

§ 47.19. Public Transportation Assistance Fund taxes and fees.*(a) General provisions.*

(1) *General.* This section is promulgated to administer section 2301 of the TRC (72 P. S. § 9301).

(2) *Registration.* A person who makes sales, rentals or leases subject to a tax or fee under subsection (b), (c) or (d) is required to apply for a Public Transportation Assistance Tax License Number on a form prescribed by the Department. The registration is separate from sales tax registration required under section 208 of the TRC (72 P. S. § 7208).

(3) *Returns.* The taxes and fees collected under subsection (b), (c) or (d) shall be reported on a return prescribed by the Department. The returns shall be filed under sections 217—220 of the TRC (72 P. S. §§ 7217—7220) and § 34.3 (relating to tax returns).

(4) *Payment.* Payment of the taxes and fees under subsection (b), (c) or (d) shall be made under sections 221—224 of the TRC (72 P. S. §§ 7221—7224).

(5) *Imposition of tax.* The taxes and fees imposed under subsection (b), (c) or (d) are in addition to Sales or Use Tax and are excluded from the computation of tax for Sales and Use Tax purposes.

(6) *Exemption certificates.* Claims for exemption from the taxes and fees imposed under subsection (b), (c) or (d) shall be supported by the use of a valid Pennsylvania Exemption Certificate.

(7) *Direct payment permit.* A direct payment permit issued under § 34.4 (relating to direct payment permit) may be used in conjunction with the taxes and fees imposed under this section.

(8) *Applicability of TRC.* Article II of the TRC (72 P. S. §§ 7201—7282) and regulations promulgated thereunder apply to the taxes and fees imposed under subsection (b), (c) or (d).

(b) Tire fee.

(1) *Definitions.* The following words and terms, when used in this subsection, have the following meanings, unless the context clearly indicates otherwise:

Highway use—The use of a tire on a vehicle which is required to be licensed for highway use. If a tire is of the type used on a vehicle normally required to be licensed for highway use under 75 Pa.C.S. §§ 1301—1318 (relating to general provisions), the tire shall be presumed to be for highway use.

Sale—A transfer of the ownership of new tires for a consideration whether the transfer is

absolute or conditional and by whatever means the transfer has been effected. The term does not include a rental or lease.

(2) *Scope.* Effective October 1, 1991, the sale of a new tire which is delivered to a location in this Commonwealth for highway use is subject to a \$1 fee. The fee shall be collected by the vendor from the purchaser. If the vendor fails to collect, report or remit the tire fee, the vendor shall be assessed the fee. If the purchaser does not pay the fee to the vendor, the purchaser shall be assessed the tire fee. The sale of new tires in conjunction with the sale of other property shall be subject to the tire fee. There is no exclusion for exempt organizations or businesses engaged in manufacturing, processing, farming, dairying, printing, mining or rendering a public utility service.

(3) *Exclusions.* The following transactions are excluded from tax:

- (i) The sale of tires not for highway use.
- (ii) The sale of new tires to governmental entities.
- (iii) The rental or lease of new tires. The lessor is required to pay the tire fee on the purchase of tires to be rented or leased.
- (iv) The sale of used tires including retreads or recaps.
- (v) The sale of tires when delivered to the purchaser at an out-of-State location. The subsequent use of the tires within this Commonwealth is not subject to the tire fee.

(4) *Examples of sales subject to the tire fee.*

- (i) A purchaser buys a new or used automobile with four new tires and one spare tire. A tire fee of \$5 is due on the sale of five new tires.
- (ii) A leasing company buys new tires to use as replacements on its leased licensed vehicle fleet. Since the tires are for highway use, the purchase of the tires by the leasing company is subject to the tire fee.
- (iii) A church buys a new tire to replace a tire on a vehicle registered in the name of the church. The purchase of the tire by the church is subject to the tire fee.
- (iv) A trucking company buys tires from an out-of-State vendor. The tires are delivered to the trucking company in this Commonwealth. The sale of the tires is subject to the tire fee.
- (v) A new car dealer withdraws an automobile from inventory and makes a taxable use of the automobile for sales and use tax purposes. The dealer is required to pay the tire fee directly to the Department.
- (vi) A garage replaces a tire in connection with the repair of a damaged motor vehicle. The sale of the tire is subject to the tire fee regardless of whether the cost of the repair is covered by an insurance contract.

(5) *Examples of sales not subject to the tire fee.*

(i) A used car dealer buys new tires to place on a vehicle to be resold. The purchase of tires by the dealer is not subject to the tire fee. The subsequent sale of the vehicle with the new tires to a purchaser for highway use is subject to the tire fee.

(ii) A lessee rents a vehicle with new tires from a leasing company. A tire fee is not due on the rental. The lessor is liable for paying the tire fee on the purchase of the tires.

(iii) A manufacturer purchases new tires for use on forklifts not required to be licensed for highway use. The purchase is not subject to the tire fee.

(iv) A trucking company buys new tires from an out-of-State vendor. The tires are delivered to the trucking company at an out-of-State location. The sale or use of the tires is not subject to the tire fee even though the tires are subsequently used in this Commonwealth.

