

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1201
(Representatives Carlson, Huether)
(Senators Robinson, Wardner)

AN ACT to create and enact section 57-40.3-02.1 of the North Dakota Century Code, relating to motor vehicle excise tax imposed on motor vehicle leases; and to amend and reenact subsection 5 of section 57-40.3-01, subsection 6 of section 57-40.3-04, and section 57-40.3-12 of the North Dakota Century Code, relating to the definition of purchase price, exemptions from motor vehicle excise taxes, and administration of motor vehicle use taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

5. "Purchase price" means the total amount paid for the motor vehicle whether received in money or otherwise; provided, however, that when a motor vehicle or other tangible personal property that will be subject to a sales or use tax imposed by chapter 57-39.2 or 57-40.2 when sold or used is taken in trade as a credit or as part payment on a motor vehicle taxable under this chapter, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-in allowance allowed by the seller on a motor vehicle accepted as a trade-in shall constitute the purchase price of a motor vehicle accepted as a trade-in. If a motor vehicle is purchased by an owner who has had a motor vehicle stolen or totally destroyed, a credit or trade-in credit shall be allowed in an amount not to exceed the total amount the purchaser has been compensated by an insurance company for ~~said~~ the loss but not to exceed the total amount of motor vehicle excise tax paid. The purchaser must provide the director of the department of transportation with a notarized statement from the insurance company verifying the fact that the original vehicle was a total loss and stating the amount compensated by the insurance company for the loss. The statement from the insurance company must accompany the purchaser's application for a certificate of title for the replacement vehicle. In instances in which a licensed motor vehicle dealer places into the dealer's service a new vehicle for the purpose of renting, leasing, or dealership utility service, the reasonable value of the vehicle replaced shall be included as trade-in value provided the vehicle replaced has been subject to motor vehicle excise tax under section 57-40.3-02 and if the new vehicle is properly registered and licensed. "Purchase price" when the motor vehicle is acquired by gift or by any other transfer for a nominal or no monetary consideration also includes the average value of similar motor vehicles, established by standards and guides as determined by the director of the department of transportation. "Purchase price" when a motor vehicle is manufactured by a person who registers it under the laws of this state means the manufactured cost of such motor vehicle and manufactured cost means the amount expended for materials, labor, and other properly allocable costs of manufacture except that, in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle, manufactured cost means the reasonable value of the completed motor vehicle.

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

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

1. With respect to any lease for a term of one year or more of a motor vehicle with an actual vehicle weight of ten thousand pounds [4535.92 kilograms] or less, all receipts due or

consideration given or contracted to be given at the initiation of the lease and for the entire period of the lease, option to renew, or similar provision, or combination thereof, are deemed to have been paid or given and are subject to tax. Any tax due must be collected as provided in section 57-40.3-12 as of the date of first payment under the lease, option to renew, or similar provision, or combination thereof, or as of the date of registration under chapter 39-05.

2. With respect to any lease for a term of one year or more of a motor vehicle with an actual vehicle weight of ten thousand pounds [4535.92 kilograms] or less, originally leased outside this state and subsequently entering this state for use, any remaining receipts due or consideration to be given after the lessee brings the motor vehicle into this state are subject to tax as if the lessee had entered or exercised the lease, option to renew, or similar provision, or combination thereof, for the first time in this state, notwithstanding section 57-40.3-09.

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1201.

House Vote: Yeas 96 Nays 0 Absent 2

Senate Vote: Yeas 49 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State