

## CHAPTER 297B

### MOTOR VEHICLE EXCISE TAX

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#### 297B.01 DEFINITIONS.

Subdivision 1. The following words, terms and phrases when used in Laws 1971, chapter 853, shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning.

Subd. 2. "Person" includes any individual, firm, partnership, joint adventure, association, corporation, estate, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number.

Subd. 3. "Motor vehicle registrar" shall mean the registrar of motor vehicles who is the officer in charge of the motor vehicle division, department of public safety, of this state and who shall act as the agent of the commissioner of revenue in administering the provisions of this chapter.

Subd. 4. "Vehicle" shall include every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or animal power or used exclusively upon stationary rails or tracks.

Subd. 5. "Motor vehicle" means any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails, except snowmobiles, for which registration is required by chapter 168, but not including house trailers or manufactured homes.

Subd. 6. "Use" shall mean the exercise by any person of any right or power over a motor vehicle incident to the ownership or possession of such a vehicle, except that it shall not include the sale or holding for sale of such a vehicle in the regular course of business. The term shall not include motor vehicles rented or leased.

Subd. 7. "Sale, sells, selling, purchase, purchased or acquired" means any transfer of title of any motor vehicle, whether absolutely or conditionally, for a consideration in money or by exchange or barter for any purpose other than resale in the regular course of business. Any motor vehicle utilized by the owner only by leasing such vehicle to others or by holding it in an effort to so lease it, and which is put to no other use by the owner other than resale after such lease or effort to lease, shall be considered property purchased for resale. The terms also shall include any transfer of title or ownership of a motor vehicle by way of gift or by any other manner or by any other means whatsoever, for or without consideration, except that these terms shall not include:

(a) the acquisition of a motor vehicle by inheritance from or by bequest of, a decedent who owned it;

(b) the transfer of a motor vehicle which was previously licensed in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more of the joint tenants;

(c) the transfer of a motor vehicle by way of gift between a husband and wife or parent and child; or

(d) the voluntary or involuntary transfer of a motor vehicle between a husband and wife in a divorce proceeding.

Subd. 8. "Purchase price" means the total consideration valued in money for a sale, whether paid in money or otherwise, provided however, that when a motor vehicle is taken in trade as a credit or as part payment on a motor vehicle taxable under Laws 1971, chapter 853, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-in allowance allowed by the seller shall constitute the purchase price of the motor vehicle accepted as a trade-in. The purchase price in those instances where the motor vehicle is acquired by gift or by any other transfer for a nominal or no monetary consideration shall also include the average value of similar motor vehicles, established by standards and guides as determined by the motor vehicle registrar. The purchase price in those instances where a motor vehicle is manufactured by a person who registers it under the laws of this state shall mean the manufactured cost of such motor vehicle and manufactured cost shall mean the amount expended for materials, labor and other properly allocable costs of manufacture, except that in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle, manufactured costs shall mean the reasonable value of the completed motor vehicle. The term "purchase price" shall not include the transfer of a motor vehicle by way of gift between a husband and wife or parent and child, nor shall it include the transfer of a motor vehicle by a guardian to a ward when there is no monetary consideration and the title to such vehicle was registered in the name of the guardian, as guardian, only because the ward was a minor. There shall not be included in "purchase price" the amount of any tax imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

Subd. 9. "Purchaser" shall mean any person owning or in possession of a motor vehicle who makes application to the motor vehicle registrar for registration plates for such vehicle or for transfer of ownership of a vehicle previously registered in this state.

**History:** 1971 c 853 s 1; 1973 c 582 s 3; 1974 c 28 s 1; 1974 c 459 s 2; 1976 c 342 s 1; 1981 c 365 s 9; 1983 c 342 art 6 s 9; 1986 c 444

## **297B.02 TAX IMPOSED.**

Subdivision 1. **Rate.** There is imposed an excise tax at the rate provided in chapter 297A on the purchase price of any motor vehicle purchased or acquired, either in or outside of the state of Minnesota, which is required to be registered under the laws of this state.