(v) A retail tire dealer purchases tires from a tire manufacturer for resale. As the retail tire dealer is not purchasing the tires for highway use, the purchase is not subject to the tire fee. The retail tire dealer's subsequent sale of the tire to a customer for highway use is subject to the tire fee.

(c) *Motor vehicle lease tax.*

(1) *Definitions.* The following words and terms, when used in this subsection, have the following meanings, unless the context clearly indicates otherwise:

Lease—A contract for the use of a motor vehicle for 30 days or more.

Lease price—Full consideration paid or delivered or promised to be paid or delivered to the lessor for a lease period under a lease agreement, whether it is money or otherwise, even though the consideration is separately stated and designated as a payment for downpayment, service, maintenance, insurance, repairs, depreciation, excess mileage fees or similar charges.

(i) The term also includes an accelerated lease payment or buy out purchase price whether or not made in connection with the termination of the lease.

(ii) The term does not include the option purchase price, penalty fees for early termination of lease, damage fees or similar charges.

(iii) The term does not include Sales Tax imposed on the lease price.

(iv) Credits or refunds which reduce the lease price reduce the amount subject to tax even though the credits or refunds are issued after termination of the lease.

(v) If the lessor fails to separately state the lease price of other property, such as a trailer, from the lease of a motor vehicle, the total lease price is subject to tax.

Motor vehicle—A self-propelled device in, upon or by which a person or property is or

may be transported or drawn upon a public highway, except tractors, power shovels, road machinery, agricultural machinery and vehicles which move upon or are guided by a track or trolley. The term does not include trucks in Class 4 or higher as defined in 75 Pa.C.S. § 1916(a)(1) (relating to trucks and truck tractors). Title 75 Pa.C.S. § 1916(a)(1) currently defines trucks in Class 4 as those having a registered gross or combination weight between 9,001 and 11,000 pounds.

(2) *Scope.* Effective October 1, 1991, each lease of a motor vehicle subject to the tax imposed by section 202 of the TRC (72 P. S. § 7202) is subject to an additional tax of 3% of the total lease price charged. This tax will be imposed upon lease payments due on or after October 1, 1991, regardless of the date upon which the lease was executed. Lease payments made on or after April 1, 1995, for the use of trucks in Class 4 or higher as defined in 75 Pa.C.S. § 1916(a)(1) are not subject to the tax. The tax shall be collected by the lessor from the lessee. If the lessor fails to collect, report or remit the tax, the lessor shall be assessed the tax. If the lessee does not pay the tax to the lessor, the lessee shall be assessed the tax.

(3) *Exclusions.* If the lease of a motor vehicle is exempt from Sales and Use Tax imposed by section 202 of the TRC, the lease is exempt from the tax imposed under this subsection.

(d) *Motor vehicle rental fee.*

(1) *Definitions.* The following words and terms, when used in this subsection, have the following meanings, unless the context clearly indicates otherwise:

Motor vehicle—A self-propelled device in, upon or by which a person or property is or may be transported or drawn upon a public highway, except tractors, power shovels, road machinery, agricultural machinery and vehicles which move upon or are guided by a track or trolley.

Rental—A contract for the use of a motor vehicle for less than 30 days.

(2) *Scope.* Effective October 1, 1991, each rental of a motor vehicle subject to the tax imposed by section 202 of the TRC is also subject to a fee of \$2 for each day or part of a day for which the vehicle is rented. The fee shall be collected by the lessor from the lessee. If the lessor fails to collect, report or remit the fee, the lessor shall be assessed the fee. If the lessee does not pay the fee to the lessor, the lessee shall be assessed the fee. If a motor vehicle is rented for less than 30 days, and the use of the motor vehicle subsequently extends beyond a 29-day period, the transaction remains a rental, and the rental payments continue to be subject to the fee until the rental contract is terminated. With respect to lease payments paid in accordance with a lease contract, lease payments are subject to tax at the rate of 3%.

(3) *Exclusions.* If the rental of a motor vehicle is exempt from Sales and Use Tax imposed by section 202 of the TRC (72 P. S. § 7202), the rental is exempt from the fee imposed under this subsection.

(4) *Examples of rentals subject to the rental fee.*

(i) A lessee rents a motor vehicle from a rental company for 5 hours. The rental is

subject to a \$2 rental fee.

(ii) A lessee rents a motor vehicle from a rental company for 1 day. The vehicle is returned to the lessor 5 hours after the end of the rental period. If the lessee is charged the daily rental rate plus an additional charge for the period after the end of the rental period, a rental fee of \$4 is due.

(iii) A lessee rents a motor vehicle from a rental company under a daily rental contract. The rental is subject to a \$2 per day rental fee. The lessee returns the motor vehicle to the lessor at the end of the 15th day and enters into a lease contract. During the first 15 days, the lessee is required to pay a rental fee of \$2 per day. For the period after the 15th day, the lessee is required to pay a tax of 3% of the lease payment.

Authority

The provisions of this § 47.19 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

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