



NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER GUIDELINE - SALES TAX: LEASE OR RENTAL OF MOTOR VEHICLES

LEASE OF MOTOR VEHICLES

North Dakota motor vehicle excise tax law requires payment of 5% motor vehicle excise tax on the purchase price by a leasing company or licensed motor vehicle dealer titling motor vehicles intended for rental service or for lease having a term of less than one year.

Qualifying motor vehicles placed into lease service for periods of one year or more are subject to 5% motor vehicle excise tax at the time the leasing company titles the motor vehicle for use in this state based on the total consideration of the lease at the time the lease is entered into by the lessee.

QUALIFYING MOTOR VEHICLE LEASES

Qualifying motor vehicles leases will include those motor vehicles having an actual vehicle weight of ten thousand pounds [4535.92 kilograms] or less, where the lease agreement covers a period of one year or more.

Computation of Motor Vehicle Excise Tax on Qualifying Leases

The 5% motor vehicle excise tax is due at the inception of the lease and must be paid by the owner of the lease vehicle (leasing company) to the North Dakota Motor Vehicle Department at the time the vehicle is titled and registered. The tax is based on the total consideration of the lease, which includes the down payment, lease acquisition or upfront fees, and the total of the lease payments. The total consideration on which tax is computed does not include title and registration fees, license fees, documentation fees, federal excise tax, optional service or warranty contract charges, insurance costs, or factory rebates.

Tax Computed on Additional Charges

The 5% motor vehicle excise tax will apply where additional charges are made after the inception of the lease. Additional charges may include mileage charges, excess wear charges, damage or repair charges, lease cancellation charges, option to renew charges, and end-of-the-lease payments. The additional tax is to be computed by the owner of the leased vehicle and paid directly to the Office of State Tax Commissioner using the *Motor Vehicle Excise Tax Return for Additional Lease Charges*.

Lease-Buy Out

The 5% motor vehicle excise tax will apply on the purchase or buy out of a qualifying lease vehicle. The lessee purchasing the motor vehicle will be responsible for the payment of motor vehicle excise tax on the purchase or buy out amount when titling the motor vehicle with the North Dakota Motor Vehicle Department.

NEW MOTOR VEHICLES LEASES

A licensed motor vehicle dealer is permitted by law to purchase a new motor vehicle exempt from tax for which they hold a franchise. A motor vehicle dealer that does not have a franchise in effect with a manufacturer will continue to be subject to the motor vehicle excise tax on the purchase price of any new motor vehicle not previously subjected to tax as provided by North Dakota Century Code (N.D.C.C.) chs. 39-22 and 57-40.3. All motor vehicle dealers leasing qualifying motor vehicles are also responsible for the payment of the 5% motor vehicle excise tax based on the total consideration due under qualifying lease agreements.

EXEMPTIONS

Motor vehicle leases to federal and state government and political subdivisions are exempt from the motor vehicle excise tax; as well as qualifying leases to disabled veterans, former prisoners of war, and motor vehicles leased by parochial or private nonprofit schools for use in transportation of students.

Leases to Native Americans

There is no exemption in the motor vehicle excise tax law for a Native American leasing a motor vehicle. The lease company has the responsibility to pay the motor vehicle excise tax when titling the motor vehicle in this state. The ownership of the motor vehicle remains with the lease company.

LEASED MOTOR VEHICLES ENTERING NORTH DAKOTA

Where a lease agreement was originally entered into outside this state, the 5% motor vehicle excise tax will be due on any balance or consideration remaining at the time the lessor or lessee brings the vehicle into this state for use. Credit will be provided for any sales tax, use tax, or motor vehicle excise tax paid to another state for the remaining lease period. Qualifying vehicles entering North Dakota from another state under an optional lease period or “open-end” lease are subject to tax on the date the vehicle enters North Dakota for the remaining option period.

If tax was paid on a monthly basis in another state, the 5% motor vehicle excise tax will be computed and paid on the total of the remaining lease payments at the time the vehicle is titled for use in this state.

If tax was paid in another state based on the total lease consideration and the tax rate is less than 5%, the difference between the 5% tax rate and the rate applied by the other state will be applied to the total of the remaining lease payments at the time the vehicle is titled for use in this state.

If tax was paid in another state on the purchase price or the total lease consideration and the tax rate is equal or greater than 5%, no additional motor vehicle excise tax is due.

The 5% motor vehicle excise tax will apply where additional charges are made after the registration of the leased motor vehicle. Additional charges may include mileage charges, excess wear charges, damage or repair charges, lease cancellation charges, option to renew charges, and end-of-the-lease payments. The additional tax is to be computed by the owner of the leased vehicle and paid directly to the Office of State Tax Commissioner using the *Motor Vehicle Excise Tax Return for Additional Lease Charges*.

REFUNDS

A refund of the motor vehicle excise tax paid on the total consideration of a qualifying lease that is due and payable by the leasing company is not allowed unless the leasing company has agreed to cancel the lease and refund ALL monies received; or if the motor vehicle is returned under N.D.C.C. ch. 57-40.4 (the lemon law provisions).

A refund of motor vehicle excise tax is not provided where the lessor agrees to pay their customer the difference between an estimated residual value at the end of the lease term and the amount received by the lessor when the car is sold.

TOTAL LOSS CREDIT

When motor vehicle excise tax has been paid on a previously purchased vehicle or a qualifying motor vehicle lease, and prior to the expiration of the lease the vehicle is destroyed by means such as fire, accident, or vandalism, a total loss credit for the motor vehicle excise tax previously paid will be allowed when another vehicle is purchased or a new lease is executed with the intent to replace the vehicle previously destroyed. The tax credit to the holder of the total loss statement is not to exceed the total amount of the motor vehicle excise tax paid on the previously destroyed vehicle.

