

Amend the Swinford amendment to **SB 1863** by adding new SECTION to read as follows:

SECTION \_\_\_\_. Amend section 152.047 of the Tax Code to read as follows:

Sec. 152.047. COLLECTION OF TAX ON SELLER-FINANCED SALE.

(a) Except as inconsistent with this chapter and rules adopted under this chapter, the seller of a motor vehicle shall report and pay the tax imposed on a seller-financed sale to the comptroller on the seller's receipts from seller-financed sales in the same manner as the sales tax is reported and paid by a retailer under Sections 151.401, 151.402, 151.405, 151.406, 151.409, 151.423, 151.424, and 151.425.

(b) If a note, mortgage, account receivable, or other document evidencing the purchaser's indebtedness to the seller of a vehicle sold subject to a seller-financed sale does to bear interest, it will be conclusively presumed that the total consideration for the sale is principal.

(c) If a note, mortgage, account receivable, or other document evidencing the purchaser's indebtedness to the seller of a vehicle sold subject to a seller-financed sale bears interest, it is conclusively presumed that interest accrues and is paid by the purchaser on a straight line basis.

(d) The seller shall add the tax imposed on a seller-financed sale to the sales price of the vehicle sold, and when added, the tax is:

- (1) a part of the sales price;
- (2) a debt owed to the seller by the purchaser; and
- (3) recoverable at law in the same manner as the sales price.

(e) Regardless of the accounting method used by the seller, the seller shall collect and pay the tax imposed on a seller-financed sale to the comptroller as the seller receives the proceeds of the sale.

(f) If the seller fails to apply, not later than the 60th day after the date the motor vehicle is delivered to the purchaser, for registration and a Texas certificate of title for a motor vehicle sold in a seller-financed sale in accordance with Section 152.069,

the seller is liable for all unpaid tax on the total consideration, and the tax is due and must be sent to the comptroller with the first report after the expiration of the prescribed period.

(g) If a seller factors, assigns, or otherwise transfers the right to receive payments, all unpaid tax is due on the total consideration not reported at the time the agreement is factored, assigned, or otherwise transferred. The seller shall report and submit the tax in the report period in which the right to receive the payment is factored, assigned, or otherwise transferred. The seller may not take a deduction in the amount of tax due if a transfer at a discount is made.

(h) Subject to Subsection (i), a person to whom a seller assigns the right to receive payments under subsection (g) is entitled to a credit or reimbursement for tax paid on the portion of an account determined to be worthless and actually charged off for federal income tax purposes.

(i) An assignee is entitled to a credit or reimbursement provided by Subsection (h) only if:

(1) the seller:

(A) was a motor vehicle dealer who held a dealer license issued under Chapter 503, Transportation Code, at the time the motor vehicle was sold; and

(B) remitted the tax for which the credit or reimbursement is sought; and

(2) the assignee provides records showing:

(A) the total consideration the purchaser contracted to pay;

(B) the unpaid portion of the total consideration assigned to the assignee;

(C) the portion of the total consideration paid by the purchaser;

(D) the tax remitted by the seller;

(E) the number of the permit issued to the seller under Section 152.065;

(F) if required by the comptroller, a copy of the tax receipt issued by a county tax assessor-collector under Section 152.064 or other evidence of the tax paid; and

(G) a copy of a document or documents evidencing the purchaser's indebtedness to the seller and the assignment of the seller's right to receive payments to the assignee.

(j) ~~(h)~~ The comptroller may proceed against the purchaser in a seller-financed sale for the amount of any tax not paid by the purchaser.

(k) ~~(i)~~ The comptroller shall adopt rules and promulgate forms necessary to implement this section.