

WEST VIRGINIA LEGISLATURE

**FISCAL
NOTE**

2025 REGULAR SESSION

Introduced

House Bill 2185

By Delegate G. Howell

[Introduced February 12, 2025; referred to the
Committee on Finance]

1 A BILL to amend and reenact §11-15-3c of the Code of West Virginia, 1931, as amended, relating
2 to modifying the collection and payment by the seller of sales tax on seller-financed sales
3 of motor vehicles to be done as the seller receives the proceeds of the sale from the buyer,
4 equal to the applicable percent sales tax of the amount of the monthly payment, applied to
5 each payment, and continuing for the entire term of the loan period.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

**§11-15-3c. Imposition of consumers sales tax on motor vehicle sales; rate of tax; use of
motor vehicle purchased out of state; definition of sale; definition of motor vehicle;
exemptions; collection of tax by Division of Motor Vehicles; dedication of tax to
highways; legislative and emergency rules.**

1 (a) Notwithstanding any provision of this article or article fifteen-a of this chapter to the
2 contrary, beginning on July 1, 2008, all motor vehicle sales to West Virginia residents shall be
3 subject to the consumers sales tax imposed by this article.

4 (b) *Rate of tax on motor vehicles.* — Notwithstanding any provision of this article or article
5 fifteen-a of this chapter to the contrary, the rate of tax on the sale and use of a motor vehicle shall
6 be five percent of its sale price, as defined in §11-15B-2: *Provided*, That so much of the sale price
7 or consideration as is represented by the exchange of other vehicles on which the tax imposed by
8 this section or section four, article three, chapter seventeen-a of this code has been paid by the
9 purchaser shall be deducted from the total actual sale price paid for the motor vehicle, whether the
10 motor vehicle be new or used. However, beginning July 1, 2017, the rate of tax imposed by this
11 section shall increase to six percent of the sales price for purchases of motor vehicles made on
12 and after that date.

13 (c) *Motor vehicles purchased out of state.* — Notwithstanding this article or §11-15A-1, *et*
14 *seq.* to the contrary, the tax imposed by this section shall apply to all motor vehicles, used as
15 defined by section one, article fifteen-a of this chapter, within this state, regardless of whether the

16 vehicle was purchased in a state other than West Virginia.

17 (d) *Definition of sale.* — Notwithstanding any provision of this article or article fifteen-a of
18 this chapter to the contrary, for purposes of this section, "sale", "sales" or "selling" means any
19 transfer or lease of the possession or ownership of a motor vehicle for consideration, including
20 isolated transactions between individuals not being made in the ordinary course of repeated and
21 successive business and also including casual and occasional sales between individuals not
22 conducted in a repeated manner or in the ordinary course of repetitive and successive
23 transactions.

24 (e) *Definition of motor vehicle.* — For purposes of this section, "motor vehicle" means
25 every propellable device in or upon which any person or property is or may be transported or
26 drawn upon a highway including, but not limited to: Automobiles; buses; motor homes;
27 motorcycles; motorboats; all-terrain vehicles; snowmobiles; low-speed vehicles; trucks, truck
28 tractors and road tractors having a weight of less than fifty-five thousand pounds; trailers,
29 semitrailers, full trailers, pole trailers and converter gear having a gross weight of less than two
30 thousand pounds; and motorboat trailers, fold-down camping trailers, traveling trailers, house
31 trailers and motor homes; except that the term "motor vehicle" does not include: Modular homes,
32 manufactured homes, mobile homes, similar nonmotive propelled vehicles susceptible of being
33 moved upon the highways but primarily designed for habitation and occupancy; devices operated
34 regularly for the transportation of persons for compensation under a certificate of convenience and
35 necessity or contract carrier permit issued by the Public Service Commission; mobile equipment
36 as defined in section one, article one, chapter seventeen-a of this code; special mobile equipment
37 as defined in section one, article one, chapter seventeen-a of this code; trucks, truck tractors and
38 road tractors having a gross weight of 55,000 pounds or more; trailers, semitrailers, full trailers,
39 pole trailers and converter gear having weight of 2,000 pounds or greater: *Provided*, That
40 notwithstanding the provisions of §11-15-9 of this code, the exemption from tax under this section
41 for mobile equipment as defined in §17A-1-1 of this code; special mobile equipment defined in

section one, article one, chapter seventeen-a of this code; Class B trucks, truck tractors and road tractors registered at a gross weight of 55,000 pounds or more; and Class C trailers, semitrailers, full trailers, pole trailers and converter gear having weight of 2,000 pounds or greater does not subject the sale or purchase of the vehicle to the consumers sales and service tax imposed by section three of this article.

