

By: Averitt

S.B. No. 996

A BILL TO BE ENTITLED

AN ACT

relating to imposition of the motor vehicle sales tax on leased motor vehicles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 152, Tax Code, is amended to read as follows:

CHAPTER 152. TAXES ON SALE, RENTAL, LEASE, AND USE OF MOTOR VEHICLES

SECTION 2. Section 152.001, Tax Code, is amended by adding Subdivision (7-a) and amending Subdivision (9) to read as follows:

(7-a) "Gross lease receipts" means the total amount a person leasing a motor vehicle is required to pay under the lease, but does not include:

(A) separately stated charges for insurance;

(B) charges for damages to the motor vehicle occurring during the lease period;

(C) separately stated charges for motor fuel sold by the owner of the motor vehicle; or

(D) discounts.

(9) "Owner of a motor vehicle" means:

(A) a person named in the certificate of title as the owner of the vehicle; or

(B) a person who has the exclusive use of a motor vehicle by reason of a lease or rental and holds the vehicle for re-lease or re-rental.

1 SECTION 3. Section 152.0215(a), Tax Code, is amended to
2 read as follows:

3 (a) Except as provided by Subsection (a-1), a surcharge is
4 imposed on every retail sale, lease, or use of every on-road diesel
5 motor vehicle that is over 14,000 pounds and that is sold, leased,
6 or used in this state. The amount of the surcharge for a vehicle of
7 a model year 1996 or earlier is 2.5 percent of the total
8 consideration or, if the vehicle is leased, 2.5 percent of the gross
9 lease receipts. The amount of the surcharge [~~and~~] for a vehicle of a
10 model year 1997 or later is [~~7~~] one percent of the total
11 consideration or, if the vehicle is leased, one percent of the gross
12 lease receipts.

13 SECTION 4. Section 152.022, Tax Code, is amended to read as
14 follows:

15 Sec. 152.022. TAX ON MOTOR VEHICLE PURCHASED OR LEASED
16 OUTSIDE THIS STATE. (a) A use tax is imposed on a motor vehicle
17 purchased at retail sale or leased outside this state and used on
18 the public highways of this state by a Texas resident or other
19 person who is domiciled or doing business in this state.

20 (b) The tax rate is 6-1/4 percent of the total consideration
21 or, if the vehicle is leased, 6-1/4 percent of the gross lease
22 receipts.

23 SECTION 5. Section 152.026, Tax Code, is amended to read as
24 follows:

25 Sec. 152.026. TAX ON GROSS RENTAL RECEIPTS AND GROSS LEASE
26 RECEIPTS. (a) A tax is imposed on the gross rental receipts from
27 the rental of a rented motor vehicle. A tax is imposed on the gross

1 lease receipts from the lease of a leased motor vehicle.

2 (b) The tax rate is:

3 (1) 10 percent of the gross rental receipts from the
4 rental of a rented motor vehicle for 30 days or less and 6-1/4
5 percent of the gross rental receipts from the rental of a rented
6 motor vehicle for longer than 30 days; and

7 (2) 6-1/4 percent of the gross lease receipts from the
8 lease of a leased motor vehicle.

9 (c) Except for a destroyed motor vehicle or an unrecovered
10 stolen motor vehicle, the total amount of gross rental receipts or
11 gross lease receipts tax paid by the owner, as defined by Section
12 152.001(9)(A) [~~of this code~~], on a motor vehicle registered under
13 Section 152.061 [~~of this code~~] may not be less than an amount equal
14 to the tax that would be imposed by Section 152.021 or 152.022 [~~of~~
15 ~~this code~~] but for Subsection (d) [~~of this section~~].

16 (d) The taxes imposed by Sections 152.021 and 152.022 [~~of~~
17 ~~this code~~] are not due on a motor vehicle as long as it is registered
18 as a rental or lease vehicle under Section 152.061 [~~of this code~~].

