

INTERIM STUDY PROPOSAL 2021-071

1
2 State of Arkansas
3 93rd General Assembly
4 Regular Session, 2021

A Bill

SENATE BILL 459

5
6 By: Senator T. Garner

7 Filed with: Arkansas Legislative Council
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT TO AMEND THE TAX TREATMENT OF THE PURCHASE OR
11 USE OF A USED MOTOR VEHICLE; TO EXEMPT THE PURCHASE
12 OF A USED MOTOR VEHICLE FROM SALES AND USE TAX; AND
13 FOR OTHER PURPOSES.

Subtitle

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16 TO EXEMPT THE PURCHASE OF A USED MOTOR
17 VEHICLE FROM SALES AND USE TAX.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 SECTION 1. Arkansas Code § 26-52-510(a), concerning the sales tax
24 treatment of new and used motor vehicles, trailers, or semitrailers, is
25 amended to read as follows:

26 (a)(1) On or before the time for registration as prescribed by § 27-
27 14-903(a), a consumer shall pay to the Secretary of the Department of Finance
28 and Administration the tax levied by this chapter and all other gross
29 receipts taxes levied by the state with respect to the sale of a new ~~or used~~
30 motor vehicle, or a new or used trailer, or semitrailer required to be
31 licensed in this state, instead of the taxes being collected by the dealer or
32 seller.

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

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

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

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

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

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

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

16
 17 SECTION 2. Arkansas Code § 26-52-510(b)(1), concerning the sales tax
 18 treatment of new and used motor vehicles, trailers, or semitrailers, is
 19 amended to read as follows:

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

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

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

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

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

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

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

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

24
 25 SECTION 3. Arkansas Code § 26-52-510(g), concerning the sales tax
 26 treatment of new and used motor vehicles, trailers, or semitrailers, is
 27 amended to read as follows:

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

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

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

4 ~~(2)(A)~~ (1) For purposes of this section, the total consideration
5 for a new or used trailer or semitrailer shall be the actual sales price as
6 provided on a bill of sale, invoice, or financing agreement.

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

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11 SECTION 4. EFFECTIVE DATE. Sections 1, 2, and 3 of this act are
12 effective on the first day of the second calendar month following the
13 effective date of this act.

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16 Referred requested by the Arkansas Senate

17 Prepared by: MBM/KFW
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