(f) *Exemptions.* — Notwithstanding any other provision of this code to the contrary, the tax imposed by this section shall not be subject to any exemption in this code other than the following:

(1) The tax imposed by this section does not apply to any passenger vehicle offered for rent in the normal course of business by a daily passenger rental car business as licensed under the provisions of §17A-6D-1, *et seq.* of this code. For purposes of this section, a daily passenger car means a motor vehicle having a gross weight of 8,000 pounds or less and is registered in this state or any other state. In lieu of the tax imposed by this section, there is hereby imposed a tax of not less than \$1 nor more than \$1.50 for each day or part of the rental period. The Commissioner of the Division of Motor Vehicles shall propose an emergency rule in accordance with the provisions of §29A-3-1, *et seq.* of this code to establish this tax.

(2) The tax imposed by this section does not apply where the motor vehicle has been acquired by a corporation, partnership or limited liability company from another corporation, partnership or limited liability company that is a member of the same controlled group and the entity transferring the motor vehicle has previously paid the tax on that motor vehicle imposed by this section. For the purposes of this section, control means ownership, directly or indirectly, of stock or equity interests possessing 50 percent or more of the total combined voting power of all classes of the stock of a corporation or equity interests of a partnership or limited liability company entitled to vote or ownership, directly or indirectly, of stock or equity interests possessing 50 percent or more of the value of the corporation, partnership or limited liability company.

(3) The tax imposed by this section does not apply where motor vehicle has been acquired by a senior citizen service organization which is exempt from the payment of income taxes under

the United States Internal Revenue Code, Title 26 U. S. C. §501(c)(3) and which is recognized to be a bona fide senior citizen service organization by the Bureau of Senior Services existing under the provisions of §16-5P-1, *et seq.* of this code.

(4) The tax imposed by this section does not apply to any active duty military personnel stationed outside of West Virginia who acquires a motor vehicle by sale within nine months from the date the person returns to this state.

(5) The tax imposed by this section does not apply to motor vehicles acquired by registered dealers of this state for resale only.

(6) The tax imposed by this section does not apply to motor vehicles acquired by this state or any political subdivision thereof or by any volunteer fire department or duly chartered rescue or ambulance squad organized and incorporated under the laws of this state as a nonprofit corporation for protection of life or property.

(7) The tax imposed by this section does not apply to motor vehicles acquired by an urban mass transit authority, as defined in article §8-27-1, *et seq.* of this code, or a nonprofit entity exempt from federal and state income tax under the Internal Revenue Code for the purpose of providing mass transportation to the public at large or designed for the transportation of persons and being operated for the transportation of persons in the public interest.

(8) The tax imposed by this section does not apply to the registration of a vehicle owned and titled in the name of a resident of this state if the applicant:

(A) Was not a resident of this state at the time the applicant purchased or otherwise acquired ownership of the vehicle;

(B) Presents evidence as the Commissioner of the Division of Motor Vehicles may require of having titled the vehicle in the applicant's previous state of residence;

(C) Has relocated to this state and can present such evidence as the Commissioner of the Division of Motor Vehicles may require to show bona fide residency in this state; and

(D) Makes application to the Division of Motor Vehicles for a title and registration and pays

all other fees required by chapter seventeen-a of this code within 30 days of establishing residency in this state as prescribed in subsection (a), section one-a of this article.

(9) On and after January 1, 2009, the tax imposed by this section does not apply to Class B trucks, truck tractors and road tractors registered at a gross weight of 55,000 pounds or more or to Class C trailers, semitrailers, full trailers, pole trailers and converter gear having a weight of two thousand pounds or greater. If an owner of a vehicle has previously titled the vehicle at a declared gross weight of fifty-five thousand pounds or more and the title was issued without the payment of the tax imposed by this section, then before the owner may obtain registration for the vehicle at a gross weight less than 55,000 pounds, the owner shall surrender to the commissioner the exempted registration, the exempted certificate of title and pay the tax imposed by this section based upon the current market value of the vehicle.