Subd. 2. **In lieu tax for older passenger automobiles.** In lieu of the tax imposed in subdivision 1, there is imposed a tax of \$10 on the purchase price of any passenger automobile described in section 297B.025, subdivision 1.

Subd. 3. **In lieu for collector vehicles.** In lieu of the tax imposed in subdivision 1, there is imposed a tax of \$90 on the purchase price of a passenger automobile described in section 297B.025, subdivision 2.

**History:** 1971 c 853 s 2; Ex1971 c 31 art 1 s 9; 3Sp1982 c 1 art 6 s 5; 1983 c 342 art 6 s 10; 1Sp1985 c 14 art 2 s 11; 1988 c 636 s 13,14

## **297B.025 OLDER PASSENGER AUTOMOBILES.**

Subdivision 1. **Noncollector vehicles.** Purchase or use of a passenger automobile as defined in section 168.011, subdivision 7, shall be taxed pursuant to section 297B.02, subdivision 2, if the passenger automobile is (1) in the tenth or subsequent year of vehicle life, and (2) is not an above-market automobile as designated by the registrar of motor vehicles.

The registrar of motor vehicles shall prepare, and distribute to all deputy motor vehicle registrars by July 15, 1985, a listing by make, model, and year of above-market

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automobiles. Except as provided by subdivision 2, the registrar must include in the list all automobiles with a resale value of \$3,000 or more, as determined using nationally recognized sources of information on automobile resale values. The registrar shall revise the list by February 1 of each year. The initial list and all subsequent revisions must include only those automobiles which are in the tenth or subsequent year of vehicle life.

**Subd. 2. Collector vehicles.** A passenger automobile that is currently registered under section 168.10, subdivisions 1a, 1b, 1c, and 1d, shall be taxed under section 297B.02, subdivision 3, and the registrar shall not designate as an above-market automobile a passenger automobile registered under those subdivisions.

**History:** *1Sp1985 c 14 art 2 s 12; 1988 c 636 s 15*

## 297B.03 EXEMPTIONS.

There is specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

(1) Purchase or use, including use under a lease purchase agreement or installment sales contract made pursuant to section 465.71, of any motor vehicle by the United States and its agencies and instrumentalities and by any person described in and subject to the conditions provided in section 297A.25, subdivision 18.

(2) Purchase or use of any motor vehicle by any person who was a resident of another state at the time of the purchase and who subsequently becomes a resident of Minnesota, provided the purchase occurred more than 60 days prior to the date such person began residing in the state of Minnesota.

(3) Purchase or use of any motor vehicle by any person making a valid election to be taxed under the provisions of section 297A.211.

(4) Purchase or use of any motor vehicle previously registered in the state of Minnesota by any corporation or partnership when such transfer constitutes a transfer within the meaning of section 351 or 721 of the Internal Revenue Code of 1954, as amended through December 31, 1974.

(5) Purchase or use of any vehicle owned by a resident of another state and leased to a Minnesota based private or for hire carrier for regular use in the transportation of persons or property in interstate commerce provided the vehicle is titled in the state of the owner or secured party, and that state does not impose a sales or motor vehicle excise tax on motor vehicles used in interstate commerce.

(6) Purchase or use of a motor vehicle by a private nonprofit or public educational institution for use as an instructional aid in automotive training programs operated by the institution.

**History:** *1971 c 853 s 3; Ex1971 c 31 art 1 s 10; Ex1971 c 31 art 5 s 2; 1975 c 262 s 1; 1982 c 523 art 15 s 3; 1983 c 327 s 15; 1984 c 502 art 6 s 9; 1Sp1985 c 14 art 2 s 13; 1986 c 444; 1987 c 268 art 4 s 21; 1988 c 719 art 10 s 18*

## 297B.031 REFUND OF TAX; MANDATORY REFUND OR REPLACEMENT LAWS.

If a manufacturer of motor vehicles is required by a court order under section 325F.665 or a decision of an informal dispute settlement mechanism as defined in section 325F.665, or a dealer or lessor of motor vehicles is required by section 325F.662, to pay the consumer the tax imposed by this chapter, a portion of the tax so paid must be refunded to the manufacturer, dealer, or lessor. The amount of the refund is the tax paid by the purchaser less an amount equal to the tax paid multiplied by a fraction, the denominator of which is the purchase price of the vehicle and the numerator of which is the allowance deducted from the refund for the consumer's use of the vehicle. The refund must be paid to the manufacturer, dealer, or lessor only upon filing of a written application, in a form and providing information as prescribed by the commissioner. Payment of a refund pursuant to this section must be made out of the general and highway user funds in the same proportion provided for deposit of tax

proceeds for the fiscal year pursuant to section 297B.09, subdivision 1. The amounts necessary to pay the refunds are appropriated out of the respective funds.

