

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3314

By: Fields

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 2103, as amended by Section 21, Chapter 294, O.S.L. 1997, 2104, as amended by Section 2, Chapter 300, O.S.L. 1992, 2104.1, and 2105, as last amended by Section 7, Chapter 289, O.S.L. 1996 (68 O.S. Supp. 1997, Sections 2103, 2104 and 2105), which relate to vehicle excise tax; providing that motor vehicle excise tax levy applies to new motor vehicles; deleting reference to excise tax applying to transfer of ownership of motor vehicle; deleting definitions; deleting reference to value of used motor vehicles for purposes of excise tax; deleting reference to value of used recreational vehicles for purposes of excise tax; providing exemption from vehicle excise tax for used motor vehicles; 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 2103, as amended by Section 21, Chapter 294, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2103), is amended to read as follows:

Section 2103. A. 1. Except as otherwise provided in Sections 2101 through 2108 of this title, there is hereby levied an excise tax upon the transfer of legal ownership of any new vehicle registered in this state and upon the use of any vehicle registered in this state and upon the use of any vehicle registered for the first time in this state. The excise tax shall be levied at three and one-fourth percent (3 1/4%) of the value of each new vehicle, ~~except~~. However, for any truck or truck-tractor registered under the provisions of subsection A of Section 1133 of Title 47 of the Oklahoma Statutes, for a laden weight or combined laden weight of 54,001 pounds or more, and for any trailer or semitrailer registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes, which is primarily designed to transport cargo over the highways of this state and generally recognized as such, the excise tax shall be Ten Dollars (\$10.00). This exception shall not apply to special mobilized machinery, trailers, or semitrailers manufactured, modified or remanufactured for the purpose of providing services other than transporting cargo over the highways of this state. This exception shall also not apply to pickup trucks, vans, or sport utility vehicles.

2. The tax hereby levied shall be due at the time of the ~~transfer of legal ownership or~~ first registration in this state of ~~such~~ the new vehicle, and shall be collected by the Tax Commission at the time of the issuance of a certificate of title for any such vehicle. ~~In the event an excise tax is collected on the transfer of legal ownership or use of the vehicle during any calendar year, then an additional excise tax must be collected upon all subsequent transfers of legal ownership.~~ The excise tax levied by this section shall be delinquent from and after the thirtieth day after the legal ownership or possession of any vehicle is obtained. Any person failing or refusing to pay the tax as herein provided on or before date of delinquency shall pay in addition to the tax a penalty of

twenty-five cents (\$0.25) per day for each day of delinquency, but such penalty shall in no event exceed the amount of the tax.

B. The excise tax levied in subsection A of this section assessed on all commercial vehicles registered pursuant to Section 1120 of Title 47 of the Oklahoma Statutes, as amended, shall be in lieu of all sales and use taxes levied under Articles 13 and 14 of this title. The transfer of legal ownership of any motor vehicle as used in this section and Articles 13 and 14 of this title shall include the lease, lease purchase or lease finance agreement involving any truck in excess of eight thousand (8,000) pounds combined laden weight or any truck-tractor provided the vehicle is registered in Oklahoma pursuant to Section 1120 of Title 47 of the Oklahoma Statutes or any trailer, semitrailer or open commercial vehicle registered pursuant to Section 1133 of Title 47 of the Oklahoma Statutes, as amended. The excise tax levied herein shall not be subsequently collected at the end of the lease period if the lessee acquires complete legal title of the vehicle.

C. The provisions of this section shall not apply to transfers made without consideration between:

1. Husband and wife;
2. Parent and child; or
3. An individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

D. 1. There shall be a credit allowed with respect to the excise tax paid for a new vehicle which is a replacement for:

- a. a new original vehicle which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vehicle as certified by a police report or other documentation as required by the Commission, or

- b. a defective new original vehicle returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original vehicle as certified by the manufacturer.

2. The credit allowed pursuant to paragraph 1 of this subsection shall be in the amount of the excise tax which was paid for the new original vehicle and shall be applied to the excise tax due on the replacement vehicle. In no event shall the credit be refunded.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2104, as amended by Section 2, Chapter 300, O.S.L. 1992 (68 O.S. Supp. 1997, Section 2104), is amended to read as follows:

Section 2104. A. The value of any new motor vehicle, except manufactured homes, for the purposes of the excise tax levied by Section 2103 of this title, shall be determined as of the time the person applying for a certificate of title thereto obtained either ownership or possession of the vehicle, which shall be presumed to be the actual date of the sale or other transfer of ownership, and assignment of the certificate of title.

