

State of North Carolina

**ALTERNATE HIGHWAY USE TAX
BULLETIN**

**Sales and Use Tax Division
North Carolina Department of Revenue
501 North Wilmington Street
Raleigh, North Carolina 27604**

June 28, 2019

PREFACE

The Alternate Highway Use Tax Bulletin presents the Secretary of Revenue's interpretation of the North Carolina alternate highway use tax law. This bulletin does not cover all interpretations and applications of the alternate highway use tax law. Pursuant to G.S. 105-264, it is the duty of the Secretary to interpret all laws administered by the Secretary.

The Alternate Highway Use Tax Bulletin is based on the law in effect as of June 1, 2019 and supersedes any Sales and Use Tax Technical Bulletins published prior to June 1, 2019.

Consideration must be given to all the facts and circumstances of transactions or situations in applying the information contained in this bulletin to the particular transactions or situations. Additional changes may result from legislative action, court decisions and rules amended or adopted under Chapter 150B of the North Carolina General Statutes after these bulletins are published. To the extent there is any change to a statute, administrative rule, or new case law subsequent to the date of this publication, the provisions in this bulletin may be superseded or voided.

To obtain specific tax advice that is binding on the Department refer to the written determination policy available on the Department's website, www.ncdor.gov.

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AHUTB 1 ALTERNATE HIGHWAY USE TAX AND THE LEASE OR RENTAL OF CERTAIN MOTOR VEHICLES**1-1 DEFINITIONS**

G.S. § 105-164.3 and G.S. § 105-187.1 provide the following terms and definitions:

1. **“Commercial motor vehicle”** – Defined in G.S. § 20-4.01.
2. **“Commissioner”** – The Commissioner of Motor Vehicles.
3. **“Division”** – The Division of Motor Vehicles, Department of Transportation.
4. **“Long-term lease or rental”** – A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days.
5. **“Motor vehicle”** – A vehicle that is designed primarily for use upon the highways and is either self-propelled or propelled by a self-propelled vehicle, but does not include:
 - a. A moped.
 - b. Special mobile equipment.
 - c. A tow dolly that is exempt from motor vehicle title and registration requirements under G.S. 20-51(10) or (11).
 - d. A farm tractor or other implement of husbandry.
 - e. A manufactured home, a mobile office, or a mobile classroom.
 - f. Road construction or road maintenance machinery or equipment.
6. **“Park model RV”** – A vehicle that meets all of the following conditions:
 - a. Is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use.
 - b. Is certified by the manufacturer as complying with ANSI A119.5.
 - c. Is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.
7. **“Recreational vehicle”** – Defined in G.S. § 20-4.01. The term “recreational vehicle” also includes a park model RV. The term does not include a manufactured home.
8. **“Rescue squad”** – An organization that provides rescue services, emergency medical services, or both.
9. **“Retailer”** – A retailer as defined in G.S. 105-164.3 who is engaged in the business of selling, leasing, or renting motor vehicles.
10. **“Short-term lease or rental”** – A lease or rental that is not a long-term lease or rental.

1-2 IMPOSITION AND LIABILITY FOR COLLECTING AND REMITTING THE ALTERNATE HIGHWAY USE TAX**A. Alternate Highway Use Tax Imposed**

A retailer may elect not to pay the three percent (3%) highway use tax to the Commissioner of Motor Vehicles when applying for a certificate of title for a motor vehicle purchased by the retailer for lease or rental. A retailer who makes this election shall collect and remit the alternate highway use tax on the gross receipts derived from the lease or rental of the vehicle to the Secretary of Revenue. To make the election, the retailer must complete a form provided by the North Carolina Division of Motor Vehicles when applying for the certificate of title. Once made, an election is irrevocable.

The portion of a lease or rental billing or payment that represents a service contract should not be included in the gross receipts subject to the alternate highway use tax if the charge for the service contract is separately stated on the documentation given to the purchaser at the time the lease or rental agreement goes into effect or on the monthly billing statement or other documentation given to the purchaser.

B. Rates of Alternate Highway Use Tax

1. Short-Term Lease or Rental

The rate of alternate highway use tax due on the gross receipts from the short-term lease or rental of a motor vehicle is eight percent (8%).

2. Long-Term Lease or Rental

The rate of alternate highway use tax due on the gross receipts from the long-term lease or rental of a motor vehicle is three percent (3%).

3. Maximum Tax

A maximum tax of two thousand dollars (\$2,000) is applicable to a continuous lease or rental to the same person of a recreational vehicle or Class A or Class B motor vehicle that is a commercial motor vehicle; otherwise, no maximum tax applies.

