

Accelerated Sales Tax On Motor Vehicle Leases New Minnesota Law Effective October 1, 2005

Covered Vehicles And Transactions. Accelerated sales tax applies to leases of motor vehicles as follows:

- Applies to leases entered into on or after October 1, 2005.
- Applies to leases of both new and used vehicles.
- Applies to leases of vehicles for both personal and business use.
- Applies to leases of vehicles that are principally garaged in Minnesota.
- Local taxes apply. If a vehicle is principally garaged in a locality subject to a local sales tax, the local tax rate is added to the Minnesota 6.5%.
- Applies to leases of “motor vehicles” which is defined to include cars, trucks, trailers, motorcycles and other vehicles that are registered with the Driver and Vehicle Service Division.
- Does not apply to leases of vehicles with a gross vehicle weight rating greater than 10,000 pounds. These leases continue to be taxed on payments under existing law.
- Does not apply to rentals of vehicles for 28 days or fewer. Daily rental payments continue to be taxed under existing law.

Taxable Amount. The sales tax is applied to the “total amount paid by the lessee” according to the following calculation. The “total amount paid by the lessee” equals:

“agreed upon value of the vehicle”	This is the selling price of the vehicle. It is not necessarily MSRP. The figure would be net of any discounts allowed by the dealer. The “agreed upon value of the vehicle” is a required disclosure under 12 <i>Code Of Federal Regulations</i> 213.4(f)(1).
“manufacturer’s rebates” - (less)	Applying the same treatment afforded a “manufacturer’s rebate” under Minnesota Statute Section 297B.01, Subd 8, Revenue Notice 96.20 would broadly define the term: “The Department’s position is that any rebate, incentive, coupon, discount, check, or credit (hereafter “rebate”), regardless of origin, is deducted from the selling price in order to arrive at the purchase price.... In addition to manufacturer’s rebates, the exemption applies to rebates issued by third parties who have entered into agreements with motor vehicle manufacturers to offer rebates. For example, a credit card company offers car

rebates based on an agreement with the motor vehicle manufacturer as an incentive for the purchaser to use their credit card. In this case, the credit card company rebate is not subject to the sales tax on motor vehicles.”

- (less)	“stated residual value of the leased vehicle”	Under 12 <i>Code Of Federal Regulations</i> 213.2(n) “Residual value” means the value of the leased property at the end of the lease term, as estimated or assigned at consummation by the lessor, used in calculating the base periodic payment. Residual value is a required disclosure under 12 <i>Code Of Federal Regulations</i> 213.4(f)(4).
- (less)	“total value allowed for a vehicle owned by the lessee taken in trade by the lessor”	<p>This value is the total amount - before any payoff to a lender - allowed by the dealer against the agreed upon value shown above.</p> <p>The customer must own the trade in vehicle. No deduction is allowed for the value of a vehicle currently leased by the customer and purchased by the dealer directly from the lessor.</p> <p>To qualify, a vehicle must be traded in to the entity which is shown as “lessor” on the lease agreement. In the typical situation, the initiating dealer is shown as the lessor on the lease. It then assigns its interest to a leasing company. This would be a valid trade in allowance.</p>
+ (plus)	“taxable goods and services included in the lease”	<p>Taxable goods and services include rustproofing and etch.</p> <p>The following are non-taxable: title and registration fees, documentary fee, acquisition fee, security deposit, insurance, gap and service contract premiums.</p>
+ (plus)	“rent charge as provided by Code of Federal Regulations, title 12, section 213.4”	Rent is the total cost of money or interest required to carry the amount capitalized under the lease. It is the difference between the total of the base periodic payments over the lease term minus the depreciation and any amortized amounts. The rent charge is a required disclosure under 12 <i>Code Of Federal Regulations</i> 213.4(f)(6). Except for sales tax as described below, if any amounts are capitalized under the lease (such as registration fees, documentary fee, an unpaid balance from a prior lease or sale) the full “rent” to carry these amounts must be included even if the charge itself is non taxable.
- (less)	“excluding any rent charge related to the capitalization of the tax.”	Even if the sales tax amount is capitalized, the “rent” attributable to carrying it should be excluded from the taxable amount.

Payments Not Calculated At The Beginning Of The Lease. If the lease provides for potential payments that are not calculated at the beginning of the lease, the tax is remitted to the lessor holding the lease at the time the payment is made. Such payments could include an excess mileage charge or an excess depreciation charge imposed at the end of an open-end lease.

Renewals. If a lease is renewable, the sales tax is due upfront on the total amount due during the initial term and then for each subsequent renewal period on the total amount to be paid during the renewal period.

Cancellation Of Lease Within First 90 Days. If a lease is canceled or rescinded on or before 90 days of its execution or if a vehicle is returned to the manufacturer under the Minnesota Lemon Law, the lessor may file a claim for a refund of the total sales tax paid minus the amount of tax due for the period the vehicle was used by the lessee.