19 SECTION 6. Section 152.045, Tax Code, is amended to read as
20 follows:

21 Sec. 152.045. COLLECTION OF TAX ON GROSS RENTAL RECEIPTS
22 AND GROSS LEASE RECEIPTS. (a) Except as inconsistent with this
23 chapter and rules adopted under this chapter, an owner of a motor
24 vehicle subject to the tax on gross rental receipts shall report and
25 pay the tax to the comptroller in the same manner as the tax imposed
26 under Chapter 151 [~~Limited Sales, Excise and Use Tax~~] is reported
27 and paid by retailers [~~under Chapter 151 of this code~~].

1 (a-1) Except as inconsistent with this chapter and rules
2 adopted under this chapter, an owner of a motor vehicle subject to
3 the tax on gross lease receipts shall collect the gross lease
4 receipts tax from the person leasing the motor vehicle at the time
5 the motor vehicle is leased. The owner shall report and pay the tax
6 to the comptroller in the manner prescribed by rules adopted by the
7 comptroller.

8 (b) The owner shall add the tax to the rental or lease
9 charge, and when added, the tax is:

10 (1) a part of the rental or lease charge;

11 (2) a debt owed to the motor vehicle owner by the
12 person renting or leasing the vehicle; and

13 (3) recoverable at law in the same manner as the rental
14 or lease charge.

15 (c) The comptroller may proceed against a person renting or
16 leasing a motor vehicle for any unpaid gross rental receipts or
17 gross lease receipts tax.

18 SECTION 7. Section 152.046, Tax Code, is amended to read as
19 follows:

20 Sec. 152.046. CHANGE IN TAX STATUS OF MOTOR
21 VEHICLE. (a) If the owner, as defined by Section 152.001(9)(A)
22 [~~of this code~~], of a motor vehicle registered as a rental or lease
23 vehicle ceases to use the vehicle for rental or lease, the owner
24 shall report and remit on the next report required to be filed with
25 the comptroller by Section 152.045(a) or (a-1) [~~of this code~~] any
26 unpaid portion of gross rental receipts or gross lease receipts tax
27 imposed by Section 152.026 [~~of this code~~].

1 (b) An owner of a motor vehicle on which the motor vehicle
2 sales or use tax has been paid who subsequently uses the vehicle for
3 rental or lease shall collect the gross rental receipts or gross
4 lease receipts tax imposed by this chapter from the person renting
5 or leasing the vehicle. The owner may credit an amount equal to the
6 motor vehicle sales or use tax paid by the owner to the comptroller
7 against the amount of gross rental receipts or gross lease receipts
8 tax due. This credit is not transferable and cannot be applied
9 against tax due and payable from the rental or lease of another
10 vehicle belonging to the same owner.

11 (c) For the purpose of determining the amount of minimum tax
12 due under Section 152.026(c) [~~of this code~~] only, an owner of a
13 motor vehicle on which the tax on gross rental receipts or gross
14 lease receipts is imposed may credit against the amount of gross
15 rental receipts or gross lease receipts due an amount equal to the
16 tax on gross rental receipts or gross lease receipts the owner has
17 paid to any other state. This credit is not transferable and cannot
18 be applied against tax due and payable from the rental or lease of
19 another vehicle belonging to the same owner.

20 SECTION 8. Section 152.061, Tax Code, is amended to read as
21 follows:

22 Sec. 152.061. REGISTRATION OF MOTOR VEHICLE PURCHASED FOR
23 RENTAL OR LEASE. (a) An owner of a motor vehicle purchased for
24 rental or lease may furnish the county tax assessor-collector a
25 rental or lease certificate in lieu of the motor vehicle sales or
26 use tax imposed by Sections 152.021 and 152.022 [~~of this code~~]. The
27 county tax assessor-collector shall accept the motor vehicle for

1 registration and issue a receipt for the license and title
2 application.

3 (b) A rental or lease certificate may be furnished by:

4 (1) a dealer licensed under Chapter 503,
5 Transportation Code; or

6 (2) the owner if the vehicle is for use in a rental or
7 lease business that rents or leases at least five different motor
8 vehicles within any 12-month period.

