1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1227

By: Roach of the House

and

Long (Lewis) of the Senate

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 2105, which relates to vehicle excise tax exemptions; providing vehicle excise tax exemption for certain vehicles subject to a lease; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2105, is amended to read as follows:

Section 2105. An original or a transfer certificate of title shall be issued without the payment of the excise tax levied by Section 2101 et seq. of this title for:

(a) Any vehicle owned by a nonresident person who operates principally in some other state but who is in Oklahoma only occasionally;

(b) Any vehicle brought into this state by a person formerly living in another state, who has owned and registered said vehicle in such other state of his residence at least sixty (60) days prior to the time it is required to be registered in this state, provided however this paragraph shall not apply to businesses engaged in renting cars without a driver;

(c) Any vehicle registered by the State of Oklahoma, or by any of the political subdivisions thereof, or a vehicle which is the subject of a lease or lease-purchase agreement executed between the person seeking an original or transfer certificate of title for the vehicle and a county. The person seeking an original or transfer certificate of title shall provide adequate proof that

the vehicle is subject to a lease or lease-purchase agreement with a county at the time the excise tax levied would otherwise be payable. The Oklahoma Tax Commission shall have the authority to determine what constitutes adequate proof as required by this section;

(d) Any vehicle, the legal ownership of which is obtained by the applicant for a certificate of title by inheritance;

(e) Any vehicle which is owned and being offered for sale by a person licensed as a dealer in used motor vehicles or parts, under the provisions of Section 1101 et seq. of Title 47 of the Oklahoma Statutes:

(1) If such vehicle has been registered in Oklahoma and the vehicle excise tax paid thereon; or

(2) When such vehicle has been registered in some other state but such vehicle is not the latest manufactured model.

Provided, the provisions of this subsection shall not be construed as allowing an exemption to any person not licensed as a used motor vehicle dealer or automotive dismantler and parts recycler in this state;

(f) Any vehicle which was purchased by a person licensed to sell new or used motor vehicles in another state:

(1) If such vehicle is not purchased for operation or resale in this state; and

(2) The state from which the dealer is licensed offers reciprocal privileges to a dealer licensed in this state, pursuant to a reciprocal agreement between the duly authorized agent of the Oklahoma Tax Commission and the licensing state;

(g) Any vehicle, the ownership of which was obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided by law or to the insurer under subrogated rights arising by reason of loss under an insurance contract;

(h) Any vehicle which is taxed on an ad valorem basis;

(i) Any vehicle or motor vehicle, the legal ownership of which is obtained by transfers:

(1) From one corporation to another corporation pursuant to a reorganization. As used in this subsection the term "reorganization" means:

(a) A statutory merger or consolidation.

(b) The acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation.

(2) In connection with the winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation.

(3) To a corporation where the former owners of the vehicle or motor vehicle transferred are, immediately after the transfer, in control of the corporation, and the stock or securities received by each is substantially in proportion to his interest in the vehicle or motor vehicle prior to the transfer.

(4) To a partnership if the former owners of the vehicle or motor vehicle transferred are, immediately after the transfer, members of such partnership and the interest in the partnership received by each is substantially in proportion to his interest in the vehicle or motor vehicle prior to the transfer.

(5) From a partnership to the members thereof when made in the dissolution of such partnership;

(j) Any vehicle which is purchased by a person to be used by a business engaged in renting motor vehicles without a driver, provided:

(1) The vehicle shall not be rented to the same person for a period exceeding ninety (90) days; or

(2) Any such vehicle exempted from the excise tax by these provisions shall not be placed under any type of lease agreement; or

(3) On any such vehicle exempted from the excise tax by this subsection that is reregistered in this state, without a prior sale or transfer to the persons specified in clauses A and B of this subparagraph, at any time prior to the expiration of twelve

(12) months from the date of issuance of the original title, the seller shall pay immediately the amount of excise tax which would have been due had this exemption not been granted plus a penalty of twenty percent (20%). No such excise tax or penalty shall become due and payable if the vehicle is sold or transferred in a condition either physical or mechanical which would render it eligible for a salvage title pursuant to law or if the vehicle is sold and transferred in this state at any time prior to the expiration of twelve (12) months:

A. to the manufacturer of the vehicle or its controlled financing arm, or

B. to a factory authorized franchised new motor vehicle dealer which holds a franchise of the same line-make of the vehicle being purchased; or

(4) When this exemption is claimed, the Oklahoma Tax Commission shall issue a special title which shall restrict the transfer of the title only within this state prior to the expiration of twelve (12) months unless:

A. payment of the excise tax plus penalty as provided in this section is made; or

B. the sale is made to a person specified in clause A or B of paragraph 3 of this section; or

C. the vehicle is eligible for a salvage title.

For all other tax purposes vehicles herein exempted shall be treated as though the excise tax has been paid;

(k) Any vehicle of the latest manufactured model, registered from a title in the name of the original manufacturer or assigned to the original manufacturer and issued by any state and transferred to a licensed, franchised Oklahoma motor vehicle dealer, as defined by Section 1102 of Title 47 of the Oklahoma Statutes, which holds a franchise of the same line-make as the vehicle being registered;

(l) Any new motor vehicle, registered in the name of a manufacturer or dealer of new motor vehicles, for which a license plate has been issued pursuant to Section 1116.1 of Title 47 of the Oklahoma Statutes, if such vehicle is authorized by the

manufacturer or dealer for personal use by an individual. The authorization for such use shall not exceed four (4) months which shall not be renewed or the exemption provided by this subsection shall not be applicable. The exemption provided by this subsection shall not be applicable to a transfer of ownership or registration subsequent to the first registration of the vehicle by a manufacturer or dealer; ~~or~~

(m) Any vehicle of the latest manufacturer model purchased by a franchised Oklahoma motor vehicle dealer which holds a franchise of the same line-make as the vehicle being registered~~.~~; or

(n) Any vehicle which is the subject of a lease or lease-purchase agreement and which the ownership of such vehicle is being obtained by the lessee, if the vehicle excise tax was paid at the time of the initial lease or lease-purchase agreement.

SECTION 2. This act shall become effective July 1, 1993.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-6237 JAF