B. The value of any new vehicle, except those vehicles subject to the tax levied pursuant to Section 4481 of Title 26 of the United States Code, manufactured in the United States shall be the manufacturer's price of such a vehicle delivered at the factory plus the value of all extra or optional equipment and accessories physically attached to such vehicle at the time of sale and sold as a part thereof minus any portion of the value of such optional equipment and accessories deducted by the dealer at the time of sale if such optional equipment and accessories are sold by the dealer as a discount package. The value of such optional equipment and accessories shall not be less than the manufacturer's suggested retail selling price thereof or the manufacturer's factory price thereof, whichever is the higher. Provided, that as to automobiles

the value of such optional equipment and accessories shall not be less than the manufacturer's suggested retail selling price thereof as shown or listed on the label or sticker required by the Act of Congress known as the "Federal Disclosure of Automobile Information Act" (15 U.S.C.A. Section 1231), which is required to be securely affixed or attached on all new automobiles. A complete list of such extra or optional equipment and accessories showing separately such value of each item thereof or the total price of the discount package shall be furnished by the seller to the purchaser of all new vehicles. The total value of such optional equipment and accessories, minus any portion of such value deducted by the dealer at the time of sale if such optional equipment and accessories are sold by the dealer as a discount package, and the factory delivered price of the vehicle, which total shall be the basis of the motor vehicle excise tax, shall be entered on the bill of sale furnished by the seller to the purchaser, or on such other form as may be prescribed by the Tax Commission. The seller shall also show thereon separately, for license fee rate purposes, the factory delivered price of the vehicle without extra or optional equipment.

C. The value of a new vehicle subject to the tax levied pursuant to Section 4481 of Title 26 of the United States Code shall be, for the purposes of this article, the actual sales price of such vehicle, provided that ~~said~~ the tax has been paid on ~~said~~ the vehicle.

D. The manufacturer's price of a new vehicle manufactured outside of the United States shall, for the purpose of the excise tax levied by Section 2103 of this title, be the value of such model and make of vehicle as determined by the Tax Commission as the gross value of such vehicle at the point or port of entry into the United States, which value shall likewise include the value of all extra or optional equipment and accessories attached to such vehicle minus any portion of the value of such optional equipment and accessories

deducted by the dealer at the time of sale if such optional equipment and accessories are sold by the dealer as a discount package.

E. For purposes of this section, the term "discount package" shall mean optional equipment and accessories physically attached to a vehicle which were selected and packaged together by the manufacturer to be offered for sale at a reduced price. The seller shall deliver to the buyer a copy of the label or sticker required by the Act of Congress known as the "Federal Disclosure of Automobile Information Act" (15 U.S.C.A. Section 1231) indicating a discount package. The buyer shall deliver the copy to the Tax Commission at time of application for title.

~~F. Notwithstanding the definition of the terms "new vehicle" and "used vehicle" to the contrary contained in any other law, the term "new vehicle" as used in this section shall also include any vehicle of the latest manufactured model which is owned or acquired by a licensed used motor vehicle dealer and which has not theretofore been registered in Oklahoma and upon which vehicle an Oklahoma motor vehicle excise tax has not been paid. However, upon the sale or transfer by a licensed used motor vehicle dealer located in this state of any such vehicle which is the latest manufactured model, said vehicle shall be valued as a used vehicle for excise tax purposes.~~

~~G. The value of a used vehicle shall be sixty-five percent (65%) of the new vehicle value of such vehicle, determined (as above provided) for subsequent transfers in the first year and in the second year for which registered and sixty-five percent (65%) of the value of the previous year, so fixed for each successive calendar year for which such vehicle is registered and licensed in this, or any other state, until such vehicle reaches a minimum value of Two Hundred Fifty Dollars (\$250.00). In computing the motor vehicle~~

excise tax, the fees collected shall be rounded to the nearest dollar.

H. G. In computing the motor vehicle excise tax due, the value of all vehicles shall be increased or reduced to the nearest multiple of Fifty Dollars (\$50.00) and for this purpose Twenty-five Dollars (\$25.00) or more shall be considered a major fraction of Fifty Dollars (\$50.00) and shall require an increase to the next nearest multiple of Fifty Dollars (\$50.00).

