

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1131
(Transportation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact subsection 5 of section 57-40.3-01 and subsection 1 of section 57-40.3-02.1 of the North Dakota Century Code, relating to the motor vehicle excise tax definition of purchase price of a motor vehicle and the tax imposed on motor vehicle leases with nominal consideration; and to provide an effective date.

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 against one or more replacement motor vehicle purchases in a cumulative amount not to exceed the total amount the purchaser has been compensated by an insurance company for the loss ~~but not to exceed the total amount of motor vehicle excise tax paid.~~ For a leased vehicle that is stolen or totally destroyed, the credit may not 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 within three years from the date of issuance 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. If the full amount of the credit under this subsection has not been used, the director of the department of transportation shall record on the face of the notarized statement the necessary information to identify the partial use of the credit and shall retain a copy and return the original to the purchaser. 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. AMENDMENT. Subsection 1 of section 57-40.3-02.1 of the North Dakota Century Code is amended and reenacted as follows:

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. Lease consideration, when all or part of the lease is a gift or other agreement for nominal value, also includes the average value of similar motor vehicle leases established by standards and guides as determined by the director of the department of transportation.

SECTION 3. EFFECTIVE DATE. Section 2 of this Act is effective for motor vehicle leases or options to renew occurring after June 30, 2009.

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 Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1131.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 44 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State