

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

HOUSE BILL 1453

By: Representatives Underwood, Carr, Haak, Lundstrum, Payton

## For An Act To Be Entitled

AN ACT TO PROVIDE A SALES AND USE TAX EXEMPTION FOR USED MOTOR VEHICLES; TO AMEND THE DIRECT PAYMENT OF TAX BY A CONSUMER-USER FOR CERTAIN MOTOR VEHICLES; AND FOR OTHER PURPOSES.

## Subtitle

TO PROVIDE A SALES AND USE TAX EXEMPTION FOR USED MOTOR VEHICLES; AND TO AMEND THE DIRECT PAYMENT OF TAX BY A CONSUMER-USER FOR CERTAIN MOTOR VEHICLES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4, is amended to add an additional section to read as follows:

26-52-453. Used motor vehicles.

The gross receipts or gross proceeds derived from the sale of a used motor vehicle are exempt from the gross receipts tax levied by this chapter and the compensating use tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

SECTION 2. Arkansas Code § 26-52-510 is amended to read as follows:

26-52-510. Direct payment of tax by consumer-user – New ~~and used~~ motor vehicles, and new and used trailers, or semitrailers – Definition.

(a)(1) On or before the time for registration as prescribed by § 27-14-903(a), a consumer shall pay to the Secretary of the Department of Finance



and Administration the tax levied by this chapter and all other gross receipts taxes levied by the state with respect to the sale of a new ~~or used~~ motor vehicle, or a new or used trailer, or semitrailer required to be licensed in this state, instead of the taxes being collected by the dealer or seller.

(2) The secretary shall require the payment of the taxes at the time of registration before issuing a license for the new ~~or used~~ motor vehicle, or the new or used trailer, or semitrailer.

(3)(A) The taxes apply regardless of whether the motor vehicle, trailer, or semitrailer is sold by a vehicle dealer or an individual, corporation, or partnership not licensed as a vehicle dealer.

(B) The exemption in § 26-52-401(17) for isolated sales does not apply to the sale of a motor vehicle, trailer, or semitrailer.

(4) If the consumer fails to pay the taxes when due:

(A) There is assessed a penalty equal to ten percent (10%) of the amount of taxes due; and

(B) The consumer shall pay to the secretary the penalty under subdivision (a)(4)(A) of this section and the taxes due before the secretary issues a license for the motor vehicle, trailer, or semitrailer.

(b)(1)(A) Except as provided in this section, when a used motor vehicle, trailer, or semitrailer is taken in trade as a credit or part payment on the sale of a new ~~or used~~ motor vehicle, or a new or used trailer, or semitrailer, the tax levied by this chapter and all other gross receipts taxes levied by the state shall be paid on the net difference between the total consideration for the new ~~or used~~ motor vehicle, or the new or used trailer, or semitrailer sold and the credit for the used motor vehicle, trailer, or semitrailer taken in trade.

(B) However, if the total consideration for the sale of the new ~~or used~~ motor vehicle, or the new or used trailer, or semitrailer is less than four thousand dollars (\$4,000), no tax ~~shall be~~ is due.

(C)(i) When a used motor vehicle, trailer, or semitrailer is sold by a consumer, rather than traded-in as a credit or part payment on the sale of a new ~~or used~~ motor vehicle, or a new or used trailer, or semitrailer, and the consumer subsequently purchases a new ~~or used~~ motor vehicle, or a new or used trailer, or semitrailer of greater value within forty-five (45) days of the sale, the tax levied by this chapter and all

other gross receipts taxes levied by the state shall be paid on the net difference between the total consideration for the new ~~or used~~ motor vehicle, or the new or used trailer, or semitrailer purchased subsequently and the amount received from the sale of the used motor vehicle, trailer, or semitrailer sold in lieu of a trade-in.

(ii)(a) Upon registration of the new ~~or used~~ motor vehicle, a consumer claiming the deduction provided by subdivision (b)(1)(C)(i) of this section shall provide a bill of sale signed by all parties to the transaction ~~which~~ that reflects the total consideration paid to the seller for the new motor vehicle.

(b) A copy of the bill of sale shall be deposited with the revenue office at the time of registration of the new ~~or used~~ motor vehicle.

(c) The deduction provided by this section shall not be allowed unless the taxpayer claiming the deduction provides a copy of a bill of sale signed by all parties to the transaction ~~which~~ that reflects the total consideration paid to the seller for the new motor vehicle.

(iii) If the taxpayer claiming the deduction provided in this section fails to provide a bill of sale signed by all parties to the transaction ~~which~~ that reflects the total consideration paid to the seller for the vehicle, tax ~~shall be~~ is due on the total consideration paid for the new ~~or used~~ motor vehicle, or the new or used trailer, or semitrailer without any deduction for the value of the item sold.