SECTION 3. AMENDATORY 68 O.S. 1991, Section 2104.1, is amended to read as follows:

Section 2104.1 ~~(a)~~ A. The value of any new recreational vehicle for the purposes of the vehicle excise tax levied by ~~the Vehicle Excise Tax Code, Chapter 361, Oklahoma Session Laws 1963 (Article 21 of Title 68, O.S. Supp. 1969)~~ Section 2103 of this title, shall be determined as of the time the person applying for a certificate of title thereto obtained either legal ownership or possession of the recreational vehicle, which shall be the actual date of the sale or other transfer of legal ownership, which date shall be shown ~~by the assignment on the certificate of title, or in the case of a new recreational vehicle,~~ on the manufacturer's certificate or statement of origin, and by the assignment on the application for registration, required to be furnished by the new recreational vehicle dealer for use by the purchaser. The value of a new recreational vehicle for vehicle excise tax purposes shall be the manufacturer's price of such a recreational vehicle delivered at the factory. ~~The value of a used recreational vehicle shall be sixty-five percent (65%) of the manufacturer's price of such recreational vehicle delivered at the factory for subsequent transfers for the first year and for the second year and sixty-five percent (65%) of the value of the previous year so fixed for each successive year for which such recreational vehicle is registered and licensed in this or any other state, until such recreational~~

~~vehicle reaches a minimum value of Two Hundred Fifty Dollars (\$250.00).~~

~~(b) B.~~ The excise tax collected on the sale or transfer of new recreational vehicles shall be apportioned in accordance with the provisions of Section 2102 of ~~Section 2, Chapter 361, Oklahoma Session Laws of 1963, as renumbered by Section 3, Chapter 215, O.S.L. 1965 (68 O.S. Supp. 1969, Section 2102)~~ this title.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 2105, as last amended by Section 7, Chapter 289, O.S.L. 1996 (68 O.S. Supp. 1997, 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:

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

2. Any vehicle brought into this state by a person formerly living in another state, who has owned and registered ~~said~~ the 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;

3. Any vehicle registered by the State of Oklahoma, by any of the political subdivisions thereof, or by a fire department organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes to be used for the purposes of the fire department, 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 or a school district. 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 or a school district

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;

4. Any vehicle, the legal ownership of which is obtained by the applicant for a certificate of title by inheritance;

5. Any used motor vehicle, travel trailer or commercial trailer which is owned and being offered for sale by a person licensed as a dealer to sell the same, under the provisions of Section 1101 et seq. of Title 47 of the Oklahoma Statutes:

- a. if such vehicle, travel trailer or commercial trailer has been registered in Oklahoma and the excise tax paid thereon, or
- b. when such vehicle, travel trailer or commercial trailer has been registered in some other state but is not the latest manufactured model.

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

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

- a. if such vehicle is not purchased for operation or resale in this state, and
- b. 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;

7. 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;

8. Any vehicle which is taxed on an ad valorem basis;

9. Any vehicle or motor vehicle, the legal ownership of which is obtained by transfers:

- a. from one corporation to another corporation pursuant to a reorganization. As used in this subsection the term "reorganization" means:
  - (1) a statutory merger or consolidation, or
  - (2) 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,
- b. 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,
- c. 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,
- d. 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,
- e. from a partnership to the members thereof when made in the dissolution of such partnership,

- f. to a limited liability company if the former owners of the vehicle or motor vehicle transferred are, immediately after the transfer, members of the limited liability company and the interest in the limited liability company received by each is substantially in proportion to the interest in the vehicle or motor vehicle prior to the transfer, or
- g. from a limited liability company to the members thereof when made in the dissolution of such partnership;

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

- a. the vehicle shall not be rented to the same person for a period exceeding ninety (90) days,
- b. any such vehicle exempted from the excise tax by these provisions shall not be placed under any type of lease agreement,
- c. 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 divisions (1) and (2) 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:

- (1) to the manufacturer of the vehicle or its controlled financing arm, or
- (2) to a factory authorized franchised new motor vehicle dealer which holds a franchise of the same line-make of the vehicle being purchased, or

d. 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:

- (1) payment of the excise tax plus penalty as provided in this section is made,
- (2) the sale is made to a person specified in division (1) or (2) of subparagraph c of this paragraph, or
- (3) 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;

11. 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;

12. 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;

13. Any vehicle, travel trailer or commercial trailer of the latest manufacturer model purchased by a franchised Oklahoma dealer licensed to sell the same which holds a franchise of the same line-make as the vehicle, travel trailer or commercial trailer being registered; ~~or~~

14. 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; or

15. Any used motor vehicle.

SECTION 5. This act shall become effective July 1, 1998.

SECTION 6. 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.

46-2-9346

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