereof, or as of the date of registration under chapter 39-05.
- 29 2. With respect to any lease for a term of one year or more of a motor vehicle with an
30 actual vehicle weight of ten thousand pounds [4535.92 kilograms] or less, originally
31 leased outside this state and subsequently entering this state for use, any

1 remaining receipts due or consideration to be given after the lessee brings the
2 motor vehicle into this state are subject to tax as if the lessee had entered or
3 exercised the lease, option to renew, or similar provision, or combination thereof,
4 for the first time in this state, notwithstanding section 57-40.3-09.

5 **SECTION 3. AMENDMENT.** Subsection 6 of section 57-40.3-04 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 6. Motor vehicles transferred between a lessee and lessor; provided, that the lessee
8 has been in continuous possession of such vehicle for a period of one year or
9 longer, and further provided that the lessor has paid either the tax imposed under
10 ~~this chapter~~ section 57-40.3-02 at the time of titling or licensing the vehicle in this
11 state or the use tax imposed by chapter 57-40.2.

12 **SECTION 4. AMENDMENT.** Section 57-40.3-12 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **57-40.3-12. Director to act as agent of tax commissioner in administration of**
15 **motor vehicle use tax.** The state tax commissioner is charged with the administration of this
16 chapter. The tax commissioner may prescribe all rules and regulations, not inconsistent with
17 the provisions of this chapter, necessary and advisable for the proper and efficient
18 administration of this chapter. The collection of this motor vehicle excise tax must be carried
19 out by the director of the department of transportation who shall act as the agent of the state tax
20 commissioner and who is subject to all rules and regulations, not inconsistent with the
21 provisions of this chapter, that may be prescribed by the tax commissioner. The provisions of
22 this chapter may not be construed as preventing the collection of motor vehicle excise taxes by
23 the tax commissioner when additional motor vehicle excise taxes are determined by the tax
24 commissioner to be due for a lease, option to renew, or similar provision, or combination
25 thereof, as provided under section 57-40.3-02.1 and in the course of any audit carried on by the
26 tax commissioner. The director of the department of transportation shall furnish sufficient
27 information to the tax commissioner, relating to all license or title applications for mobile homes
28 or housetrailer purchased outside of the state of North Dakota for use in this state, to enable
29 the tax commissioner to collect use tax on such mobile homes or housetrailer.