C. Liability for Collecting and Remitting the Alternate Highway Use Tax

The tax is imposed on the retailer but is to be added to the lease or rental price of a motor vehicle and paid by the person who leases or rents the vehicle. The tax imposed on the gross receipts derived from the lease or rental of motor vehicles is administered in the same manner as sales and use tax. The administrative provisions and powers of the Secretary that apply to sales and use tax apply to the tax imposed on the gross receipts derived from the lease or rental of motor vehicles.

The alternate highway use tax must be reported to the Secretary of Revenue on **Form E-500F, Motor Vehicle Lease and Rental Tax Return**.

Any highway use tax remitted to the North Carolina Division of Motor Vehicles cannot be collected by the retailer from the lessee as a separate charge. A charge which is designated in any manner as a tax (i.e. sales, use, or highway use tax) must be remitted to the Department of Revenue notwithstanding any agreement which indicates the charge represents a recoupment of tax paid. The retailer can recoup the highway use tax paid to the North Carolina Division of Motor Vehicles, as well as any other expense incident to the conduct of business, by including such amount in the gross receipts.

1-3 GROSS RECEIPTS DERIVED FROM THE LEASE OR RENTAL OF A MOTOR VEHICLE

- A.** The following items are part of the gross receipts derived from the lease or rental of a motor vehicle and are subject to the alternate highway use tax whether the charges are paid directly to a third

party by the lessee on behalf of the retailer or are billed by the retailer to the lessee. This is not an all-inclusive list.

1. Capital cost reductions/down payments.
 2. Security deposits. If a portion of a security deposit is refunded to the lessee, any tax collected thereon should also be refunded to the lessee. The retailer can then take credit on **Form E-500F, Motor Vehicle Lease and Rental Tax Return**, by attaching an explanation thereto.
 3. Documentary fees.
 4. Personal property taxes. It does not matter if the property taxes are estimated by the retailer and included in the monthly lease, assessed against the retailer and separately billed to the lessee, or if the taxes are paid by the lessee directly to the taxing authority on the retailer's behalf.
 5. Titling fees/title processing fees.
 6. U.C.C. (Uniform Commercial Code) charges - fee charged to the lessee but paid by the retailer to the Clerk of Court to record a lien on the motor vehicle being leased.
 7. Prorata rental charges.
 8. Charges for excess mileage.
 9. Attorney's fees for the initial, direct cost of establishing a lease (recording fees, preparing lease agreements or other documents).
 10. Fees or charges incurred in collecting delinquent accounts.
 11. Extension fees - charged to the lessee for extending the lease agreement. This fee usually represents a month's interest and occurs in situations where the lessee is unable to pay the entire lease payment.
 12. Finance charges.
 13. Licensing fees.
 14. Any portion of a lease or rental billing or payment that represents an amount applicable to the sales price of a service contract that is not separately stated.
 15. Fuel purchased from the retailer.
 16. Administration fees.
 17. Any other miscellaneous fees charged at the time the lease is initiated.
- B.** The following items are not part of the gross receipts derived from the lease or rental of motor vehicles and are not subject to the alternate highway use tax. This is not an all-inclusive list.
1. Any allowance for a motor vehicle taken in trade as partial payment on the lease or rental amount.
 2. Bad check fees which the retailer bills separately to the lessee.

3. Penalties charged for late or delinquent lease payments which the retailer bills separately to the lessee.
4. Insurance premiums paid by the lessee directly to the insurer, or to the retailer as agent for the insurer, when the premium amounts are separately stated from the lease or rental charges.
5. Any portion of a lease or rental billing or payment that represents an amount applicable to the sales price of a service contract that is separately stated.

1-4 MOTOR VEHICLE LEASE OR RENTAL CONTRACT SOLD TO ANOTHER RETAILER THAT INCLUDES A SERVICE CONTRACT

When a motor vehicle lease or rental contract is sold to another retailer, the retailer of the motor vehicle lease or rental contract should provide to the purchaser of the lease or rental contract the documentation showing that the service contract and applicable sales taxes were separately stated at the time the motor vehicle lease or rental contract went into effect and the new retailer must retain the information to support an allocation for tax computed on the gross receipts subject to the alternate highway use tax.

1-5 LEASE OR RENTAL OF MOTOR VEHICLES TO OUT-OF-STATE LESSEES FOR USE IN INTERSTATE OPERATIONS

North Carolina retailers who elect to pay the alternate highway use tax to the Secretary of Revenue on motor vehicles leased to out-of-state lessees to be located, domiciled, or assigned in this State for use in interstate operations must collect and remit the alternate highway use tax on the gross receipts derived from the lease or rental notwithstanding that the lease may be negotiated outside North Carolina or that the vehicles are delivered to the lessees at a point outside this State or are registered outside this State. If North Carolina retailers lease motor vehicles to out-of-state lessees for use exclusively in a state other than North Carolina and deliver the vehicles to the lessees at a point outside this State, the retailers are not liable for the alternate highway use tax on the gross receipts of the lease or rental.