9 (c) The rental or lease certificate shall be in a form
10 designated by the comptroller and must contain:

11 (1) the name, address, and signature of the owner;

12 (2) the owner's or dealer's license number or a
13 statement by the owner that the rental or lease business of the
14 owner meets the activity requirements of Subsection (b) [~~of this~~
15 ~~section~~];

16 (3) the motor vehicle identification number; and

17 (4) the amount of total consideration for the motor
18 vehicle and the amount of tax that would be due if the rental or
19 lease certificate had not been furnished.

20 SECTION 9. Section 152.063(b), Tax Code, is amended to read
21 as follows:

22 (b) The owner of a motor vehicle used for rental or lease
23 purposes shall keep for four years after purchase of a motor vehicle
24 records and supporting documents containing the following
25 information on the amount of:

26 (1) total consideration for the motor vehicle;

27 (2) motor vehicle sales or use tax paid on the motor

1 vehicle;

2 (3) gross rental receipts or gross lease receipts
3 received from the rental or lease of the motor vehicle; and

4 (4) gross rental receipts and gross lease receipts tax
5 paid to the comptroller on each motor vehicle used for rental or
6 lease purposes by the owner.

7 SECTION 10. Subchapter D, Chapter 152, Tax Code, is amended
8 by adding Section 152.0638 to read as follows:

9 Sec. 152.0638. REPORT OF REPLACED LEASED VEHICLES. (a) A
10 person who is in the business of leasing motor vehicles shall report
11 quarterly to the comptroller on each motor vehicle:

12 (1) that the person purchased during the preceding
13 quarter that will be used for lease purposes; or

14 (2) that is a replaced motor vehicle as described by
15 Section 152.002(c) or (d).

16 (b) The report required under Subsection (a) must include:

17 (1) the vehicle identification number of the motor
18 vehicle; and

19 (2) proof of the total consideration paid for the
20 purchased vehicle or of the fair market value of the replaced
21 vehicle, as appropriate.

22 SECTION 11. Section 152.066(d), Tax Code, is amended to
23 read as follows:

24 (d) Except in the case of the gross rental receipts tax,
25 interest begins to accrue on delinquent taxes 60 days after the day
26 on which the joint statement or lease was executed. Delinquent
27 taxes on gross rental receipts draw interest beginning 60 days from

1 the due date.

2 SECTION 12. Section 152.084, Tax Code, is amended to read as
3 follows:

4 Sec. 152.084. RENTAL OR LEASE OF MOTOR VEHICLE TO PUBLIC
5 AGENCY. The taxes imposed by this chapter do not apply to the
6 rental or lease of a motor vehicle to a public agency. The tax which
7 would have been remitted on gross rental receipts or gross lease
8 receipts without this exemption shall be deemed to have been
9 remitted for the purpose of calculating the minimum gross rental
10 receipts or gross lease receipts tax imposed by Section 152.026 [~~of~~
11 ~~this code~~].

12 SECTION 13. Section 152.085, Tax Code, is amended to read as
13 follows:

14 Sec. 152.085. RENTAL OR LEASE OF MOTOR VEHICLE FOR PURPOSES
15 OF RE-RENTAL OR RE-LEASE. (a) The taxes imposed by this chapter on
16 the gross rental receipts from the rental of a motor vehicle or on
17 the gross lease receipts from the lease of a motor vehicle do not
18 apply to the rental or lease of a motor vehicle for the purpose of
19 re-rental or re-lease.

20 (b) The minimum gross rental receipts or gross lease
21 receipts tax imposed by Section 152.026 [~~of this code~~] remains the
22 obligation of the owner as defined by Section 152.001(9)(A) [~~of~~
23 ~~this code~~]. The owner may credit all gross rental receipts or gross
24 lease receipts taxes paid to the comptroller on the re-rental or
25 re-lease of a motor vehicle registered under Section 152.061 [~~of~~
26 ~~this code~~] for the purpose of calculating the amount of minimum
27 gross rental receipts or gross lease receipts tax due, as

1 appropriate.