To allow for a total loss credit, the total consideration should first be entered on Section VIII, line 1 of the *Application for Certificate of Title & Registration of a Vehicle [Form 2872]*. The qualifying total loss credit should be entered on line 2 and identified as a “total loss credit.” The difference (line 1 minus line 2) should be entered on line 3 and the 5% motor vehicle excise tax computed and entered on line 4. An original copy of the total loss statement should be attached to the *Application for Certificate of Title & Registration of a Vehicle*.

OTHER LEASES OF MOTOR VEHICLES

A motor vehicle being placed into lease service for a period less than one year or a motor vehicle having an actual vehicle weight of more than ten thousand pounds will continue to require the payment of the 5% motor vehicle excise tax to be paid by the leasing company placing the vehicle into lease or rental service. This motor vehicle will be taxable based on the vehicle’s purchase price and the 5% motor vehicle excise tax paid at the time the motor vehicle is titled with the North Dakota Motor Vehicle Department.

RENTAL OF MOTOR VEHICLE

The North Dakota 5% sales tax and 3% rental surcharge are imposed on rentals of motor vehicles for periods less than 30 days in this state. The 5% sales tax and the 3% rental surcharge are separate charges, with each applying to the rental charges and are in addition to motor vehicle excise tax paid on the vehicle purchase price.

5% SALES TAX

The North Dakota 5% sales tax applies on the rental charges of *any* licensed motor vehicle, including every trailer or semi trailer as defined in N.D.C.C. § 57-55-10(2), for periods less than 30 days in this state. The sales tax is computed and collected on the total rental charge, excluding taxes, fuel collections, collision damage waiver charges, supplemental liability protection, personal accident insurance, personal effects coverage, and airport authority fees. The 5% sales tax is collected at the time you collect payment for the rental of the vehicle, and must be listed separately on the invoice. (City and county sales taxes do not apply to the motor vehicle rental charges.)

Calculation of Sales Tax

The 5% sales tax is computed on the total rental charges, excluding the following: taxes, fuel collections, collision or loss damage waiver, supplemental liability protection, personal accident insurance, personal effects coverage, and airport authority fees.

The 5% sales tax is collected on the taxable rental charge at the time the rental company collects payment for the rental of the motor vehicle in this state. A charge for the 5% sales tax must be listed separately on the invoice.

Reporting and Paying the 5% Sales Tax

Rental companies must hold a valid North Dakota Sales and Use Tax Permit and file sales tax returns. The volume of taxable sales determines how often sales tax returns must be filed. Rental charges will be reported on the sales tax returns and the 5% sales tax must be remitted with the return on or before the return’s due date.

City or County Sales Tax

The city or county sales taxes do not apply to the motor vehicle rental charges. A specific exemption in the North Dakota sales tax law does not permit the imposition of city or county sales taxes on motor vehicle rental charges.

Motor Vehicle Dealer Rental or Loaner Vehicles

When a dealer or repair business charges a customer for use of a motor vehicle, the 5% sales tax must be collected from the customer. If no charge is being made to the customer, no tax is due.

If a third party is being billed for the vehicle rental, such as a vehicle being provided under an extended warranty or service contract, the 5% sales tax must be included in the billing to the third party.

Sales tax will not apply on charges for a vehicle rental being provided under the manufacturer's original warranty.

3% RENTAL SURCHARGE

A 3% rental surcharge applies on the rental charges of any motor vehicle having a gross vehicle weight of ten thousand pounds [4535.92 kilograms] or less, and required to be registered for use on the street and highways of this state. The 3% rental surcharge is computed and collected on the total rental charge, excluding taxes, fuel collections, collision damage waiver charges, supplemental liability protection, personal accident insurance, personal effects coverage, and airport authority fees. The 3% rental surcharge is collected at the time you collect payment for the rental of the vehicle, and must be listed separately on the invoice.

Calculation of Rental Surcharge

The 3% rental surcharge is computed on the total rental charges, excluding the following: taxes, fuel collections, collision or loss damage waiver, supplemental liability protection, personal accident insurance, personal effects coverage, and airport authority fees.

The 3% rental surcharge is collected on the taxable rental charge at the time the rental company collects payment for the rental of the motor vehicle in this state. A charge for the 3% rental surcharge must be listed separately on the invoice.

Reporting and Paying the 3% Rental Surcharge

The 3% rental surcharge collected during the prior year is to be reported on an annual *special surcharge return* to be filed with the Office of State Tax Commissioner on or before February 15th of each year. To determine the surcharge amount to be reported on the return, the rental company may subtract the total amount of motor vehicle excise tax paid under N.D.C.C. ch. 57-40.3 on rental motor vehicles having a gross weight of ten thousand pounds [4532.92 kilograms] or less, which have been titled in this state during the prior calendar year. The excess collections must be remitted and considered sales tax collections. (For calendar year 2001, only the motor vehicle excise tax paid on qualifying rental vehicles titled during the period of July 1, 2001 through December 31, 2001 may be offset against the 3% rental surcharge.)

Motor Vehicle Dealer Rental or Loaner Vehicles

When a dealer or repair business charges a customer for use of a motor vehicle, the 3% rental surcharge must be collected from the customer. If no charge is being made to the customer, no surcharge is due.

If a third party is being billed for the vehicle rental, such as a vehicle being provided under an extended warranty or service contract, the 3% rental surcharge must be included in the billing to the third party.

The rental surcharge will not apply on charges for a vehicle rental that is being provided under the manufacturer's original warranty.

RENTALS OF MOTOR VEHICLE FOR PERIODS OF 30 DAYS OR MORE

Rentals of motor vehicles for periods of 30 days or more are not subject to the 5% sales tax and are not subject to the 3% rental surcharge.

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