(2)(A)(i) When a motor vehicle dealer removes a motor vehicle from its inventory and the motor vehicle is used by the dealership as a service vehicle, the dealer shall register the motor vehicle, obtain a certificate of title, and pay sales tax on the listed retail price of the new motor vehicle.

(ii)(a) When the motor vehicle dealer returns the service vehicle to inventory as a used motor vehicle and replaces it with a new motor vehicle for dealership use as a service vehicle, the dealer shall pay sales tax on the difference between the listed retail price of the new service vehicle to be used by the dealership and the value of the used service vehicle being returned to inventory.

(b) The value of the used service vehicle

shall be the highest listed wholesale price reflected in the most current edition of the National Automobile Dealers Association's Official Used Car Guide.

(B)(i) As used in this subsection, "service vehicle" means a motor vehicle driven exclusively by an employee of the dealership and used either to transport dealership customers or dealership parts and equipment.

(ii) "Service vehicle" does not include motor vehicles ~~which~~ that are rented by the dealership, used as demonstration vehicles, used by dealership employees for personal use, or used to haul or pull other vehicles.

(c) All parts and accessories purchased by motor vehicle sellers for resale or used by them for the reconditioning or rebuilding of used motor vehicles intended for resale are exempt from gross receipts tax, provided that the motor vehicle seller meets the requirements of § 26-52-401(12)(A) and applicable rules promulgated by the secretary.

(d) ~~Nothing in this section shall be construed to~~ This section does not repeal any exemption from this chapter.

(e) A credit is not allowed for sales or use taxes paid to another state with respect to the purchase of a motor vehicle, trailer, or semitrailer that was first registered by the purchaser in Arkansas.

~~(f)(1)(A) Any motor vehicle dealer licensed pursuant to § 27-14-601(a)(6) who has purchased a used motor vehicle upon payment of all applicable registration and title fees may register the vehicle for the sole purpose of obtaining a certificate of title to the vehicle without payment of gross receipts tax, except as provided in subdivision (f)(1)(B) of this section.~~

~~(B)(i) The sale of a motor vehicle from the original franchise dealer to any other dealer, person, corporation, or other entity other than a franchise dealer of the same make of vehicle and which sale is reflected on the statement of origin shall be subject to gross receipts tax.~~

~~(ii) The vehicle shall be considered a used motor vehicle which shall be registered and titled, and tax shall be paid at the time of registration.~~

~~(iii) The provisions of subdivision (f)(1)(A) of this section shall not apply in those instances.~~

~~(2) No license plate shall be provided with the registration,~~

~~and the used vehicle titled by a dealer under this subsection may not be operated on the public highways unless there is displayed on the used vehicle a dealer's license plate issued under the provisions of § 27-14-601(a)(6)(B)(ii).~~

~~(g)(1)(A) For purposes of this section, the total consideration for a used motor vehicle shall be presumed to be the greater of the actual sales price as provided on the bill of sale, invoice or financing agreement, or the average loan value price of the vehicle as listed in the most current edition of a publication which is generally accepted by the industry as providing an accurate valuation of used vehicles.~~

~~(B) If the published loan value exceeds the invoiced price, then the taxpayer must establish to the secretary's satisfaction that the price reflected on the invoice or other document is true and correct.~~

~~(C) If the secretary determines that the invoiced price is not the actual selling price of the vehicle, then the total consideration will be deemed to be the published loan value.~~

~~(2)(A) For purposes of this section, the total consideration for a new or used trailer or semitrailer shall be is the actual sales price as provided on a bill of sale, invoice, or financing agreement.~~

~~(B)(2) The secretary may require additional information to conclusively establish the true selling price of the new or used trailer or semitrailer.~~

SECTION 3. Arkansas Code § 26-53-126 is amended to read as follows:

26-53-126. Tax on new ~~and used~~ motor vehicles, and new and used trailers, or semitrailers – Payment and collection.

(a)(1) Upon being registered in this state, a new ~~or used~~ motor vehicle, or a new or used trailer, or semitrailer required to be licensed in this state is subject to the tax levied in this subchapter and all other use taxes levied by the state regardless of whether the motor vehicle, trailer, or semitrailer was purchased from a dealer or an individual.

(2)(A) On or before the time for registration as prescribed by § 27-14-903(a), the person making application to register the motor vehicle, trailer, or semitrailer shall pay the taxes to the Secretary of the Department of Finance and Administration instead of the taxes being collected by the dealer or individual seller.

(B) The secretary shall collect the taxes before issuing a license for the motor vehicle, trailer, or semitrailer.

(3) The exemption in § 26-52-401(17) for isolated sales does not apply to the sale of a motor vehicle, trailer, or semitrailer.

