

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

932D0608

SENATE BILL NO. 98

Introduced by: Senators Halverson and Olson and Representatives Richter and Volesky

1 FOR AN ACT ENTITLED, An Act to revise the method of taxing a leased motor vehicle.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 32-5B-1 be amended to read as follows:

4 32-5B-1. In addition to all other license and registration fees for the use of the highways, a
5 person shall pay an excise tax at the rate of three percent on the purchase price of any motor
6 vehicle, as defined by § 32-3-1 or section 4 of this Act, purchased or acquired for use on the
7 streets and highways of this state and required to be registered under the laws of this state. This
8 tax shall be in lieu of any tax levied by chapters 10-45 and 10-46 on the sales of such vehicles.
9 Failure to pay the full amount of excise tax is a Class 1 misdemeanor.

10 Section 2. That § 32-5B-1.1 be amended to read as follows:

11 32-5B-1.1. For motor vehicles leased for more than twenty-eight days, the lessor shall title
12 and license the motor vehicle and denote the lessee on the application for title. The lessor or the
13 lessee shall pay the motor vehicle excise tax. ~~If the lessee pays the tax and subsequently~~
14 ~~purchases the motor vehicle, the lessee shall receive credit for the tax paid pursuant to~~
15 ~~§ 32-5B-11. The motor vehicle excise tax shall be assessed on the~~ If a lessee buys the leased
16 vehicle at the end of the lease, excise tax shall be assessed on the purchase prices in § 32-5B-4.
17 The lessor shall assign the title to the lessee and shall deliver it to the county treasurer of the

1 applicant's residence, along with an application certifying the price of the vehicle and the required
2 fees and taxes.

3 A lessee who entered into a lease prior to July 1, 2000, and who paid excise tax based on the
4 purchase price of the vehicle, including the value of the leased vehicle at the end of the lease,
5 shall receive credit for tax previously paid if the lessee purchases the vehicle at the end of the
6 lease.

7 Section 3. That § 32-5B-4 be amended to read as follows:

8 32-5B-4. For the purposes of this chapter, the purchase price is:

9 (1) For a new motor vehicle sale or lease, the total consideration whether received in
10 money or otherwise. However, when a motor vehicle is taken in trade as a credit or
11 part payment on a new motor vehicle, the credit or trade-in value allowed by the seller
12 shall be deducted from the total consideration for the new motor vehicle to establish
13 the purchase price;

14 (2) For a used motor vehicle sold or leased by a licensed motor vehicle dealer, the total
15 consideration for the used motor vehicle whether received in money or otherwise.
16 However, when a motor vehicle is taken in trade by the dealer as a credit or part
17 payment on a used motor vehicle, the credit or trade-in value allowed by the dealer
18 shall be deducted from the consideration so that the net consideration is established;

19 (3) For a used motor vehicle sold, leased, or transferred by any person other than a
20 licensed motor vehicle dealer, the total consideration received in money or otherwise.
21 However, when a motor vehicle is taken in trade as a credit or part payment on a used
22 motor vehicle, the credit or trade-in value shall be deducted from the total
23 consideration so that the net consideration is established. The purchaser and seller of
24 the motor vehicle shall submit to the county treasurer a bill of sale, approved and
25 supplied by the secretary. If a bill of sale is not submitted, the excise tax will be

1 assessed on the retail value as stated in a nationally recognized dealers' guide as
2 approved by the secretary of revenue. If the excise tax is assessed on the retail value,
3 the value of the motor vehicle taken in as credit on trade-in shall be the retail value
4 as stated in the nationally recognized dealers' guide;

5 (4) For a new or used motor vehicle acquired by gift or other transfer for no or nominal
6 consideration, the manufacturers' suggested dealer list price for new motor vehicles
7 and for used motor vehicles the retail value stated in a nationally recognized dealers'
8 guide approved and furnished by the secretary of revenue;

9 (5) For a motor vehicle manufactured by a person who registers it under the laws of this
10 state, the amount expended for materials, labor, and other properly allocable costs of
11 manufacture or in the absence of actual expenditures for the manufacture of a part or
12 all of the motor vehicle, the reasonable value of the completed motor vehicle;

13 (6) For a rebuilt motor vehicle, upon its initial registration and titling, the total
14 consideration for the salvage vehicle, whether received in money or otherwise;

15 (7) For either a new or used motor vehicle, as defined by section 4 of this Act, which is
16 leased, the total consideration whether received in money or otherwise. Total
17 consideration is all lease payments including cash, rebates, the net trade-in, extended
18 warranties, administrative fees, acquisition fees, or any other fees assessed on the
19 purchase of the vehicle. Total consideration does not include title fees, registration
20 fees, vehicle excise tax paid pursuant to this Act, federal excise taxes attributable to
21 the sale of the vehicle to the owner or to the lease of the vehicle by the owner,
22 insurance, and refundable deposits.

23 Section 4. That chapter 32-5B be amended by adding thereto a NEW SECTION to read as
24 follows:

25 The tax imposed by this Act and calculated in the manner set out in § 32-5B-4 on the sale

1 or use of leased vehicles subject to titling and registration applies to vehicles with a gross vehicle
2 weight ratings of less than sixteen thousand pounds, excluding motorcycles and motorized
3 bicycles. No certificate of title may be issued until the tax is paid.

4 The county treasurer shall require every applicant for registration of a vehicle subject to tax
5 under this Act to supply information as is deemed necessary as to the date of the lease
6 transaction, the lease price, and other information relative to the lease of the vehicle.

7 Section 5. That chapter 32-5B be amended by adding thereto a NEW SECTION to read as
8 follows:

9 If the lease is terminated prior to the termination date contained in the lease agreement, no
10 refund may be allowed for tax previously paid under this Act.

11 Section 6. That chapter 32-5B be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Vehicles entering this state under a lease are subject to tax on the date the vehicle enters this
14 state for the remaining lease period. A credit for tax paid on the lease for the lease period at issue
15 where the incidence of the tax was on the lessor, lessee, or both, and the tax was paid by the
16 lessor, lessee, or both, to another state shall be applied to the motor vehicle lease tax due on the
17 lease from the lessor in this state, if the lessor and the lessee remain the same.

18 Section 7. That chapter 32-5B be amended by adding thereto a NEW SECTION to read as
19 follows:

20 If the motor vehicle lease tax has been paid on a qualifying lease under this Act, and prior to
21 the expiration of the lease, the vehicle subject to the lease is destroyed by means such as fire,
22 accident, or vandalism, to the extent that it constitutes a total loss of the vehicle, a credit for
23 motor vehicle lease tax paid for the period remaining on the previous lease shall be allowed if
24 another vehicle is substituted under the original lease or a new lease is executed with the intent
25 to replace the vehicle subject to the previous lease. To initially qualify for the credit there must

1 be a total loss of the vehicle subject to the previous lease, a new lease must be executed or a
2 vehicle must be substituted under the original lease. To qualify for the credit, the new lease or
3 substituted vehicle under the original lease shall be executed by the same lessor and lessee, for
4 lease of a vehicle of the same or similar make, model, year, and options as the vehicle subject to
5 the previous lease, for the remaining lease period of the previous lease, and for the same lease
6 price. The lease shall contain the same lease terms as the previous lease.