2 (c) A person authorized by Section 152.061 [~~of this code~~] to
3 register motor vehicles for rental or lease may issue an exemption
4 certificate to the owner of the motor vehicle. An owner who takes
5 the certificate in good faith is relieved of the burden of proving
6 that the motor vehicle was rented or leased for purposes of
7 re-rental or re-lease.

8 SECTION 14. Section 152.087, Tax Code, is amended to read as
9 follows:

10 Sec. 152.087. FIRE TRUCKS AND EMERGENCY MEDICAL SERVICES
11 VEHICLES. The taxes imposed by this chapter do not apply to the
12 purchase, rental, lease, or use of a fire truck, emergency medical
13 services vehicle as defined by Section 773.003, Health and Safety
14 Code, or other motor vehicle used exclusively for fire-fighting
15 purposes or for emergency medical services when purchased by:

- 16 (1) a volunteer fire department;
- 17 (2) a nonprofit emergency medical service provider
18 that receives a federal income tax exemption under Section 501(a),
19 Internal Revenue Code of 1986, as an organization described by
20 Section 501(c)(3), Internal Revenue Code of 1986; or
- 21 (3) an emergency medical service provider to which
22 Section 502.204, Transportation Code, applies.

23 SECTION 15. Section 152.088, Tax Code, is amended to read as
24 follows:

25 Sec. 152.088. MOTOR VEHICLES USED FOR RELIGIOUS PURPOSES.
26 The taxes imposed by this chapter do not apply to the sale or use of
27 or the receipts from the rental or lease of a motor vehicle that is

1 used for religious purposes.

2 SECTION 16. Section 152.091(c), Tax Code, is amended to
3 read as follows:

4 (c) The taxes imposed by this chapter do not apply to the
5 rental or lease of a farm machine, a trailer, or a semitrailer for
6 use primarily for farming and ranching, including the rearing of
7 poultry, and use in feedlots, or a machine, a trailer, or a
8 semitrailer for use primarily for timber operations. The tax that
9 would have been remitted on gross rental receipts or gross lease
10 receipts without this exemption shall be deemed to have been
11 remitted for the purpose of calculating the minimum gross rental
12 receipts or gross lease receipts imposed by Section 152.026. The
13 exemption provided by this subsection applies only if the owner of
14 the motor vehicle obtains in good faith an exemption certificate
15 from the person to whom the vehicle is being rented or leased.

16 SECTION 17. The heading to Section 152.093, Tax Code, is
17 amended to read as follows:

18 Sec. 152.093. MOTOR VEHICLES SOLD, RENTED, OR LEASED TO
19 CERTAIN LICENSED CHILD-CARE FACILITIES.

20 SECTION 18. Section 152.093(a), Tax Code, is amended to
21 read as follows:

22 (a) The taxes imposed by this chapter do not apply to a motor
23 vehicle:

24 (1) purchased, used, leased, or rented by a qualified
25 residential child-care facility; and

26 (2) intended for use primarily in transporting the
27 children residing in the facility under a state license.

1 SECTION 19. The following are repealed:

2 (1) Section 152.083, Tax Code; and

3 (2) Section 152.091(b), Tax Code.

4 SECTION 20. This Act applies only to a lease entered into on
5 or after the effective date of this Act. A lease entered into
6 before the effective date of this Act is governed by the law in
7 effect on the date the lease was entered into, and that law is
8 continued in effect for that purpose.

9 SECTION 21. The change in law made by this Act does not
10 affect tax liability accruing before the effective date of this
11 Act. That liability continues in effect as if this Act had not been
12 enacted, and the former law is continued in effect for the
13 collection of taxes due and for civil and criminal enforcement of
14 the liability for those taxes.

15 SECTION 22. This Act takes effect September 1, 2009.