(4) If the person making application to register the motor vehicle, trailer, or semitrailer fails to pay the taxes when due:

(A) There is assessed a penalty equal to ten percent (10%) of the amount of taxes due; and

(B) The person making application to register the motor vehicle, trailer, or semitrailer shall pay to the secretary the penalty under subdivision (a)(4)(A) of this section and the taxes due before the secretary issues a license for the motor vehicle, trailer, or semitrailer.

(b)(1) When a used motor vehicle, trailer, or semitrailer is taken in trade as a credit or part payment on the sale of a new ~~or used~~ motor vehicle, or a new or used trailer, or semitrailer, the tax levied in this subchapter and all other use taxes levied by the state shall be paid on the net difference between the total consideration for the new ~~or used~~ motor vehicle, or the new or used trailer, or semitrailer sold and the credit for the used motor vehicle, trailer, or semitrailer taken in trade.

(2) However, if the total consideration for the sale of the new ~~or used~~ motor vehicle, or the new or used trailer, or semitrailer is less than four thousand dollars (\$4,000), no tax ~~shall be~~ is due.

(3)(A) When a used motor vehicle, trailer, or semitrailer is sold by a consumer, rather than traded in as a credit or part payment on the sale of a new ~~or used~~ motor vehicle, or a new or used trailer, or semitrailer, and the consumer subsequently purchases a new ~~or used~~ motor vehicle, or a new or used trailer, or semitrailer of greater value within forty-five (45) days of the sale, the tax levied by this chapter and all other gross receipts taxes levied by the state shall be paid on the net difference between the total consideration for the new ~~or used~~ motor vehicle, or the new or used trailer, or semitrailer purchased subsequently and the amount received from the sale of the used motor vehicle, trailer, or semitrailer sold in lieu of a trade-in.

(B)(i) Upon registration of the new ~~or used~~ motor vehicle, consumers claiming the deduction provided by subdivision (b)(3)(A) of this section shall provide a bill of sale signed by all parties to the transaction

~~which~~ that reflects the total consideration paid to the seller for the new motor vehicle.

(ii) A copy of the bill of sale shall be deposited with the revenue office at the time of registration of the new ~~or used~~ motor vehicle.

(iii) The deduction provided by this subdivision (b)(3) shall not be allowed unless the taxpayer claiming the deduction provides a copy of a bill of sale signed by all parties to the transaction ~~which~~ that reflects the total consideration paid to the seller for the new motor vehicle.

(C) If the taxpayer claiming the deduction provided in this subdivision (b)(3) fails to provide a bill of sale signed by all parties to the transaction ~~which~~ that reflects the total consideration paid to the seller for the vehicle, tax ~~shall be~~ is due on the total consideration paid for the new ~~or used~~ motor vehicle, or the new or used trailer, or semitrailer without any deduction for the value of the item sold.

(c) The tax imposed by this subchapter ~~shall~~ does not apply to a motor vehicle, trailer, or semitrailer to be registered by a bona fide nonresident of this state.

(d) ~~Nothing in this section shall be construed to~~ This section does not repeal any exemption from this subchapter.

~~(e)(1) Upon payment of all applicable registration and title fees, any motor vehicle dealer licensed pursuant to § 27-14-601(a)(6) who has purchased a used motor vehicle may register the vehicle for the sole purpose of obtaining a certificate of title to the vehicle without payment of use tax.~~

~~(2) No license plate shall be provided with the registration, and the used vehicle titled by a dealer under this subsection may not be operated on the public highways unless there is displayed on the used vehicle a dealer's license plate issued under the provisions of § 27-14-601(a)(6)(B)(ii).~~

~~(f)(1)(A) For purposes of this section, the total consideration for a used motor vehicle shall be presumed to be the greater of the actual sales price as provided on a bill of sale, invoice or financing agreement, or the average loan value of the vehicle as listed in the most current edition of a publication which is generally accepted by the industry as providing an accurate valuation of used vehicles.~~

~~(B) If the published loan value exceeds the invoiced price, then the taxpayer must establish to the secretary's satisfaction that the price reflected on the invoice or other document is true and correct.~~

~~(C) If the secretary determines that the invoiced price is not the actual selling price of the vehicle, then the total consideration will be deemed to be the published loan value.~~

~~(2)(A)~~ For purposes of this section, the total consideration for a new or used trailer or semitrailer ~~shall be~~ is the actual sales price as provided on a bill of sale, invoice, or financing agreement.

~~(B)(2)~~ The secretary may require additional information to conclusively establish the true selling price of the new or used trailer or semitrailer.

SECTION 4. EFFECTIVE DATE. Sections 1-3 of this act are effective on the first day of the second calendar month following the effective date of this act.