**History:** 1983 c 342 art 6 s 11; 1987 c 268 art 4 s 22; 1988 c 634 s 10

#### **297B.035 MOTOR VEHICLES PURCHASED FOR RESALE OR USE BY DEALER.**

Subdivision 1. Except as provided in this section, motor vehicles purchased for resale in the ordinary course of business or used by any motor vehicle dealer, as defined in section 168.011, subdivision 21, which bear dealer plates as authorized by section 168.27, subdivision 16, shall be exempt from the provisions of this chapter.

Subd. 2. Motor vehicles which satisfy the definitions of subdivision 1, shall be taxed at a yearly rate of \$15 per dealer plate. This tax shall be paid when dealer plates are purchased and shall be deposited in the state treasury and credited as provided in section 297B.09. This tax shall be in lieu of any other state sales, excise, or use tax.

Subd. 3. Motor vehicles sold by a new motor vehicle dealer in contravention of section 168.27, subdivision 10, clause (1)(b) shall not be considered to have been acquired or purchased for resale in the ordinary or regular course of business for the purposes of this chapter, and the dealer shall be required to pay the excise tax due on the purchase of those vehicles. The sale by a lessor of a new motor vehicle under lease within 120 days of the commencement of the lease is deemed a sale in contravention of section 168.27, subdivision 10, clause (1)(b) unless the lessor holds a valid contract or franchise with the manufacturer or distributor of the vehicle.

Subd. 4. Motorized bicycles, as defined in section 168.011, subdivision 27, purchased for resale in the ordinary course of business shall be exempt from the provisions of this chapter if the person purchasing the motorized bicycles has a permanent enclosed commercial building or structure either owned in fee or leased and is engaged in the business of selling motorized bicycles, either exclusively or in addition to any other occupation.

**History:** 1976 c 342 s 2; 1978 c 767 s 34; 1981 c 357 s 79; 1981 c 363 s 47; 1982 c 583 s 2; 1984 c 502 art 6 s 10

#### **297B.04 MOTOR VEHICLE PURCHASER'S CERTIFICATE FURNISHED TO MOTOR VEHICLE REGISTRAR.**

All persons who apply for registration of any motor vehicle shall complete a motor vehicle purchaser's certificate in such form and manner as may be prescribed by the motor vehicle registrar, showing a complete description of the motor vehicle, the seller's name and address, the buyer's name and address, the full purchase price of the vehicle, trade-in allowance if any, whether the vehicle was the subject of a gift, and any other information that the motor vehicle registrar may require.

**History:** 1971 c 853 s 4

#### **297B.05 PRESENTATION OF MOTOR VEHICLE PURCHASER'S CERTIFICATE TO MOTOR VEHICLE REGISTRAR.**

No registration plates or certificate shall be issued by the motor vehicle registrar for a motor vehicle unless and until the applicant therefor shall attach a properly executed motor vehicle purchaser's certificate to the application for license registration. If an application for registration or transfer is made for a motor vehicle that has been previously registered in this state and the applicant is the same person in whose name the registration had previously been issued, the motor vehicle purchaser's certificate need not be submitted to the motor vehicle registrar.