(10) The tax imposed by this section does not apply to vehicles leased by residents of West Virginia. On or after January 1, 2009, a tax is imposed upon the monthly payments for the lease of any motor vehicle leased under a written contract of lease by a resident of West Virginia for a contractually specified continuous period of more than 30 days, which tax is equal to five percent of the amount of the monthly payment, applied to each payment, and continuing for the entire term of the initial lease period. The tax shall be remitted to the Division of Motor Vehicles on a monthly basis by the lessor of the vehicle. Leases of 30 days or less are taxable under the provisions of this article and article fifteen-a of this chapter without reference to this section.

(g) *Division of Motor Vehicles to collect.* — Notwithstanding any provision of this article, article fifteen-a and article ten of this chapter to the contrary, the Division of Motor Vehicles shall collect the tax imposed by this section: *Provided*, That such tax is imposed upon the monthly payments for the lease of any motor vehicle leased by a resident of West Virginia, which tax is equal to five percent of the amount of the monthly payment, applied to each payment, and continuing for the entire term of the initial lease period. The tax shall be remitted to the Division of Motor Vehicles on a monthly basis by the lessor of the vehicle. The seller of a Motor Vehicle shall

120 report and pay the sales tax imposed on a seller-financed sale to the Division of Motor Vehicles on
121 the seller's receipts from seller-financed sales in the following manner: The seller shall add the tax
122 imposed on a seller-financed sale to the sales price of the vehicle sold, and when added, the tax is
123 a part of the sales price, a debt owed to the seller by the purchaser, and recoverable at law in the
124 same manner as the sales price, then regardless of the accounting method used by the seller, the
125 seller shall collect and pay the tax imposed on a seller-financed sale, equal to the applicable
126 percent sales tax of the amount of the monthly payment, applied to each payment, and continuing
127 for the entire term of the loan period to the Division of Motor Vehicles as the seller receives the
128 proceeds of the sale: *Provided, That, If a seller factors, assigns, or otherwise transfers the right to*
129 *receive payments, all unpaid tax is due on the total consideration not reported at the time the*
130 *agreement is factored, assigned, or otherwise transferred or the Division of Motor Vehicles may*
131 *proceed against the purchaser in a seller-financed sale for the amount of any tax not paid by the*
132 *purchaser.*

133 (h) *Dedication of tax to highways.* — Notwithstanding any provision of this article or article
134 fifteen-a of this chapter to the contrary, all taxes collected pursuant to this section, after deducting
135 the amount of any refunds lawfully paid, shall be deposited in the State Road Fund in the State
136 Treasury and expended by the Commissioner of Highways for design, maintenance and
137 construction of roads in the state highway system.

138 (i) *Legislative rules; emergency rules.* — Notwithstanding any provision of this article,
139 article fifteen-a and article ten of this chapter to the contrary, the Commissioner of the Division of
140 Motor Vehicles shall promulgate legislative rules explaining and implementing this section, which
141 rules shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-
142 a of this code and should include a minimum taxable value and set forth instances when a vehicle
143 is to be taxed at fair market value rather than its purchase price. The authority to promulgate rules
144 includes authority to amend or repeal those rules. If proposed legislative rules for this section are
145 filed in the State Register before June 15, 2008, those rules may be promulgated as emergency

146 legislative rules as provided in article three, chapter twenty-nine-a of this code.

147 (j) Notwithstanding any other provision of this code, effective January 1, 2009, no
148 municipal sales or use tax or local sales or use tax or special downtown redevelopment district
149 excise tax or special district excise tax shall be imposed under §7-22-1, *et seq.* of this code or §8-
150 13-1, *et seq.* of this code or §8-13B-1, *et seq.* or §8-38-1, *et seq.* of said chapter or any other
151 provision of this code, except this section, on sales of motor vehicles as defined in this article or on
152 any tangible personal property excepted or exempted from tax under this section. Nothing in this
153 subsection shall be construed to prevent the application of the municipal business and occupation
154 tax on motor vehicle retailers and leasing companies.

NOTE: The purpose of this bill is to make the collection and payment by the seller of sales tax on seller-financed sales of motor vehicles to be completed as the seller receives the proceeds of the sale from the buyer equal to the applicable percent sales tax of the amount of the monthly payment, applied to each payment, and continuing for the entire term of the loan period.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.