Cancellations After 90 days. If a lease is cancelled after 90 days but before it has run full term, no refund is available. However, the law allows a credit to the lessee on a subsequent purchase or lease of a vehicle. The new purchase or lease must be consummated within 30 days of the lease cancellation. The amount of the credit equals the amount of upfront sales tax paid on the cancelled lease times a ratio. The ratio is the number of full months remaining in the lease when terminated divided by the initial term of the lease that determined the sales tax paid.

Dealers accepting the credit should retain documentation to establish:

- Date of the new sale or lease
- Date of cancellation of the old lease
- Initial term of cancelled lease
- Amount of sales tax paid on cancelled lease

The ideal documentation would be a copy of the cancelled lease.

Leases Originating In Another State. When a covered lease originates in another state, the sales tax is calculated by the lessor based on the total lease payments due under the lease after the vehicle is required to be registered in Minnesota. Customers are allowed credit for tax paid in the other state.

Statutory Provision. The new lease tax acceleration provisions are coded as part of a larger tax law in Minnesota Session Laws 2005, 1st Special Session, Chapter 3. The lease provisions are set out in the Statutory Appendix to this Bulletin. Chapter 3 is set out in its entirety here:

<http://www.revisor.leg.state.mn.us/slaws/2005/ss1.03.html>

Contact: Jim Schutjer
MADA Counsel
651-291-2400
schutjer@mada.org

Statutory Appendix

Minnesota Session Laws 2005, 1st Special Session, Chapter 3

[New language is underlined]

Article 5, Section 2 [Excerpt]

(k) In the case of a lease, a retail sale occurs (1) when an obligation to make a lease payment becomes due under the terms of the agreement or the trade practices of the lessor or (2) in the case of a lease of a motor vehicle, as defined in section 297B.01, subdivision 5, but excluding vehicles with a manufacturer's gross vehicle weight rating greater than 10,000 pounds and rentals of vehicles for not more than 28 days, at the time the lease is executed. (l) In the case of a conditional sales contract, a retail sale occurs upon the transfer of title or possession of the tangible personal property.

[EFFECTIVE DATE.] This section is effective for leases entered into after September 30, 2005.

Article 5, Section 21

Sec. 21. [297A.815] [MOTOR VEHICLE LEASES.]

Subdivision 1. [MOTOR VEHICLE LEASE PRICE; PAYMENT.] (a) In the case of a lease of a motor vehicle as provided in section 297A.61, subdivision 4, paragraph (k), clause (2), the tax is imposed on the total amount to be paid by the lessee under the lease agreement. The lessor shall collect the tax in full at the time the lease is executed or, if the tax is included in the lease and the lease is assigned, the tax is due from the original lessor at the time the lease is assigned. The total amount to be paid by the lessee under the lease agreement equals the agreed-upon value of the vehicle less manufacturer's rebates, the stated residual value of the leased vehicle, and the total value allowed for a vehicle owned by the lessee taken in trade by the lessor, plus the price of any taxable goods and services included in the lease and the rent charge as provided by Code of Federal Regulations, title 12, section 213.4, excluding any rent charge related to the capitalization of the tax.

(b) If the total amount paid by the lessee for use of the leased vehicle includes amounts that are not calculated at the time the lease is executed, the tax is imposed and must be collected by the lessor at the time the amounts are paid by the lessee. In the case of a lease which by its terms may be renewed, the sales tax is due and payable on the total amount to be paid during the initial term of the lease, and then for each subsequent renewal period on the total amount to be paid during the renewal period.

(c) If a lease is canceled or rescinded on or before 90 days of its execution or if a vehicle is returned to the manufacturer under section 325F.665, the lessor may file a claim for a refund of the total tax paid minus the amount of tax due for the period the vehicle is used by the lessee.

(d) If a lessee's obligation to make payments on a lease is canceled more than 90 days after its execution, a credit is allowed against sales tax or motor vehicles sales tax due on a subsequent lease or purchase of a motor vehicle if that lease or purchase is consummated within 30 days of the date the prior lease was canceled. The amount of the credit is equal to (1) the sales tax paid at the inception of the lease, multiplied by (2) the ratio of the number of full months remaining in the lease at the time of termination compared to the term of the lease used in calculating sales tax paid at the inception of the lease.

Subd. 2. [LEASE ORIGINATING IN ANOTHER STATE.] When the lease of a motor vehicle as defined in section 297A.61, subdivision 4, paragraph (k), clause (2), originates in another state, the sales tax under subdivision 1 shall be calculated by the lessor on the total amount that is due under the lease agreement after the vehicle is required to be registered in Minnesota. If the total amount to be paid by the lessee under the lease agreement has already been subjected to tax by another state, a credit for taxes paid in the other state is allowed as provided in section 297A.80.

[EFFECTIVE DATE.] Subdivision 1 of this section is effective for leases entered into after September 30, 2005. Subdivision 2 of this section is effective for vehicles registering in Minnesota after September 30, 2005.