**History:** 1971 c 853 s 5

#### **297B.06 REGISTRATION NOT TO BE ISSUED UNLESS TAX PAID.**

No registration plates or certificate shall be issued by the motor vehicle registrar for the ownership or operation of any motor vehicle to any applicant for registration

other than for those vehicles which have been previously registered and the applicant for registration is the same person in whose name the registration had previously been issued or other than for those vehicles exempt from the tax under other sections of Laws 1971, chapter 853, unless the tax imposed by section 297B.02 shall be paid by the applicant to the motor vehicle registrar. The provisions of this section shall apply only to the immediate transaction and if the applicant pays the tax due with respect to the application, this section shall not constitute grounds for refusal to issue plates or a certificate because the tax imposed by this chapter was not paid by a previous applicant in a prior transaction involving the same motor vehicle so long as the present applicant had no actual knowledge of the failure to pay the tax prior to acquiring the vehicle and the previous applicant held a certificate of title indicating the previous applicant was the owner of the vehicle.

**History:** 1971 c 853 s 6; 1979 c 126 s 2; 1986 c 444

#### **297B.07 PRESUMPTION.**

For the purpose of the proper administration of Laws 1971, chapter 853 and to prevent evasion of the tax, the following presumptions shall apply:

(1) Evidence that a motor vehicle was sold for delivery in this state shall be prima facie evidence that it was sold for use in this state.

(2) When an application for registration plates for a motor vehicle is received by the motor vehicle registrar within 30 days of the date it was purchased or acquired by the purchaser, it shall be presumed, until the contrary is shown by the purchaser, that it was purchased or acquired for use in this state. This presumption shall apply whether or not such vehicle was previously titled or registered in another state.

**History:** 1971 c 853 s 7

#### **297B.08 CREDIT FOR EXCISE TAX PAID IN OTHER STATES; RECIPROCITY.**

If any motor vehicle has been or is subject to a tax by any other state in respect to its sale or use, in an amount less than the tax imposed by this chapter and chapter 297A, the provisions of this chapter and chapter 297A, shall apply, but at a rate measured by the difference only between the rate fixed in chapter 297A, and the rate by which the previous tax paid in the other state upon the sale or use was computed. If the rate of tax imposed in such other state is the same or more than the rate of tax imposed by chapter 297A, then no tax shall be due on such motor vehicle. The provisions of this section shall apply only if such other state allows a credit with respect to the excise tax imposed by this chapter and chapter 297A, which is substantially similar in effect to the credit allowed by this section.

**History:** 1971 c 853 s 8; 1Sp1981 c 1 art 4 s 8

#### **297B.09 ALLOCATION OF REVENUE.**

**Subdivision 1. General fund share.** (a) Money collected and received under this chapter must be deposited in the state treasury and credited to the general fund. The amounts collected and received shall be credited as provided in this subdivision, and transferred from the general fund on July 15 and January 15 of each fiscal year. The commissioner of finance must make each transfer based upon the actual receipts of the preceding six calendar months and include the interest earned during that six-month period. The commissioner of finance may establish a quarterly or other schedule providing for more frequent payments to the transit assistance fund if the commissioner determines it is necessary or desirable to provide for the cash flow needs of the recipients of money from the transit assistance fund.

(b) Thirty percent of the money collected and received under this chapter after June 30, 1988, and before July 1, 1991, must be deposited in the highway user tax distribution fund and the transit assistance fund for apportionment as follows: 75 percent must be credited to the highway user tax distribution fund for apportionment in the same manner and for the same purposes as other money in that fund, and the

remaining 25 percent of the money must be credited to the transit assistance fund to be appropriated to the commissioner of transportation for transit assistance within the state and to the regional transit board.

(c) Thirty percent of the money collected and received under this chapter after June 30, 1991, must be deposited in the trunk highway fund and the transit assistance fund for apportionment as follows: 75 percent must be credited to the trunk highway fund and the remaining 25 percent must be credited to the transit assistance fund.

(d) The distributions under this subdivision to the highway user tax distribution fund until June 30, 1991, and to the trunk highway fund thereafter, must be reduced by the amount necessary to fund the appropriation under section 41A.09, subdivision 1. For the fiscal years ending June 30, 1988, and June 30, 1989, the commissioner of finance, before making the transfers required on July 15 and January 15 of each year, shall estimate the amount required to fund the appropriation under section 41A.09, subdivision 1, for the six-month period for which the transfer is being made. The commissioner shall then reduce the amount transferred to the highway user tax distribution fund by the amount of that estimate. The commissioner shall reduce the estimate for any six-month period by the amount by which the estimate for the previous six-month period exceeded the amount needed to fund the appropriation under section 41A.09, subdivision 1, for that previous six-month period. If at any time during a six-month period in those fiscal years the amount of reduction in the transfer to the highway user tax distribution fund is insufficient to fund the appropriation under section 41A.09, subdivision 1 for that period, the commissioner shall transfer to the general fund from the highway user tax distribution fund an additional amount sufficient to fund the appropriation for that period, but the additional amount so transferred to the general fund in a six-month period may not exceed the amount transferred to the highway user tax distribution fund for that six-month period.

Subd. 2. [Repealed, 1987 c 358 s 132]

**History:** 1971 c 853 s 9; 1973 c 582 s 3; 1976 c 2 s 112; 1981 c 363 s 48; 1Sp1981 c 1 art 4 s 9; 1983 c 17 s 11; 1984 c 654 art 3 s 82; 1986 c 444; 1Sp1986 c 1 art 8 s 12; 1987 c 358 s 112; 1988 c 603 s 5

## 297B.10 PENALTIES.

(1) Any person, including persons other than the purchaser, who prepares, completes, or submits a false or fraudulent motor vehicle purchaser's certificate with intent to defeat or evade the tax imposed under this chapter or any purchaser who fails to complete or submit a motor vehicle purchaser's certificate with intent to defeat or evade the tax or who attempts to defeat or evade the tax in any manner, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony. The term "person" as used in this section includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member, or employee is under a duty to perform the act with respect to which the violation occurs. Notwithstanding the provisions of section 628.26 or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this section, in the proper court within six years after the commission of the offense.

(2) Any person who violates any of the provisions of this chapter, unless the violation be of the type referred to in clause (1), is guilty of a misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not less than 30 days, or both.

**History:** 1971 c 853 s 10; 1983 c 294 s 11; 1985 c 83 s 4; 1986 c 444; 1987 c 268 art 17 s 34

**297B.11 MOTOR VEHICLE REGISTRAR TO ACT AS AGENT OF COMMISSIONER OF REVENUE IN ADMINISTRATION OF MOTOR VEHICLE EXCISE TAX; POWERS OF COMMISSIONER.**

The state commissioner of revenue is charged with the administration of the motor vehicle excise tax. The commissioner may prescribe all rules not inconsistent with the provisions of this chapter, necessary and advisable for the proper and efficient administration of the law. The collection of this motor vehicle excise tax shall be carried out by the motor vehicle registrar who shall act as the agent of the commissioner and who shall be subject to all rules not inconsistent with the provisions of this chapter, that may be prescribed by the commissioner.

The provisions of chapter 297A relating to the commissioner's authority to audit, assess, and collect the tax are applicable to the motor vehicle excise tax. The commissioner may impose civil penalties as provided in chapter 297A, and the additional tax and penalties are subject to interest at the rate provided in section 270.75.

**History:** 1971 c 853 s 11; 1973 c 582 s 3; 1985 c 83 s 5; 1985 c 248 s 70

**297B.12 PRIVATE NATURE OF INFORMATION.**

It shall be unlawful for the motor vehicle registrar, deputy registrars or any other public official or employee to divulge or otherwise make known in any manner any particulars disclosed in any purchaser's certificate or any information concerning affairs of any person making such certificate acquired from the purchaser's records, officers or employees except in connection with state or federal tax proceedings or upon request of the person named on the certificate. Nothing herein contained should be construed to prohibit the publishing of statistics so classified as not to disclose the identity of particular purchasers' certificates and the contents thereof. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.

**History:** 1971 c 853 s 12; 1985 c 291 s 24; 1986 c 444

**297B.13 EXEMPTION FROM EXCISE TAX OF CHAPTER 297A.**

As defined in Laws 1971, chapter 853, the sale or use of motor vehicles shall be exempt from the excise tax imposed by chapter 297A; however, the leasing or other use of motor vehicles not subject to tax under the provisions of the motor vehicle excise tax laws shall be subject to the provisions of said chapter.

**History:** 1971 c 853 s 15